

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 857

By: David and Fields of the  
Senate

and

Osborn (Leslie) and Wallace  
of the House

COMMITTEE SUBSTITUTE

An Act relating to amusements and sports; amending 3A O.S. 2011, Section 262, which relates to state-tribal gaming; eliminating prohibition on certain types of gaming under certain circumstances; prohibiting certain types of gaming; providing exception; authorizing non-house-banked table games in accordance with the Model Tribal Gaming Compact subject to certain limitations; defining terms; authorizing administrative fees; requiring payment of certain fee; authorizing retention of certain amounts; providing that certain acts are lawful; authorizing the Governor to negotiate and execute compact supplements under certain conditions; authorizing sports pools; requiring publication for certain period of certain agreements prior to execution; prohibiting certain requests for renegotiations under certain conditions; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 3A O.S. 2011, Section 262, is amended to read as follows:

1       Section 262. A. If at least four Indian tribes enter into the  
2 model tribal-state compact set forth in Section 281 of this title,  
3 and such compacts are approved by the Secretary of the Interior and  
4 notice of such approval is published in the Federal Register, the  
5 Oklahoma Horse Racing Commission ("Commission") shall license  
6 organization licensees which are licensed pursuant to Section 205.2  
7 of this title to conduct authorized gaming as that term is defined  
8 by this act pursuant to this act utilizing gaming machines or  
9 devices authorized by this act subject to the limitations of  
10 subsection C of this section. No fair association or organization  
11 licensed pursuant to Section 208.2 of this title or a city, town or  
12 municipality incorporated or otherwise, or an instrumentality  
13 thereof, may conduct authorized gaming as that term is defined by  
14 this act.

15       Notwithstanding the provisions of Sections 941 through 988 of  
16 Title 21 of the Oklahoma Statutes, the conducting of and  
17 participation in gaming in accordance with the provisions of this  
18 act or the model compact set forth in Section 281 of this title is  
19 lawful and shall not be subject to any criminal penalties. Provided  
20 further, a licensed manufacturer or distributor licensed pursuant to  
21 this act may manufacture, exhibit or store as a lawful activity any  
22 machines or devices which are capable of being used to conduct the  
23 following types of gaming:

- 24       1. Gaming authorized by the State-Tribal Gaming Act; or

1        2. Other gaming which may be lawfully conducted by an Indian  
2 tribe in this state.

3        B. Authorized gaming may only be conducted by an organization  
4 licensee on days when the licensee is either conducting live racing  
5 or is accepting wagers on simulcast races at the licensee's racing  
6 facilities. In any week, authorized gaming may be conducted for not  
7 more than one hundred six (106) total hours, with not more than  
8 eighteen (18) hours in any twenty-four-hour period. Authorized  
9 gaming may only be conducted by organization licensees at enclosure  
10 locations where live racing is conducted. Under no circumstances  
11 shall authorized gaming be conducted by an organization licensee at  
12 any facility outside the organization licensee's racing enclosure.  
13 No person who would not be eligible to be a patron of a pari-mutuel  
14 system of wagering pursuant to the provisions of subsection B of  
15 Section 208.4 of this title shall be admitted into any area of a  
16 facility when authorized games are played nor be permitted to  
17 operate, or obtain a prize from, or in connection with, the  
18 operation of any authorized game, directly or indirectly.

19        C. In order to encourage the growth, sustenance and development  
20 of live horse racing in this state and of the state's agriculture  
21 and horse industries, the Commission is hereby authorized to issue  
22 licenses to conduct authorized gaming to no more than three (3)  
23 organization licensees operating racetrack locations at which horse  
24 race meetings with pari-mutuel wagering, as authorized by the

1 Commission pursuant to the provisions of this title, occurred in  
2 calendar year 2001, as follows:

3 1. An organization licensee operating a racetrack location at  
4 which an organization licensee is licensed to conduct a race meeting  
5 pursuant to the provisions of Section 205.2 of this title located in  
6 a county with a population exceeding six hundred thousand (600,000)  
7 persons, according to the most recent federal decennial census,  
8 shall be licensed to operate not more than six hundred fifty (650)  
9 player terminals in any year. Beginning with the third year after  
10 an organization licensee is licensed pursuant to this paragraph to  
11 operate such player terminals, such licensee may be licensed to  
12 operate an additional fifty (50) player terminals. Beginning with  
13 the fifth year after an organization licensee is licensed pursuant  
14 to this paragraph to operate such player terminals, such licensee  
15 may be licensed to operate a further additional fifty (50) player  
16 terminals; and

17 2. Two organization licensees operating racetrack locations at  
18 which the organization licensees are licensed to conduct race  
19 meetings pursuant to the provisions of Section 205.2 of this title  
20 located in counties with populations not exceeding four hundred  
21 thousand (400,000) persons, according to the most recent federal  
22 decennial census, may each be licensed to operate not more than two  
23 hundred fifty (250) player terminals in any year.

1        Subject to the limitations on the number of player terminals  
2 permitted to each organization licensee, an organization licensee  
3 may utilize electronic amusement games as defined in this act,  
4 electronic bonanza-style bingo games as defined in this act and  
5 electronic instant bingo games as defined in this act, and any type  
6 of gaming machine or device that is specifically allowed by law and  
7 that an Indian tribe in this state is authorized to utilize pursuant  
8 to a compact entered into between the state and the tribe in  
9 accordance with the provisions of the Indian Gaming Regulatory Act  
10 and any other machine or device that an Indian tribe in this state  
11 is lawfully permitted to operate pursuant to the Indian Gaming  
12 Regulatory Act, referred to collectively as "authorized games". An  
13 organization licensee's utilization of such machines or devices  
14 shall be subject to the regulatory control and supervision of the  
15 Commission; provided, the Commission shall have no role in oversight  
16 and regulation of gaming conducted by a tribe subject to a compact.  
17 The Commission shall promulgate rules to regulate the operation and  
18 use of authorized gaming by organization licensees. In promulgating  
19 such rules, the Commission shall consider the provisions of any  
20 compact which authorizes electronic gaming which is specifically  
21 authorized by law by an Indian tribe. For the purpose of paragraphs  
22 1 and 2 of this subsection, the number of player terminals in an  
23 authorized game that permits multiple players shall be determined by  
24 the maximum number of players that can participate in that game at

1 any given time; provided, however, that nothing in this act  
2 prohibits the linking of player terminals for progressive jackpots,  
3 so long as the limitations on the number of permitted player  
4 terminals at each organization licensee are not exceeded. Each  
5 organization licensee shall keep a record of, and shall report at  
6 least quarterly to the Oklahoma Horse Racing Commission, the number  
7 of games authorized by this section utilized in the organization  
8 licensee's facility, by the name or type of each and its identifying  
9 number.

10 D. No zoning or other local ordinance may be adopted or amended  
11 by a political subdivision where an organization licensee conducts  
12 live horse racing with the intent to restrict or prohibit an  
13 organization licensee's right to conduct authorized gaming at such  
14 location.

15 E. For purposes of this act, "adjusted gross revenues" means  
16 the total receipts received by an organization licensee from the  
17 play of all authorized gaming minus all monetary payouts.

18 F. The Oklahoma Horse Racing Commission shall promulgate rules  
19 to regulate, implement and enforce the provisions of this act with  
20 regard to the conduct of authorized gaming by organization  
21 licensees; provided, regulation and oversight of games covered by a  
22 compact and operated by an Indian tribe shall be conducted solely  
23 pursuant to the requirements of the compact.

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1 G. If an organization licensee operates or attempts to operate  
2 more player terminals which offer authorized games than it is  
3 authorized to offer to the public by this act or the terms of its  
4 license, upon written notice from the Commission, such activity  
5 shall cease forthwith. Such activity shall constitute a basis upon  
6 which the Commission may suspend or revoke the licensee's license.  
7 The Commission shall promulgate any rules and regulations necessary  
8 to enforce the provisions of this subsection.

9 H. This act is game-specific and shall not be construed to  
10 allow the operation of any other form of gaming unless specifically  
11 allowed by this act. This act shall not permit the operation of  
12 slot machines, ~~dice games, roulette wheels,~~ house-banked card games,  
13 house-banked table games involving dice or roulette wheels, or games  
14 ~~where winners are determined by~~ wagering on the outcome of a sports  
15 contest; provided, however, that wagering on the outcome of sports  
16 contests may be conducted in accordance with Section 3 of this act.

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 280.1 of Title 3A, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. Pursuant to the offer of the Model Tribal Gaming Compact  
21 found in Section 280 of Title 3A of the Oklahoma Statutes and the  
22 definition of "covered games" in the Model Tribal Gaming Compact  
23 codified in Section 280 of Title 3A of the Oklahoma Statutes, which  
24 contemplates that a tribe may elect to conduct additional forms of

1 gaming under said compact if additional game offerings are approved  
2 by the State Legislature, subject to the limitations set forth in  
3 subsection B of this section, the State Legislature hereby approves  
4 an additional game offering in the form of non-house-banked table  
5 games, in accordance with the Model Tribal Gaming Compact. "Non-  
6 house-banked table games" means any table game, including but not  
7 limited to those table games involving a wheel, ball or dice,  
8 operated in a nonelectronic environment in which the tribe has no  
9 interest in the outcome of the game, including games played in  
10 tournament formats and games in which the tribe collects a fee from  
11 the player for participating, and all bets are placed in a common  
12 pool or pot from which all player winnings, prizes and direct costs  
13 are paid. As provided in this section, administrative fees may be  
14 charged by the tribe against any common pool in an amount equal to  
15 any fee paid the state; provided, that the tribe may seed the pool  
16 as it determines necessary from time to time.

17 B. Should a federally recognized tribe that has compacted with  
18 the state in accordance with Sections 280 and 281 of Title 3A of the  
19 Oklahoma Statutes, desire to operate non-house-banked table games,  
20 the tribe and the Governor of the State of Oklahoma are hereby  
21 authorized to negotiate and execute a supplement to the tribal-state  
22 compacts to operate non-house-banked table games in accordance with  
23 this section and pay the fee provided in subsection C of this  
24 section. To be effective, the supplement to the compact shall be



1 signed by the chief executive officer of the tribal government whose  
2 authority to execute the election shall be set forth in an  
3 accompanying law, ordinance, resolution or charter by the governing  
4 body of the tribe, and the Governor of the State of Oklahoma. Any  
5 supplement to a compact may include other terms to be negotiated  
6 including duration, fee percentages, regulatory and enforcement  
7 provisions as agreed by the tribe and the Governor. A tribe  
8 negotiating and executing such a supplement is responsible for  
9 submitting a copy of the supplement to the Secretary of the Interior  
10 for approval and publication in the Federal Register. Upon approval  
11 by the Secretary of the Interior, non-house-banked table games shall  
12 be deemed a covered game pursuant to the Tribal-State Compact  
13 between the state and the electing tribe.

14 C. Upon providing a written supplement and upon approval of the  
15 Secretary of the Interior, the tribe shall be deemed in agreement to  
16 pay a percentage of the monthly net win of the common pool(s) or  
17 pot(s) from which prizes are paid for non-house-banked table games  
18 as agreed to by the tribe and the Governor of the State of Oklahoma  
19 in the supplement to the compact. The tribe shall be entitled to  
20 keep an amount equal to state payments from the common pool(s) or  
21 pot(s) as part of its cost of operating the games. Such payment  
22 shall be deemed an exclusivity and fee payment under paragraph 2 of  
23 subsection A of Part 11 of the Tribal-State Compact between the  
24 electing tribe and the state.

1 D. The provisions of this section shall not be construed to  
2 permit the operation of any additional form of gaming by  
3 organization licensees or to permit any additional electronic or  
4 machine gaming within Oklahoma.

5 E. Notwithstanding the provisions of Sections 941 through 988  
6 of Title 21 of the Oklahoma Statutes, the conducting of and  
7 participation in any game authorized pursuant to this section shall  
8 be lawful when played pursuant to a compact supplement which has  
9 become effective in accordance with the provisions of this section.

10 SECTION 3. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 280.2 of Title 3A, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. Provided that federal laws permit and that any compact  
14 supplement is published on the Oklahoma Secretary of State's website  
15 not less than thirty (30) consecutive calendar days prior to  
16 execution, the Governor of the State of Oklahoma is hereby  
17 authorized to negotiate and execute a supplement to the tribal-state  
18 compacts expanding the definition of covered game to include "sports  
19 pools", which means any wagering on the outcome of one or more  
20 competitive games in which athletes participate, or on one or more  
21 performances of such athletes in such games where all bets are  
22 placed in a common pool or pot from which all player winnings,  
23 prizes and direct costs are paid. As provided herein,  
24 administrative fees may be charged by the tribe against any common

1 pool in an amount equal to any fee paid the state; provided, that  
2 the tribe may seed the pool as it determines necessary from time to  
3 time.

4 B. To be effective, the supplement to the compact shall be  
5 signed by the chief executive officer of the tribal government whose  
6 authority to execute the election shall be set forth in an  
7 accompanying law, ordinance, resolution or charter by the governing  
8 body of the tribe, and the Governor of the State of Oklahoma. Any  
9 supplement to a compact may include other terms to be negotiated  
10 including duration, fee percentages, regulatory and enforcement  
11 provisions as agreed by the tribe and the Governor. The supplement  
12 will be contingent upon the applicable tribe's agreement to pay a  
13 fee to the state equal to a percentage of the monthly net win of the  
14 common pool(s) or pot(s) from which prizes are paid for sports pools  
15 as agreed to by the tribe and the Governor of the State of Oklahoma  
16 in the supplement to the compact. Such fee paid to the state will  
17 be deemed an exclusivity and fee payment under paragraph 2 of  
18 subsection A of Part 11 of the tribal-state compact between the  
19 state and the applicable tribe. The tribe will be entitled to keep  
20 an amount equal to state payments from the common pool(s) or pot(s)  
21 as part of its cost of operating the game.

22 C. The provisions of this section shall not be construed to  
23 permit the operation of any additional form of gaming by  
24

1 organization licensees or to permit any additional electronic or  
2 machine gaming within Oklahoma.

3 D. Notwithstanding the provisions of Sections 941 through 988  
4 of Title 21 of the Oklahoma Statutes, the conduction of and  
5 participation in any game authorized pursuant to this section shall  
6 be lawful when played pursuant to a compact supplement which has  
7 become effective in accordance with this section.

8 SECTION 4. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 280.3 of Title 3A, unless there  
10 is created a duplication in numbering, reads as follows:

11 No compact, compact modification, compact extension, compact  
12 supplement or other instrument of the like related to gaming  
13 resulting after consideration or negotiation by the Governor shall  
14 be formally entered by the Governor or executed prior to the  
15 publication, for not less than thirty (30) consecutive calendar days  
16 on the Oklahoma Secretary of State's website, of the full text of  
17 such compact, compact modification, compact extension, compact  
18 supplement or other instrument of the like.

19 SECTION 5. It being immediately necessary for the preservation  
20 of the public peace, health or safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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