

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 1027

6 By: Luttrell

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to amusements and sports; amending 3A
9 O.S. 2021, Sections 262 and 280, which relate to
10 state-tribal gaming; providing exception; updating
11 references; offering Gaming Compact Supplement
12 related to sports pools; defining term; authorizing
13 fees related to tribal administration of the games;
14 proscribing content of Gaming Compact Supplement;
15 proscribing procedures for electing acceptance of
16 supplements; providing for certain construction of
17 supplements; allowing retention of funds by tribes in
18 certain amounts; limiting scope of Gaming Compact
19 Supplement; declaring certain conduct and
20 participation lawful; providing for codification; and
21 providing an effective date.

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

23 SECTION 1. AMENDATORY 3A O.S. 2021, Section 262, is
24 amended to read as follows:

25 Section 262. A. If at least four Indian tribes enter into the
26 model tribal-state compact set forth in Section 281 of this title,
27 and such compacts are approved by the Secretary of the Interior and
28 notice of such approval is published in the Federal Register, the
29 Oklahoma Horse Racing Commission ("Commission") shall license

1 organization licensees which are licensed pursuant to Section 205.2
2 of this title to conduct authorized gaming as that term is defined
3 by this act pursuant to this act utilizing gaming machines or
4 devices authorized by this act subject to the limitations of
5 subsection C of this section. No fair association or organization
6 licensed pursuant to Section 208.2 of this title or a city, town or
7 municipality incorporated or otherwise, or an instrumentality
8 thereof, may conduct authorized gaming as that term is defined by
9 this act.

10 Notwithstanding the provisions of Sections 941 through 988 of
11 Title 21 of the Oklahoma Statutes, the conducting of and
12 participation in gaming in accordance with the provisions of this
13 act or the model compact set forth in Section 281 of this title is
14 lawful and shall not be subject to any criminal penalties. Provided
15 further, a licensed manufacturer or distributor licensed pursuant to
16 this 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
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,
20 electronic bonanza-style bingo games as defined in this act and
21 electronic instant bingo games as defined in this act, and any type
22 of gaming machine or device that is specifically allowed by law and
23 that an Indian tribe in this state is authorized to utilize pursuant
24 to a compact entered into between the state and the tribe in

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

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1 licensee's facility, by the name or type of each and its identifying
2 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, "adjusted gross revenues" means
9 the total receipts received by an organization licensee from the
10 play of all authorized gaming minus all monetary payouts.

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

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

1 H. This act is game-specific and shall not be construed to
2 allow the operation of any other form of gaming unless specifically
3 allowed by this act. This act shall not permit the operation of
4 slot machines, house-banked card games, house-banked table games
5 involving dice or roulette wheels, or ~~games where winners are~~
6 ~~determined by~~ wagering on the outcome of a sports contest; provided,
7 however, that in-person wagering and wagering conducted on a mobile
8 device on the outcome of sports contests may be conducted in
9 accordance with Section 3 of this act.

10 SECTION 2. AMENDATORY 3A O.S. 2021, Section 280, is
11 amended to read as follows:

12 Section 280. The State of Oklahoma through the concurrence of
13 the Governor after considering the executive prerogatives of that
14 office and the power to negotiate the terms of a compact between the
15 state and a tribe, and by means of the execution of the State-Tribal
16 Gaming Act, and with the concurrence of the State Legislature
17 through the enactment of the State-Tribal Gaming Act, hereby makes
18 the following offer of a ~~model tribal gaming compact~~ Model Tribal
19 Gaming Compact regarding gaming to all federally recognized Indian
20 tribes as identified in the Federal Register within this state that
21 own or are the beneficial owners of Indian lands as defined by the
22 Indian Gaming Regulatory Act, 25 U.S.C., Section 2703(4), and over
23 which the tribe has jurisdiction as recognized by the Secretary of
24 the Interior and is a part of the tribe's "Indian reservation" as

1 defined in 25 C.F.R., Part 151.2 or has been acquired pursuant to 25
2 C.F.R., Part 151, which, if accepted, shall constitute a gaming
3 compact between this state and the accepting tribe for purposes of
4 the Indian Gaming Regulatory Act. Acceptance of the offer contained
5 in this section shall be through the signature of the chief
6 executive officer of the tribal government whose authority to enter
7 into the ~~compact~~ Compact shall be set forth in an accompanying law
8 or ordinance or resolution by the governing body of the tribe, a
9 copy of which shall be provided by the tribe to the Governor. No
10 further action by the Governor or the state is required before the
11 ~~compact~~ Compact can take effect. A tribe accepting this Model
12 Tribal Gaming Compact is responsible for submitting a copy of the
13 Compact executed by the tribe to the Secretary of the Interior for
14 approval and publication in the Federal Register. The tribe shall
15 provide a copy of the executed Compact to the Governor. No tribe
16 shall be required to agree to terms different than the terms set
17 forth in the Model Tribal Gaming Compact, which is set forth in
18 Section 281 of this title. As a precondition to execution of the
19 Model Tribal Gaming Compact by any tribe, the tribe must have paid
20 or entered into a written agreement for payment of any fines
21 assessed prior to the effective date of the State-Tribal Gaming Act
22 by the federal government with respect to the tribe's gaming
23 activities pursuant to the Indian Gaming Regulatory Act.

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1 Notwithstanding the provisions of Sections 941 through 988 of
2 Title 21 of the Oklahoma Statutes, the conducting of and the
3 participation in any game authorized by the ~~model-compact~~ Model
4 Tribal Gaming Compact set forth in Section 281 of this title are
5 lawful when played pursuant to a compact which has become effective.

6 1. Prior to July 1, 2008, of all fees received by the state
7 pursuant to subsection A of Part 11 of the Model Tribal Gaming
8 Compact set forth in Section 281 of this title:

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

13 2. On or after July 1, 2008, of all fees received by the state
14 pursuant to subsection A of Part 11 of the Model Tribal Gaming
15 Compact set forth in Section 281 of this title and Gaming Compact
16 Supplements offered pursuant to Section ~~2~~ 280.1 of this title and
17 Section 3 of this act:

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

22 Provided, the first Twenty Thousand Eight Hundred Thirty-three
23 Dollars and thirty-three cents (\$20,833.33) of all fees received
24 each month by the state pursuant to subsection A of Part 11 of the

1 Model Tribal Gaming Compact set forth in Section 281 of this title
2 and Gaming Compact Supplements offered pursuant to Section ~~2~~ 280.1
3 of this title and Section 3 of this act shall be transferred to the
4 Department of Mental Health and Substance Abuse Services for the
5 treatment of compulsive gambling disorder and educational programs
6 related to such disorder.

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

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

20 "Sports pools" means any in-person wagering and wagering
21 conducted on a mobile device on the outcome of sporting events or
22 other events, other than horse or other animal races.

23 B. Should a tribe that has compacted with the state in
24 accordance with Sections 280 and 281 of Title 3A of the Oklahoma

1 Statutes elect to accept this offer of an additional covered game
2 and, accordingly, to operate sports pools under the terms of its
3 existing gaming compact with the state, said tribe shall execute a
4 supplement to said compact, to provide as follows:

5 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

6 Between the [Name of Tribe]

7 and the STATE OF OKLAHOMA

8 To be governed in accord with the [Name of Tribe]'s State-Tribal
9 Gaming Compact ("Compact"), approved by the United States Department
10 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
11 state's offer of additional covered game codified in Section 280.2
12 of Title 3A of the Oklahoma Statutes, which offer and this
13 acceptance are subject to the following terms:

14 Part 1. TITLE

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

18 Part 2. TERMS

19 A. The Tribe hereby memorializes its election to accept the
20 state's offer of an additional covered game, which offer is codified
21 in Section 280.2 of Title 3A of the Oklahoma Statutes. The Tribe
22 further certifies and agrees it shall not offer such additional
23 covered game unless and until doing so would be legal under federal
24 law.

1 B. The Tribe agrees, subject to the enforcement and exclusivity
2 provisions of its Compact, to pay to the state a fee derived from
3 sports pool revenues calculated as set forth in paragraph 2 of this
4 subsection. Such fee shall be paid no later than the twentieth day
5 of the month for revenues received by the Tribe in the preceding
6 month; and

7 1. The fee shall be:

- 8 a. four percent (4%) of the first Five Million Dollars
9 (\$5,000,000.00) of monthly net win received by a Tribe
10 in a calendar year from the pay of sports pools,
- 11 b. five percent (5%) of the next Five Million Dollars
12 (\$5,000,000.00) of adjusted gross revenues received by
13 a Tribe in a calendar year from the play of sports
14 pools, and
- 15 c. six percent (6%) of all subsequent adjusted gross
16 revenues received by a Tribe in a calendar year from
17 the play of sports pools.

18 Payments of such fees shall be made to the Treasurer of the State of
19 Oklahoma. Nothing herein shall require the allocation of such fees
20 to particular state purposes, including, but not limited to, the
21 actual costs of performing the State's regulatory responsibilities
22 hereunder. "Net win" shall mean all money wagered less prizes paid
23 out and less applicable federal taxes. For all purposes, such
24 payment shall be deemed an exclusivity and fee payment under

1 paragraph 2 of subsection A of Part 11 of the State-Tribal Gaming
2 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
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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. The Tribe is entitled to keep an amount equal to state
10 payments from the operation of sports pools. For all purposes, such
11 payment shall be deemed an exclusivity and fee payment under
12 paragraph 2 of subsection A of Part 11 of the State-Tribal Gaming
13 Compact between the electing Tribe and the State.

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

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

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SECTION 4. This act shall become effective November 1, 2023.

59-1-7408 CMA 02/13/23