

ENGROSSED HOUSE
BILL NO. 1082

By: Rice of the House

and

Wilkerson of the Senate

(state government - amending twenty-one sections in
Title 3A - transferring enforcement duties and
powers from the Alcoholic Beverage Laws Enforcement
Commission to the Oklahoma State Bureau of
Investigation - amending 74 O.S., Sections 150.2
and 150.4 - noncodification -

emergency)

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

SECTION 1. AMENDATORY 3A O.S. 2001, 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 Bureau~~" or "~~ABLE Commission OSBI~~" means the Alcoholic Beverage Laws Enforcement Commission Oklahoma State Bureau of Investigation;

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;

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~~ to be a manager 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 2. AMENDATORY 3A O.S. 2001, Section 403, is amended to read as follows:

Section 403. A. The ~~ABLE Commission~~ Oklahoma State Bureau of Investigation 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~~ OSBI 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~~ OSBI by law, and in order to perform that responsibility, the ~~Commission~~ OSBI 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~~ OSBI. Copies of ~~such~~ records certified by the Director of the ~~Commission~~ OSBI 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~~ the OSBI 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~~ OSBI 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~~ OSBI 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~~ OSBI 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~~ OSBI 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 an~~ officer or employee is denied free access and entry or is hindered or interfered with in making ~~such an~~ examination, any license held for ~~such that~~ that location or place of business shall be subject to suspension or revocation.

SECTION 3. AMENDATORY 3A O.S. 2001, Section 404, is amended to read as follows:

Section 404. A. All licenses issued pursuant to the provisions of the Oklahoma Charity Games Act shall be valid for one (1) year from the date of issue.

B. A license issued by the ~~Commission~~ Oklahoma State Bureau of Investigation shall not be transferable, sold, leased or assigned under any circumstances.

C. A license shall not be issued to any organization if an officer thereof has been convicted of or pled guilty or nolo contendere to any felony, or a misdemeanor related to gambling or gaming, pursuant to the laws of the United States, the District of Columbia or any state or territory of the United States.

D. A license shall not be issued to any person who has been convicted of or pled guilty or nolo contendere to any felony, or a misdemeanor related to gambling or gaming, pursuant to the laws of the United States, the District of Columbia or any state or territory of the United States.

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

1. Organization License - One Hundred Dollars (\$100.00);
2. Distributor License - Five Thousand Dollars (\$5,000.00);
3. Manufacturer License - Two Thousand Dollars (\$2,000.00);
4. Employee License - Fifteen Dollars (\$15.00); and
5. Manager License - Fifty Dollars (\$50.00).

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

SECTION 4. AMENDATORY 3A O.S. 2001, Section 405, is amended to read as follows:

Section 405. A. Any organization which conducts any charity game activities not more than four times per year may obtain an exemption from specific provisions of the Oklahoma Charity Games Act, ~~Section 401 et seq. of this title,~~ as provided in this section. ~~Such~~ The exemption shall be obtained by the filing of a verified application with the ~~ABLE Commission~~ Oklahoma State Bureau of Investigation signed by the executive officer of ~~said~~ the organization and containing the following information:

1. The name and address of the organization;
2. The name, address and telephone number of the executive officer of the organization or ~~such~~ any other person authorized to receive documents or other information from the ~~Commission~~ OSBI on behalf of the organization; and
3. A statement that ~~said~~ the organization shall conduct a charity game session four or fewer times per calendar year and the

dates and times and location wherein ~~such~~ those activities shall occur.

B. Any organization which conducts any charity game activities not more than four times per year which has obtained an exemption from the ~~Commission~~ OSBI shall not:

1. Be required to obtain any type of license required by the Oklahoma Charity Games Act;

2. Be restricted to the use of bingo faces as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces;

3. Be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act; or

4. Be subject to any restrictions in ~~this act~~ the Oklahoma Charity Games Act or rules of the ~~Commission~~ OSBI relating to conducting charity games on certain days of the week or during certain hours.

C. Any hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility which conducts charity games at ~~such~~ their facilities on a regular basis for the residents or regular patrons of the facility and their immediate family members may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. ~~Such~~ The exemption shall be obtained by the filing of a verified application with the ~~Commission~~ OSBI signed by the owner or supervisor of the facility and containing the following information:

1. The name and address of the hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility;

2. The name, address and telephone number of the owner or supervisor of the facility or ~~such~~ any other person authorized to

receive documents or other information from the ~~Commission~~ OSBI on behalf of the facility; and

3. A statement that ~~said~~ the facility shall conduct charity games at the specified facility for the residents or regular patrons of the facility and their immediate family members. Provided, the prizes awarded either in cash or any other thing of value shall not exceed Two Hundred Fifty Dollars (\$250.00) in any one (1) day at any ~~such~~ hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility.

D. Any hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility which conducts charity games at ~~such~~ their facilities on a regular basis for the residents or regular patrons of the facility or their immediate family members which has obtained an exemption from the Commission shall not:

1. Be required to obtain any type of license required by the Oklahoma Charity Games Act;

2. Be restricted to the use of bingo faces, as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces;

3. Be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act; or

4. Be subject to any restrictions in the Oklahoma Charity Games Act or rules of the ~~Commission~~ OSBI relating to conducting charity games on certain days of the week or during certain hours.

SECTION 5. AMENDATORY 3A O.S. 2001, Section 406, is amended to read as follows:

Section 406. A. The ~~Commission~~ Oklahoma State Bureau of Investigation shall refuse to issue, deny renewal, suspend, or revoke a distributor license or a manufacturer license for any individual who:

1. Is not a citizen of the United States; or

2. Has been convicted, pled guilty, or pled 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.

B. The ~~Commission~~ OSBI shall refuse to issue, deny renewal, suspend or revoke a distributor license or a manufacturer license for a partnership if a partner of the partnership has been convicted, pled guilty, or pled 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. The ~~Commission~~ OSBI shall refuse to issue a distributor license or a manufacturer license for a corporation which has an officer or stockholder owning more than ten percent (10%) of the corporate stock who has been convicted, pled guilty, or pled 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.

SECTION 6. AMENDATORY 3A O.S. 2001, Section 407, is amended to read as follows:

Section 407. A. The ~~ABLE Commission~~ Oklahoma State Bureau of Investigation 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~~ OSBI 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~~ OSBI.

B. The ~~Commission~~ OSBI 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~~ promulgated pursuant to the Oklahoma Charity Games Act by the ~~Commission~~ OSBI;

3. Failure to implement an order of the ~~Commission~~ OSBI;

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

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

C. The ~~Commission~~ OSBI 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 promulgated pursuant to the Oklahoma Charity Games Act~~. The schedule may provide fines or suspension or revocation or both fines and suspension or revocation for violations of the ~~act~~ Oklahoma Charity Games Act or rules ~~as determined by the Commission promulgated pursuant to the act~~. Penalties shall be increasingly severe for each violation.

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

SECTION 7. AMENDATORY 3A O.S. 2001, 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~~ Oklahoma State Bureau of Investigation 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~~ Any other information deemed necessary by the ~~Commission~~ OSBI 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 8. AMENDATORY 3A O.S. 2001, 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~~ Oklahoma State Bureau of Investigation. 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 management services, the organization shall report the name and address of the manager to the ~~Commission~~ OSBI. Each ~~such~~ organization shall report a change in managers, if ~~such~~ the managers are compensated for ~~such~~ their service, to the ~~Commission~~ OSBI on the first working day after ~~such~~ the change is made and receive approval from the ~~Commission~~ OSBI 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~~ OSBI and for any act of ~~his or her~~ a servant, agent, employee or representative of the manager in violation of any law or rule.

SECTION 9. AMENDATORY 3A O.S. 2001, 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~~ Oklahoma State Bureau of Investigation 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 10. AMENDATORY 3A O.S. 2001, 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~~ Oklahoma State Bureau of Investigation 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~~ OSBI 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 11. AMENDATORY 3A O.S. 2001, Section 411, is amended to read as follows:

Section 411. A. An applicant for an initial organization license shall, prior to applying for ~~such~~ the license, twice publish, in ~~such~~ the form and containing ~~such~~ any information ~~as~~ that the ~~ABLE Commission~~ Oklahoma State Bureau of Investigation shall by rule prescribe, a notice of ~~its~~ intention of the applicant to apply for ~~such~~ the 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~~ OSBI, the ~~Commission~~ OSBI 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~~ OSBI 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~~ in a form designated by the ~~Commission~~ OSBI.

SECTION 12. AMENDATORY 3A O.S. 2001, Section 412, is amended to read as follows:

Section 412. A. Any person who is a resident of the municipality or county in which the organization or business entity will be doing business may protest such application.

B. To be considered by the ~~Commission~~ Oklahoma State Bureau of Investigation, the protest must:

1. Be submitted in writing;
2. Be signed by the person protesting;
3. Contain the place of residence and the mailing address of the protester;
4. Contain a concise statement as to why the application is being protested; and
5. Be submitted to the ~~Commission~~ OSBI before the license is granted.

C. Within thirty (30) calendar days of the date of receipt of the written protest the ~~Commission~~ OSBI shall conduct a hearing on all written protests meeting the requirements of this section.

SECTION 13. AMENDATORY 3A O.S. 2001, Section 413, is amended to read as follows:

Section 413. The district attorney of the county or the city attorney of the municipality wherein a license has been issued may

file a petition with the ~~Commission~~ Oklahoma State Bureau of Investigation to revoke a license alleging the violation of the Oklahoma Charity Games Act or rule promulgated by the Oklahoma State Bureau of Investigation Commission by the holder of the license, its agents, officers, or employees.

1. Within ten (10) calendar days of receiving the petition from the district attorney or city attorney, the ~~Commission~~ OSBI shall notify by mail with return receipt requested the person, organization, or business entity against whom the application for revocation was filed.

2. The ~~Commission~~ OSBI shall conduct a hearing on the petition and enter a written order setting out the decision regarding the petition.

SECTION 14. AMENDATORY 3A O.S. 2001, Section 414, is amended to read as follows:

Section 414. A. Every licensee shall keep and maintain a set of records which shall include such details as required by the ~~Commission~~ Oklahoma State Bureau of Investigation of the activities of the licensee relating to doing business in this state pursuant to the provisions of the Oklahoma Charity Games Act.

1. ~~Such~~ The records shall be available for inspection by the ~~Commission~~ OSBI during regular business hours.

2. ~~Such~~ The records shall be maintained for a period of not less than three (3) years from the date of the end of the fiscal year of the licensee.

3. ~~Such~~ The records maintained shall include copies of all invoices to all organizations in this state which shall include but not be limited to information as to the amount of charity game equipment sold in this state.

B. Each distributor shall also submit a quarterly report to the ~~Commission~~ OSBI containing the name, address, and license or exemption number of each purchaser of charity game equipment.

C. Each licensed manufacturer shall also submit a quarterly report to the ~~Commission~~ OSBI containing the following information:

1. The total amount of charity game equipment sold in this state;

2. The total number with the serial numbers and sequential order of bingo faces, U-PIK-EM bingo sets, and breakopen deals sold; and

3. Copies of all invoices for all charity game equipment sold which shall include but not be limited to information as to the number of games sold in this state.

SECTION 15. AMENDATORY 3A O.S. 2001, 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~~ Oklahoma State Bureau of Investigation 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 16. AMENDATORY 3A O.S. 2001, Section 416, is amended to read as follows:

Section 416. All damaged and winning bingo faces, broken ticket cards, and U-PIK-EM bingo game sets shall be reported and disposed of in such manner as the ~~Commission~~ Oklahoma State Bureau of Investigation shall prescribe.

SECTION 17. AMENDATORY 3A O.S. 2001, 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~~ Oklahoma State Bureau of Investigation 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~~ OSBI. Within thirty (30) calendar days of the date of receipt of ~~such~~ the protest, the ~~Commission~~ OSBI shall conduct a hearing on ~~such~~ the protest. ~~Such~~ The total shall include awards for winning the game, and all other cash or other thing of value given or awarded during the session. For purposes of this subsection, value means the

retail cost which would be paid if the item were bought in a retail store.

B. The ~~Commission~~ OSBI is hereby authorized to set the limits on the type and purchase price of each breakopen ticket game. ~~Such~~ The 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~~ OSBI for approval. Only approved breakopen ticket games may be offered to an organization.

SECTION 18. AMENDATORY 3A O.S. 2001, 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~~ The distributor shall be prohibited from making further sales to ~~such~~ an organization until the organization has paid all taxes due. Notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes, the Tax Commission shall notify the ~~ABLE Commission~~ Oklahoma State Bureau of Investigation of any organization which fails to remit the charity games tax to its distributor.

H. The Tax Commission shall ~~adopt~~ promulgate 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~~ OSBI and the Oklahoma Tax Commission and for collecting ~~such~~ the tax for the benefit of the state, if ~~such~~ the 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~~ the organization.

L. The Oklahoma Tax Commission shall devise only ~~such~~ those tax reporting forms as necessary for tax collection pursuant to the Oklahoma Charity Games Act and shall promulgate and enforce only ~~such~~ those 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 19. AMENDATORY 3A O.S. 2001, Section 425, is amended to read as follows:

Section 425. A. In addition to any other powers conferred on the ~~Commission~~ Oklahoma State Bureau of Investigation to impose penalties for violations of the provisions of the Oklahoma Charity Games Act, whenever in the judgment of the ~~Commission~~ OSBI any person, organization, or business entity has committed an act which

constitutes a violation of the Oklahoma Charity Games Act, the ~~Commission~~ OSBI may:

1. After notice and hearing, issue a cease and desist order to any person or business entity that should have obtained a license;

2. Impose a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation in the event that after the issuance of an order to cease and desist the illegal activity, the person or business entity that the order is directed to commits any act in violation of the order; and

3. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the ~~Commission~~ OSBI that such violations have occurred, an injunction, restraining order, or such other order as may be appropriate shall be granted by ~~such~~ the court, without bond.

B. Each day a violation is continuing shall constitute a separate offense.

C. Administrative fines imposed pursuant to the provisions of this section shall be enforceable in the district courts of this state.

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

SECTION 20. AMENDATORY 3A O.S. 2001, Section 426, is amended to read as follows:

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

1. Purchased by an exempt organization, exempt hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility;

2. Purchased by a federally recognized Indian tribe or nation;
or

3. Sold or given by a licensed organization to another licensed organization, an exempt organization, or exempt hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility, if written permission is obtained from the Director of the ~~ABLE Commission~~ Oklahoma State Bureau of Investigation and proper notification is given to the Oklahoma Tax Commission.

B. ~~On and after January 1, 1993, any~~ Any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards sold or offered for sale by a business entity which is not a licensed distributor is declared to be contraband.

C. Any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards which were not in the possession of an organization or business entity on December 31, 1992, on which the taxes have not been paid are declared to be contraband unless the items are being transported through this state from another state to be sold or distributed in another state.

D. ~~On and after January 1, 1993, any~~ Any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards in the possession of an organization or business entity which has not been licensed or obtained an exemption pursuant to the Oklahoma Charity Games Act, ~~Section 401 et seq. of this title,~~ shall be declared contraband.

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

1. The ~~Commission~~ OSBI, its agent, or the district attorney of the county wherein the alleged contraband is located shall seize any ~~such item~~ alleged contraband and maintain it for safekeeping pending a final adjudication of the legality of the sale or purchase;

2. The ~~Commission~~ OSBI, 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~~ OSBI or the district attorney shall destroy the contraband in the manner ~~they deem~~ deemed most appropriate.

SECTION 21. AMENDATORY 3A O.S. 2001, 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~~ the 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~~ July 1, 1993, is authorized to continue conducting ~~such~~ a licensed game until the expiration date of ~~said~~ the 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~~ the 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~~ a 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 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~~ The Oklahoma State Bureau of Investigation Commission shall promulgate ~~such~~ emergency and permanent 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~~ The Oklahoma State Bureau of Investigation shall administer and enforce the charity games rules promulgated by the Alcoholic Beverage Laws Enforcement Commission upon the effective date of this act until the Oklahoma State Bureau of Investigation Commission promulgates its own rules.

SECTION 22. AMENDATORY 37 O.S. 2001, Section 600.2, is amended to read as follows:

Section 600.2 As used in the Prevention of Youth Access to Tobacco Act:

1. "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association, however formed;

2. "Proof of age" means a driver license, license for identification only, or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older and contains a photograph or other likeness of the individual and appears on its face to be valid;

3. "Sample" means a tobacco product distributed to members of the public at no cost for the purpose of promoting the product;

4. "Sampling" means the distribution of samples to members of the public in a public place;

5. "Tobacco product" means any product that contains tobacco and is intended for human consumption;

6. "Transaction scan" means the process by which a seller checks, by means of a transaction scan device, the validity of a driver license or other government-issued photo identification; ~~and~~

7. "Transaction scan device" means any commercial device or combination of devices used at a point of sale or entry that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver license or other government-issued photo identification; and

8. "OSBI" means the Oklahoma State Bureau of Investigation.

SECTION 23. AMENDATORY 37 O.S. 2001, Section 600.3, is amended to read as follows:

Section 600.3 A. It is unlawful for any person to sell or furnish in any manner any tobacco product to another person who is under eighteen (18) years of age, or to purchase in any manner a tobacco product on behalf of any such person. It shall not be

unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

B. A person engaged in the sale or distribution of tobacco products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under eighteen (18) years of age.

If an individual engaged in the sale or distribution of tobacco products has demanded proof of age from a prospective purchaser or recipient who is not under eighteen (18) years of age, the failure to subsequently require proof of age shall not constitute a violation of subsection B of this section.

C. 1. When a person violates subsection A or B of this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of Investigation shall impose an administrative fine of:

- a. not more than One Hundred Dollars (\$100.00) for the first offense,
- b. not more than Two Hundred Dollars (\$200.00) for the second offense within a one-year period following the first offense,
- c. not more than Three Hundred Dollars (\$300.00), or not more than fifteen (15) days suspension of the store's license to sell tobacco products, or both such fine and suspension for a third offense within a one-year period following the first offense, or
- d. not more than Three Hundred Dollars (\$300.00), or not more than thirty (30) days suspension of the store's license to sell tobacco products, or both such fine and suspension for a fourth or subsequent offense within a one-year period following the first offense.

2. When it has been determined that a penalty shall include a license suspension, the ~~ABLE Commission~~ OSBI shall notify the Oklahoma Tax Commission, and the Oklahoma Tax Commission shall suspend the store's license to sell tobacco products at the location where the offense occurred for the period of time prescribed by the ~~ABLE Commission~~ OSBI.

3. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age shall be a defense to any action brought pursuant to this section. A person cited for violating this section shall be deemed to have reasonably relied upon proof of age, and ~~such the~~ person shall not be found guilty of ~~such a~~ violation if ~~such the~~ person proves that:

- a. the individual who purchased or received the tobacco product presented a driver license or other government-issued photo identification purporting to establish that ~~such the~~ individual was eighteen (18) years of age or older, and
- b. the person cited for the violation confirmed the validity of the driver license or other government-issued photo identification presented by ~~such the~~ individual by performing a transaction scan by means of a transaction scan device.

Provided, that this defense shall not relieve from liability any person cited for a violation of this section if ~~such the~~ person failed to exercise reasonable diligence to determine whether the physical description and picture appearing on the driver license or other government-issued photo identification was that of the individual who presented it. The availability of the defense described in this subsection does not affect the availability of any other defense under any other provision of law.

D. If the sale is made by an employee of the owner of a store at which tobacco products are sold at retail, the employee shall be

guilty of the violation and shall be subject to the fine. If the sale is made by an employee who has previously been twice found to be in violation of this section, the owner of the store, if the owner knew of the employee's previous violations, shall also be found to be in violation and shall be subject to an identical fine.

E. ~~On or before December 15, 1997, the ABLE~~ The Oklahoma State Bureau of Investigation Commission shall ~~adopt~~ promulgate rules establishing a method of notification of storeowners when one of their employees has been determined to be in violation of this section by the ~~ABLE Commission~~ OSBI or convicted of a violation by a municipality. Until the Oklahoma State Bureau of Investigation Commission promulgates its own rules to enforce the Prevention of Youth Access to Tobacco Act, the Oklahoma State Bureau of Investigation shall enforce the rules promulgated by the Alcoholic Beverage Laws Enforcement Commission.

F. 1. Upon failure of the employee to pay the administrative fine within ninety (90) days of the day of the assessment of such fine, the ~~ABLE Commission~~ OSBI shall notify the Department of Public Safety and the Department shall suspend or not issue a driver license to the employee until proof of payment has been furnished to the Department of Public Safety.

2. Upon failure of a storeowner to pay the administrative fine within ninety (90) days of the assessment of the fine, the ~~ABLE Commission~~ OSBI shall notify the Oklahoma Tax Commission and the Oklahoma Tax Commission shall suspend the store's license to sell tobacco products until proof of payment has been furnished to the Oklahoma Tax Commission.

G. For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for any violation of subsection A or B of this section, each individual franchise or business location shall be deemed a separate entity.

H. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of such ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.

SECTION 24. AMENDATORY 37 O.S. 2001, Section 600.4, is amended to read as follows:

Section 600.4 A. It is unlawful for a person who is under eighteen (18) years of age to purchase, receive, or have in their possession a tobacco product, or to present or offer to any person any purported proof of age which is false or fraudulent, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for an employee under eighteen (18) years of age to handle tobacco products when required in the performance of the employee's duties.

B. When a person violates subsection A of this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of Investigation shall impose an administrative fine of:

1. Not to exceed One Hundred Dollars (\$100.00) for a first offense; and
2. Not to exceed Two Hundred Dollars (\$200.00) for a second or subsequent offense within a one-year period following the first offense.

Upon failure of the individual to pay the administrative fine within ninety (90) days of the day of the fine, the ~~ABLE Commission~~ OSBI shall notify the Department of Public Safety and the Department shall suspend or not issue a driver license to the individual until proof of payment has been furnished to the Department of Public Safety.

C. The ~~ABLE Commission~~ OSBI shall establish rules to provide for notification to a parent or guardian of any minor cited for a violation of this section.

D. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of such ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.

SECTION 25. AMENDATORY 37 O.S. 2001, Section 600.5, is amended to read as follows:

Section 600.5 A. Every person who sells tobacco products at retail shall post conspicuously and keep so posted at the place of business a sign, as specified by the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of Investigation, stating the following: "IT'S THE LAW. WE DO NOT SELL TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE".

B. When a person violates subsection A of this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ OSBI shall impose an administrative fine of not more than Fifty Dollars (\$50.00) for each day an offense occurs. Each day a violation is continuing shall constitute a separate offense. The notice required by subsection A of this section, shall be the only notice required to be posted or maintained in any store that sells tobacco products at retail.

SECTION 26. AMENDATORY 37 O.S. 2001, Section 600.8, is amended to read as follows:

Section 600.8 A. It shall be unlawful for any person to distribute tobacco product samples to any person under eighteen (18) years of age.

B. Notwithstanding subsection A of this section, no person shall distribute tobacco product samples in or on any public street,

sidewalk, or park that is within three hundred (300) feet of any playground, school, or other facility when the facility is being used primarily by persons under eighteen (18) years of age.

C. When a person violates subsection A or B of this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of Investigation shall impose an administrative fine of:

1. Not more than One Hundred Dollars (\$100.00) for the first offense;

2. Not more than Two Hundred Dollars (\$200.00) for the second offense; and

3. Not more than Three Hundred Dollars (\$300.00) for a third or subsequent offense.

D. Upon failure of an individual to pay an administrative fine within ninety (90) days of the assessment of the fine, the ~~ABLE Commission~~ OSBI shall notify the Department of Public Safety, and the Department shall suspend or not issue a driver license to the individual until proof of payment has been furnished to the Department of Public Safety.

E. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of ~~such~~ those ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.

SECTION 27. AMENDATORY 37 O.S. 2001, Section 600.9, is amended to read as follows:

Section 600.9 A. It is unlawful for any person to sell cigarettes except in the original, sealed package in which they were placed by the manufacturer.

B. When a person violates subsection A of this section, the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State

Bureau of Investigation shall impose an administrative fine of not more than Two Hundred Dollars (\$200.00) for each offense.

C. Cities and towns may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under provisions of this section, but the provisions of ~~such~~ those ordinances shall be the same as provided for in this section, and the enforcement provisions under such ordinances shall not be more stringent than those of this section.

SECTION 28. AMENDATORY 37 O.S. 2001, Section 600.11, is amended to read as follows:

Section 600.11 A. The ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of Investigation is authorized and empowered to enforce the provisions of ~~this act~~ the Prevention of Youth Access to Tobacco Act. The ~~ABLE Commission~~ OSBI shall enforce those provisions in a manner that can reasonably be expected to reduce the extent to which tobacco products are sold or distributed to persons under eighteen (18) years of age.

B. The ~~ABLE Commission~~ OSBI may consider mitigating or aggravating circumstances involved with the violation of the Prevention of Youth Access to Tobacco Act when assessing penalties.

C. Any conviction for a violation of a local ordinance authorized by the Prevention of Youth Access to Tobacco Act and any compliance checks by a municipality pursuant to subsection E of this section shall be reported in writing to the ~~ABLE Commission~~ OSBI within thirty (30) days of such conviction or compliance check. Such reports shall be compiled in the manner prescribed by the ~~ABLE Commission~~ OSBI.

D. For the purpose of determining second or subsequent violations, both the offenses penalized by the ~~ABLE Commission~~ OSBI and the offenses penalized by municipalities and reported to the ~~ABLE Commission~~ OSBI, shall be considered together in such determination.

E. Persons under eighteen (18) years of age may be enlisted by the ~~ABLE Commission~~ OSBI or municipality to assist in enforcement; provided, ~~such~~ those persons may be used to test compliance only if written parental consent has been provided and the testing is conducted under the direct supervision of the ~~ABLE Commission~~ OSBI or conducted by another law enforcement agency if ~~such~~ the agency has given written notice to the ~~ABLE Commission~~ OSBI in the manner prescribed by the ~~ABLE Commission~~ OSBI. Municipalities which have enacted municipal ordinances in accordance with the Prevention of Youth Access to Tobacco Act may conduct, pursuant to rules of the ~~ABLE Oklahoma State Bureau of Investigation~~ Commission, compliance checks without prior notification to the ~~ABLE Commission~~ OSBI and shall be exempt from the written notice requirement in this subsection. This subsection shall not apply to the use of persons under eighteen (18) years of age to test compliance if the compliance test is being conducted by or on behalf of a retailer of cigarettes, as defined in Section 301 of Title 68 of the Oklahoma Statutes, at any location the retailer of cigarettes is authorized to sell cigarettes. Any other use of persons under eighteen (18) years of age to test compliance shall be unlawful and punishable by the ~~ABLE Commission~~ OSBI by assessment of an administrative fine of One Hundred Dollars (\$100.00).

F. At the beginning of each month, the Oklahoma Tax Commission, pursuant to Section 205 of Title 68 of the Oklahoma Statutes, shall provide to the ~~ABLE Commission~~ OSBI and to each municipality which has ordinances concerning the Prevention of Youth Access to Tobacco Act, the location, name, and address of each licensee licensed to sell tobacco products at retail or otherwise furnish tobacco products. Upon violation of an employee at a location, the ~~ABLE Commission~~ OSBI shall notify the storeowner for that location of the latest and all previous violations when one of their employees has been determined to be in violation of the Prevention of Youth Access

to Tobacco Act by the ~~ABLE Commission~~ OSBI or convicted of a violation by a municipality. In the event the employee is thereafter found in violation of the Prevention of Youth Access to Tobacco Act by the ~~ABLE Commission~~ OSBI or convicted of a violation by a municipality for a third or subsequent offense, the storeowner shall be subject to the penalties prescribed in subparagraph b, c or d of paragraph 1 of subsection C of Section ~~±~~ 600.3 of this ~~act~~ title, whichever is applicable.

G. Upon request of a storeowner or a municipality which has enacted ordinances in accordance with the Prevention of Youth Access to Tobacco Act, the ~~ABLE Commission~~ OSBI is hereby authorized to provide information on any Prevention of Youth Access to Tobacco Act offense of any applicant for employment or employee of the storeowner.

H. The ~~ABLE Commission~~ OSBI shall prepare for submission annually to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of the federal Public Health Service Act (42 U.S.C. 300-26), and otherwise shall be responsible for ensuring the state's compliance with that provision of federal law and any implementing of regulations promulgated by the United States Department of Health and Human Services.

SECTION 29. AMENDATORY 37 O.S. 2001, Section 600.11a, is amended to read as follows:

Section 600.11a Any city or town that enacts and enforces ordinances prohibiting and penalizing conduct under provisions of Section 600.3, 600.4, 600.8 or 600.9 of this title shall furnish information requested by the ~~ABLE Commission~~ Oklahoma State Bureau of Investigation in the form, manner and time as may be determined by the ~~ABLE Commission~~ OSBI which will allow ~~the ABLE Commission~~ it to comply with subsection C of Section 600.11 of this title.

SECTION 30. AMENDATORY 37 O.S. 2001, Section 600.11b, is amended to read as follows:

Section 600.11b For violations of the Prevention of Youth Access to Tobacco Act which occur in a municipality that has adopted ordinances prohibiting and penalizing conduct under provisions of the Prevention of Youth Access to Tobacco Act, thirty-five percent (35%) of each administrative fine imposed by the ~~Alcoholic Beverage Laws Enforcement (ABLE) Commission~~ Oklahoma State Bureau of Investigation pursuant to the Prevention of Youth Access to Tobacco Act shall be remitted to ~~such~~ the municipality.

SECTION 31. AMENDATORY 74 O.S. 2001, Section 150.2, as amended by Section 1, Chapter 351, O.S.L. 2002 (74 O.S. Supp. 2002, Section 150.2), is amended to read as follows:

Section 150.2 The Oklahoma State Bureau of Investigation shall have the power and duty to:

1. Maintain a nationally accredited scientific laboratory to assist all law enforcement agencies in the discovery and detection of criminal activity;
2. Maintain fingerprint and other identification files including criminal history records, juvenile identification files, and DNA profiles;
3. Establish, coordinate and maintain the automated fingerprinting identification system (AFIS) and the deoxyribonucleic acid (DNA) laboratory;
4. Operate teletype, mobile and fixed radio or other communications systems;
5. Conduct schools and training programs for the agents, peace officers, and technicians of this state charged with the enforcement of law and order and the investigation and detection of crime;
6. Assist the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Chief Medical Examiner, and all law enforcement officers and district attorneys when such

assistance is requested, in accordance with the policy determined by the Oklahoma State Bureau of Investigation Commission established in Section 150.3 of this title;

7. Investigate and detect criminal activity when directed to do so by the Governor;

8. Investigate, detect, institute and maintain actions involving vehicle theft pursuant to Section 150.7 of this title or oil, gas or oil field equipment theft pursuant to Sections 152.2 through 152.9 of this title;

9. Investigate any criminal threat made to the physical safety of elected or appointed officials of this state or any political subdivision of the state and forward the results of that investigation to the Department of Public Safety, and provide security to foreign elected or appointed officials while they are in this state on official business; ~~and~~

10. Investigate and detect violations of the Oklahoma Computer Crimes Act; and

11. Enforce the provisions of the Prevention of Youth Access to Tobacco Act and the Oklahoma Charity Games Act.

SECTION 32. AMENDATORY 74 O.S. 2001, Section 150.4, is amended to read as follows:

Section 150.4 The Commission shall have the following powers and duties and responsibilities:

1. To appoint the Director of the Oklahoma State Bureau of Investigation, whose compensation shall be determined by the Legislature; ~~;~~

2. To hear any complaint against the Bureau or any of its employees according to the following procedure:

a. only those complaints which have been submitted in writing and are signed will be acted upon by the Commission; ~~;~~

- b. all hearings on complaints shall be conducted in executive sessions, and shall not be open to the public~~;~~, and
- c. the Commission shall have limited access to pertinent investigative files when investigating a complaint. The Director shall provide a procedure whereby the identification of all persons named in any investigative file except the subject of the complaint and the complaining witness shall not be revealed to the members of the Commission. Any consideration of files shall be in executive session not open to the public. No information or evidence received in connection with the hearings shall be revealed to any person or agency. Any violation hereof shall be grounds for removal from the Commission, and shall constitute a misdemeanor~~;~~ ;

3. To make recommendations to the Director of any needed disciplinary action necessary as a result of an investigation conducted upon a complaint received~~;~~ ;

4. To establish general procedures with regard to assisting law enforcement officers and district attorneys~~;~~ ;

5. To establish a program of training for agents utilizing such courses as the National Police Academy conducted by the Federal Bureau of Investigation~~;~~ ;

6. To require the Director to advise the Commission on the progress of pending investigations. All discussions of pending investigations shall be conducted in executive session not open to the public and no minutes of such sessions shall be kept. The Director shall not reveal the identity of any witnesses interviewed or the substance of their statements. No information received by the Commission shall be revealed to any person or agency by any Commission member. Any violation of this paragraph by a Commission

member shall be grounds for removal from the Commission and shall constitute a misdemeanor; and

7. To promulgate rules pursuant to the Oklahoma Administrative Procedures Act to implement the Prevention of Youth Access to Tobacco Act and the Oklahoma Charity Games Act.

SECTION 33. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. Effective on the effective date of this act, ten employees of the Alcoholic Beverage Laws Enforcement Commission who were employed in the Tobacco and Charities Games Division of the Commission and employed by the Commission when this act takes effect shall be transferred to the Oklahoma State Bureau of Investigation to enforce the Oklahoma Charity Games Act and the Prevention of Youth Access to Tobacco Act pursuant to this act.

B. All unexpended funds, records, outstanding financial obligations and encumbrances related to the administration and enforcement of the Oklahoma Charity Games Act the Prevention of Youth Access to Tobacco Act shall be transferred from the Alcoholic Beverage Laws Enforcement Commission to the OSBI.

C. All classified and unclassified employees who are transferred pursuant to this section shall be subject to the following provisions:

1. At least two employees transferred from ABLE will be used for oil field theft and fraud investigation;

2. Classified employees shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act;

3. The employees shall retain sick and annual time earned and any retirement and longevity benefits which have been accrued at the time they end their tenure with the Alcoholic Beverage Laws Enforcement Commission. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of

their transfer. The ABLE Commission shall transfer monies to the OSBI in the amount of the earned sick and annual leave transferred with the employees;

4. If the OSBI should implement a reduction in force, all employees transferred pursuant to this section shall be credited for the time they were employed by the ABLE Commission; and

5. The unclassified employees shall be classified in the Merit System of Personnel Administration and given permanent status pursuant to subsection A of Section 840-4.2 of Title 74 of the Oklahoma Statutes.

D. The Office of State Finance and the Office of Personnel Management shall coordinate the transfer mandated by this section.

SECTION 34. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 4th day of March, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate