

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1195

By: McCortney

AS INTRODUCED

An Act relating to gaming; amending 3A O.S. 2011, Section 262, as amended by Section 1, Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017, Section 262), which relates to the State-Tribal Gaming Act; updating references; modifying prohibited games for authorized gaming licenses; authorizing existing gaming compacts to add written supplement for "nonhouse-banked table games"; providing definition; allowing certain administrative fees; allowing tribes to seed pools or pots; providing model language for supplement to compacts; specifying contents; directing copy of supplement be submitted; deeming acceptance of offer upon certain condition; providing percentage of monthly net win payments to be paid by tribes through supplement; declaring such payments as exclusivity and fee payments; directing the state to make certain transfers of funds for certain purpose; declaring certain permits as not authorizing other forms of gaming; stating certain lawful conduct; authorizing existing gaming compacts to add written supplement for "sports pool games"; providing definition; allowing certain administrative fees; allowing tribes to seed pools or pots; providing model language for supplement to compacts; specifying contents; directing copy of supplement be submitted; deeming acceptance of offer upon certain condition; providing percentage of monthly net win payments to be paid by tribes through supplement; declaring such payments as exclusivity and fee payments; directing the state to make certain transfers of funds for certain purpose; declaring certain permits as not authorizing other forms of gaming; stating certain lawful conduct; updating statutory references; providing for codification.

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

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

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

20 Notwithstanding the provisions of Sections 941 through 988 of
21 Title 21 of the Oklahoma Statutes, the conducting of and
22 participation in gaming in accordance with the provisions of ~~this~~
23 ~~act~~ the State-Tribal Gaming Act or the model compact set forth in
24 Section 281 of this title is lawful and shall not be subject to any

1 criminal penalties. Provided further, a licensed manufacturer or
2 distributor licensed pursuant to ~~this act~~ the State-Tribal Gaming
3 Act may manufacture, exhibit or store as a lawful activity any
4 machines or devices which are capable of being used to conduct the
5 following types of gaming:

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

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

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

23 C. In order to encourage the growth, sustenance and development
24 of live horse racing in this state and of the state's agriculture

1 and horse industries, the Commission is hereby authorized to issue
2 licenses to conduct authorized gaming to no more than three (3)
3 organization licensees operating racetrack locations at which horse
4 race meetings with pari-mutuel wagering, as authorized by the
5 Commission pursuant to the provisions of this title, occurred in
6 calendar year 2001, as follows:

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

21 2. Two organization licensees operating racetrack locations at
22 which the organization licensees are licensed to conduct race
23 meetings pursuant to the provisions of Section 205.2 of this title
24 located in counties with populations not exceeding four hundred

1 thousand (400,000) persons, according to the most recent federal
2 decennial census, may each be licensed to operate not more than two
3 hundred fifty (250) player terminals in any year.

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

1 gaming which is specifically authorized by law by an Indian tribe.
2 For the purpose of paragraphs 1 and 2 of this subsection, the number
3 of player terminals in an authorized game that permits multiple
4 players shall be determined by the maximum number of players that
5 can participate in that game at any given time; provided, however,
6 that nothing in ~~this act~~ the State-Tribal Gaming Act prohibits the
7 linking of player terminals for progressive jackpots, so long as the
8 limitations on the number of permitted player terminals at each
9 organization licensee are not exceeded. Each organization licensee
10 shall keep a record of, and shall report at least quarterly to the
11 Oklahoma Horse Racing Commission, the number of games authorized by
12 this section utilized in the organization licensee's facility, by
13 the name or type of each and its identifying number.

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

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

23 F. The Oklahoma Horse Racing Commission shall promulgate rules
24 to regulate, implement and enforce the provisions of ~~this act~~ the

1 State-Tribal Gaming Act with regard to the conduct of authorized
2 gaming by organization licensees; provided, regulation and oversight
3 of games covered by a compact and operated by an Indian tribe shall
4 be conducted solely pursuant to the requirements of the compact.

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

14 H. ~~This act~~ The State-Tribal Gaming Act is game-specific and
15 shall not be construed to allow the operation of any other form of
16 gaming unless specifically allowed by ~~this act~~ the State-Tribal
17 Gaming Act. ~~This act~~ The State-Tribal Gaming Act shall not permit
18 the operation of slot machines, ~~dice games, roulette wheels,~~ house-
19 banked card games, house-banked table games involving dice or
20 roulette wheels, or games where winners are determined by wagering
21 on the outcome of a sports contest; provided, however, that wagering
22 on the outcome of a sports contest may be conducted pursuant to
23 Section 3 of this act.

1 SECTION 2. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 280.1 of Title 3A, unless there
3 is created a duplication in numbering, reads as follows:

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

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

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

7 "MODEL TRIBAL GAMING COMPACT SUPPLEMENT

8 Between the [Name of Tribe]

9 and the STATE OF OKLAHOMA

10 To be governed in accord with the [Name of Tribe]'s State-Tribal
11 Gaming Compact ("Compact"), approved by the United States Department
12 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
13 state's offer of additional covered game codified in this section,
14 which offer and this acceptance are subject to the following terms:

15 Part 1. TITLE

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

19 Part 2. TERMS

20 A. The Tribe hereby memorializes its election to accept the
21 state's offer of an additional covered game, which offer is codified
22 in this section.

23 B. The Tribe agrees, subject to the enforcement and exclusivity
24 provisions of its Compact, to pay to the state ten percent (10%) of

1 the monthly net win of the common pool(s) or pot(s) from which
2 prizes are paid for nonhouse-banked table games. The Tribe is
3 entitled to keep an amount equal to state payments from the common
4 pool(s) or pot(s) as part of its cost of operating the games. For
5 all purposes, such payment shall be deemed an exclusivity and fee
6 payment as provided in paragraph 2 of subsection A of Part 11 of the
7 Model Tribal Gaming Compact; provided, the Tribe accepts and has no
8 objection to the state's allocation, pursuant to this subsection, of
9 a portion of such monies deposited to the General Revenue Fund
10 pursuant to Section 280.1 of Title 3A of the Oklahoma Statutes to
11 the Department of Mental Health and Substance Abuse Services for the
12 treatment of compulsive gambling disorder and educational programs
13 related to such disorder.

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

18 Part 3. AUTHORITY TO EXECUTE

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

1 official(s) represents that he or she is duly authorized and has the
2 authority to execute this Gaming Compact Supplement on behalf of the
3 tribe for whom he or she is signing.

4 APPROVED:

5 [Name of Tribe]

6 _____ Date: _____

7 [Title]"

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

18 D. Upon approval of a supplement by the Secretary of 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

entitled to keep an amount equal to state payments from the common pool(s) or pot(s) as part of its cost of operating the games. For all purposes, such payment shall be deemed an exclusivity and fee payment under paragraph 2 of subsection A of Part 11 of the Model Tribal Gaming Compact between the electing tribe and the state; provided, the state will transfer __ percent (__%) of such monies deposited to the General Revenue Fund pursuant to Section 280.1 of Title 3A of the Oklahoma Statutes to the Department of Mental Health and Substance Abuse Services for the treatment of compulsive gambling disorder and educational programs related to such disorder.

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

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

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

A. Provided that federal laws permit and pursuant to the offer of the Model Tribal Gaming Compact made in Section 280 of Title 3A

1 of the Oklahoma Statutes and the definition of "Covered Games" in
2 the Model Tribal Gaming Compact codified in Section 281 of Title 3A
3 of the Oklahoma Statutes, which the codified compact offer provides
4 the state may approve additional forms of covered games under the
5 compact by amendment of the State-Tribal Gaming Act and a compacting
6 tribe may operate such additional forms of covered games by written
7 supplement to an existing compact, the state hereby approves,
8 subject to this section, an additional game offering as follows:

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

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

17 "MODEL TRIBAL GAMING COMPACT SUPPLEMENT

18 Between the [Name of Tribe]

19 and the STATE OF OKLAHOMA

20 To be governed in accord with the [Name of Tribe]'s State-Tribal
21 Gaming Compact ("Compact"), approved by the United States Department
22 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
23 state's offer of additional covered game pursuant to this section,
24 which offer and this acceptance are subject to the following terms:

1 Part 1. TITLE"

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

5 Part 2. TERMS

6 A. The Tribe hereby memorializes its election to accept the
7 state's offer of an additional covered game, which offer is codified
8 pursuant to this section. The Tribe further certifies and agrees it
9 shall not offer such additional covered game unless and until doing
10 so would be legal under federal law.

11 B. The Tribe agrees, subject to the enforcement and exclusivity
12 provisions of its Compact, to pay a fee to the state equal to ten
13 percent (10%) of the monthly net win from operation of sports pools
14 ("net win" shall mean all money wagered less prizes paid out and
15 less applicable federal taxes). For all purposes, such payment
16 shall be deemed an exclusivity and fee payment under paragraph 2 of
17 subsection A of Part 11 of the Compact; provided, the Tribe accepts
18 and has no objection to the state's allocation, pursuant to this
19 section, of a portion of such monies deposited to the General
20 Revenue Fund pursuant to Section 280.2 of Title 3A of the Oklahoma
21 Statutes to the Department of Mental Health and Substance Abuse
22 Services for the treatment of compulsive gambling disorder and
23 educational programs related to such disorder.

1 C. The Tribe's operation of sports pools pursuant to this
2 Gaming Compact 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 this section, is deemed approved by the State of Oklahoma. No
8 further action by the state or any state official is necessary for
9 this Gaming Compact Supplement to take effect upon approval by the
10 Secretary of the United States Department of the Interior and
11 publication in the Federal Register. The undersigned tribal
12 official(s) represents that he or she is duly authorized and has the
13 authority to execute this Gaming Compact Supplement on behalf of the
14 tribe for whom he or she is signing.

15 APPROVED:

16 [Name of Tribe]

17 _____ Date: _____

18 [Title]"

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

23 C. Upon approval of a supplement by the Secretary of United
24 States Department of the Interior, the supplement shall be construed

1 as an acceptance of this offer and a supplement to the tribe's
2 existing State-Tribal Gaming Compact with the state. Thereafter,
3 sports pools shall be deemed a covered game pursuant to the compact.

4 D. Upon approval of a supplement by the Secretary of United
5 States Department of the Interior and subject to the enforcement and
6 exclusivity provisions of its existing State-Tribal Gaming Compact
7 with the state, the electing tribe shall be deemed pursuant to such
8 supplement to be in agreement to pay ten percent (10%) of the
9 monthly net win from operation of sports pools. For all purposes,
10 such payment shall be deemed an exclusivity and fee payment under
11 paragraph 2 of subsection A of Part 11 of the State-Tribal Gaming
12 Compact between the electing tribe and the state; provided, the
13 state will transfer __ percent (__%) of such monies deposited to the
14 General Revenue Fund pursuant to Section 280.2 of Title 3A of the
15 Oklahoma Statutes to the Department of Mental Health and Substance
16 Abuse Services for the treatment of compulsive gambling disorder and
17 educational programs related to such disorder.

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

22 F. Notwithstanding the provisions of Sections 941 through 988
23 of Title 21 of the Oklahoma Statutes, the conducting of and
24 participation in any game authorized pursuant to Section 2 of this

1 act are lawful when played pursuant to a compact supplement which
2 has become effective in accordance with this section.

3

4 56-2-3089 MD 1/22/2018 9:46:39 AM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24