

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 798

By: Bingman

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5
6 AS INTRODUCED

7 An Act relating to horse racing; amending 3A O.S.
8 2011, Section 263, which relates to distributions and
9 payments by licensees; modifying references;
10 providing an effective date; and declaring an
11 emergency.

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

13 SECTION 1. AMENDATORY 3A O.S. 2011, Section 263, is
14 amended to read as follows:

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

20 1. Ten percent (10%) shall be remitted to the Oklahoma Tax
21 Commission on the fifteenth day following the end of the month in
22 which it was retained. Prior to July 1, 2008, twelve percent (12%)
23 of the revenue derived pursuant to this paragraph shall be
24 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~~ 262 of this ~~act~~ title shall distribute
14 from the first Ten Million Dollars (\$10,000,000.00) of adjusted
15 gross revenues generated by any gaming conducted pursuant to ~~this~~
16 ~~act~~ the State-Tribal Gaming Act as 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,
24 twelve percent (12%) of the revenue derived pursuant to this

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

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

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

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

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

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

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

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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~~ the State-Tribal Gaming Act as
10 follows:

11 1. Thirty percent (30%) 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;

22 2. Twenty percent (20%) shall be retained by the organization
23 licensee to be distributed according to subsection H of this
24 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 this title, to be distributed to the participating breeds as
10 provided in paragraphs 1 and 2 of this subsection.

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

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

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

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

20 2. For all other organization licensees, forty-five percent
21 (45%) to purses for Thoroughbred races, forty-five percent (45%) to
22 purses for Quarter Horse races and ten percent (10%) to purses for
23 Paint and Appaloosa horse races.

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

9 All Oklahoma Breeding Development Fund Special Account monies
10 generated pursuant to this section shall not be subject to a
11 reduction pursuant to paragraph 7 of subsection B of Section 208.3
12 of this title.

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

19 K. For purposes of ~~this act~~ the State-Tribal Gaming Act a
20 "recipient licensee" means an organization licensee operating a
21 racetrack location at which an organization licensee is licensed to
22 conduct a race meeting pursuant to the provisions of Section 208.2
23 of this title located in a county with a population exceeding five
24 hundred thousand (500,000) persons, according to the most recent

1 federal decennial census, and a "participating tribe" means a tribe
2 which operates a gaming facility within a radius of twenty (20)
3 miles from the enclosure of a recipient licensee pursuant to a
4 compact set forth in Section 281 of this title. Such compact shall
5 require that a participating tribe contribute a percentage of its
6 "monthly average take" from electronic amusement games, electronic
7 bonanza-style bingo games and electronic instant bingo games
8 (hereinafter referred to collectively as "electronic covered games")
9 as defined in that tribe's Gaming Compact as long as the prohibition
10 against fair associations or organizations licensed pursuant to
11 Section 208.2 of this title conducting authorized gaming under ~~this~~
12 ~~act~~ the State-Tribal Gaming Act as set forth in subsection A of
13 Section 262 of this title remains in effect.

14 Participating tribes shall make contributions in accordance with
15 the following requirements:

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

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

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

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

1 b. the tribe shall pay its pro rata share of the product
2 of 450 multiplied by .25 multiplied by the tribe's
3 monthly average take for the applicable month to the
4 Oklahoma Horse Racing Commission to be used as
5 directed by purse committees for the following
6 purposes:

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

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

17 (3) paid to the official horsemen's representatives
18 and to the breeding organizations designated by
19 the official horsemen's representatives and to
20 the breeding organizations designated by the
21 official horsemen's representatives to be used to
22 pay their administrative expenses and to fund
23 their benevolence programs. In no event shall
24 the amount designated for such administrative

1 expenses exceed one percent (1%) of the funds
2 generated nor shall the monies designated for
3 benevolence programs exceed five-tenths of one
4 percent (0.5%) of the funds generated.

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

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

23 FIRST. Through the use of no more than fifty percent (50%) of
24 the purse funds available for distribution under this section,

1 maintaining the purse structures of any organization licensee
2 operating a racetrack location located in a county with a population
3 exceeding six hundred thousand (600,000) persons, according to the
4 most recent federal decennial census, at a level that is competitive
5 with the purse structures of similarly situated race tracks,
6 including those in surrounding states, and that will encourage the
7 participation by horsemen in that organization licensee's race meet
8 or meets; and

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

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

21 SECTION 2. This act shall become effective July 1, 2013.

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

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