

An Act

ENROLLED HOUSE
BILL NO. 3375

By: Wallace and Hoskin of the
House

and

McCortney and Pittman of
the Senate

An Act relating to amusements and sports; 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 state-tribal gaming; eliminating prohibition on certain types of gaming; prohibiting certain types of gaming; offering model tribal gaming compact supplement related to non-house-banked table games; defining terms; authorizing fees and seeding related to tribal administration of the games; providing model tribal gaming compact supplement and prescribing content thereof; prescribing procedures for electing acceptance of supplement; providing for certain construction of supplement; requiring payment of funds by tribes in certain amounts; allowing retention of funds by tribes in certain amounts; declaring certain conduct 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; and providing for codification.

SUBJECT: State-tribal gaming

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

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

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

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

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

B. Except for Christmas Day, authorized gaming may only be conducted by an organization licensee on days when the licensee is either conducting live racing or is accepting wagers on simulcast races at the licensee's racing facilities. Authorized gaming may only be conducted by organization licensees at enclosure locations where live racing is conducted. Under no circumstances shall authorized gaming be conducted by an organization licensee at any facility outside the organization licensee's racing enclosure. No person who would not be eligible to be a patron of a pari-mutuel system of wagering pursuant to the provisions of subsection B of Section 208.4 of this title shall be admitted into any area of a

facility when authorized games are played nor be permitted to operate, or obtain a prize from, or in connection with, the operation of any authorized game, directly or indirectly.

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

1. An organization licensee operating a racetrack location at which an organization licensee is licensed to conduct a race meeting pursuant to the provisions of Section 205.2 of this title located in a county with a population exceeding six hundred thousand (600,000) persons, according to the most recent Federal Decennial Census, shall be licensed to operate not more than six hundred fifty (650) player terminals in any year. Beginning with the third year after an organization licensee is licensed pursuant to this paragraph to operate such player terminals, such licensee may be licensed to operate an additional fifty (50) player terminals. Beginning with the fifth year after an organization licensee is licensed pursuant to this paragraph to operate such player terminals, such licensee may be licensed to operate a further additional fifty (50) player terminals; and

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

Subject to the limitations on the number of player terminals permitted to each organization licensee, an organization licensee may utilize electronic amusement games as defined in this act, electronic bonanza-style bingo games as defined in this act and electronic instant bingo games as defined in this act, and any type of gaming machine or device that is specifically allowed by law and that an Indian tribe in this state is authorized to utilize pursuant to a compact entered into between the state and the tribe in accordance with the provisions of the Indian Gaming Regulatory Act

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

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

E. For purposes of this act, "adjusted gross revenues" means the total receipts received by an organization licensee from the play of all authorized gaming minus all monetary payouts.

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

G. If an organization licensee operates or attempts to operate more player terminals which offer authorized games than it is authorized to offer to the public by this act or the terms of its

license, upon written notice from the Commission, such activity shall cease forthwith. Such activity shall constitute a basis upon which the Commission may suspend or revoke the licensee's license. The Commission shall promulgate any rules and regulations necessary to enforce the provisions of this subsection.

H. This act is game-specific and shall not be construed to allow the operation of any other form of gaming unless specifically allowed by this act. This act shall not permit the operation of slot machines, ~~dice games, roulette wheels,~~ house-banked card games, house-banked table games involving dice or roulette wheels, or games where winners are determined by the outcome of a sports contest.

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

A. Pursuant to the offer of the Model Tribal Gaming Compact found in Section 280 of Title 3A of the Oklahoma Statutes and the definition of "covered games" in the Model Tribal Gaming Compact codified in Section 281 of Title 3A of the Oklahoma Statutes, which said codified compact offer provides the state may approve additional forms of covered games under said compact by amendment of the State-Tribal Gaming Act, and a compacting tribe may operate such additional forms of covered games by written supplement to an existing compact, the state hereby approves, subject to the provisions of this section, an additional game offering as follows:

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

B. Should a tribe that has compacted with the state in accordance with Sections 280 and 281 of Title 3A of the Oklahoma Statutes, elect to accept this offer of an additional covered game and, accordingly, to operate non-house-banked table games under the

terms of its existing gaming compact with the state, said tribe shall execute a supplement to said compact, to provide as follows:

MODEL TRIBAL GAMING COMPACT SUPPLEMENT

Between the [Name of Tribe]

and the STATE OF OKLAHOMA

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

Part 1. TITLE

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

Part 2. TERMS

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

B. The Tribe agrees, subject to the enforcement and exclusivity provisions of its Compact, to pay to the State ten percent (10%) of the monthly net win of the common pool(s) or pot(s) from which prizes are paid for non-house-banked table games. The Tribe is 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 State-Tribal Gaming Compact between the electing Tribe and the State.

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

Part 3. AUTHORITY TO EXECUTE

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

APPROVED:

[Name of Tribe]

Date: _____

[Title]

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

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

E. Upon approval of a supplement by the Secretary of the United States Department of the Interior and subject to the enforcement and exclusivity provisions of its existing State-Tribal Gaming Compact with the state, the electing tribe shall be deemed pursuant to such supplement to be in agreement to pay ten percent (10%) of the monthly net win of the common pool(s) or pot(s) from which prizes are paid for non-house-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 State-Tribal Gaming Compact between the electing tribe and the state.

F. 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.

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

Section 280. The State of Oklahoma through the concurrence of the Governor after considering the executive prerogatives of that office and the power to negotiate the terms of a compact between the state and a tribe, and by means of the execution of the State-Tribal Gaming Act, and with the concurrence of the State Legislature through the enactment of the State-Tribal Gaming Act, hereby makes the following offer of a model tribal gaming compact regarding gaming to all federally recognized Indian tribes as identified in the Federal Register within this state that own or are the beneficial owners of Indian lands as defined by the Indian Gaming Regulatory Act, 25 U.S.C., Section 2703(4), and over which the tribe has jurisdiction as recognized by the Secretary of the Interior and is a part of the tribe's "Indian reservation" as defined in 25 C.F.R., Part 151.2 or has been acquired pursuant to 25 C.F.R., Part 151, which, if accepted, shall constitute a gaming compact between this state and the accepting tribe for purposes of the Indian Gaming Regulatory Act. Acceptance of the offer contained in this section shall be through the signature of the chief executive officer of the tribal government whose authority to enter into the compact shall be set forth in an accompanying law or ordinance or resolution by the governing body of the tribe, a copy of which shall be provided by the tribe to the Governor. No further action by the Governor or the state is required before the compact can take effect. A tribe accepting this Model Tribal Gaming Compact is responsible for submitting a copy of the Compact executed by the tribe to the Secretary of the Interior for approval and publication in the Federal Register. The tribe shall provide a copy of the executed Compact to the Governor. No tribe shall be required to agree to terms different than the terms set forth in the Model Tribal Gaming Compact, which is set forth in Section 281 of this title. As a precondition to execution of the Model Tribal Gaming Compact by any

tribe, the tribe must have paid or entered into a written agreement for payment of any fines assessed prior to the effective date of the State-Tribal Gaming Act by the federal government with respect to the tribe's gaming activities pursuant to the Indian Gaming Regulatory Act.

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

Passed the House of Representatives the 8th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the 6th day of April, 2018.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____