

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 556

By: Shurden of the Senate

and

Armes of the House

An Act relating to gaming; amending Section 3, Chapter 316, O.S.L. 2004, Legislative Referendum No. 335 (3A O.S. Supp. 2004, Section 262), which relates to the State-Tribal Gaming Act; specifying certain activities as lawful; modifying statutory references; and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to gaming; amending Section 3, Chapter 316, O.S.L. 2004, Legislative Referendum No. 335 (3A O.S. Supp. 2004, Section 262), which relates to the State-Tribal Gaming Act; specifying certain activities as lawful; modifying statutory references; amending 3A O.S. 2001, Section 205.6, which relates to the pari-mutuel system of wagering on horse races; modifying the distribution of certain monies; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 316, O.S.L. 2004, Legislative Referendum No. 335 (3A O.S. Supp. 2004, Section 262), is amended to read as follows:

Section 262. A. If at least four (4) Indian tribes enter into the model tribal-state compact set forth in Section ~~22~~ 281 of this ~~act~~ title, and such compacts are approved by the Secretary of the Interior and notice of such approval is published in the Federal Register, the Oklahoma Horse Racing Commission ("Commission") shall license organization licensees which are licensed pursuant to Section 205.2 of ~~Title 3A of the Oklahoma Statutes~~ this title to

conduct authorized gaming as that term is defined by this act pursuant to this act utilizing gaming machines or devices authorized by this act subject to the limitations of subsection C of this section. No fair association or organization licensed pursuant to Section 208.2 of ~~Title 3A of the Oklahoma Statutes~~ this title or a city, town or municipality incorporated or otherwise, or an instrumentality thereof, may conduct authorized gaming as that term is defined by this act.

Notwithstanding the provisions of Sections 941 through 988 of Title 21 of the Oklahoma Statutes, the conducting of and participation in gaming in accordance with the provisions of this act or the model compact set forth in Section ~~22~~ 281 of this ~~act~~ title is lawful and shall not be subject to any criminal penalties. Provided further, a licensed manufacturer or distributor licensed pursuant to this act may manufacture, exhibit or store any of the following machines or devices which are capable of being used to conduct the following types of gaming as a lawful activity may not be used as the basis for criminal prosecution pursuant to Sections 941 through 988 of Title 21 of the Oklahoma Statutes:

1. Gaming authorized by the State-Tribal Gaming Act; or
2. Other gaming which may be lawfully conducted by an Indian tribe in this state.

B. Authorized gaming may only be conducted by an organization licensee on days when the licensee is either conducting live racing or is accepting wagers on simulcast races at the licensee's racing facilities. In any week, authorized gaming may be conducted for not more than one hundred six (106) total hours, with not more than eighteen (18) hours in any twenty-four-hour period. Authorized gaming may only be conducted by organization licensees at enclosure locations where live racing is conducted. Under no circumstances shall authorized gaming be conducted by an organization licensee at any facility outside the organization licensee's racing enclosure.

No person who would not be eligible to be a patron of a pari-mutuel system of wagering pursuant to the provisions of subsection B of Section 208.4 of ~~Title 3A of the Oklahoma Statutes~~ this title shall be admitted into any area of a facility when authorized games are played nor be permitted to operate, or obtain a prize from, or in connection with, the operation of any authorized game, directly or indirectly.

C. In order to encourage the growth, sustenance and development of live horse racing in this state and of the state's agriculture and horse industries, the Commission is hereby authorized to issue licenses to conduct authorized gaming to no more than three (3) organization licensees operating racetrack locations at which horse race meetings with pari-mutuel wagering, as authorized by the Commission pursuant to the provisions of ~~Title 3A of the Oklahoma Statutes~~ this title, occurred in calendar year 2001, as follows:

1. An organization licensee operating a racetrack location at which an organization licensee is licensed to conduct a race meeting pursuant to the provisions of Section 205.2 of ~~Title 3A of the Oklahoma Statutes~~ this title located in a county with a population exceeding six hundred thousand (600,000) persons, according to the most recent federal decennial census, shall be licensed to operate not more than six hundred fifty (650) player terminals in any year. Provided, beginning with the third year after an organization licensee is licensed pursuant to this paragraph to operate such player terminals such licensee may be licensed to operate an additional fifty (50) player terminals in a nonsmoking area. Provided further, beginning with the fifth year after an organization licensee is licensed pursuant to this paragraph to operate such player terminals, such licensee may be licensed to operate a further additional fifty (50) player terminals in a nonsmoking area; and

2. Two organization licensees operating racetrack locations at which the organization licensees are licensed to conduct race meetings pursuant to the provisions of Section 205.2 of ~~Title 3A of the Oklahoma Statutes~~ this title located in counties with populations not exceeding four hundred thousand (400,000) persons, according to the most recent federal decennial census, may each be licensed to operate not more than two hundred fifty (250) player terminals in any year.

Subject to the limitations on the number of player terminals permitted to each organization licensee, an organization licensee may utilize electronic amusement games as defined in this act, electronic bonanza-style bingo games as defined in this act and electronic instant bingo games as defined in this act, and any type of gaming machine or device that is specifically allowed by law and that an Indian tribe in this state is authorized to utilize pursuant to a compact entered into between the state and the tribe in accordance with the provisions of the Indian Gaming Regulatory Act and any other machine or device that an Indian tribe in this state is lawfully permitted to operate pursuant to the Indian Gaming Regulatory Act, referred to collectively as "authorized games". An organization licensee's utilization of such machines or devices shall be subject to the regulatory control and supervision of the Commission; provided, the Commission shall have no role in oversight and regulation of gaming conducted by a tribe subject to a compact. The Commission shall promulgate rules to regulate the operation and use of authorized gaming by organization licensees. In promulgating such rules, the Commission shall consider the provisions of any compact which authorizes electronic gaming which is specifically authorized by law by an Indian tribe. For the purpose of paragraphs 1 and 2 of this subsection, the number of player terminals in an authorized game that permits multiple players shall be determined by the maximum number of players that can participate in that game at

any given time; provided, however, that nothing in this act prohibits the linking of player terminals for progressive jackpots, so long as the limitations on the number of permitted player terminals at each organization licensee are not exceeded. Each organization licensee shall keep a record of, and shall report at least quarterly to the Oklahoma Horse Racing Commission, the number of games authorized by this section utilized in the organization licensee's facility, by the name or type of each and its identifying number.

D. No zoning or other local ordinance may be adopted or amended by a political subdivision where an organization licensee conducts live horse racing with the intent to restrict or prohibit an organization licensee's right to conduct authorized gaming at such location.

E. For purposes of this act, "adjusted gross revenues" means the total receipts received by an organization licensee from the play of all authorized gaming minus all monetary payouts.

F. The Oklahoma Horse Racing Commission shall promulgate rules to regulate, implement and enforce the provisions of this act with regard to the conduct of authorized gaming by organization licensees; provided, regulation and oversight of games covered by a compact and operated by an Indian tribe shall be conducted solely pursuant to the requirements of the compact.

G. If an organization licensee operates or attempts to operate more player terminals which offer authorized games than it is authorized to offer to the public by this act or the terms of its license, upon written notice from the Commission, such activity shall cease forthwith. Such activity shall constitute a basis upon which the Commission may suspend or revoke the licensee's license. The Commission shall promulgate any rules and regulations necessary to enforce the provisions of this subsection.

H. This act is game-specific and shall not be construed to allow the operation of any other form of gaming unless specifically allowed by this act. This act shall not permit the operation of slot machines, dice games, roulette wheels, house-banked card games or games where winners are determined by the outcome of a sports contest.

SECTION 2. AMENDATORY 3A O.S. 2001, Section 205.6, is amended to read as follows:

Section 205.6 A. Any organization licensee conducting a race meeting may provide places on the race meeting grounds at which it may conduct and supervise the pari-mutuel system of wagering on the horse races conducted by the organization licensee at the race meeting. No other place or method of betting, pool making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on horse races conducted at a racetrack where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Horse Racing Act.

B. Each organization licensee that holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain an amount equal to eighteen percent (18%) of all money wagered, to be distributed as follows:

1. ~~The first~~ All money wagered per calendar year up to One Hundred Million Dollars (\$100,000,000.00) ~~wagered per calendar year~~ for each type of racing shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

- a. One-ninth (1/9) of the eighteen percent (18%) 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. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph 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~~+~~, and
- b. ~~Five-ninths (5/9)~~ One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee~~+~~, and
- c. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses~~+~~, and
- d. Two-ninths (2/9) of the eighteen percent (18%) shall be retained by the organization licensee to be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account;

2. All money wagered per calendar year for each type of racing in excess of One Hundred Million Dollars (\$100,000,000.00) but not to exceed One Hundred Fifty Million Dollars (\$150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

- a. One-ninth (1/9) of the eighteen percent (18%) 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. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph 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~~;~~ and

- b. ~~Four-ninths (4/9)~~ One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee~~;~~ and
- c. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses~~;~~ and
- d. ~~One-ninth (1/9)~~ Two-ninths (2/9) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as follows:
 - (1) ~~seventy-five percent (75%)~~ fifty percent (50%) as purses for participating horses, and
 - (2) ~~twenty-five percent (25%)~~ fifty percent (50%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account~~;~~ and

3. All money wagered per calendar year for each type of racing in excess of One Hundred Fifty Million Dollars (\$150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

- a. One-ninth (1/9) of the eighteen percent (18%) 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. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph 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~~†~~ and

- b. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee~~†~~ and
- c. One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses~~†~~ and
- d. Two-ninths (2/9) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as follows:
 - (1) seventy-five percent (75%) as purses for participating horses, and
 - (2) twenty-five percent (25%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

C. Notwithstanding any other provisions of this act, the state shall collect six percent (6%) of the total amount wagered under the provisions of this act at such time the organization licensee has no further debt service.

D. In addition to the amount required to be retained by the provisions of subsection B of this section, each organization licensee holding a race meeting at which the pari-mutuel system of wagering is conducted shall retain an additional amount equal to three percent (3%) of all money wagered on multiple race wagers involving not to exceed two races and on multiple horse wagers not to exceed two horses in the same race.

Such amount shall be retained by the organization licensee to be distributed as follows:

1. Two-thirds (2/3) of three percent (3%) shall be distributed:

a. Seventy-five percent (75%) as purses for participating horses~~+~~ and

b. Twenty-five percent (25%) shall be remitted to the Commission, at such intervals or required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

2. One-third (1/3) of the three percent (3%) shall be distributed:

a. Fifty percent (50%) as purses for participating horses~~+~~ and

b. Fifty percent (50%) to the organization licensee.

E. Each organization licensee shall retain an amount not less than twenty-one percent (21%) nor greater than twenty-five percent (25%) of all money wagered on multiple race wagers involving more than two races, and on multiple horse wagers involving more than two horses such amount shall be distributed as follows:

1. Eighteen percent (18%) pursuant to subsection B of this section;

2. Three percent (3%) pursuant to subsection D of this section; and

3. Of the remainder, fifty percent (50%) to be distributed as purses for participating horses and fifty percent (50%) to the organization licensee.

F. Organization licensees shall keep accurate books and records of all moneys wagered on each day of a race meeting and of the taxes paid pursuant to the provisions of this section. The Oklahoma Tax Commission or an authorized representative shall have access at all reasonable times to such records for the purpose of examining and checking the records and ascertaining whether the proper amount of

taxes is being paid. The Oklahoma Tax Commission shall require verified reports and a statement of the total of all moneys wagered daily at a race meeting and may prescribe forms upon which such reports and statement shall be made. The organization licensee shall provide the Oklahoma Tax Commission with such space and accommodations as may be necessary for the Oklahoma Tax Commission to implement its duties pursuant to the provisions of the Oklahoma Horse Racing Act.

G. No revenue bonds issued by a public trust, as authorized by the provisions of Title 62 of the Oklahoma Statutes, shall be used to finance any racetrack or racing facility.

SECTION 3. This act shall become effective November 1, 2005."

Passed the House of Representatives the 27th day of April, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2005.

Presiding Officer of the Senate