

THE HOUSE OF REPRESENTATIVES
Tuesday, April 8, 2008

ENGROSSED
Senate Bill No. 1435

ENGROSSED 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:

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

4 Section 263. A. Each organization licensee described in paragraph 2 of subsection
5 C of Section ~~3~~ 262 of this act ~~æ~~ title shall distribute from the first Ten Million Dollars
6 (\$10,000,000.00) of adjusted gross revenues generated by any gaming conducted
7 pursuant to this act as follows:

8 1. Ten percent (10%) shall be remitted to the Oklahoma Tax Commission on the
9 fifteenth day following the end of the month in which it was retained. Prior to July 1,
10 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be

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

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

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

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

13 1. Ten percent (10%) shall be remitted to the Tax Commission on the fifteenth day
14 following the end of the month in which it was retained. Prior to July 1, 2008, twelve
15 percent (12%) of the revenue derived pursuant to this paragraph shall be appORTIONED
16 monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent
17 (88%) of such revenue shall be appORTIONED to the Education Reform Revolving Fund. On
18 or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this
19 paragraph shall be appORTIONED monthly to the General Revenue Fund and eighty-eight
20 percent (88%) of such revenue shall be appORTIONED to the Education Reform Revolving
21 Fund;

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

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

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

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

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

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

20 D. Each organization licensee shall distribute from retained adjusted gross
21 revenues in excess of Thirty Million Dollars (\$30,000,000.00) per calendar year but not to

1 exceed Forty Million Dollars (\$40,000,000.00) per calendar year generated by any gaming
2 conducted pursuant to this act as follows:

3 1. Fifteen percent (15%) shall be remitted to the Tax Commission on the fifteenth
4 day following the end of the month in which it was retained. Prior to July 1, 2008, twelve
5 percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned
6 monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent
7 (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On
8 or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this
9 paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight
10 percent (88%) of such revenue shall be apportioned to the Education Reform Revolving
11 Fund;

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

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

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

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

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

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

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

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

13 1. Twenty-five percent (25%) shall be remitted to the Tax Commission on the
14 fifteenth day following the end of the month in which it was retained. Prior to July 1,
15 2008, twelve percent (12%) of the revenue derived pursuant to this paragraph shall be
16 apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-
17 eight percent (88%) of such revenue shall be apportioned to the Education Reform
18 Revolving Fund. On or after July 1, 2008, twelve percent (12%) of the revenue derived
19 pursuant to this paragraph shall be apportioned monthly to the General Revenue Fund
20 and eighty-eight percent (88%) of such revenue shall be apportioned to the Education
21 Reform Revolving Fund;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

8 1. Thirty percent (30%) shall be remitted to the Tax Commission on the fifteenth
9 day following the end of the month in which it was retained. Prior to July 1, 2008, twelve
10 percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned
11 monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent
12 (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund. On
13 or after July 1, 2008, twelve percent (12%) of the revenue derived pursuant to this
14 paragraph shall be apportioned monthly to the General Revenue Fund and eighty-eight
15 percent (88%) of such revenue shall be apportioned to the Education Reform Revolving
16 Fund;

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

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

20 H. Each organization licensee shall remit, on the fifteenth day following the end of
21 the month in which they were retained, an amount equal to nine percent (9%) of the
22 funds generated pursuant to paragraph 2 of subsections A through G of this section to

1 the Oklahoma Horse Racing Commission for deposit in the Oklahoma Breeding
2 Development Fund Special Account pursuant to Section 208.3 of ~~Title 3A of the~~
3 ~~Oklahoma Statutes~~ this title, to be distributed to the participating breeds as provided in
4 paragraphs 1 and 2 of this subsection.

5 Each organization licensee shall remit to the official horsemen's organization
6 representing participating horsemen during the live race meets, on the fifteenth day
7 following the end of the month in which they were retained, an amount equal to one and
8 five-tenths percent (1.5%) of the funds generated pursuant to paragraph 2 of subsections
9 A through G of this section on a pro rata basis based on the distribution of purse funds
10 available to the breeds of horses participating in the live race meetings with one percent
11 (1%) to be used for administrative expenses and five-tenths of one percent (0.5%) to
12 provide funding for a benevolence program at each racetrack to benefit participating
13 horsemen and their employees. Such benevolence program shall provide medical
14 benefits or services to persons associated with the horse racing industry who are in
15 financial need.

16 Each organization licensee shall remit to the breed organizations designated by the
17 official horsemen's representative, on the fifteenth day following the end of the month in
18 which they were retained, an amount equal to one percent (1%) of the funds generated
19 pursuant to paragraph 2 of subsections A through G of this section on a pro rata basis
20 based on the distribution of purse funds available to the breeds of horses participating in
21 the live race meetings for funding to support the breed organizations dedicated to the
22 promotion of breeding and racing horses in Oklahoma.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

21 J. An organization licensee's annual application for race dates shall include any
22 existing agreement between the organization licensee and the official horsemen's

1 representative for each breed participating in the live racing meeting at that track which
2 sets forth the thresholds whereby the minimum number of races will increase or decrease
3 during that calendar year.

4 K. For purposes of this act a “recipient licensee” means an organization licensee
5 operating a racetrack location at which an organization licensee is licensed to conduct a
6 race meeting pursuant to the provisions of Section 208.2 of ~~Title 3A of the Oklahoma~~
7 ~~Statutes~~ this title located in a county with a population exceeding five hundred thousand
8 (500,000) persons, according to the most recent federal decennial census, and a
9 “participating tribe” means a tribe which operates a gaming facility within a radius of
10 twenty (20) miles from the enclosure of a recipient licensee pursuant to a compact set
11 forth in Section ~~22~~ 281 of this ~~act~~ title. Such compact shall require that a participating
12 tribe contribute a percentage of its “monthly average take” from electronic amusement
13 games, electronic bonanza-style bingo games and electronic instant bingo games
14 (hereinafter referred to collectively as “electronic covered games”) as defined in that
15 tribe’s Gaming Compact as long as the prohibition against fair associations or
16 organizations licensed pursuant to Section 208.2 of ~~Title 3A of the Oklahoma Statutes~~
17 this title conducting authorized gaming under this act as set forth in subsection A of
18 Section ~~3~~ 262 of this ~~act~~ title remains in effect. Participating tribes shall make
19 contributions in accordance with the following requirements:

20 1. Each participating tribe shall calculate its monthly average take for electronic
21 covered games for each calendar month of operation of electronic covered games. For
22 purposes of this paragraph, the “monthly average take” shall mean all adjusted gross

1 revenue from electronic covered games at the tribal gaming facilities that are located
2 within a radius of twenty (20) miles from the enclosure of a recipient licensee during the
3 applicable calendar month, divided by the number of electronic covered games operated
4 by the tribe at the gaming facility during the applicable calendar month;

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

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

18 a. the tribe shall pay its pro rata share of the product of 450 multiplied by
19 .05 multiplied by the greater of Seven Thousand Four Hundred Eight
20 Dollars (\$7,408.00) or the tribe’s monthly average take for the
21 applicable month to the recipient licensee, and

1 b. the tribe shall pay its pro rata share of the product of 450 multiplied by
2 .25 multiplied by the tribe's monthly average take for the applicable
3 month to the Oklahoma Horse Racing Commission to be ~~distributed to~~
4 ~~organization licensees for purses for participating horses pursuant to~~
5 ~~subsection L of this section~~ used as directed by purse committees for
6 the following purposes:

7 (1) distributed to organization licensees for purses for participating
8 horses.

9 (2) paid to the Oklahoma Breeding Development Fund Special
10 Account. The amount designated for deposit into the Oklahoma
11 Breeding Development Fund Special Account shall never be less
12 than nine percent (9%) of the funds generated nor more than
13 thirty-three percent (33%) of the total designated funds for
14 horsemen participating in any race meeting, and

15 (3) paid to the official horsemen's representatives and to the
16 breeding organizations designated by the official horsemen's
17 representatives and to the breeding organizations designated by
18 the official horsemen's representatives to be used to pay their
19 administrative expenses and to fund their benevolence
20 programs. In no event shall the amount designated for such
21 administrative expenses exceed one percent (1%) of the funds
22 generated nor shall the monies designated for benevolence

1 programs exceed five-tenths of one percent (0.5%) of the funds
2 generated.

3 L. The “purse committees” shall be comprised of the official elected horsemen
4 representatives for each breed as designated in Section § 267 of this ~~act~~ title. The total
5 contribution of the participating tribes made pursuant to subparagraph b of paragraph 3
6 of subsection K of this section shall be distributed as directed by the purse committees
7 based on the following formula, to wit: fifty percent (50%) by the purse committee
8 representing Thoroughbred horses; forty percent (40%) by the purse committee
9 representing Quarter Horses; and ten percent (10%) by the purse committee representing
10 Paint and Appaloosa horses.

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

17 FIRST. Through the use of no more than fifty percent (50%) of the purse funds
18 available for distribution under this section, maintaining the purse structures of any
19 organization licensee operating a racetrack location located in a county with a population
20 exceeding six hundred thousand (600,000) persons, according to the most recent federal
21 decennial census, at a level that is competitive with the purse structures of similarly

1 situated race tracks, including those in surrounding states, and that will encourage the
2 participation by horsemen in that organization licensee's race meet or meets; and

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

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

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

13 SECTION 3. It being immediately necessary for the preservation of the public
14 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
15 this act shall take effect and be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
17 FINANCIAL SERVICES, dated 04-07-08 - DO PASS.