

CS for SB 1435

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THE STATE SENATE
Thursday, February 21, 2008

Committee Substitute for
Senate Bill No. 1435

COMMITTEE SUBSTITUTE FOR 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

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

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

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

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

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

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

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

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

10 C. Each organization licensee shall distribute from retained
11 adjusted gross revenues in excess of Ten Million Dollars
12 (\$10,000,000.00) per calendar year but not to exceed Thirty Million
13 Dollars (\$30,000,000.00) per calendar year generated from any gaming
14 conducted pursuant to this act as follows:

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

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

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

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

8 D. Each organization licensee shall distribute from retained
9 adjusted gross revenues in excess of Thirty Million Dollars
10 (\$30,000,000.00) per calendar year but not to exceed Forty Million
11 Dollars (\$40,000,000.00) per calendar year generated by any gaming
12 conducted pursuant to this act as follows:

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

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

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

6 E. Each organization licensee shall distribute from retained
7 adjusted gross revenues in excess of Forty Million Dollars
8 (\$40,000,000.00) per calendar year but not to exceed Fifty Million
9 Dollars (\$50,000,000.00) per calendar year generated from any gaming
10 conducted pursuant to this act as follows:

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

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

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

6 F. Each organization licensee shall distribute from retained
7 adjusted gross revenues in excess of Fifty Million Dollars
8 (\$50,000,000.00) per calendar year but not to exceed Seventy Million
9 Dollars (\$70,000,000.00) per calendar year generated from any gaming
10 conducted pursuant to this act as follows:

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

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

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

6 G. Each organization licensee shall distribute from retained
7 adjusted gross revenues in excess of Seventy Million Dollars
8 (\$70,000,000.00) per calendar year generated from any gaming
9 conducted pursuant to this act as follows:

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

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

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

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

12 Each organization licensee shall remit to the official
13 horsemen's organization representing participating horsemen during
14 the live race meets, on the fifteenth day following the end of the
15 month in which they were retained, an amount equal to one and five-
16 tenths percent (1.5%) of the funds generated pursuant to paragraph 2
17 of subsections A through G of this section on a pro rata basis based
18 on the distribution of purse funds available to the breeds of horses
19 participating in the live race meetings with one percent (1%) to be
20 used for administrative expenses and five-tenths of one percent
21 (0.5%) to provide funding for a benevolence program at each
22 racetrack to benefit participating horsemen and their employees.
23 Such benevolence program shall provide medical benefits or services

1 to persons associated with the horse racing industry who are in
2 financial need.

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

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

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

22 2. For all other organization licensees, forty-five percent
23 (45%) to purses for Thoroughbred races, forty-five percent (45%) to

1 purses for Quarter Horse races and ten percent (10%) to purses for
2 Paint and Appaloosa horse races.

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

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

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

21 K. For purposes of this act a "recipient licensee" means an
22 organization licensee operating a racetrack location at which an
23 organization licensee is licensed to conduct a race meeting pursuant

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

19 1. Each participating tribe shall calculate its monthly average
20 take for electronic covered games for each calendar month of
21 operation of electronic covered games. For purposes of this
22 paragraph, the "monthly average take" shall mean all adjusted gross
23 revenue from electronic covered games at the tribal gaming

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

6 2. Each participating tribe shall calculate its pro rata share
7 of the payments required by this subsection, based on the number of
8 electronic covered games in the tribal gaming facilities within the
9 twenty-mile radius described in paragraph 1 of this subsection,
10 during the applicable calendar month ("tribal share"). As an
11 example only, if three (3) tribes participate in this subsection
12 during a calendar month, and have the respective number of games in
13 the amount of 500, 1,000, and 1,000, then the payments called for in
14 paragraph 3 of this subsection would be multiplied by twenty percent
15 (20%), forty percent (40%) and forty percent (40%) to determine each
16 tribe's pro rata share; and

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

- 1 a. the tribe shall pay its pro rata share of the product
2 of 450 multiplied by .05 multiplied by the greater of
3 Seven Thousand Four Hundred Eight Dollars (\$7,408.00)
4 or the tribe's monthly average take for the applicable
5 month to the recipient licensee, and
- 6 b. the tribe shall pay its pro rata share of the product
7 of 450 multiplied by .25 multiplied by the tribe's
8 monthly average take for the applicable month to the
9 Oklahoma Horse Racing Commission to be ~~distributed to~~
10 ~~organization licensees for purses for participating~~
11 ~~horses pursuant to subsection L of this section~~ used
12 as directed by purse committees for the following
13 purposes:
- 14 (1) distributed to organization licensees for purses
15 for participating horses,
- 16 (2) paid to the Oklahoma Breeding Development Fund
17 Special Account. The amount designated for
18 deposit into the Oklahoma Breeding Development
19 Fund Special Account shall never be less than
20 nine percent (9%) of the funds generated nor more
21 than thirty-three percent (33%) of the total
22 designated funds for horsemen participating in
23 any race meeting, and

1 (3) paid to the official horsemen's representatives
2 and to the breeding organizations designated by
3 the official horsemen's representatives and to
4 the breeding organizations designated by the
5 official horsemen's representatives to be used to
6 pay their administrative expenses and to fund
7 their benevolence programs. In no event shall
8 the amount designated for such administrative
9 expenses exceed one percent (1%) of the funds
10 generated nor shall the monies designated for
11 benevolence programs exceed five-tenths of one
12 percent (0.5%) of the funds generated.

13 L. The "purse committees" shall be comprised of the official
14 elected horsemen representatives for each breed as designated in
15 Section ~~§~~ 267 of this ~~act~~ title. The total contribution of the
16 participating tribes made pursuant to subparagraph b of paragraph 3
17 of subsection K of this section shall be distributed as directed by
18 the purse committees based on the following formula, to wit: fifty
19 percent (50%) by the purse committee representing Thoroughbred
20 horses; forty percent (40%) by the purse committee representing
21 Quarter Horses; and ten percent (10%) by the purse committee
22 representing Paint and Appaloosa horses.

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

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

19 SECOND. Maintaining the purse structures of the organization
20 licensee closest in geographic proximity to the location where the
21 purse funds described in subparagraph b of paragraph 3 of subsection
22 K of this section were generated at a level that is competitive with
23 the purse structures of similarly situated race tracks, including

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

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-19-08 - DO
14 PASS, As Amended and Coauthored.