

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1027

By: Luttrell of the House

and

Coleman of the Senate

7
8
9 COMMITTEE SUBSTITUTE

10 [amusements and sports - gaming exemption - Gaming
11 Compact Supplement - pools - term - fees - content
12 - procedures - funds - conduct - participation -
13 codification - effective date]

14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

18 Section 262. A. If at least four Indian tribes enter into the
19 model tribal-state compact set forth in Section 281 of this title,
20 and such compacts are approved by the Secretary of the Interior and
21 notice of such approval is published in the Federal Register, the
22 Oklahoma Horse Racing Commission ("Commission") shall license
23 organization licensees which are licensed pursuant to Section 205.2
24 of this title to conduct authorized gaming as that term is defined

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

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

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

20 B. Except for Christmas Day, authorized gaming may only be
21 conducted by an organization licensee on days when the licensee is
22 either conducting live racing or is accepting wagers on simulcast
23 races at the licensee's racing facilities. Authorized gaming may
24 only be conducted by organization licensees at enclosure locations

1 where live racing is conducted. Under no circumstances shall
2 authorized gaming be conducted by an organization licensee at any
3 facility outside the organization licensee's racing enclosure. No
4 person who would not be eligible to be a patron of a pari-mutuel
5 system of wagering pursuant to the provisions of subsection B of
6 Section 208.4 of this title shall be admitted into any area of a
7 facility when authorized games are played nor be permitted to
8 operate, or obtain a prize from, or in connection with, the
9 operation of any authorized game, directly or indirectly.

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

18 1. An organization licensee operating a racetrack location at
19 which an organization licensee is licensed to conduct a race meeting
20 pursuant to the provisions of Section 205.2 of this title located in
21 a county with a population exceeding six hundred thousand (600,000)
22 persons, according to the most recent Federal Decennial Census,
23 shall be licensed to operate not more than six hundred fifty (650)
24 player terminals in any year. Beginning with the third year after

1 an organization licensee is licensed pursuant to this paragraph to
2 operate such player terminals, such licensee may be licensed to
3 operate an additional fifty (50) player terminals. Beginning with
4 the fifth year after an organization licensee is licensed pursuant
5 to this paragraph to operate such player terminals, such licensee
6 may be licensed to operate a further additional fifty (50) player
7 terminals; and

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

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

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

24

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

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

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

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

23 H. This act is game-specific and shall not be construed to
24 allow the operation of any other form of gaming unless specifically

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

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

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

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

22 Notwithstanding the provisions of Sections 941 through 988 of
23 Title 21 of the Oklahoma Statutes, the conducting of and the
24 participation in any game authorized by the ~~model compact~~ Model

1 Tribal Gaming Compact set forth in Section 281 of this title are
2 lawful when played pursuant to a compact which has become effective.

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

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

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

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

19 Provided, the first Twenty Thousand Eight Hundred Thirty-three
20 Dollars and thirty-three cents (\$20,833.33) of all fees received
21 each month by the state pursuant to subsection A of Part 11 of the
22 Model Tribal Gaming Compact set forth in Section 281 of this title
23 and Gaming Compact Supplements offered pursuant to Section ~~2~~ 280.1
24 of this title and Section 3 of this act shall be transferred to the

1 Department of Mental Health and Substance Abuse Services for the
2 treatment of compulsive gambling disorder and educational programs
3 related to such disorder.

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

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

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

20 B. Should a tribe that has compacted with the state in
21 accordance with Sections 280 and 281 of Title 3A of the Oklahoma
22 Statutes elect to accept this offer of an additional covered game
23 and, accordingly, to operate sports pools under the terms of its
24

1 existing gaming compact with the state, said tribe shall execute a
2 supplement to said compact, to provide as follows:

3 MODEL TRIBAL GAMING COMPACT SUPPLEMENT

4 Between the [Name of Tribe]

5 and the STATE OF OKLAHOMA

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

12 Part 1. TITLE

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

16 Part 2. TERMS

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

23 B. The Tribe agrees, subject to the enforcement and exclusivity
24 provisions of its Compact, to pay to the state a fee derived from

1 sports pool revenues calculated as set forth in paragraph 2 of this
2 subsection. Such fee shall be paid no later than the twentieth day
3 of the month for revenues received by the Tribe in the preceding
4 month; and

5 1. The fee shall be:

6 a. four percent (4%) of the first Five Million Dollars
7 (\$5,000,000.00) of monthly net win received by a Tribe
8 in a calendar year from the pay of sports pools,

9 b. five percent (5%) of the next Five Million Dollars
10 (\$5,000,000.00) of adjusted gross revenues received by
11 a Tribe in a calendar year from the play of sports
12 pools, and

13 c. six percent (6%) of all subsequent adjusted gross
14 revenues received by a Tribe in a calendar year from
15 the play of sports pools.

16 Payments of such fees shall be made to the Treasurer of the State of
17 Oklahoma. Nothing herein shall require the allocation of such fees
18 to particular state purposes, including, but not limited to, the
19 actual costs of performing the State's regulatory responsibilities
20 hereunder. "Net win" shall mean all money wagered less prizes paid
21 out and less applicable federal taxes. For all purposes, such
22 payment shall be deemed an exclusivity and fee payment under
23 paragraph 2 of subsection A of Part 11 of the State-Tribal Gaming
24 Compact between the electing Tribe and the State.

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

16 APPROVED:

17 [Name of Tribe]

18 _____ Date: _____

19 [Title]

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

24

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

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

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

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

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

22
23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
24 03/06/2023 - DO PASS, As Amended and Coauthored.