

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3375

By: Wallace

4
5
6 AS INTRODUCED

7 An Act relating to amusements and sports; amending 3A
8 O.S. 2011, Section 262, as amended by Section 1,
9 Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017, Section
10 262), which relates to state-tribal gaming;
11 eliminating prohibition on certain types of gaming;
12 prohibiting certain types of gaming; providing
13 exception; offering model tribal gaming compact
14 supplements related to nonhouse-banked table games
15 and sports pools; defining terms; authorizing fees
16 and seeding related to tribal administration of the
17 games; providing model tribal gaming compact
18 supplements and proscribing content thereof;
19 prescribing procedures for electing acceptance of
20 supplements; providing for certain construction of
21 supplements; 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 wagering on~~ the outcome of a sports
11 contest; provided however, that wagering on the outcome of sports
12 contests may be conducted in accordance with Section 3 of this act.

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

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

1 existing compact, the state hereby approves, subject to the
2 provisions of this section, an additional game offering as follows:

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

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

20 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

21 Between the [Name of Tribe]

22 and the STATE OF OKLAHOMA

23 To be governed in accord with the [Name of Tribe]'s State-Tribal
24 Gaming Compact ("Compact"), approved by the United States Department

1 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
2 State's offer of additional covered game codified in Section 280.1
3 of Title 3A of the Oklahoma Statutes, which offer and this
4 acceptance are subject to the following terms:

5 Part 1. TITLE

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

9 Part 2. TERMS

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

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

22 C. The Tribe's operation of nonhouse-banked table games
23 pursuant to this Supplement shall, for all purposes, including
24

1 enforcement and exclusivity, be treated as subject to and lawfully
2 conducted under the terms and provisions of the Compact.

3 Part 3. AUTHORITY TO EXECUTE

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

14 APPROVED:

15 [Name of Tribe]

16 _____ Date: _____

17 [Title]

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

22 D. Upon approval of a supplement by the Secretary of the United
23 States Department of the Interior, said supplement shall be
24 construed as an acceptance of this offer and a supplement to the

1 | tribe's existing State-Tribal Gaming Compact with the state.
2 | Thereafter, nonhouse-banked table games shall be deemed a covered
3 | game pursuant to said Compact.

4 | E. Upon approval of a supplement by the Secretary of the 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 of the common pool(s) or pot(s) from which prizes
10 | are paid for nonhouse-banked table games. The tribe shall be
11 | entitled to keep an amount equal to state payments from the common
12 | pool(s) or pot(s) as part of its cost of operating the games. For
13 | all purposes, such payment shall be deemed an exclusivity and fee
14 | payment under paragraph 2 of subsection A of Part 11 of the State-
15 | Tribal Gaming Compact between the electing tribe and the state.

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

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

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

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

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

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

22 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

23 Between the [Name of Tribe]

24 and the STATE OF OKLAHOMA

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 in Section 280.2
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 Sports Pools Supplement (Gaming
10 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 in Section 280.2 of Title 3A of the Oklahoma Statutes. The Tribe
15 further certifies and agrees it shall not offer such additional
16 covered game unless and until doing so would be legal under federal
17 law.

18 B. The Tribe agrees, subject to the enforcement and exclusivity
19 provisions of its Compact, to pay to the State ten percent (10%) of
20 the monthly net win from the operation of sports pools ("net win"
21 shall mean all money wagered less prizes paid out and less
22 applicable federal taxes). The Tribe is entitled to keep an amount
23 equal to State payments from the operation of sports pools. For all
24 purposes, such payment shall be deemed an exclusivity and fee

1 payment under paragraph 2 of subsection A of Part 11 of the State-
2 Tribal Gaming Compact between the electing Tribe and the State.

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

7 Part 3. AUTHORITY TO EXECUTE

8 This Gaming Compact Supplement, to the extent it conforms with
9 Section 280.2 of Title 3A of the Oklahoma Statutes, is deemed
10 approved by the State of Oklahoma. No further action of the State
11 or any state official is necessary for this Gaming Compact
12 Supplement to take effect upon approval by the Secretary of the
13 United States Department of the Interior and publication in the
14 Federal Register. The undersigned tribal official(s) represents
15 that he or she is duly authorized and has the authority to execute
16 this Gaming Compact Supplement on behalf of the Tribe for whom he or
17 she is signing.

18 APPROVED:

19 [Name of Tribe]

20 _____ Date: _____

21 [Title]

22 C. A tribe electing to accept this additional game offering is
23 responsible for submitting a copy of the executed supplement to the
24

1 Secretary of the United States Department of the Interior for
2 approval and publication in the Federal Register.

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

9 E. Upon approval of a supplement by the Secretary of the United
10 States Department of the Interior and subject to the enforcement and
11 exclusivity provisions of its existing State-Tribal Gaming Compact
12 with the state, the electing tribe shall be deemed pursuant to such
13 supplement to be in agreement to pay ten percent (10%) of the
14 monthly net win from the operation of sports pools. The Tribe is
15 entitled to keep an amount equal to state payments from the
16 operation of sports pools. For all purposes, such payment shall be
17 deemed an exclusivity and fee payment under paragraph 2 of
18 subsection A of Part 11 of the State-Tribal Gaming Compact between
19 the electing tribe and the state.

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

24

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

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

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

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

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

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

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

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

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

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

17 Provided, the first Twenty Thousand Eight Hundred Thirty-three
18 Dollars and thirty-three cents (\$20,833.33) of all fees received
19 each month 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 and Gaming Compact Supplements offered pursuant to Sections 2 and 3
22 of this act shall be transferred to the Department of Mental Health
23 and Substance Abuse Services for the treatment of compulsive
24 gambling disorder and educational programs related to such disorder.

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

5

6 56-2-8329 JM 12/05/17

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24