

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3375

By: Wallace

COMMITTEE SUBSTITUTE

[amusements and sports - state-tribal gaming -

nonhouse-banked table games - sports pools -

emergency]

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

SECTION 1. AMENDATORY 3A O.S. 2011, Section 262, as amended by Section 1, Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017, Section 262), is amended to read as follows:

Section 262. A. If at least four Indian tribes enter into the model tribal-state compact set forth in Section 281 of this title, and such compacts are approved by the Secretary of the Interior and notice of such approval is published in the Federal Register, the Oklahoma Horse Racing Commission ("Commission") shall license organization licensees which are licensed pursuant to Section 205.2 of this title to conduct authorized gaming as that term is defined by this act pursuant to this act utilizing gaming machines or

1 devices authorized by this act subject to the limitations of
2 subsection C of this section. No fair association or organization
3 licensed pursuant to Section 208.2 of this title or a city, town or
4 municipality incorporated or otherwise, or an instrumentality
5 thereof, may conduct authorized gaming as that term is defined by
6 this act.

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

- 16 1. Gaming authorized by the State-Tribal Gaming Act; or
- 17 2. Other gaming which may be lawfully conducted by an Indian
18 tribe in this state.

19 B. Except for Christmas Day, authorized gaming may only be
20 conducted by an organization licensee on days when the licensee is
21 either conducting live racing or is accepting wagers on simulcast
22 races at the licensee's racing facilities. Authorized gaming may
23 only be conducted by organization licensees at enclosure locations
24 where live racing is conducted. Under no circumstances shall

1 authorized gaming be conducted by an organization licensee at any
2 facility outside the organization licensee's racing enclosure. No
3 person who would not be eligible to be a patron of a pari-mutuel
4 system of wagering pursuant to the provisions of subsection B of
5 Section 208.4 of this title shall be admitted into any area of a
6 facility when authorized games are played nor be permitted to
7 operate, or obtain a prize from, or in connection with, the
8 operation of any authorized game, directly or indirectly.

9 C. In order to encourage the growth, sustenance and development
10 of live horse racing in this state and of the state's agriculture
11 and horse industries, the Commission is hereby authorized to issue
12 licenses to conduct authorized gaming to no more than three (3)
13 organization licensees operating racetrack locations at which horse
14 race meetings with pari-mutuel wagering, as authorized by the
15 Commission pursuant to the provisions of this title, occurred in
16 calendar year 2001, as follows:

17 1. An organization licensee operating a racetrack location at
18 which an organization licensee is licensed to conduct a race meeting
19 pursuant to the provisions of Section 205.2 of this title located in
20 a county with a population exceeding six hundred thousand (600,000)
21 persons, according to the most recent federal decennial census,
22 shall be licensed to operate not more than six hundred fifty (650)
23 player terminals in any year. Beginning with the third year after
24 an organization licensee is licensed pursuant to this paragraph to

1 operate such player terminals, such licensee may be licensed to
2 operate an additional fifty (50) player terminals. Beginning with
3 the fifth year after an organization licensee is licensed pursuant
4 to this paragraph to operate such player terminals, such licensee
5 may be licensed to operate a further additional fifty (50) player
6 terminals; and

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

14 Subject to the limitations on the number of player terminals
15 permitted to each organization licensee, an organization licensee
16 may utilize electronic amusement games as defined in this act,
17 electronic bonanza-style bingo games as defined in this act and
18 electronic instant bingo games as defined in this act, and any type
19 of gaming machine or device that is specifically allowed by law and
20 that an Indian tribe in this state is authorized to utilize pursuant
21 to a compact entered into between the state and the tribe in
22 accordance with the provisions of the Indian Gaming Regulatory Act
23 and any other machine or device that an Indian tribe in this state
24 is lawfully permitted to operate pursuant to the Indian Gaming

1 Regulatory Act, referred to collectively as "authorized games". An
2 organization licensee's utilization of such machines or devices
3 shall be subject to the regulatory control and supervision of the
4 Commission; provided, the Commission shall have no role in oversight
5 and regulation of gaming conducted by a tribe subject to a compact.
6 The Commission shall promulgate rules to regulate the operation and
7 use of authorized gaming by organization licensees. In promulgating
8 such rules, the Commission shall consider the provisions of any
9 compact which authorizes electronic gaming which is specifically
10 authorized by law by an Indian tribe. For the purpose of paragraphs
11 1 and 2 of this subsection, the number of player terminals in an
12 authorized game that permits multiple players shall be determined by
13 the maximum number of players that can participate in that game at
14 any given time; provided, however, that nothing in this act
15 prohibits the linking of player terminals for progressive jackpots,
16 so long as the limitations on the number of permitted player
17 terminals at each organization licensee are not exceeded. Each
18 organization licensee shall keep a record of, and shall report at
19 least quarterly to the Oklahoma Horse Racing Commission, the number
20 of games authorized by this section utilized in the organization
21 licensee's facility, by the name or type of each and its identifying
22 number.

23 D. No zoning or other local ordinance may be adopted or amended
24 by a political subdivision where an organization licensee conducts

1 live horse racing with the intent to restrict or prohibit an
2 organization licensee's right to conduct authorized gaming at such
3 location.

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

7 F. The Oklahoma Horse Racing Commission shall promulgate rules
8 to regulate, implement and enforce the provisions of this act with
9 regard to the conduct of authorized gaming by organization
10 licensees; provided, regulation and oversight of games covered by a
11 compact and operated by an Indian tribe shall be conducted solely
12 pursuant to the requirements of the compact.

13 G. If an organization licensee operates or attempts to operate
14 more player terminals which offer authorized games than it is
15 authorized to offer to the public by this act or the terms of its
16 license, upon written notice from the Commission, such activity
17 shall cease forthwith. Such activity shall constitute a basis upon
18 which the Commission may suspend or revoke the licensee's license.
19 The Commission shall promulgate any rules and regulations necessary
20 to enforce the provisions of this subsection.

21 H. This act is game-specific and shall not be construed to
22 allow the operation of any other form of gaming unless specifically
23 allowed by this act. This act shall not permit the operation of
24 slot machines, ~~dice games, roulette wheels,~~ house-banked card games,

1 house-banked table games involving dice or roulette wheels, or games
2 where winners are determined by wagering on the outcome of a sports
3 contest; provided however, that wagering on the outcome of sports
4 contests may be conducted in accordance with Section 3 of this act.

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

8 A. Pursuant to the offer of the Model Tribal Gaming Compact
9 found in Section 280 of Title 3A of the Oklahoma Statutes and the
10 definition of "covered games" in the Model Tribal Gaming Compact
11 codified in Section 281 of Title 3A of the Oklahoma Statutes, which
12 said codified compact offer provides the state may approve
13 additional forms of covered games under said compact by amendment of
14 the State-Tribal Gaming Act, and a compacting tribe may operate such
15 additional forms of covered games by written supplement to an
16 existing compact, the state hereby approves, subject to the
17 provisions of this section, an additional game offering as follows:

18 "Nonhouse-banked table games" means any table game, including
19 but not limited to those table games involving a wheel, ball or
20 dice, operated in a nonelectronic environment in which the tribe has
21 no interest in the outcome of the game, including games played in
22 tournament formats and games in which the tribe collects a fee from
23 the player for participating, and all bets are placed in a common
24 pool or pot from which all player winnings, prizes and direct costs

1 are paid. As provided in this section, administrative fees may be
2 charged by the tribe against any common pool or pot in an amount
3 equal to any fee paid the state; provided, that the tribe may seed
4 any pool or pot as it determines necessary from time to time.

5 B. Should a tribe that has compacted with the state in
6 accordance with Sections 280 and 281 of Title 3A of the Oklahoma
7 Statutes, elect to accept this offer of an additional covered game
8 and, accordingly, to operate nonhouse-banked table games under the
9 terms of its existing gaming compact with the state, said tribe
10 shall execute a supplement to said compact, to provide as follows:

11 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

12 Between the [Name of Tribe]

13 and the STATE OF OKLAHOMA

14 To be governed in accord with the [Name of Tribe]'s State-Tribal
15 Gaming Compact ("Compact"), approved by the United States Department
16 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
17 State's offer of additional covered game codified in Section 280.1
18 of Title 3A of the Oklahoma Statutes, which offer and this
19 acceptance are subject to the following terms:

20 Part 1. TITLE

21 This document shall be referred to as the "[Name of Tribe] and
22 State of Oklahoma Gaming Compact Nonhouse-Banked Table Games
23 Supplement ("Gaming Compact Supplement").

24 Part 2. TERMS

1 A. The Tribe hereby memorializes its election to accept the
2 State's offer of an additional covered game, which offer is codified
3 in Section 280.1 of Title 3A of the Oklahoma Statutes.

4 B. The Tribe agrees, subject to the enforcement and exclusivity
5 provisions of its Compact, to pay to the State ten percent (10%) of
6 the monthly net win of the common pool(s) or pot(s) from which
7 prizes are paid for nonhouse-banked table games. The Tribe is
8 entitled to keep an amount equal to State payments from the common
9 pool(s) or pot(s) as part of its cost of operating the games. For
10 all purposes, such payment shall be deemed an exclusivity and fee
11 payment under paragraph 2 of subsection A of Part 11 of the State-
12 Tribal Gaming Compact between the electing Tribe and the State.

13 C. The Tribe's operation of nonhouse-banked table games
14 pursuant to this Supplement shall, for all purposes, including
15 enforcement and exclusivity, be treated as subject to and lawfully
16 conducted under the terms and provisions of the Compact.

17 Part 3. AUTHORITY TO EXECUTE

18 This Gaming Compact Supplement, to the extent it conforms with
19 Section 280.1 of Title 3A of the Oklahoma Statutes, is deemed
20 approved by the State of Oklahoma. No further action of the State
21 or any state official is necessary for this Gaming Compact
22 Supplement to take effect upon approval by the Secretary of the
23 United States Department of the Interior and publication in the
24 Federal Register. The undersigned tribal official(s) represents

1 that he or she is duly authorized and has the authority to execute
2 this Gaming Compact Supplement on behalf of the Tribe for whom he or
3 she is signing.

4 APPROVED:

5 [Name of Tribe]

6 _____ Date: _____

7 [Title]

8 C. A tribe electing to accept this additional game offering is
9 responsible for submitting a copy of the executed supplement to the
10 Secretary of the United States Department of the Interior for
11 approval and publication in the Federal Register.

12 D. Upon approval of a supplement by the Secretary of the United
13 States Department of the Interior, said supplement shall be
14 construed as an acceptance of this offer and a supplement to the
15 tribe's existing State-Tribal Gaming Compact with the state.
16 Thereafter, nonhouse-banked table games shall be deemed a covered
17 game pursuant to said Compact.

18 E. Upon approval of a supplement by the Secretary of the United
19 States Department of the Interior and subject to the enforcement and
20 exclusivity provisions of its existing State-Tribal Gaming Compact
21 with the state, the electing tribe shall be deemed pursuant to such
22 supplement to be in agreement to pay ten percent (10%) of the
23 monthly net win of the common pool(s) or pot(s) from which prizes
24 are paid for nonhouse-banked table games. The tribe shall be

1 entitled to keep an amount equal to state payments from the common
2 pool(s) or pot(s) as part of its cost of operating the games. For
3 all purposes, such payment shall be deemed an exclusivity and fee
4 payment under paragraph 2 of subsection A of Part 11 of the State-
5 Tribal Gaming Compact between the electing tribe and the state.

6 F. The offer contained in this section shall not be construed
7 to permit the operation of any additional form of gaming by
8 organization licensees or permitting any additional electronic or
9 machine gaming within Oklahoma.

10 G. Notwithstanding the provisions of Sections 941 through 988
11 of Title 21 of the Oklahoma Statutes, the conducting of and
12 participation in any game authorized pursuant to this section are
13 lawful when played pursuant to a compact supplement which has become
14 effective in accordance with this section.

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

18 A. Provided that federal laws permit and pursuant to the offer
19 of the Model Tribal Gaming Compact made in Section 280 of Title 3A
20 of the Oklahoma Statutes and the definition of "covered games" in
21 the Model Tribal Gaming Compact codified in Section 281 of Title 3A
22 of the Oklahoma Statutes, which said codified compact offer provides
23 the state may approve additional forms of covered games under said
24 compact by amendment of the State-Tribal Gaming Act and a compacting

1 tribe may operate such additional forms of covered games by written
2 supplement to an existing compact, the state hereby approves,
3 subject to this section, an additional game offering as follows:

4 "Sports pools" means any wagering on the outcome of sporting
5 events or other events, other than horse or other animal races.

6 B. Should a tribe that has compacted with the state in
7 accordance with Sections 280 and 281 of Title 3A of the Oklahoma
8 Statutes elect to accept this offer of an additional covered game
9 and, accordingly, to operate sports pools under the terms of its
10 existing gaming compact with the state, said tribe shall execute a
11 supplement to said compact, to provide as follows:

12 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

13 Between the [Name of Tribe]

14 and the STATE OF OKLAHOMA

15 To be governed in accord with the [Name of Tribe]'s State-Tribal
16 Gaming Compact (Compact), approved by the United States Department
17 of the Interior on [Date], the [Name of Tribe] (Tribe) accepts the
18 state's offer of additional covered game codified in Section 280.2
19 of Title 3A of the Oklahoma Statutes, which offer and this
20 acceptance are subject to the following terms:

21 Part 1. TITLE

22 This document shall be referred to as the "[Name of Tribe] and
23 State of Oklahoma Gaming Compact Sports Pools Supplement (Gaming
24 Compact Supplement).

1 Part 2. TERMS

2 A. The Tribe hereby memorializes its election to accept the
3 state's offer of an additional covered game, which offer is codified
4 in Section 280.2 of Title 3A of the Oklahoma Statutes. The Tribe
5 further certifies and agrees it shall not offer such additional
6 covered game unless and until doing so would be legal under federal
7 law.

8 B. The Tribe agrees, subject to the enforcement and exclusivity
9 provisions of its Compact, to pay to the State ten percent (10%) of
10 the monthly net win from the operation of sports pools ("net win"
11 shall mean all money wagered less prizes paid out and less
12 applicable federal taxes). The Tribe is entitled to keep an amount
13 equal to State payments from the operation of sports pools. For all
14 purposes, such payment shall be deemed an exclusivity and fee
15 payment under paragraph 2 of subsection A of Part 11 of the State-
16 Tribal Gaming Compact between the electing Tribe and the State.

17 C. The Tribe's operation of sports pools pursuant to this
18 Gaming Compact Supplement shall, for all purposes, including
19 enforcement and exclusivity, be treated as subject to and lawfully
20 conducted under the terms and provisions of the Compact.

21 Part 3. AUTHORITY TO EXECUTE

22 This Gaming Compact Supplement, to the extent it conforms with
23 Section 280.2 of Title 3A of the Oklahoma Statutes, is deemed
24 approved by the State of Oklahoma. No further action of the State

1 or any state official is necessary for this Gaming Compact
2 Supplement to take effect upon approval by the Secretary of the
3 United States Department of the Interior and publication in the
4 Federal Register. The undersigned tribal official(s) represents
5 that he or she is duly authorized and has the authority to execute
6 this Gaming Compact Supplement on behalf of the Tribe for whom he or
7 she is signing.

8 APPROVED:

9 [Name of Tribe]

10 _____ Date: _____

11 [Title]

12 C. A tribe electing to accept this additional game offering is
13 responsible for submitting a copy of the executed supplement to the
14 Secretary of the United States Department of the Interior for
15 approval and publication in the Federal Register.

16 D. Upon approval of a supplement by the Secretary of the United
17 States Department of the Interior, said supplement shall be
18 construed as an acceptance of this offer and a supplement to the
19 tribe's existing State-Tribal Gaming Compact with the state.
20 Thereafter, sports pools shall be deemed a covered game pursuant to
21 said Compact.

22 E. Upon approval of a supplement by the Secretary of the United
23 States Department of the Interior and subject to the enforcement and
24 exclusivity provisions of its existing State-Tribal Gaming Compact

1 with the state, the electing tribe shall be deemed pursuant to such
2 supplement to be in agreement to pay ten percent (10%) of the
3 monthly net win from the operation of sports pools. The Tribe is
4 entitled to keep an amount equal to state payments from the
5 operation of sports pools. For all purposes, such payment shall be
6 deemed an exclusivity and fee payment under paragraph 2 of
7 subsection A of Part 11 of the State-Tribal Gaming Compact between
8 the electing tribe and the state.

9 F. The offer contained in this section shall not be construed
10 to permit the operation of any additional form of gaming by
11 organization licensees or permitting any additional electronic or
12 machine gaming within Oklahoma.

13 G. Notwithstanding the provisions of Sections 941 through 988
14 of Title 21 of the Oklahoma Statutes, the conducting of and
15 participation in any game authorized pursuant to this section are
16 lawful when played pursuant to a compact supplement which has become
17 effective in accordance with this section.

18 SECTION 4. AMENDATORY 3A O.S. 2011, Section 280, is
19 amended to read as follows:

20 Section 280. The State of Oklahoma through the concurrence of
21 the Governor after considering the executive prerogatives of that
22 office and the power to negotiate the terms of a compact between the
23 state and a tribe, and by means of the execution of the State-Tribal
24 Gaming Act, and with the concurrence of the State Legislature

1 through the enactment of the State-Tribal Gaming Act, hereby makes
2 the following offer of a model tribal gaming compact regarding
3 gaming to all federally recognized Indian tribes as identified in
4 the Federal Register within this state that own or are the
5 beneficial owners of Indian lands as defined by the Indian Gaming
6 Regulatory Act, 25 U.S.C., Section 2703(4), and over which the tribe
7 has jurisdiction as recognized by the Secretary of the Interior and
8 is a part of the tribe's "Indian reservation" as defined in 25
9 C.F.R., Part 151.2 or has been acquired pursuant to 25 C.F.R., Part
10 151, which, if accepted, shall constitute a gaming compact between
11 this state and the accepting tribe for purposes of the Indian Gaming
12 Regulatory Act. Acceptance of the offer contained in this section
13 shall be through the signature of the chief executive officer of the
14 tribal government whose authority to enter into the compact shall be
15 set forth in an accompanying law or ordinance or resolution by the
16 governing body of the tribe, a copy of which shall be provided by
17 the tribe to the Governor. No further action by the Governor or the
18 state is required before the compact can take effect. A tribe
19 accepting this Model Tribal Gaming Compact is responsible for
20 submitting a copy of the Compact executed by the tribe to the
21 Secretary of the Interior for approval and publication in the
22 Federal Register. The tribe shall provide a copy of the executed
23 Compact to the Governor. No tribe shall be required to agree to
24 terms different than the terms set forth in the Model Tribal Gaming

1 Compact, which is set forth in Section 281 of this title. As a
2 precondition to execution of the Model Tribal Gaming Compact by any
3 tribe, the tribe must have paid or entered into a written agreement
4 for payment of any fines assessed prior to the effective date of the
5 State-Tribal Gaming Act by the federal government with respect to
6 the tribe's gaming activities pursuant to the Indian Gaming
7 Regulatory Act.

8 Notwithstanding the provisions of Sections 941 through 988 of
9 Title 21 of the Oklahoma Statutes, the conducting of and the
10 participation in any game authorized by the model compact set forth
11 in Section 281 of this title are lawful when played pursuant to a
12 compact which has become effective.

13 1. Prior to July 1, 2008, ~~twelve percent (12%)~~ of all fees
14 received by the state pursuant to subsection A of Part 11 of the
15 Model Tribal Gaming Compact set forth in Section 281 of this title:

- 16 a. twelve percent (12%) shall be deposited in the
- 17 Oklahoma Higher Learning Access Trust Fund, and
- 18 b. eighty-eight percent (88%) of such fees shall be
- 19 deposited in the Education Reform Revolving Fund.

20 2. On or after July 1, 2008, ~~twelve percent (12%)~~ of all fees
21 received by the state pursuant to subsection A of Part 11 of the
22 Model Tribal Gaming Compact set forth in Section 281 of this title
23 and Gaming Compact Supplements offered pursuant to Sections 2 and 3
24 of this act:

1 a. twelve percent (12%) shall be deposited in the General
2 Revenue Fund, and

3 b. eighty-eight percent (88%) of such fees shall be
4 deposited in the Education Reform Revolving Fund.

5 Provided, the first Twenty Thousand Eight Hundred Thirty-three
6 Dollars and thirty-three cents (\$20,833.33) of all fees received
7 each month by the state pursuant to subsection A of Part 11 of the
8 Model Tribal Gaming Compact set forth in Section 281 of this title
9 and Gaming Compact Supplements offered pursuant to Sections 2 and 3
10 of this act shall be transferred to the Department of Mental Health
11 and Substance Abuse Services for the treatment of compulsive
12 gambling disorder and educational programs related to such disorder.

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

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18 56-2-9949 JM 02/27/18
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