

1 ENGROSSED HOUSE
2 BILL NO. 3375

By: Wallace and Hoskin of the
House

3 and

4 McCortney of the Senate
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8 An Act relating to amusements and sports; amending 3A
9 O.S. 2011, Section 262, as amended by Section 1,
10 Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017, Section
11 262), which relates to state-tribal gaming;
12 eliminating prohibition on certain types of gaming;
13 prohibiting certain types of gaming; offering model
14 tribal gaming compact supplement related to non-
15 house-banked table games; defining terms; authorizing
16 fees and seeding related to tribal administration of
17 the games; providing model tribal gaming compact
18 supplement and prescribing content thereof;
19 prescribing procedures for electing acceptance of
20 supplement; providing for certain construction of
21 supplement; requiring payment of funds by tribes in
22 certain amounts; allowing retention of funds by
23 tribes in certain amounts; declaring certain conduct
24 and participation lawful; amending 3A O.S. 2011,
Section 280, which relates to offer of model tribal
gaming contract; providing for apportionment of fees
received by the state; 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, as
amended by Section 1, Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017,
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. Except for Christmas Day, authorized gaming may only be
4 conducted by an organization licensee on days when the licensee is
5 either conducting live racing or is accepting wagers on simulcast
6 races at the licensee's racing facilities. Authorized gaming may
7 only be conducted by organization licensees at enclosure locations
8 where live racing is conducted. Under no circumstances shall
9 authorized gaming be conducted by an organization licensee at any
10 facility outside the organization licensee's racing enclosure. No
11 person who would not be eligible to be a patron of a pari-mutuel
12 system of wagering pursuant to the provisions of subsection B of
13 Section 208.4 of this title shall be admitted into any area of a
14 facility when authorized games are played nor be permitted to
15 operate, or obtain a prize from, or in connection with, the
16 operation of any authorized game, directly or indirectly.

17 C. In order to encourage the growth, sustenance and development
18 of live horse racing in this state and of the state's agriculture
19 and horse industries, the Commission is hereby authorized to issue
20 licenses to conduct authorized gaming to no more than three ~~(3)~~
21 organization licensees operating racetrack locations at which horse
22 race meetings with pari-mutuel wagering, as authorized by the
23 Commission pursuant to the provisions of this title, occurred in
24 calendar year 2001, as follows:

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

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

22 Subject to the limitations on the number of player terminals
23 permitted to each organization licensee, an organization licensee
24 may utilize electronic amusement games as defined in this act,

1 electronic bonanza-style bingo games as defined in this act and
2 electronic instant bingo games as defined in this act, and any type
3 of gaming machine or device that is specifically allowed by law and
4 that an Indian tribe in this state is authorized to utilize pursuant
5 to a compact entered into between the state and the tribe in
6 accordance with the provisions of the Indian Gaming Regulatory Act
7 and any other machine or device that an Indian tribe in this state
8 is lawfully permitted to operate pursuant to the Indian Gaming
9 Regulatory Act, referred to collectively as "authorized games". An
10 organization licensee's utilization of such machines or devices
11 shall be subject to the regulatory control and supervision of the
12 Commission; provided, the Commission shall have no role in oversight
13 and regulation of gaming conducted by a tribe subject to a compact.
14 The Commission shall promulgate rules to regulate the operation and
15 use of authorized gaming by organization licensees. In promulgating
16 such rules, the Commission shall consider the provisions of any
17 compact which authorizes electronic gaming which is specifically
18 authorized by law by an Indian tribe. For the purpose of paragraphs
19 1 and 2 of this subsection, the number of player terminals in an
20 authorized game that permits multiple players shall be determined by
21 the maximum number of players that can participate in that game at
22 any given time; provided, however, that nothing in this act
23 prohibits the linking of player terminals for progressive jackpots,
24 so long as the limitations on the number of permitted player

1 terminals at each organization licensee are not exceeded. Each
2 organization licensee shall keep a record of, and shall report at
3 least quarterly to the Oklahoma Horse Racing Commission, the number
4 of games authorized by this section utilized in the organization
5 licensee's facility, by the name or type of each and its identifying
6 number.

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

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

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

21 G. If an organization licensee operates or attempts to operate
22 more player terminals which offer authorized games than it is
23 authorized to offer to the public by this act or the terms of its
24 license, upon written notice from the Commission, such activity

1 shall cease forthwith. Such activity shall constitute a basis upon
2 which the Commission may suspend or revoke the licensee's license.
3 The Commission shall promulgate any rules and regulations necessary
4 to enforce the provisions of this subsection.

5 H. This act is game-specific and shall not be construed to
6 allow the operation of any other form of gaming unless specifically
7 allowed by this act. This act shall not permit the operation of
8 slot machines, ~~dice games, roulette wheels,~~ house-banked card games,
9 house-banked table games involving dice or roulette wheels, or games
10 where winners are determined by the outcome of a sports contest.

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

14 A. Pursuant to the offer of the Model Tribal Gaming Compact
15 found in Section 280 of Title 3A of the Oklahoma Statutes and the
16 definition of "covered games" in the Model Tribal Gaming Compact
17 codified in Section 281 of Title 3A of the Oklahoma Statutes, which
18 said codified compact offer provides the state may approve
19 additional forms of covered games under said compact by amendment of
20 the State-Tribal Gaming Act, and a compacting tribe may operate such
21 additional forms of covered games by written supplement to an
22 existing compact, the state hereby approves, subject to the
23 provisions of this section, an additional game offering as follows:
24

1 "Non-house-banked table games" means any table game, including
2 but not limited to those table games involving a wheel, ball or
3 dice, operated in a nonelectronic environment in which the tribe has
4 no interest in the outcome of the game, including games played in
5 tournament formats and games in which the tribe collects a fee from
6 the player for participating, and all bets are placed in a common
7 pool or pot from which all player winnings, prizes and direct costs
8 are paid. As provided in this section, administrative fees may be
9 charged by the tribe against any common pool or pot in an amount
10 equal to any fee paid the state; provided, that the tribe may seed
11 any pool or pot as it determines necessary from time to time.

12 B. Should a tribe that has compacted with the state in
13 accordance with Sections 280 and 281 of Title 3A of the Oklahoma
14 Statutes, elect to accept this offer of an additional covered game
15 and, accordingly, to operate non-house-banked table games under the
16 terms of its existing gaming compact with the state, said tribe
17 shall execute a supplement to said compact, to provide as follows:

18 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

19 Between the [Name of Tribe]

20 and the STATE OF OKLAHOMA

21 To be governed in accord with the [Name of Tribe]'s State-Tribal
22 Gaming Compact ("Compact"), approved by the United States Department
23 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
24 State's offer of additional covered game codified in Section 280.1

1 of Title 3A of the Oklahoma Statutes, which offer and this
2 acceptance are subject to the following terms:

3 Part 1. TITLE

4 This document shall be referred to as the "[Name of Tribe] and
5 State of Oklahoma Gaming Compact Non-house-Banked Table Games
6 Supplement ("Gaming Compact Supplement").

7 Part 2. TERMS

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

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

20 C. The Tribe's operation of non-house-banked table games
21 pursuant to this supplement shall, for all purposes, including
22 enforcement and exclusivity, be treated as subject to and lawfully
23 conducted under the terms and provisions of the Compact.

24 Part 3. AUTHORITY TO EXECUTE

1 This Gaming Compact Supplement, to the extent it conforms with
2 Section 280.1 of Title 3A of the Oklahoma Statutes, is deemed
3 approved by the State of Oklahoma. No further action of the State
4 or any state official is necessary for this Gaming Compact
5 Supplement to take effect upon approval by the Secretary of the
6 United States Department of the Interior and publication in the
7 Federal Register. The undersigned tribal official(s) represents
8 that he or she is duly authorized and has the authority to execute
9 this Gaming Compact Supplement on behalf of the Tribe for whom he or
10 she is signing.

11 APPROVED:

12 [Name of Tribe]

13 _____ Date: _____

14 [Title]

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

19 D. Upon approval of a supplement by the Secretary of the United
20 States Department of the Interior, said supplement shall be
21 construed as an acceptance of this offer and a supplement to the
22 tribe's existing State-Tribal Gaming Compact with the state.
23 Thereafter, non-house-banked table games shall be deemed a covered
24 game pursuant to said Compact.

1 E. Upon approval of a supplement by the Secretary of the United
2 States Department of the Interior and subject to the enforcement and
3 exclusivity provisions of its existing State-Tribal Gaming Compact
4 with the state, the electing tribe shall be deemed pursuant to such
5 supplement to be in agreement to pay ten percent (10%) of the
6 monthly net win of the common pool(s) or pot(s) from which prizes
7 are paid for non-house-banked table games. The tribe shall be
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 F. The offer contained in this section shall not be construed
14 to permit the operation of any additional form of gaming by
15 organization licensees or permitting any additional electronic or
16 machine gaming within Oklahoma.

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

22 SECTION 3. AMENDATORY 3A O.S. 2011, Section 280, is
23 amended to read as follows:

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1 Section 280. The State of Oklahoma through the concurrence of
2 the Governor after considering the executive prerogatives of that
3 office and the power to negotiate the terms of a compact between the
4 state and a tribe, and by means of the execution of the State-Tribal
5 Gaming Act, and with the concurrence of the State Legislature
6 through the enactment of the State-Tribal Gaming Act, hereby makes
7 the following offer of a model tribal gaming compact regarding
8 gaming to all federally recognized Indian tribes as identified in
9 the Federal Register within this state that own or are the
10 beneficial owners of Indian lands as defined by the Indian Gaming
11 Regulatory Act, 25 U.S.C., Section 2703(4), and over which the tribe
12 has jurisdiction as recognized by the Secretary of the Interior and
13 is a part of the tribe's "Indian reservation" as defined in 25
14 C.F.R., Part 151.2 or has been acquired pursuant to 25 C.F.R., Part
15 151, which, if accepted, shall constitute a gaming compact between
16 this state and the accepting tribe for purposes of the Indian Gaming
17 Regulatory Act. Acceptance of the offer contained in this section
18 shall be through the signature of the chief executive officer of the
19 tribal government whose authority to enter into the compact shall be
20 set forth in an accompanying law or ordinance or resolution by the
21 governing body of the tribe, a copy of which shall be provided by
22 the tribe to the Governor. No further action by the Governor or the
23 state is required before the compact can take effect. A tribe
24 accepting this Model Tribal Gaming Compact is responsible for

1 submitting a copy of the Compact executed by the tribe to the
2 Secretary of the Interior for approval and publication in the
3 Federal Register. The tribe shall provide a copy of the executed
4 Compact to the Governor. No tribe shall be required to agree to
5 terms different than the terms set forth in the Model Tribal Gaming
6 Compact, which is set forth in Section 281 of this title. As a
7 precondition to execution of the Model Tribal Gaming Compact by any
8 tribe, the tribe must have paid or entered into a written agreement
9 for payment of any fines assessed prior to the effective date of the
10 State-Tribal Gaming Act by the federal government with respect to
11 the tribe's gaming activities pursuant to the Indian Gaming
12 Regulatory Act.

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

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

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

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

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

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

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

18 SECTION 4. It being immediately necessary for the preservation
19 of the public peace, health or safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 8th day of March, 2018.

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3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2018.

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8 _____
9 Presiding Officer of the Senate