

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Extraordinary Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1087

By: Wallace and Casey

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to amusements and sports; amending 3A
10 O.S. 2011, Section 262, as amended by Section 1,
Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017, Section
11 262), which relates to state-tribal gaming;
eliminating prohibition on certain types of gaming;
12 prohibiting certain types of gaming; providing
exception; offering model tribal gaming compact
13 supplements related to non-house-banked table games;
defining terms; authorizing fees and seeding related
14 to tribal administration of the games; providing
model tribal gaming compact supplements and
15 proscribing content thereof; prescribing procedures
for electing acceptance of supplements; providing for
16 certain construction of supplements; requiring
payment of funds by tribes in certain amounts;
17 allowing retention of funds by tribes in certain
amounts; declaring certain conduct and participation
18 lawful; amending 3A O.S. 2011, Section 280, which
relates to offer of model tribal gaming contract;
19 providing for apportionment of fees received by the
state; providing for codification; and declaring an
20 emergency.

21
22
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
24

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

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

18 Notwithstanding the provisions of Sections 941 through 988 of
19 Title 21 of the Oklahoma Statutes, the conducting of and
20 participation in gaming in accordance with the provisions of this
21 act or the model compact set forth in Section 281 of this title is
22 lawful and shall not be subject to any criminal penalties. Provided
23 further, a licensed manufacturer or distributor licensed pursuant to
24 this act may manufacture, exhibit or store as a lawful activity any

1 machines or devices which are capable of being used to conduct the
2 following types of gaming:

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

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

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

1 race meetings with pari-mutuel wagering, as authorized by the
2 Commission pursuant to the provisions of this title, occurred in
3 calendar year 2001, as follows:

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

18 2. Two organization licensees operating racetrack locations at
19 which the organization licensees are licensed to conduct race
20 meetings pursuant to the provisions of Section 205.2 of this title
21 located in counties with populations not exceeding four hundred
22 thousand (400,000) persons, according to the most recent federal
23 decennial census, may each be licensed to operate not more than two
24 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.

24

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 the outcome of a sports contest.

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

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

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

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

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

21 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

22 Between the [Name of Tribe]

23 and the STATE OF OKLAHOMA
24

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

7 Part 1. TITLE

8 This document shall be referred to as the "[Name of Tribe] and
9 State of Oklahoma Gaming Compact Non-House-Banked Table Games
10 Supplement ("Gaming Compact Supplement").

11 Part 2. TERMS

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

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

1 C. The Tribe's operation of non-house-banked table games
2 pursuant to this Supplement shall, for all purposes, including
3 enforcement and exclusivity, be treated as subject to and lawfully
4 conducted under the terms and provisions of the Compact.

5 Part 3. AUTHORITY TO EXECUTE

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

16 APPROVED:

17 [Name of Tribe]

18 _____ Date: _____

19 [Title]

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

1 D. Upon approval of a supplement by the Secretary of the United
2 States Department of the Interior, said supplement shall be
3 construed as an acceptance of this offer and a supplement to the
4 tribe's existing State-Tribal Gaming Compact with the state.
5 Thereafter, non-house-banked table games shall be deemed a covered
6 game pursuant to said Compact.

7 E. Upon approval of a supplement by the Secretary of the United
8 States Department of the Interior and subject to the enforcement and
9 exclusivity provisions of its existing State-Tribal Gaming Compact
10 with the state, the electing tribe shall be deemed pursuant to such
11 supplement to be in agreement to pay ten percent (10%) of the
12 monthly net win of the common pool(s) or pot(s) from which prizes
13 are paid for non-house-banked table games. The tribe shall be
14 entitled to keep an amount equal to state payments from the common
15 pool(s) or pot(s) as part of its cost of operating the games. For
16 all purposes, such payment shall be deemed an exclusivity and fee
17 payment under paragraph 2 of subsection A of Part 11 of the State-
18 Tribal Gaming Compact between the electing tribe and the state.

19 F. The offer contained in this section shall not be construed
20 to permit the operation of any additional form of gaming by
21 organization licensees or permitting any additional electronic or
22 machine gaming within Oklahoma.

23 G. Notwithstanding the provisions of Sections 941 through 988
24 of Title 21 of the Oklahoma Statutes, the conducting of and

1 participation in any game authorized pursuant to this section are
2 lawful when played pursuant to a compact supplement which has become
3 effective in accordance with this section.

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

6 Section 280. The State of Oklahoma through the concurrence of
7 the Governor after considering the executive prerogatives of that
8 office and the power to negotiate the terms of a compact between the
9 state and a tribe, and by means of the execution of the State-Tribal
10 Gaming Act, and with the concurrence of the State Legislature
11 through the enactment of the State-Tribal Gaming Act, hereby makes
12 the following offer of a model tribal gaming compact regarding
13 gaming to all federally recognized Indian tribes as identified in
14 the Federal Register within this state that own or are the
15 beneficial owners of Indian lands as defined by the Indian Gaming
16 Regulatory Act, 25 U.S.C., Section 2703(4), and over which the tribe
17 has jurisdiction as recognized by the Secretary of the Interior and
18 is a part of the tribe's "Indian reservation" as defined in 25
19 C.F.R., Part 151.2 or has been acquired pursuant to 25 C.F.R., Part
20 151, which, if accepted, shall constitute a gaming compact between
21 this state and the accepting tribe for purposes of the Indian Gaming
22 Regulatory Act. Acceptance of the offer contained in this section
23 shall be through the signature of the chief executive officer of the
24 tribal government whose authority to enter into the compact shall be

1 set forth in an accompanying law or ordinance or resolution by the
2 governing body of the tribe, a copy of which shall be provided by
3 the tribe to the Governor. No further action by the Governor or the
4 state is required before the compact can take effect. A tribe
5 accepting this Model Tribal Gaming Compact is responsible for
6 submitting a copy of the Compact executed by the tribe to the
7 Secretary of the Interior for approval and publication in the
8 Federal Register. The tribe shall provide a copy of the executed
9 Compact to the Governor. No tribe shall be required to agree to
10 terms different than the terms set forth in the Model Tribal Gaming
11 Compact, which is set forth in Section 281 of this title. As a
12 precondition to execution of the Model Tribal Gaming Compact by any
13 tribe, the tribe must have paid or entered into a written agreement
14 for payment of any fines assessed prior to the effective date of the
15 State-Tribal Gaming Act by the federal government with respect to
16 the tribe's gaming activities pursuant to the Indian Gaming
17 Regulatory Act.

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

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

a. twelve percent (12%) shall be deposited in the Oklahoma Higher Learning Access Trust Fund, and

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

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

- a. twelve percent (12%) shall be deposited in the General Revenue Fund, and
- b. eighty-eight percent (88%) of such fees shall be deposited in the Education Reform Revolving Fund.

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

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

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 11/01/2017 - DO PASS,
As Amended and Coauthored.