

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1195, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Dahm

Dahm-MD-FS-Req#3532
3/13/2018 6:24 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 1195

By: McCortney and Pittman of
the Senate

and

Wallace of the House

FLOOR SUBSTITUTE

[gaming - State-Tribal Gaming Act - codification]

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

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

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

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

22 B. Except for Christmas Day, authorized gaming may only be
23 conducted by an organization licensee on days when the licensee is
24 either conducting live racing or is accepting wagers on simulcast

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

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

20 1. An organization licensee operating a racetrack location at
21 which an organization licensee is licensed to conduct a race meeting
22 pursuant to the provisions of Section 205.2 of this title located in
23 a county with a population exceeding six hundred thousand (600,000)
24 persons, according to the most recent federal decennial census,

1 shall be licensed to operate not more than six hundred fifty (650)
2 player terminals in any year. Beginning with the third year after
3 an organization licensee is licensed pursuant to this paragraph to
4 operate such player terminals, such licensee may be licensed to
5 operate an additional fifty (50) player terminals. Beginning with
6 the fifth year after an organization licensee is licensed pursuant
7 to this paragraph to operate such player terminals, such licensee
8 may be licensed to operate a further additional fifty (50) player
9 terminals; and

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

17 Subject to the limitations on the number of player terminals
18 permitted to each organization licensee, an organization licensee
19 may utilize electronic amusement games as defined in ~~this act~~ the
20 State-Tribal Gaming Act, electronic bonanza-style bingo games as
21 defined in ~~this act~~ the State-Tribal Gaming Act and electronic
22 instant bingo games as defined in ~~this act~~ the State-Tribal Gaming
23 Act, and any type of gaming machine or device that is specifically
24 allowed by law and that an Indian tribe in this state is authorized

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

1 this section utilized in the organization licensee's facility, by
2 the name or type of each and its identifying number.

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

8 E. For purposes of ~~this act~~ the State-Tribal Gaming Act,
9 "adjusted gross revenues" means the total receipts received by an
10 organization licensee from the play of all authorized gaming minus
11 all monetary payouts.

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

18 G. If an organization licensee operates or attempts to operate
19 more player terminals which offer authorized games than it is
20 authorized to offer to the public by ~~this act~~ the State-Tribal
21 Gaming Act or the terms of its license, upon written notice from the
22 Commission, such activity shall cease forthwith. Such activity
23 shall constitute a basis upon which the Commission may suspend or
24 revoke the licensee's license. The Commission shall promulgate any

1 rules and regulations necessary to enforce the provisions of this
2 subsection.

3 H. ~~This act~~ The State-Tribal Gaming Act is game-specific and
4 shall not be construed to allow the operation of any other form of
5 gaming unless specifically allowed by ~~this act~~ the State-Tribal
6 Gaming Act. ~~This act~~ The State-Tribal Gaming Act shall not permit
7 the operation of slot machines, ~~dice games, roulette wheels,~~ house-
8 banked card games, house-banked table games involving dice or
9 roulette wheels, or ~~games where winners are determined by~~ wagering
10 on 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 made 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 the codified compact offer provides the state may approve additional
19 forms of covered games under the compact by amendment of the State-
20 Tribal Gaming Act and a compacting tribe may operate such additional
21 forms of covered games by written supplement to an existing compact,
22 the State hereby approves, subject to this section, an additional
23 game offering as follows:

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

12 2. 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 nonhouse-banked table games under the
16 terms of its existing gaming compact with the state, the tribe shall
17 execute a supplement to the 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

1 state's offer of additional covered game codified in this section,
2 which offer and this 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 Nonhouse-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 this section.

11 B. The Tribe agrees, subject to the enforcement and exclusivity
12 provisions of its Compact, to pay to the state seven percent (7%) of
13 the monthly gross win of the common pool(s) or pot(s) from which
14 prizes are paid for nonhouse-banked table games of which five-
15 sevenths ($5/7$) shall be apportioned to the State Department of
16 Education for the purpose of funding flexible benefit allowances and
17 two-sevenths ($2/7$) to be apportioned to the Teachers' Retirement
18 System Dedicated Revenue Revolving Fund. The Tribe is entitled to
19 keep an amount equal to state payments from the common pool(s) or
20 pot(s) as part of its cost of operating the games. For all
21 purposes, such payment shall be deemed an exclusivity and fee
22 payment as provided in paragraph 2 of subsection A of Part 11 of the
23 Model Tribal Gaming Compact; provided, the Tribe accepts and has no
24 objection to the state's allocation, pursuant to this subsection, of

1 a portion of such monies deposited to the General Revenue Fund
2 pursuant to Section 280.1 of Title 3A of the Oklahoma Statutes to
3 the Department of Mental Health and Substance Abuse Services for the
4 treatment of compulsive gambling disorder and educational programs
5 related to such disorder.

6 C. The Tribe's operation of nonhouse-banked table games
7 pursuant to this supplement shall, for all purposes, including
8 enforcement and exclusivity, be treated as subject to and lawfully
9 conducted under the terms and provisions of the Compact.

10 Part 3. AUTHORITY TO EXECUTE

11 This Gaming Compact Supplement, to the extent it conforms with
12 this section, is deemed approved by the State of Oklahoma. No
13 further action by the state or any state official is necessary for
14 this Gaming Compact Supplement to take effect upon approval by the
15 Secretary of the United States Department of the Interior and
16 publication in the Federal Register. The undersigned tribal
17 official(s) represents that he or she is duly authorized and has the
18 authority to execute this Gaming Compact Supplement on behalf of the
19 tribe for whom he or she is signing.

20 APPROVED:

21 [Name of Tribe]

22 _____ Date: _____

23 [Title]"

24

1 B. A tribe electing to accept this additional game offering is
2 responsible for submitting a copy of the executed supplement to the
3 Secretary of the United States Department of the Interior for
4 approval and publication in the Federal Register.

5 C. Upon approval of a supplement by the Secretary of United
6 States Department of the Interior, the supplement shall be construed
7 as an acceptance of this offer and a supplement to the tribe's
8 existing State-Tribal Gaming Compact with the state. Thereafter,
9 nonhouse-banked table games shall be deemed a covered game pursuant
10 to the compact.

11 D. Upon approval of a supplement by the Secretary of United
12 States Department of the Interior and subject to the enforcement and
13 exclusivity provisions of its existing State-Tribal Gaming Compact
14 with the state, the electing tribe shall be deemed pursuant to such
15 supplement to be in agreement to pay seven percent (7%) of the
16 monthly gross win of the common pool(s) or pot(s) from which prizes
17 are paid for nonhouse-banked table games and as further apportioned
18 pursuant to this section. The electing tribe shall document and
19 publish a report annually on the method of calculation and totals of
20 the monthly gross win of the common pool(s) or pot(s). A copy of
21 the report shall be delivered to the Governor, President Pro Tempore
22 of the Senate and the Speaker of the House of Representatives. The
23 tribe shall be entitled to keep an amount equal to state payments
24 from the common pool(s) or pot(s) as part of its cost of operating

1 the games. For all purposes, such payment shall be deemed an
2 exclusivity and fee payment under paragraph 2 of subsection A of
3 Part 11 of the Model Tribal Gaming Compact between the electing
4 tribe and the state; provided, the state will transfer __ percent
5 (__%) of such monies deposited to the General Revenue Fund pursuant
6 to Section 280.1 of Title 3A of the Oklahoma Statutes to the
7 Department of Mental Health and Substance Abuse Services for the
8 treatment of compulsive gambling disorder and educational programs
9 related to such disorder.

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

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

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