

ENROLLED SENATE  
BILL NO. 1435

By: Sparks of the Senate

and

Peters of the House

An Act relating to amusements and sports; amending Section 4, Chapter 316, O.S.L. 2004, as amended by Section 1, Chapter 355, O.S.L. 2007 (3A O.S. Supp. 2007, Section 263), which relates to the State-Tribal Gaming Act; modifying distribution of certain payments; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 316, O.S.L. 2004, as amended by Section 1, Chapter 355, O.S.L. 2007 (3A O.S. Supp. 2007, Section 263), is amended to read as follows:

Section 263. A. Each organization licensee described in paragraph 2 of subsection C of Section ~~3~~ 262 of this ~~act~~ title shall distribute from the first Ten Million Dollars (\$10,000,000.00) of adjusted gross revenues generated by any gaming conducted pursuant to this act as follows:

1. Ten percent (10%) shall be remitted to the Oklahoma Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty-five percent (25%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Sixty-five percent (65%) shall be retained by the organization licensee.

B. The organization licensee described in paragraph 1 of subsection C of Section 3 of this act shall distribute from the first Ten Million Dollars (\$10,000,000.00) of adjusted gross revenues generated by any gaming conducted pursuant to this act as follows:

1. Ten percent (10%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Thirty percent (30%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Sixty percent (60%) shall be retained by the organization licensee.

C. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Ten Million Dollars (\$10,000,000.00) per calendar year but not to exceed Thirty Million Dollars (\$30,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Ten percent (10%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund

and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Thirty percent (30%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Sixty percent (60%) shall be retained by the organization licensee.

D. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Thirty Million Dollars (\$30,000,000.00) per calendar year but not to exceed Forty Million Dollars (\$40,000,000.00) per calendar year generated by any gaming conducted pursuant to this act as follows:

1. Fifteen percent (15%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Thirty percent (30%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty-five percent (55%) shall be retained by the organization licensee.

E. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Forty Million Dollars (\$40,000,000.00) per calendar year but not to exceed Fifty Million Dollars (\$50,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Twenty percent (20%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to

the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty-five percent (25%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty-five percent (55%) shall be retained by the organization licensee.

F. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Fifty Million Dollars (\$50,000,000.00) per calendar year but not to exceed Seventy Million Dollars (\$70,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Twenty-five percent (25%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty-two and one-half percent (22 1/2%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty-two and one-half percent (52 1/2%) shall be retained by the organization licensee.

G. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Seventy Million Dollars (\$70,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Thirty percent (30%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Prior to July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned

monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty percent (20%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty percent (50%) shall be retained by the organization licensee.

H. Each organization licensee shall remit, on the fifteenth day following the end of the month in which they were retained, an amount equal to nine percent (9%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section to the Oklahoma Horse Racing Commission for deposit in the Oklahoma Breeding Development Fund Special Account pursuant to Section 208.3 of ~~Title 3A of the Oklahoma Statutes~~ this title, to be distributed to the participating breeds as provided in paragraphs 1 and 2 of this subsection.

Each organization licensee shall remit to the official horsemen's organization representing participating horsemen during the live race meets, on the fifteenth day following the end of the month in which they were retained, an amount equal to one and five-tenths percent (1.5%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section on a pro rata basis based on the distribution of purse funds available to the breeds of horses participating in the live race meetings with one percent (1%) to be used for administrative expenses and five-tenths of one percent (0.5%) to provide funding for a benevolence program at each racetrack to benefit participating horsemen and their employees. Such benevolence program shall provide medical benefits or services to persons associated with the horse racing industry who are in financial need.

Each organization licensee shall remit to the breed organizations designated by the official horsemen's representative, on the fifteenth day following the end of the month in which they were retained, an amount equal to one percent (1%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section on a pro rata basis based on the distribution of purse funds available to the breeds of horses participating in the live race

meetings for funding to support the breed organizations dedicated to the promotion of breeding and racing horses in Oklahoma.

Subject to the provisions of subsection I of this section, the remainder of the funds generated pursuant to paragraph 2 of subsections A through G of this section shall be distributed by the organization licensee as purses for participating horses as follows:

1. For organization licensees that conduct one or more race meetings dedicated to Thoroughbred racing and one or more race meetings dedicated to Quarter Horse, Paint and Appaloosa horse racing, fifty percent (50%) to purses for Thoroughbred races, forty-five percent (45%) to purses for Quarter Horse races, and five percent (5%) to purses for Paint and Appaloosa races; and

2. For all other organization licensees, forty-five percent (45%) to purses for Thoroughbred races, forty-five percent (45%) to purses for Quarter Horse races and ten percent (10%) to purses for Paint and Appaloosa horse races.

I. The percentage of purse money generated by an organization licensee that is designated for deposit to the Oklahoma Breeding Development Fund Special Account pursuant to subsection H of this section may be increased by an additional percentage that shall not exceed thirty-three percent (33%) of the total funds for participating horsemen upon the written application of the official horsemen's representative for each of the breeds of horses participating in a race meeting at the track.

All Oklahoma Breeding Development Fund Special Account monies generated pursuant to this section shall not be subject to a reduction pursuant to paragraph 7 of subsection B of Section 208.3 of ~~Title 3A of the Oklahoma Statutes~~ this title.

J. An organization licensee's annual application for race dates shall include any existing agreement between the organization licensee and the official horsemen's representative for each breed participating in the live racing meeting at that track which sets forth the thresholds whereby the minimum number of races will increase or decrease during that calendar year.

K. For purposes of this act a "recipient licensee" means 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 208.2 of ~~Title 3A of the Oklahoma Statutes~~ this title located in a county with a population exceeding five hundred thousand (500,000) persons, according to the most

recent federal decennial census, and a "participating tribe" means a tribe which operates a gaming facility within a radius of twenty (20) miles from the enclosure of a recipient licensee pursuant to a compact set forth in Section ~~22~~ 281 of this ~~act~~ title. Such compact shall require that a participating tribe contribute a percentage of its "monthly average take" from electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games (hereinafter referred to collectively as "electronic covered games") as defined in that tribe's Gaming Compact as long as the prohibition against fair associations or organizations licensed pursuant to Section 208.2 of ~~Title 3A of the Oklahoma Statutes~~ this title conducting authorized gaming under this act as set forth in subsection A of Section ~~3~~ 262 of this ~~act~~ title remains in effect. Participating tribes shall make contributions in accordance with the following requirements:

1. Each participating tribe shall calculate its monthly average take for electronic covered games for each calendar month of operation of electronic covered games. For purposes of this paragraph, the "monthly average take" shall mean all adjusted gross revenue from electronic covered games at the tribal gaming facilities that are located within a radius of twenty (20) miles from the enclosure of a recipient licensee during the applicable calendar month, divided by the number of electronic covered games operated by the tribe at the gaming facility during the applicable calendar month;

2. Each participating tribe shall calculate its pro rata share of the payments required by this subsection, based on the number of electronic covered games in the tribal gaming facilities within the twenty-mile radius described in paragraph 1 of this subsection, during the applicable calendar month ("tribal share"). As an example only, if three (3) tribes participate in this subsection during a calendar month, and have the respective number of games in the amount of 500, 1,000, and 1,000, then the payments called for in paragraph 3 of this subsection would be multiplied by twenty percent (20%), forty percent (40%) and forty percent (40%) to determine each tribe's pro rata share; and

3. Each participating tribe shall make the following payments no later than the fifteenth day following the end of the applicable calendar month, with the first payment to be due no later than the fifteenth day following the end of the first month in which a participating tribe commences gaming operations pursuant to the compact set out in Section ~~22~~ 281 of this ~~act~~ title:

- a. the tribe shall pay its pro rata share of the product of 450 multiplied by .05 multiplied by the greater of Seven Thousand Four Hundred Eight Dollars (\$7,408.00) or the tribe's monthly average take for the applicable month to the recipient licensee, and
- b. the tribe shall pay its pro rata share of the product of 450 multiplied by .25 multiplied by the tribe's monthly average take for the applicable month to the Oklahoma Horse Racing Commission to be ~~distributed to organization licensees for purses for participating horses pursuant to subsection L of this section~~ used as directed by purse committees for the following purposes:
  - (1) distributed to organization licensees for purses for participating horses,
  - (2) paid to the Oklahoma Breeding Development Fund Special Account. The amount designated for deposit into the Oklahoma Breeding Development Fund Special Account shall never be less than nine percent (9%) of the funds generated nor more than thirty-three percent (33%) of the total designated funds for horsemen participating in any race meeting, and
  - (3) paid to the official horsemen's representatives and to the breeding organizations designated by the official horsemen's representatives and to the breeding organizations designated by the official horsemen's representatives to be used to pay their administrative expenses and to fund their benevolence programs. In no event shall the amount designated for such administrative expenses exceed one percent (1%) of the funds generated nor shall the monies designated for benevolence programs exceed five-tenths of one percent (0.5%) of the funds generated.

L. The "purse committees" shall be comprised of the official elected horsemen representatives for each breed as designated in Section § 267 of this ~~act~~ title. The total contribution of the participating tribes made pursuant to subparagraph b of paragraph 3 of subsection K of this section shall be distributed as directed by the purse committees based on the following formula, to wit: fifty percent (50%) by the purse committee representing Thoroughbred

horses; forty percent (40%) by the purse committee representing Quarter Horses; and ten percent (10%) by the purse committee representing Paint and Appaloosa horses.

The purse committees shall meet at least sixty (60) days prior to the beginning of a calendar year to provide directions for placement of the purse funds described in subparagraph b of paragraph 3 subsection K of this section with one or more organization licensees for the succeeding calendar year. In providing such directions the purse committees shall consider and attempt to achieve the following preferences in the order set forth below:

FIRST. Through the use of no more than fifty percent (50%) of the purse funds available for distribution under this section, maintaining the purse structures of any organization licensee operating a racetrack location located in a county with a population exceeding six hundred thousand (600,000) persons, according to the most recent federal decennial census, at a level that is competitive with the purse structures of similarly situated race tracks, including those in surrounding states, and that will encourage the participation by horsemen in that organization licensee's race meet or meets; and

SECOND. Maintaining the purse structures of the organization licensee closest in geographic proximity to the location where the purse funds described in subparagraph b of paragraph 3 of subsection K of this section were generated at a level that is competitive with the purse structures of similarly situated race tracks, including those in surrounding states, and that will encourage the participation by horsemen in that organization licensee's race meet or meets; and

THIRD. Maintaining the purse structures of the remaining organization licensees in the state at a level that will encourage the participation by horsemen in those organization licensees' race meet or meets.

SECTION 2. This act shall become effective July 1, 2008.

SECTION 3. 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 Senate the 12th day of March, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the 10th day of April, 2008.

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Presiding Officer of the House  
of Representatives