

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 2059

By: Hastings

AS INTRODUCED

An Act relating to amusements and sports; amending 3A O.S. 2001, Sections 402, 409, 410, 415, 423 and 426, which relate to the Oklahoma Charity Games Act; providing for electronic games; defining term; requiring suppliers of electronic games to be licensed; limiting distribution; requiring the adoption of certain rules; requiring certification of electronic games; earmarking certain revenues; declaring certain games to be contraband; amending Section 18, State Question No. 705, Legislative Referendum No. 330 (3A O.S. Supp. 2004, Section 717), which relates to lotteries; authorizing licensed organizations to obtain certificates of authority amending 21 O.S. 2001, Section 964, which relates to slot machines; providing that slot machine prohibition does not apply to certified electronic games; providing for codification; and providing an effective date.

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

1 announced pattern of squares upon the bingo face being used by the
2 player;

3 2. "Bingo face" means a flat piece of paper which is marked off
4 into any number of squares in any arrangement of rows, with each
5 square being designated by number, letter or combination of numbers
6 and letters and with one or more squares designated as a "free"
7 space with the word "Oklahoma" and a facsimile outline of a map of
8 Oklahoma in it, which cannot be reused after the game in which a
9 player has used it is over;

10 3. "Breakopen ticket card" means a single folded or banded
11 ticket or a card, the face of which is initially covered or
12 otherwise hidden from view to conceal a number, letter, symbol, or
13 set of letters or symbols, a few of which numbers, letters or
14 symbols out of every set of charity game tickets have been
15 designated in advance at random as prize winners and which is used
16 in a breakopen ticket game;

17 4. "Breakopen ticket game" means a game wherein a player
18 receives a breakopen ticket card. A breakopen ticket game shall
19 meet the following criteria:

- 20 a. the game shall be assembled so that no placement of
21 winners or losers exists that allows the possibility
22 of prize manipulation,
- 23 b. the concealed numbers, letters, or symbols shall not
24 be visible from the outside of the game using high
25 intensity lamps. Protection shall be provided by the
26 opaque paper stock employed, with the possible
27 addition of colors and printed blockout patterns or by
28 use of an aluminum foil laminate,
- 29 c. a unique symbol or printed security device, such as a
30 specific number keyed to particular winners or the
31 name of the symbol or some of the symbol colors
32 changed for a window, or other similar protection

1 shall be placed in the winning windows of prize
2 windows to ensure that the winner image is unique,

3 d. it shall not be possible to detect or pick out winning
4 from losing tickets through variations in printing
5 graphics, color, or use of different printing plates,

6 e. it shall not be possible to isolate winning or
7 potential winning tickets from minor variations in
8 size or cutting of the tickets comprising a particular
9 packet, and

10 f. each ticket in a game shall have a serial number. All
11 tickets in a game shall have the same serial number
12 appearing in a conspicuous place on the ticket;

13 5. "Business entity" means a person, company, corporation, or
14 partnership organized for profit;

15 6. "Charity game" means a bingo game, U-PIK-EM bingo game, or
16 breakopen ticket game conducted by an organization pursuant to the
17 provisions of the Oklahoma Charity Games Act;

18 7. "Charity game equipment" means any object uniquely designed
19 for use in the conducting of a charity game including, but not
20 limited to, bingo faces, U-PIK-EM bingo game sets, and breakopen
21 ticket cards. Items used in conducting charity games which are not
22 charity game equipment are ink markers, furniture and general
23 furnishings of rooms where charity games are conducted;

24 8. "Commission" or "ABLE Commission" means the Alcoholic
25 Beverage Laws Enforcement Commission;

26 9. "Day session" means the set time frame within which
27 conducting of charity games is authorized beginning no earlier than
28 10:00 a.m. and ending no later than 5:00 p.m.;

29 10. "Deal" means one series of breakopen ticket game cards
30 which has a stated number of winner payouts and a stated amount of
31 the payouts;

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

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

7 13. "Electronic game" means a bonanza-style bingo game or
8 electronic instant bingo game, as defined in Section 269 of Title 3A
9 of the Oklahoma Statutes;

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

12 ~~14.~~ 15. "Immediate family member" means a spouse, parent, child
13 or sibling or spouse of a parent, child or sibling of a resident of
14 a facility exempt from specific provisions of the Oklahoma Charity
15 Games Act as provided in subsection C of Section 405 of this title;

16 ~~15.~~ 16. "Licensee" means any person, organization, or business
17 entity which has received a license from the Commission;

18 ~~16.~~ 17. "Location" means the building, including the individual
19 rooms and equipment in the rooms, grounds, and appurtenances,
20 including adjacent premises if subject to the direct or indirect
21 control of the organization while conducting a charity game, which
22 are used in connection with or in furtherance of the conducting of a
23 charity game;

24 ~~17.~~ 18. "Manager" means a person who:

25 a. is an employee of an organization,

26 b. has supervisory authority over other employees or over
27 the conduct of charity games, and

28 c. has been designated as such by the organization
29 pursuant to the provisions of subsection D of Section
30 408 of this title;

31 ~~18.~~ 19. "Manufacturer" means a person or business entity that
32 assembles from raw materials, supplies, or subparts to form a

1 completed series of charity game equipment for use in charity games
2 and that sells, markets, or otherwise provides such equipment to a
3 distributor;

4 ~~19.~~ 20. "Night session" means the set time frame within which
5 conducting of charity games is authorized beginning no earlier than
6 5:00 p.m. and ending no later than 12:00 p.m. midnight;

7 ~~20.~~ 21. "Organization" means a religious, charitable, labor,
8 fraternal, educational, or other type of association or any branch,
9 lodge, chapter, or auxiliary of such association which:

- 10 a. operates without profit to its members,
- 11 b. has been in existence and been operating as a
12 nonprofit organization for not less than two (2) years
13 prior to applying for an organization license,
- 14 c. is exempt from taxation pursuant to the provisions of
15 paragraphs (3), (4), (5), (6), (7), (8), (9), (10), or
16 (19) of subsection (c) of Section 501 or paragraph (1)
17 of subsection (a) of Section 509 of the United States
18 Internal Revenue Code of 1986, as amended, 26 U.S.C.,
19 Section 501(c) et seq. or Section 509(a)(1), and
- 20 d. formulates bylaws which clearly identify and
21 establish:
 - 22 (1) method of electing officers and their duties,
 - 23 (2) method by which members are elected, initiated or
24 admitted,
 - 25 (3) the rights and privileges of each member,
 - 26 (4) that each member has one vote, and
 - 27 (5) that membership rights are personal to the member
28 and not assignable;

29 ~~21.~~ 22. "Progressive game" means a game in which prizes are
30 allowed to be carried over and increased from session to session;

31 ~~22.~~ 23. "U-PIK-EM bingo game" means a game played wherein a
32 player writes the numbers on a U-PIK-EM bingo game set. The player

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

9 ~~23.~~ 24. "U-PIK-EM bingo game set" means two paper sheets of
10 carbonless paper both bearing identical serial numbers on which a
11 player writes numbers or letters, wherein one sheet is retained by
12 the player and used for playing and one sheet is held by the
13 organization and used for verifying winners.

14 SECTION 2. AMENDATORY 3A O.S. 2001, Section 409, is
15 amended to read as follows:

16 Section 409. A. Any person or business entity desiring to sell
17 or supply any charity game equipment or electronic game to a
18 licensed organization in this state shall apply to the ABLE
19 Commission for a distributor license.

20 B. An application for a distributor license shall include:

21 1. The name and address of the applicant and the name and
22 address of each of its separate locations distributing charity game
23 equipment;

24 2. The name and address of all owners of the distributing
25 business entity, if the business entity is not a corporation. If
26 the business entity is a corporation, the name and address of each
27 of the officers and directors of the corporation and of each
28 stockholder owning ten percent (10%) or more of any class of stock
29 in the corporation; and

30 3. The full name, business address and home address of the
31 person who is a resident of this state, or the full name and address
32 of a domestic corporation located in this state, or the full name

1 and address of a foreign corporation authorized to transact business
2 in this state pursuant to Section 1130 of Title 18 of the Oklahoma
3 Statutes, who or which is authorized to receive service of process
4 on behalf of the applicant, if the applicant is a person who is not
5 a resident of this state or a business entity not located in this
6 state.

7 SECTION 3. AMENDATORY 3A O.S. 2001, Section 410, is
8 amended to read as follows:

9 Section 410. A. Any person or business entity desiring to sell
10 or supply charity game equipment or any electronic game to a
11 distributor in this state shall apply to the ABLE Commission for a
12 manufacturer license.

13 B. An application for a manufacturer license shall include:

14 1. The name and address of the applicant and the name and
15 address of each of its separate locations manufacturing charity game
16 equipment;

17 2. The name and address of all owners of the manufacturing
18 business entity, if the business entity is not a corporation. If
19 the business entity is a corporation, the name and address of each
20 of the officers and directors of the corporation and of each
21 stockholder owning ten percent (10%) or more of any class of stock
22 in the corporation; and

23 3. If the applicant is a foreign manufacturer and is also a
24 corporation, a certificate of good standing from the Secretary of
25 State, issued within sixty (60) days prior to filing the application
26 pursuant to Section 1130 of Title 18 of the Oklahoma Statutes. If
27 the foreign manufacturer is a corporation excepted from qualifying
28 to do business in this state pursuant to Section 1132 of Title 18 of
29 the Oklahoma Statutes or is not a corporation, then the foreign
30 manufacturer shall supply the Commission with the full name,
31 business address, and home address of the person who is a resident
32 of this state, or the full name and address of a domestic

1 corporation located in this state, or the full name and address of a
2 foreign corporation authorized to transact business in this state,
3 who or which is authorized to receive service of process on behalf
4 of the business entity.

5 SECTION 4. AMENDATORY 3A O.S. 2001, Section 415, is
6 amended to read as follows:

7 Section 415. A. Licensed organizations shall purchase their
8 supplies only from distributors licensed by this state and payment
9 for supplies shall be made upon receipt of the supplies at the place
10 of delivery.

11 B. Distributors shall market, sell, or supply charity game
12 equipment and electronic games in this state only to an
13 organization, exempt organization, exempt hospital, nursing home,
14 residential care facility, senior citizens' center, retirement
15 center or convalescent facility, entity of the United States
16 government, federally recognized Indian tribe or nation or other
17 licensed distributor.

18 C. Distributors shall purchase or otherwise obtain charity game
19 equipment and electronic games only from manufacturers or other
20 distributors licensed pursuant to the provisions of the Oklahoma
21 Charity Games Act, Section 401 et seq. of this title.

22 D. Manufacturers shall sell charity game equipment and
23 electronic games in this state only to distributors licensed
24 pursuant to the provisions of the Oklahoma Charity Games Act or
25 federally recognized Indian tribes or nations.

26 E. Charity game equipment and electronic games owned by an
27 organization may be disposed of with the written permission of the
28 Director of the ABLE Commission and with proper notification to the
29 Oklahoma Tax Commission, as follows:

30 1. By selling the equipment or giving it away to another
31 organization, an exempt organization, or exempt hospital, nursing
32

1 home, residential care facility, senior citizens' center, retirement
2 center or convalescent facility; or

3 2. By selling the equipment or electronic game or trading it in
4 on the purchase of other charity game equipment or electronic game
5 to a distributor licensed pursuant to the provisions of the Oklahoma
6 Charity Games Act.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 416.1 of Title 3A, unless there
9 is created a duplication in numbering, reads as follows:

10 The ABLE Commission shall adopt rules for regulating the
11 exhibition, display, operation, promotion, and use of electronic
12 games.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 416.2 of Title 3A, unless there
15 is created a duplication in numbering, reads as follows:

16 To be used in this state, an electronic game must be certified
17 as an approved electronic game by the ABLE Commission or a competent
18 private testing service that has contracted with the Commission to
19 certify machines as approved electronic games. The Commission by
20 rule shall set the certification standards to facilitate the
21 auditing and accountability of electronic games.

22 SECTION 7. AMENDATORY 3A O.S. 2001, Section 423, is
23 amended to read as follows:

24 Section 423. The revenues collected by the Oklahoma Tax
25 Commission pursuant to Section 421 of this title shall be paid
26 monthly by the Oklahoma Tax Commission to the State Treasurer to be
27 placed in the General Revenue Fund and earmarked for higher
28 education research, ~~to~~ and shall be paid out pursuant to direct
29 appropriation by the Legislature.

30 SECTION 8. AMENDATORY 3A O.S. 2001, Section 426, is
31 amended to read as follows:

32

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

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

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

9 or

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

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

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

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

31

32

1 E. Beginning November 1, 2005, any electronic game which is not
2 obtained and operated pursuant to the provisions of the Oklahoma
3 Charity Games Act shall be declared contraband.

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

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

10 2. The Commission, its agent, or the district attorney seizing
11 the alleged contraband shall apply to the district court for an
12 order forfeiting the alleged contraband and directing its
13 destruction;

14 3. The court clerk shall give the owner of the alleged
15 contraband fourteen (14) calendar days' written notice of the
16 hearing on the request for the order for destruction; and

17 4. Upon obtaining an order from the court ordering destruction,
18 the Commission or the district attorney shall destroy the contraband
19 in the manner they deem most appropriate.

20 SECTION 9. AMENDATORY Section 18, State Question No.
21 705, Legislative Referendum No. 330 (3A O.S. Supp. 2004, Section
22 717), is amended to read as follows:

23 Section 717. A. The people of this state recognize that to
24 conduct a successful lottery, the Oklahoma Lottery Commission must
25 develop and maintain a statewide network of lottery retailers that
26 will serve the public convenience and promote the sale of tickets or
27 shares and the playing of lottery games while ensuring the integrity
28 of the lottery operations, games, and activities.

29 B. The Commission shall make every effort to provide small
30 retailers a chance to participate in the sales of lottery tickets or
31 shares.

1 C. The Commission shall provide for compensation to lottery
2 retailers in the form of commissions in an amount of not less than
3 two percent (2%) of gross sales and may provide for other forms of
4 compensation for services rendered in the sale or cashing of lottery
5 tickets or shares.

6 D. The Commission shall issue a certificate of authority to
7 each person with whom it contracts as a retailer for purposes of
8 display for each location at which tickets or shares are offered for
9 sale. Every lottery retailer shall post and keep conspicuously
10 displayed in a location on the premises accessible to the public its
11 certificate of authority. No certificate of authority shall be
12 assignable or transferable. Organizations licensed pursuant to the
13 Oklahoma Charity Games Act shall be allowed to obtain certificates
14 of authority as lottery retailers.

15 E. The board of trustees of the Oklahoma Lottery Commission
16 shall develop a list of objective criteria upon which the
17 qualification of lottery retailers shall be based. Separate
18 criteria shall be developed to govern the selection of retailers of
19 instant tickets. In developing these criteria, the board shall
20 consider such factors as the financial responsibility of the
21 applicant, security of the place of business or activity of the
22 applicant, accessibility to the public, integrity, and reputation.
23 The board shall not consider political affiliation, activities, or
24 contributions to political committees or candidates for any public
25 office. The criteria shall include, but not be limited to, the
26 following:

27 1. The applicant shall be current in filing all applicable tax
28 returns to the State of Oklahoma and in payment of all taxes,
29 interest, and penalties owed to the State of Oklahoma, excluding
30 items under formal appeal pursuant to applicable statutes. An
31 applicant who has entered into and is abiding by a payment agreement
32 with the Oklahoma Tax Commission shall be deemed current in payment

1 of such taxes, penalties and interest. Notwithstanding the
2 provisions of Section 205 of Title 68 of the Oklahoma Statutes, the
3 Oklahoma Tax Commission shall provide this information to the
4 Commission;

5 2. No person, partnership, unincorporated association,
6 corporation, or other business entity or principal, officer or
7 director of a corporation or other business entity shall be selected
8 as a lottery retailer who:

9 a. has been convicted of or is awaiting sentencing on a
10 plea of guilt or nolo contendere to a criminal offense
11 related to the security or integrity of the lottery in
12 this or any other jurisdiction,

13 b. has been convicted of or is awaiting sentencing on a
14 plea of guilt or nolo contendere to any illegal
15 gambling activity, false statements, false swearing,
16 or perjury in this or any other jurisdiction or
17 convicted of or is awaiting sentencing on a plea of
18 guilt or nolo contendere to any crime punishable by
19 more than one (1) year of imprisonment or a fine of
20 more than One Thousand Dollars (\$1,000.00) or both,
21 unless the civil rights of the person have been
22 restored and at least five (5) years have elapsed from
23 the date of the completion of the sentence without a
24 subsequent conviction of a crime described in this
25 subparagraph,

26 c. has been found to have violated the provisions of the
27 Oklahoma Education Lottery Act or any rule, policy, or
28 procedure of the Commission unless either ten (10)
29 years have passed since the violation or the board
30 finds the violation both minor and unintentional in
31 nature,
32

- 1 d. is a vendor or any employee or agent of any vendor
2 doing business with the Commission,
3 e. resides in the same household as the executive
4 director, any board member, or any employee of the
5 Commission,
6 f. has made a statement of material fact to the
7 Commission knowing such statement to be false, or
8 g. is engaged exclusively in the business of selling
9 lottery tickets or shares. This subparagraph shall
10 not preclude the Commission from selling or giving
11 away lottery tickets or shares for promotional
12 purposes;

13 3. Persons applying to become lottery retailers shall be
14 charged a uniform application fee for each lottery outlet;

15 4. Any lottery retailer contract executed pursuant to this
16 section may, for good cause, be suspended, revoked, or terminated by
17 the executive director or designee if the retailer is found to have
18 violated any provisions of the Oklahoma Education Lottery Act or
19 objective criteria established by the board. Review of such
20 activities shall be in accordance with the procedures outlined in
21 the Oklahoma Education Lottery Act and shall not be subject to the
22 Administrative Procedures Act; and

23 5. All lottery retailer contracts may be renewable annually in
24 the discretion of the Commission unless sooner canceled or
25 terminated.

26 F. No lottery retailer or applicant to be a lottery retailer
27 shall pay, give, or make any economic opportunity, gift, loan,
28 gratuity, special discount, favor, hospitality, or service, to the
29 executive director, any board member, or any employee of the
30 Commission, or to any person related to any such person within the
31 third degree of consanguinity or affinity.
32

1 SECTION 10. AMENDATORY 21 O.S. 2001, Section 964, is
2 amended to read as follows:

3 Section 964. A. For the purpose of Sections 964 through 977 of
4 this title, "slot machine" is defined to be:

5 1. Any machine, instrument, mechanism, or device that operates
6 or may be operated or played mechanically, electrically,
7 automatically, or manually, and which can be played or operated by
8 any person by inserting in any manner into said machine, instrument,
9 mechanism, or device, a coin, chip, token, check, credit, money,
10 representative of value, or a thing of value, and by which play or
11 operation such person will stand to win or lose, whether by skill or
12 chance, or by both, a thing of value; and

13 2. Any machine, instrument, mechanism, or device that operates
14 or may be played or operated mechanically, electrically,
15 automatically, or manually, and which can be played or operated by
16 any person by paying to or depositing with any person, or by
17 depositing with or into any cache, slot, or place a coin, chip,
18 token, check, credit, money, representative of value, or a thing of
19 value, and by which play or operation such person will stand to win
20 or lose, whether by skill or chance, or by both, a thing of value.

21 B. Sections 964 through 977 of this title shall not apply to a
22 slot machine:

23 1. If the slot machine is twenty-five (25) years or older and
24 is not used for gambling purposes; or

25 2. If the slot machine is used for the purpose of teaching slot
26 machine repair and is not used for gambling purposes.

27 C. Sections 964 through 977 of this title shall not apply to
28 use of a crane machine for nongambling purposes. For purposes of
29 this section, "crane machine" shall mean a machine that upon
30 insertion of a coin, bill, token or similar object, allows the
31 player to skillfully use one or more buttons, joysticks or other
32 controls to maneuver a crane or claw over a toy or novelty in an

1 attempt to retrieve the toy or novelty for the player. The toy or
2 novelty shall not be subject to being exchanged for any other prize,
3 including but not limited to credits, money or other thing of value.

4 D. Sections 964 through 977 of this title shall not apply to
5 electronic games authorized by the Oklahoma Charity Games Act.

6 E. A slot machine which is twenty-five (25) years or older or
7 is used for teaching slot machine repair which is used for a
8 gambling purpose in violation of the provisions of Section 970 of
9 this title shall be subject to confiscation as provided by Section
10 973 of this title.

11 SECTION 11. This act shall become effective November 1, 2005.

12
13 50-1-5211 SD 01/20/05
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32