

**\*3158 3A Okl.St.Ann. § 200**

[FN1] Title 3A, § 200 et seq.

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

**HISTORICAL NOTES  
HISTORICAL AND STATUTORY  
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**2003 Main Volume**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

Section 39 of Laws 1983, c. 11 provides as follows:

"The provisions of the Oklahoma Horse Racing Act with regard to the licensing, regulation, and supervision of non-pari-mutuel horse racing shall become operative on January 1, 1984."

**§ 200. Short title**

Sections 1 through 35 of this act [FN1] and Section 209 of Title 3A of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Horse Racing Act".

**REFERENCES**

**LAW REVIEW AND JOURNAL  
COMMENTARIES**

**CREDIT(S)**

*Laws 1983, c. 11, § 1, emerg. eff. March 22, 1983.*

U.S. politics and tribal nation gaming: How it all plays out in Oklahoma. Angelique Eaglewoman, 77 Okla. B.J. 525 (2006).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3159 3A Okl.St. Ann. § 200.1**

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*Current with emergency effective chapters  
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**§ 200.1. Definitions**

A. As used in the Oklahoma Horse Racing Act:

1. "Commission" means the Oklahoma Horse Racing Commission;

2. "Enclosure" means all buildings, structures and grounds utilized for the conduct of a race meeting and/or gaming at the race track and any additional areas designated by the Oklahoma Horse Racing Commission;

3. "Family" means husband, wife, and any dependent children;

4. "Financial interest" means an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity, or other compensation or remuneration from any person;

5. "Horse racing" means any type of horse racing, including, but not limited to, Arabian, Appaloosa, Paint, Pinto, Quarter Horse, and Thoroughbred horse racing.

a. "Arabian horse racing" means the form of horse racing in which each participating horse is an Arabian horse registered with the Arabian Horse Club Registry of America and approved by the Arabian Horse Racing Association of America or any successor organization, mounted by a jockey, and engaged in races on the flat over a distance of not less than one-quarter (1/4) mile or more than four (4) miles.

b. "Appaloosa horse racing" means the form of horse racing in which each

participating horse is an Appaloosa horse registered with the Appaloosa Horse Club or any successor organization and mounted by a jockey.

c. "Quarter Horse racing" means the form of horse racing where each participating horse is a Quarter Horse registered with the American Quarter Horse Association or any successor organization, mounted by a jockey, and engaged in a race on the flat.

d. "Paint horse racing" means the form of horse racing in which each participating horse is a Paint horse registered with the American Paint Horse Association or any successor organization and mounted by a jockey.

**\*3160** e. "Pinto horse racing" means the form of horse racing in which each participating horse is a Pinto horse registered with the Pinto Horse Association of America, Inc. or any successor organization and mounted by a jockey.

f. "Thoroughbred horse racing" means the form of horse racing in which each participating horse is a Thoroughbred horse registered with the Jockey Club or any successor organization, mounted by a jockey, and engaged in races on the flat.

"Horse racing" shall not mean the racing of a cloned horse regardless of whether any breed association has registered the horse;

6. "Minor" means any individual under eighteen (18) years of age;

7. "Minus pool" means a pari-mutuel pool in which, after deducting the take-out, not enough money remains in the pool to pay the legally prescribed minimum return to those placing winning wagers, and in which the organization licensee would be required to pay the remaining amount due;

8. "Occupation licensee" means any person who has obtained an occupation license;

9. "Organization licensee" means any person receiving an organization license;

10. "Pari-mutuel system of wagering" means a form of wagering on the outcome of horse races in which those who wager purchase wagers of various

denominations on a horse or horses and all wagers for each race are pooled and held by the organization licensee for distribution. The pari-mutuel system of wagering uses an electric totalizator or similar equipment which automatically registers the wagers made on each horse;

11. "Pari-mutuel pool" means the total money wagered by individuals on any horse or horses in a particular horse race to win, place, or show and held by the organization licensee pursuant to the pari-mutuel system of wagering. There is a separate pari-mutuel pool for win, for place, for show, and for each multiple combination of betting approved by the Oklahoma Horse Racing Commission;

12. "Person" means any individual, partnership, corporation, or other association or entity; and

13. "Race meeting" means the entire period of time not to exceed twenty (20) calendar days separating any race days for which an organization license has been granted to a person by the Commission to hold horse races at which the pari-mutuel system of wagering is conducted, to hold non-pari-mutuel horse races or to conduct accredited work or training races.

**\*3161 B.** The Commission may define by rule or regulation any term which is not defined in the Oklahoma Horse Racing Act.

#### CREDIT(S)

*Laws 1983, c. 11, § 2, emerg. eff. March 22, 1983; Laws 1985, c. 196, § 1, operative July 1, 1985; Laws 1986, c. 223, § 10, operative July 1, 1986; Laws 1987, c. 208, § 69, operative July 1, 1987; Laws 1987, c. 236, § 88, emerg. eff. July 20, 1987; Laws 1988, c. 210, § 5, operative July 1, 1988; Laws 1991, c. 269, § 6, eff. July 1, 1991; Laws 1992, c. 364, § 14, eff. July 1, 1992; Laws 2004, c. 517, § 1, emerg. eff. June 9, 2004; Laws 2006, c. 274, § 1, emerg. eff. June 7, 2006; Laws 2007, c. 1, § 1, emerg. eff. Feb. 22, 2007.*

#### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

#### 2007 Electronic Update

Section 1 of Laws 2006, c. 177, amending this section, was repealed by Laws 2007, c. 1, § 2.

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The 1985 amendment, in subsection A, paragraph 13, inserted "not to exceed twenty (20) calendar days separating any race days".

The 1986 amendment, in subsection A, paragraph 11, second sentence, added "and the pick six" at the end.

Laws 1987, c. 208, § 69 and Laws 1987, c. 236, § 88, in subsection A, paragraph 13, added "or to conduct accredited work or training races" at the end.

The 1988 amendment, in subsection A, paragraph 5, subparagraph c, substituted "on the flat" for "over a distance of less than one-half ( 1/2) mile".

The 1991 amendment, in subsection A, paragraph 11, second sentence, added "and the National Breeder's Cup pick seven."

Laws 1991, H.B. 1261 (c. 269), § 6, was vetoed by Governor May 28, 1991. Veto was overridden by both houses of the legislature May 30, 1991 and filed with the Secretary of State on the same date.

The 1992 amendment, in subsection A, paragraph 11, rewrote the second sentence, which prior thereto read: "There is a separate pari-mutuel pool for win, for place, and for show, and for each of the other forms of betting provided for by the rules and regulations of the Commission, including only the daily double, the quinella, the exacta, the pick six and the National Breeders' Cup pick seven."

**\*3162**

#### REFERENCES

#### ADMINISTRATIVE CODE REFERENCES

Additional definitions, see Okla. Admin. Code 325:65-1-31.1.

#### LIBRARY REFERENCES

#### 2003 Main Volume

Theaters and Shows ☞ 3.10.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3163 3A Okl.St. Ann. § 201**

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*Current with emergency effective chapters  
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**§ 201. Oklahoma Horse Racing  
Commission--Creation--Membership--  
Appointment--Term--Removal--  
Vacancies**

A. There is hereby created the Oklahoma Horse Racing Commission, which shall consist of nine (9) members appointed by the Governor with the advice and consent of the Senate. At least one member shall be appointed from each congressional district, and at least three of the remaining members shall be experienced in the horse industry and shall be appointed from the state at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office, and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts is represented by a board member.

B. To be eligible for appointment to the Commission, a person shall:

1. Be a citizen of the United States;
2. Have been a resident of this state for five (5) years immediately preceding the appointment; and
3. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States as established by a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. The term of office of a member of the Commission shall be for six (6) years and until a successor is appointed and qualified.

D. The Governor may remove any member of the Commission for incompetence, neglect of duty, or malfeasance in office upon first giving the member a copy of the charges and an opportunity to be heard. A vacancy on the Commission shall be filled for the unexpired term by appointment made by the Governor.

**\*3164**

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982; Laws 1983, c. 11, § 3, emerg. eff. March 22, 1983; Laws 1992, c. 364, § 3, emerg. eff. June 4, 1992; Laws 2002, c. 375, § 2, eff. Nov. 5, 2002; Laws 2003, c. 204, § 1, eff. Nov. 1, 2003; Laws 2005, c. 217, § 1, emerg. eff. May 24, 2005; Laws 2006, c. 177, § 2, emerg. eff. May 23, 2006.*

**HISTORICAL NOTES**

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The 1983 amendment rewrote the section which prior thereto read:

"There is hereby created the Oklahoma Horse Racing Commission, hereinafter referred to as Commission, which shall consist of seven (7) members, to be appointed by the Governor. One appointee shall be selected from each congressional district, and one at-large appointee who shall be experienced in the horse industry. All members shall be citizens of the United States and residents of the State of Oklahoma for at least five (5) years prior to their appointment. Three (3) of the members shall serve an initial term of two (2) years, two (2) of the members shall serve an initial term of four (4) years and two (2) of the members shall serve an initial term of six (6) years. Successors shall be appointed for a term of four (4) years. All appointments shall be confirmed by a majority vote of the State Senate."

The 1992 amendment, in subsection A, second sentence, deleted "as such districts exist on January 1, 1983" following "each congressional district".

The 2002 amendment rewrote subsection A, which prior thereto read:

"There is hereby created the Oklahoma Horse Racing Commission, which shall consist of seven (7) members appointed by the Governor with the advice and consent of the

Senate. One member shall be appointed from each congressional district, and one member who shall be experienced in the horse industry shall be appointed at large."

## ANNOTATIONS

### NOTES OF DECISIONS

#### REFERENCES

##### LIBRARY REFERENCES

###### \*3165 2003 Main Volume

States 45 to 47, 52.

Theaters and Shows 3.10.

Westlaw Topic Nos. 360, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

C.J.S. States §§ 61, 79, 80, 82 to 84, 93, 94, 96, 98 to 102, 136.

#### Validity 1

##### 1. Validity

Horse racing initiative ballot title which provided ... "for a tax on pari-mutuel wagers; providing for distribution of taxes collected \* \* \* " would be modified to indicate that it would establish a tax and fees on pari-mutuel wagers and provide for distribution of taxes and fees collected. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Statutes 320

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**\*3166 3A Okl.St. Ann. § 202**

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**§ 202. Conflicts of interest**

No individual shall be a member of the Commission if the individual or a member of the family of the individual has a financial interest in any organization licensee and no individual other than an individual required by the provisions of Section 201 of this title to be experienced in the horse industry shall be a member of the Commission if the individual or a member of the family of the individual has a financial interest in any business entity which does business with any organization licensee or owns an interest in any racehorse which participates in any race meeting supervised by the Commission.

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at*

*election held Sept. 21, 1982; Laws 1983, c. 11, § 4, emerg. eff. March 22, 1983; Laws 2005, c. 217, § 2, emerg. eff. May 24, 2005.*

**HISTORICAL NOTES**

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The 1983 amendment rewrote the section which prior thereto read:

"No member of the Commission shall be an official, member of a board of directors, or financially interested in, any pari-mutuel racetrack, race meeting, or race licensed by the Commission, nor shall a member thereof own an interest in any racehorse which participates in any pari-mutuel race meeting or race licensed by the Commission."

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

- States 47.
- Theaters and Shows 3.10.
- Westlaw Topic Nos. 360, 376.
- C.J.S. Entertainment and Amusement.
- C.J.S. Sports §§ 38 to 46.
- C.J.S. States §§ 61, 83.

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**\*3167 3A Okl.St. Ann. § 203**

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**§ 203. Meetings--Officers--Quorum--Legal proceedings or actions--Compensation**

A. The Commission shall meet at such times and places within this state as the Commission determines. The members of the Commission shall annually elect a chairman, vice-chairman, and secretary from the membership of the Commission. No member of the Commission shall serve more than two (2) successive terms as chairman. A majority of the members shall constitute a quorum.

B. The proceedings of all meetings of the Commission shall comply with the provisions of the Oklahoma Open Meeting Act. [FN1]

C. The Attorney General shall advise the Commission and represent it in all legal proceedings or actions resulting from the exercise of the powers and duties of the Commission pursuant to the provisions of the Oklahoma Horse Racing Act; [FN2] however, nothing in this section shall be construed to prohibit the Commission from engaging private counsel if they deem it necessary to protect the integrity of horse racing in Oklahoma.

D. Each member of the Commission shall receive Fifty Dollars (\$50.00) for each day spent in the actual discharge of duties for the Commission. All members of the Commission shall be reimbursed for

expenses incurred in the performance of their duties pursuant to the provisions of the State Travel Reimbursement Act. [FN3]

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982; Laws 1983, c. 11, § 5, emerg. eff. March 22, 1983.*

[FN1] Title 25, § 301 et seq.

[FN2] Title 3A, § 200 et seq.

[FN3] Title 74, § 500.1 et seq.

**HISTORICAL NOTES****HISTORICAL AND STATUTORY NOTES****\*3168 2003 Main Volume**

The 1983 amendment rewrote the section which prior thereto read:

"Members of the Commission shall receive reasonable compensation while performing the duties of office and, in addition, shall be allowed necessary travel expenses. The legislature shall appropriate sufficient funds for the operation of the Commission."

**REFERENCES****LIBRARY REFERENCES****2003 Main Volume**

Administrative Law and Procedure ☞ 121, 124, 125.

Theaters and Shows ☞ 3.10.

Westlaw Topic Nos. 15A, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

C.J.S. Public Administrative Law And Procedure §§ 17, 19, 20.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3169 3A Okl.St. Ann. § 203.1**

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**§ 203.1. Commission member prohibited from performing certain activities**

A. A member of the Oklahoma Horse Racing Commission shall not accept any gift, loan, entertainment or favor from any occupation or organization licensee, except such suitable facilities and services within the enclosure of an organization licensee as may be required by the member to facilitate the proper performance of his or her duties. A member of the Oklahoma Horse Racing Commission, other than a member required by the provisions of Section 201 of this title to be experienced in the horse industry, shall not accept any compensation or service from any occupation or organization licensee, except such suitable facilities and services within the enclosure of an organization licensee as may be required by the member to facilitate the proper performance of his or her duties.

B. No member of the Commission or Commission employee shall place any wagers on any horse race over which the Commission has jurisdiction.

C. Members of the Commission and members of their immediate families, and Commission employees and members of their immediate families are prohibited from receiving purse supplements, stakes, rewards, stallion awards, broodmare awards, or breeders awards of any kind, or marketing, promotion, or advertising monies of any kind from the Oklahoma Breeding Development Fund Special Account administered by the Commission pursuant to Section 208.3 of this title. "Immediate family" has the meaning provided by Rule 257:1-1-2 of the Rules of the Ethics Commission, Chapter 62, App. of Title 74 of the Oklahoma Statutes.

D. Nothing in this section shall prohibit members of the Commission, who are required by the

provisions of Section 201 of this title to be experienced in the horse industry, from receiving purses for participating horses from an organization licensee.

E. Provided, any member of the Commission who has an ownership interest in any horse shall be prohibited from participating in the discussion on, voting on, influencing or attempting to influence the official action of the Commission in any matter affecting the eligibility of such horse to participate in any race or which determines the amount or receipt of any purse by the Commission member or any member of the family of the Commission member. A commissioner shall be eligible to participate in the discussion on, vote on, influence or attempt to influence the official action of the Commission if the only benefit to accrue to the Commissioner or any member of the Commissioner's family is a benefit which accrues to the Commissioner or a member of the Commissioner's family as a result of being a member of a large class to no greater extent than could reasonably be foreseen to accrue to all other members of the large class.

**\*3170****CREDIT(S)**

*Laws 1983, c. 11, § 6, emerg. eff. March 22, 1983; Laws 1998, c. 370, § 1, eff. Nov. 1, 1998; Laws 2005, c. 217, § 3, emerg. eff. May 24, 2005.*

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The 1998 amendment, in subsection B, substituted "Commission employee" for "any member of the Commission staff"; added subsection C; and made other nonsubstantive changes.

**REFERENCES****LIBRARY REFERENCES****2003 Main Volume**

States ☞77.  
Theaters and Shows ☞3.10.  
Westlaw Topic Nos. 360, 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

C.J.S. States §§ 122, 125.  
Current with emergency effective chapters through  
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**\*3171 3A Okl.St. Ann. § 203.2**

[FN1]

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**CREDIT(S)**

*Laws 1983, c. 11, § 7, emerg. eff. March 22, 1983.*

[FN1] Title 3A, § 200 et seq.

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**REFERENCES**

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**§ 203.2. Advisory councils and task forces**

The Commission is hereby authorized to appoint such advisory councils and task forces as it deems necessary for counsel and advice concerning the formulation and administration of the rules of racing and the administration of the programs authorized by the provisions of the Oklahoma Horse Racing Act.

States ☞45.

Theaters and Shows ☞3.10.

Westlaw Topic Nos. 360, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

C.J.C. States §§ 79, 80, 82, 136.

*Current with emergency effective chapters through  
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**\*3172 3A Okl.St. Ann. § 203.3**

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**§ 203.3. Executive director--Appointment--Qualifications--Duties and compensation--Equal opportunity plan--Law enforcement division--Surety bond**

A. The Commission shall appoint an executive director who shall have the same qualifications as a member of the Commission. The qualification regarding the residency requirement for Commission members shall not apply to the executive director. The executive director shall have experience in the horse racing industry of a character and for a length of time sufficient, in the opinion of the Commission, to fulfill the duties required of the executive director. The Commission shall determine the duties and compensation of the executive director.

B. The executive director shall recommend to the Commission the administrative organization and the number and qualifications of employees necessary without regard to race, color, gender, creed or national origin, to implement the provisions of the Oklahoma Horse Racing Act. [FN1] A written equal opportunity plan will be developed for the Commission, by the executive director as part of the organizational plan. Upon approval of the organizational plan by the Commission, the executive director may employ such persons as are deemed necessary to implement the provisions of the Oklahoma Horse Racing Act.

C. 1. The organizational plan adopted by the Commission shall provide for a law enforcement division which shall have the responsibility for conducting investigations relating to the proper conduct of horse racing and the pari-mutuel system of wagering including but not limited to barring undesirables from horse racing, undercover investigations, fingerprinting persons licensed by the

Commission, and reviewing license applications. The person in charge of the law enforcement division shall be a professional law enforcement officer with a minimum of five (5) years of experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science, or in lieu thereof a minimum of ten (10) years of experience in the field of law enforcement.

**\*3173** 2. The officers and agents of the law enforcement division of the Commission, and such other employees as the person in charge of said division shall designate to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of the state, shall have and exercise all the powers and authority of peace officers, including the right and power of search and seizure.

3. The Oklahoma State Bureau of Investigation shall provide such information within its possession as is requested by the law enforcement division of the Commission for the purpose of reviewing license applications.

4. If upon investigation by the Commission there is substantial evidence indicating that the security at any track is not satisfactory, the Commission may order the organization licensee to remedy the deficiency. If after ten (10) days following the order the organization licensee has not remedied the deficiency, the Commission may institute its own security personnel program until the deficiency in security is remedied, and may charge the organization licensee the actual costs incurred for said security. The organization licensee may petition the Commission for a hearing at any time to review the necessity of the Commission further maintaining its own security personnel.

5. The provisions of this subsection shall not be construed to restrict or prohibit any federal, state, or local law enforcement officer from performing any duties imposed upon the law enforcement officer by law.

D. The executive director shall obtain a surety bond in the amount of One Hundred Thousand Dollars (\$100,000.00) before entering into the duties of the office. The surety bond shall be conditioned

upon the faithful performance of the duties of the executive director and the proper accounting of all moneys and property received by the executive director by virtue of the office. The cost of the surety bond shall be paid by the Commission.

### CREDIT(S)

*Laws 1983, c. 11, § 8, emerg. eff. March 22, 1983.*

[FN1] Title 3A, § 200 et seq.

### REFERENCES

#### LIBRARY REFERENCES

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States ☞46 to 48, 60(1), 67, 73.  
Theaters and Shows ☞3.10.  
Westlaw Topic Nos. 360, 376.  
C.J.S. Entertainment and Amusement.  
\*3174 C.J.S. Sports §§ 38 to 46.  
C.J.C. States §§ 61, 80, 83, 84, 91, 102, 120, 121, 130 to 138, 140.

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### Investigations 2 Investigative reports 1

#### 1. Investigative reports

Under statutes, Director of Law Enforcement for Horse Racing Commission may report to Commission the content of licensure investigative reports provided at request of Commission's law enforcement division by State Bureau of Investigation if that action appears proper from information contained in the report. Op.Atty.Gen. No. 85-51 (Aug. 15, 1985).

#### 2. Investigations

The responsibility for investigation of horse racing license applicants is upon the Law Enforcement Division of the Horse Racing Commission and the Commission may not initiate such an investigation by the State Bureau of Investigation. *Tulsa Tribune Co. v. Oklahoma Horse Racing Com'n, Okla., 735 P.2d 548 (1986).* Theaters And Shows ☞3.10

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**\*3175 3A Okl.St. Ann. § 203.4**

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**§ 203.4. Stewards--Chief steward and  
assistant stewards--Other personnel--  
Compensation--Duties**

A. At each pari-mutuel race meeting held pursuant to the provisions of the Oklahoma Horse Racing Act the Oklahoma Horse Racing Commission shall employ three individuals to be stewards. At non-pari-mutuel race meetings and for training races, the organization licensee may employ its own stewards in accordance with the rules of the American Quarter Horse Association or have the Commission employ the stewards as provided in this subsection. The Commission shall designate one of the individuals as chief steward and the other two individuals as assistant stewards. If employed by the Commission, the compensation of the stewards, including but not limited to salaries, benefits and other reimbursable expenses as determined by the Commission, shall be paid by the Commission.

B. All other racing personnel shall be employed for race meetings as the Commission deems necessary. All other racing personnel required by the Commission at non-pari-mutuel race meetings or training races may be employed by the organization licensee in accordance with the rules of the American Quarter Horse Association. The compensation of racing personnel employed by the Commission, including but not limited to salaries, benefits and reimbursable expenses, shall be paid by the Commission.

C. The stewards and other racing officials at pari-mutuel race meetings, at non-pari-mutuel race meetings and at training races shall enforce the rules and regulations of the Commission and the provisions of the Oklahoma Horse Racing Act in the manner provided by law and shall render written

reports of the activities and conduct of the race meetings to the Commission. In enforcing the rules of the Commission and officiating at races, the stewards shall not be required to comply with provisions of the Oklahoma Open Meeting Act [FN1] but shall be required to comply with applicable provisions of the Administrative Procedures Act. [FN2]

**\*3176 CREDIT(S)**

*Laws 1983, c. 11, § 9, emerg. eff. March 22, 1983; Laws 1986, c. 223, § 11, operative July 1, 1986; Laws 1991, c. 269, § 7, eff. July 1, 1991; Laws 1992, c. 16, § 2, emerg. eff. March 26, 1992; Laws 1997, c. 305, § 1, eff. July 1, 1997; Laws 1998, c. 370, § 2, eff. Nov. 1, 1998; Laws 1999, c. 297, § 1, eff. July 1, 1999; Laws 2001, c. 145, § 1, eff. July 1, 2001.*

[FN1] Title 25, § 301 et seq.

[FN2] Title 75, § 250 et seq.

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As originally enacted this section read:

"At each race meeting held pursuant to the provisions of the Oklahoma Horse Racing Act the Commission shall employ three individuals to be stewards. The Commission shall designate one of the individuals as chief steward and the other two individuals as assistant stewards. The compensation of the stewards shall be paid by the Commission and said cost shall be reimbursed by the organization licensee. All other racing officials at a race meeting shall be approved by the Commission and compensated by the organization licensee. The stewards and other racing officials shall enforce the rules and regulations of the Commission and the provisions of the Oklahoma Horse Racing Act and shall render written reports of the activities and conduct of the race meetings to the Commission."

The 1986 amendment inserted a new fourth sentence which read: "Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury."

The 1991 amendment rewrote the section to read:

"A. At each race meeting held pursuant to the provisions of the Oklahoma Horse Racing Act the Commission shall employ three individuals to be stewards. The Commission shall designate one of the individuals as chief steward and the other two individuals as assistant stewards. The compensation of the stewards, including but not limited to salaries, benefits and other reimbursable expenses as determined by the Commission, shall

be paid by the Commission and the Commission shall be reimbursed by the organization licensee. Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.

**\*3177** "B. All other racing personnel shall be employed for race meetings as the Commission deems necessary. The compensation of racing personnel employed by the Commission, including but not limited to salaries, benefits and reimbursable expenses, shall be paid by the Commission and, except for license clerks, the Commission shall be reimbursed by the organization licensee. Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.

"C. The stewards and other racing officials shall enforce the rules and regulations of the Commission and the provisions of the Oklahoma Horse Racing Act and shall render written reports of the activities and conduct of the race meetings to the Commission."

Laws 1991, H.B. 1261 (c. 269), § 7, was vetoed by Governor May 28, 1991. Veto was overridden by both houses of the legislature May 30, 1991 and filed with the Secretary of State on the same date.

The 1992 amendment, in subsection A, first sentence, inserted "pari-mutuel" preceding "race meeting", inserted the second sentence, and in the fourth (former third) sentence substituted "If employed by the Commission, the" for "The" at the beginning of the sentence; in subsection B, inserted the second sentence; and in subsection C, inserted "at pari-mutuel race meetings, at non-pari-mutuel race meetings and at training races " and inserted "in the manner provided by law".

The 1997 amendment designated the existing texts of subsections A and B as paragraph 1 and added paragraph 2.

The 1998 amendment, in subsection A.1, inserted "Oklahoma Horse Racing"; and in subsection C, added the second sentence.

The 1999 amendment substituted "1999" for "1997" in two places.

The 2001 amendment, in subsection A, in the fourth sentence, deleted from the end "and the Commission shall be reimbursed by the organization licensee", and deleted the fifth sentence, which read: "Said reimbursed funds shall be deposited by the Commission to the credit of the General Revenue Fund of the State Treasury.", and deleted paragraph 2, which read:

"Reimbursement of the Commission by the organization licensee pursuant to paragraph 1 of this subsection shall be suspended for two (2) years, effective July 1, 1999."

; and in subsection B, in the third sentence, deleted from the end "and, except for license clerks, the Commission shall be reimbursed by the organization licensee, deleted the fourth sentence which read the same as the fifth sentence of subsection A, and deleted paragraph 2, which read the same as paragraph 2 of subsection A.

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C.J.S. Sports §§ 38 to 46.  
Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3178 3A Okl.St. Ann. § 203.5**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 203.5. Stewards--Examinations--  
Qualifications--Licenses**

A. The Commission shall require applicants for a license as a steward to pass an examination on matters relating to the duties of stewards. Examinations shall be held at such times and places as may be determined by the Commission. Notice of the times and places of the examinations shall be given as determined by the Commission. The Commission shall prepare both written and oral examinations to be taken by persons applying for qualification as stewards, requesting and taking into consideration suggestions from representatives of horsemen, organization licensees, stewards, and other interested and knowledgeable groups. The written examinations may be administered by members of the Commission staff. Oral examinations shall be conducted by an oral examination panel to include at least two Commission members.

B. The Commission may examine any person who:

1. has not been convicted of a crime involving moral turpitude or of a felony; and

2. has completed an accredited senior high school or its equivalent; and

3. has been given a physical examination by a licensed physician within sixty (60) days prior to the date of application for the steward's examination, indicating at least 20-20 vision or vision corrected to at least 20-20, and normal hearing ability; and

4. has one of the following:

a. at least five (5) years of experience in the

pari-mutuel horse racing industry as a licensed trainer, or jockey.

b. at least ten (10) years of experience in the pari-mutuel horse racing industry as a licensed owner whose experience, knowledge, ability, and integrity relative to the industry are known to the Commission.

c. at least three (3) years of experience as a licensed racing official, racing secretary, assistant racing secretary, or director of racing.

**\*3179** d. experience in the horse racing industry of a character and for a length of time sufficient, in the opinion of the Commission, to be substantially equivalent to the requirements of subparagraphs a, b, or c of this paragraph.

5. A steward shall have the same restrictions and qualifications as a member of the Commission as listed in Section 202. [FN1]

C. For the purpose of paragraph 4 of subsection B of this section, one (1) year of experience shall mean at least one hundred (100) days actually worked within one (1) calendar year. An original license for a steward issued pursuant to the provisions of the Oklahoma Horse Racing Act [FN2] shall be issued for a period of the calendar year in which it is issued, and shall be renewable for a period not to exceed three (3) years, which the Commission may establish by regulation. The Commission may establish a license fee schedule consistent with the different periods for which such licenses may be granted. The license shall be valid at all race meetings in this state during the period for which it is issued, unless it is suspended or revoked prior to the expiration of such period.

**CREDIT(S)**

*Laws 1983, c. 11, § 10, emerg. eff. March 22, 1983; Laws 1985, c. 196, § 2, operative July 1, 1985.*

[FN1] So in enrolled bill; probably should insert "of this title".

[FN2] Title 3A, § 200 et seq.

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

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The 1985 amendment, in subsection B, paragraph 4, subparagraph a, inserted "or" preceding "jockey" and deleted ", or driver" following "jockey".

**REFERENCES**

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**2003 Main Volume**

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C.J.S. Sports §§ 38 to 46.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3180 3A Okl.St. Ann. § 203.6**

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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 203.6. Subpoenas--Oaths and affirmations--  
False testimony**

A. The Commission, its executive director, or the stewards may issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things, to enable any of them to effectually discharge its or his duties, and may administer oaths or affirmations as necessary in connection therewith.

B. Any person subpoenaed who fails to appear at the time and place specified in answer to the subpoena and to bring any papers or things specified in the subpoena, or who upon such appearance, refuses to testify or produce such records or things, upon conviction, is guilty of a misdemeanor.

C. Any person who testifies falsely under oath in any proceeding before, or any investigation by, the Commission, its executive director, or the stewards, upon conviction, shall be guilty of a felony and shall be punished in the same manner prescribed for the punishment of perjury.

**CREDIT(S)**

*Laws 1983, c. 11, § 11, emerg. eff. March 22, 1983; Laws 1990, c. 275, § 1, emerg. eff. May 25, 1990; Laws 1997, c. 133, § 111, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 44, eff. July 1, 1999.*

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2003 Main Volume**

The 1990 amendment, in subsection C, substituted "executive director" for "secretary".

The 1997 amendment deleted "and shall be punished in the same manner prescribed for the punishment of perjury" from the end of subsection C.

The 1999 amendment restored the language deleted by the 1997 amendment.

**REFERENCES****LIBRARY REFERENCES****2003 Main Volume**

Administrative Law and Procedure ☞ 356, 369, 463.

\*3181 Theaters and Shows ☞ 3.10.

Westlaw Topic Nos. 15A, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

C.J.S. Public Administrative Law And Procedure §§ 81, 85, 131.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3182 3A Okl.St. Ann. § 203.7**

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*Current with emergency effective chapters  
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**§ 203.7. Purpose and intent of act--Rules and  
regulations**

In the interest of the public health, safety, and welfare, it is hereby declared to be the purpose and intent of the Oklahoma Horse Racing Act [FN1] to vest in the Commission plenary power to promulgate rules and regulations for the forceful control of race meetings held in this state. The rules and regulations shall:

1. encourage agriculture and the breeding of horses in this state; and
2. maintain race meetings held in this state of the

highest quality and free of any horse racing practices which are corrupt, incompetent, dishonest, or unprincipled; and

3. dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of horse racing in this state; and

4. generate public revenues.

**CREDIT(S)**

*Laws 1983, c. 11, § 12, emerg. eff. March 22, 1983.*

[FN1] Title 3A, § 200 et seq.

**REFERENCES**

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C.J.S. Sports §§ 38 to 46.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3183 3A Okl.St. Ann. § 203.8**

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**§ 203.8. Non-pari-mutuel tracks--Time for  
payment of claims**

Any non-pari-mutuel track, coming within the provisions of this act, [FN1] shall pay, within thirty (30) days, any claims submitted by the Oklahoma Horse Racing Commission, to reimburse the Commission for any verified expenses incurred in administering this act. If such claims are not paid

within the thirty-day period, the Commission may take such action as specified in subsection J of Section 205.2 of Title 3A of the Oklahoma Statutes.

**CREDIT(S)**

*Laws 1992, c. 16, § 1, emerg. eff. March 26, 1992.*

[FN1] Title 3A, § 200 et seq.

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C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**\*3184 3A Okl.St. Ann. § 204**

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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 204. Powers and duties of Commission**

A. The Oklahoma Horse Racing Commission shall:

## 1. Have supervision of:

- a. all race meetings held in this state; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks jurisdiction of the Commission shall be limited to a period of time beginning twelve (12) hours before the commencement of the first race on a race day and ending four (4) hours after the finish of the last race on a race day,
- b. all occupation and organization licensees in this state, and
- c. all persons on the property of an organization licensee; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks supervision of such persons shall be limited to the period set out in subparagraph a of this paragraph;

2. Have the authority to promulgate rules for the purpose of administering the provisions of the Oklahoma Horse Racing Act; [FN1]

3. Administer and enforce the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;

4. Adjudicate controversies arising from the enforcement of the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;

5. Allocate racing days of not to exceed six (6) days per calendar week, dates, and hours which are

in the best interests of the people of this state to organization licensees;

6. Promulgate rules for the granting or refusing and the suspension or revoking of licenses;

7. Promulgate rules for the holding, conducting, and operating of all race meetings held in this state; provided, the rules of the American Quarter Horse Association for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks shall serve as the rules for the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks, except that appeals from decisions of the stewards shall be to the Commission, until such time as the Commission has promulgated substantially similar rules for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks;

**\*3185** 8. Have supervision and control of the pari-mutuel machines and all other equipment at all race meetings held in this state;

9. Check the making of pari-mutuel pools and the distribution of such pools and shall:

- a. contract with the Office of the State Auditor and Inspector to conduct an annual audit and inspection of live race meets in this state, and
- b. reimburse the Office of the State Auditor and Inspector for the cost of these services;

## 10. Promulgate rules governing:

- a. bids on leases,
- b. the rate charged by an organization licensee for admission to races, and
- c. the rate charged for the performance of any service or for the sale of any article on the premises of an organization licensee;

11. Approve all contracts and agreements for the payment of money and all salaries, fees, and compensations by any organization licensee;

12. Have the authority to exclude, or compel the exclusion, from any race meeting:

- a. any person who violates the provisions of any rule or order of the Commission or any law of this state, any other state, or the United States,
- b. any person who has been previously convicted of violating any law of this state, any other state, the United States, or
- c. any other person, licensed or unlicensed, whose conduct or reputation is such that his or her presence at the race meeting may, in the opinion of the Commission reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of the race meeting. No person shall be excluded or ejected from a race meeting solely on the grounds of race, color, creed, sex, national origin, or ancestry;

13. Have investigatory powers and authority to place attendants and such other persons as may be deemed necessary by the Commission in the offices, on the tracks, or in places of business of any organization licensee for the purpose of determining whether an organization or occupation licensee is complying with the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;

14. Have authority to acquire or contract with, or establish, maintain, and operate testing laboratories and related facilities for the purpose of conducting:

**\*3186** a. human substance abuse testing on occupation licensees who may affect the outcome of race results. Human substance abuse tests and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the United States Department of Health and Human Services. The Commission may require any occupation licensee to submit to a human substance abuse test if the Commission has probable cause to believe that such licensee is possessing or using any controlled dangerous substance or any other drug in violation of any federal or state law. Provided, on and after July 1, 1994, such testing shall be in compliance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act, [FN2] and

b. a saliva test, a blood test, a urine test, or other tests or combinations of tests on the horses run or to be run in any race meeting. Prior to the Commission entering into any contract pursuant to this paragraph, the Attorney General shall review and approve the contract. Any contract entered into pursuant to this paragraph shall contain the specifications that were in the request for bid for the contract;

15. Approve of all proposed construction on property owned or leased by an organization licensee;

16. Have authority to require that all financial, employment, or other records of an organization licensee shall be kept in such manner as prescribed by the Commission and shall be subject to inspection by the Commission. The organization licensee shall submit to the Commission an annual balance sheet, profit-and-loss statement, and any other information the Commission deems necessary in order to administer the provisions of the Oklahoma Horse Racing Act;

17. Have the authority to suspend or revoke a license or impose fines in amounts not to exceed Ten Thousand Dollars (\$10,000.00) against individuals for each violation and in amounts not to exceed Twenty Thousand Dollars (\$20,000.00) against organization licensees for each violation of any provision of the Oklahoma Horse Racing Act, any rules adopted by the Commission, or any order of the Commission, or for any other action which, in the discretion of the Commission, is a detriment or impediment to horse racing or both such suspension or revocation and fine. Each day upon which such violation or other action by the organization licensee occurs shall constitute a separate offense;

18. Have authority to suspend a horse from participating in races if the horse has been involved in any violation of the rules promulgated by the Commission or the provisions of the Oklahoma Horse Racing Act; and

19. Prepare and submit an annual report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. The report shall include an account of the operations, actions, and orders of the

Commission, and an accounting of all revenue received by the Commission.

B. 1. The Commission may delegate to stewards or the Executive Director, those of its powers and duties as it deems necessary to fully implement and effectuate the purposes of the Oklahoma Horse Racing Act.

**\*3187** 2. The Commission, upon appeal or due consideration, may overrule any decision of a steward except decisions regarding disqualifications for interference during the running of a race if a preponderance of evidence indicates:

- a. the stewards mistakenly interpreted the law,
- b. new evidence of a convincing nature is produced, or
- c. the best interests of racing and the state may be better served.

3. Any decision pertaining to the finish of a race, as used for purposes of pari-mutuel pool distribution to winning ticket holders, may not be overruled. Any decision pertaining to the distribution of purses may be changed only if a claim is made in writing to the Commission by one of the involved owners or trainers, and a preponderance of evidence clearly indicates to the Commission that one or more of the grounds for protest, as provided for in the rules prepared by the Commission, has been substantiated.

### CREDIT(S)

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982; Laws 1983, c. 11, § 13, emerg. eff. March 22, 1983; Laws 1985, c. 196, § 3, operative July 1, 1985; Laws 1987, c. 208, § 68, operative July 1, 1987; Laws 1987, c. 236, § 87, emerg. eff. July 20, 1987; Laws 1989, c. 369, § 97, operative July 1, 1989; Laws 1990, c. 170, § 1, eff. Sept. 1, 1990; Laws 1992, c. 16, § 3, emerg. eff. March 26, 1992; Laws 1992, c. 364, § 17, emerg. eff. June 4, 1992; Laws 1993, c. 355, § 17, emerg. eff. June 10, 1993; Laws 1997, c. 305, § 2, eff. July 1, 1997.*

[FN1] Title 3A, § 200 et seq.

[FN2] Title 40, § 551 et seq.

### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

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The 1983 amendment rewrote the section which as originally enacted read:

**\*3188** "The Commission has the duty of maintaining in the state, pure-mutuel horse racing of the highest quality and free of any corrupt, incompetent, dishonest or unprincipled practices, and to maintain in pari-mutuel horse racing complete honesty and integrity.

"The Commission shall supervise, regulate, and control all pari-mutuel wagering on horse racing in this state and shall make rules and regulations for the granting and/or refusing and revoking of licenses.

"The Commission shall establish rules and regulations for the holding, conducting, and operating of all pari-mutuel race meetings and races held in the state and will set and approve the dates of those meetings.

"The Commission shall require that the issuance of all licenses be in the best interest of the public health, safety, and welfare of the immediate community as well as of the state and that all applicants for licenses be persons of good moral character, and reputation.

"The Commission shall require of each applicant for a license to operate a pari-mutuel racetrack or race meeting, the full name of the person, association, or corporation, the name of the state in which incorporated, the names and residences of the members of the association or the names and residences of the directors and the stockholders of the corporation.

"The Commission shall require the knowledge of the exact location where an applicant desires to conduct a pari-mutuel race or race meeting, whether or not the racetrack or plant is owned or leased, and, if leased, the name and residence of fee owner, or, if a corporation, the names of directors and stockholders.

"The Commission shall require of the applicant a statement of assets and liabilities of the person, persons, association, or corporation making the application.

"The Commission shall require an oath by each and every applicant that the information contained in the application is true."

"The Commission shall publicly state its reasons for refusing an application for a license and such reasons shall be included in the minute book of the Commission and such book shall be subject to public inspection at all reasonable times. The Commission shall have the power to summon witnesses and administer oaths for the effectual discharge of the Commission's duties.

"The Commission shall have complete supervision and control of the pari-mutuel machines and equipment at all pari-mutuel races or race meetings held or operated within the state and shall personally or by agents and representatives, check the making of pari-mutuel pools and the distribution therefrom and to cause the various places where pari-mutuel race meetings and races are held to be inspected at reasonable intervals.

**\*3189** "The Commission shall make rules governing bids on leases; regulate the rate of charge by the licensee for admission to races; and rate of charge for the performance of any service or for the sale of any article on the premises of such licensee.

"The Commission shall approve all contracts and agreements for the payment of money and all salaries, fees and compensations by any licensee.

"The Commission shall have the power to compel the production of all documents showing the receipts and disbursement of any licensee and to determine the manner in which such financial records are kept, which records shall at all reasonable times be open to inspection and audit by the Commission or any of its authorized representatives.

"The Commission is empowered to exclude, or compel the exclusion, from any and all pari-mutuel race courses, any person who shall willfully violate the racing laws or any rule, regulation or order of the Commission or any law of the United States or of this state.

"The Commission shall have investigatory powers and authority to place attendants and such other persons as may be deemed necessary in the offices, on the tracks or in places of business of any licensee for the purpose of satisfying itself that the rules and regulations are strictly complied with.

"The Commission shall make an annual report to the Governor of its administration of the racing laws."

The 1985 amendment, in subsection A, paragraph 17, first sentence, substituted "Ten Thousand Dollars (\$10,000.00)" for "Five Thousand Dollars (\$5,000.00)" and "Twenty Thousand Dollars (\$20,000.00)" for "Ten Thousand Dollars (\$10,000.00)", respectively and in the second sentence inserted "by the organization licensee"; in subsection A, inserted paragraph 18 and redesignated former paragraph 18 as paragraph 19; in subsection A, paragraph 19 (former 18), second sentence, substituted "orders" for "rulings"; in subsection B, paragraph 1, first sentence, inserted "or the Executive Director," and deleted the former second through fourth sentences which prior thereto read: "Commissioners shall personally review hearings of any case referred to the Commission by the stewards or appealed to the Commission from decisions of the stewards. If requested by an appellant, the chairman of the Commission shall assign three commissioners to hear an appeal at a time and place convenient to the appellant and to the Commission. Action on such a hearing request must be taken by the Commission within thirty (30) days."; in subsection B, paragraph 2, introductory clause, inserted "appeal or" and inserted "except decisions regarding disqualifications for interference during the running of a race".

**\*3190** Laws 1987, c. 208, § 68 and Laws 1987, c. 236, § 87, in subsection A, paragraph 9, inserted "be authorized to contract with the Office of the State Auditor and Inspector to".

The 1989 amendment, in subsection A, paragraph 14, added the second and third sentences.

The 1990 amendment, in subsection A, paragraph 14 rewrote the paragraph which prior thereto read:

"have authority to acquire or contract with, or establish, maintain, and operate testing laboratories and related facilities for the purpose of conducting a saliva test, a blood test, a urine test, or other tests or combinations of tests on the horses run or to be run in any race meeting; and".

Laws 1992, c. 16, § 13, in subsection A, introductory clause, inserted "Oklahoma Horse Racing" preceding "Commission"; in subsection A, rewrote paragraph 1 which prior thereto read:

"1. have supervision of:

"a. all race meetings held in this state, and

"b. all occupation and organization licensees in this state, and

"c. all persons on the property of an organization licensee; and"

; and in subsection A, paragraph 7, added the proviso at the end which read:

"provided, the Commission shall adopt the rules of the American Quarter Horse Association for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks;"

Laws 1992, c. 364, § 17, in subsection A, paragraph 7, in the proviso, deleted "the Commission shall adopt" preceding "the rule of the American Quarter Horse Association" and added "shall serve as the rules for the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks, except that appeals from decisions of the stewards shall be to the Commission, until such time as the Commission has promulgated substantially similar rules for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks;"

The 1993 amendment added the proviso in subsection A.14.a.

The 1997 amendment deleted "and regulations" following "rules" throughout the section; rewrote subsection A.9, which prior thereto read:

"Check the making of pari-mutuel pools and the distribution of such pools and be authorized to contract with the Office of the State Auditor and Inspector to cause the places where race meetings are held to be inspected at reasonable intervals;"

; in subsection B.2, substituted a comma for"; or" in subparagraph a and a comma for a semicolon in subparagraph b; and made other nonsubstantive changes. **\*3191**

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Westlaw Topic Nos. 360, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

C.J.S. States §§ 120, 121, 130 to 138, 140.

## RESEARCH REFERENCES

ALR Library

59 ALR 5th 203, Disciplinary Proceedings Against Horse Trainer or Jockey.

## ANNOTATIONS

### NOTES OF DECISIONS

#### Actions 3

##### Fines and penalties 1

##### Referrals to Commission 2

#### 1. Fines and penalties

Horse Racing Commission's imposition on horse trainer of sanction of five years' suspension of his license and \$5,000 fine was within authority granted by Commission, even though it was trainer's first violation, given statute permitting Commission to suspend or revoke license or impose fines in an amount up to \$10,000 or impose both a fine and suspension for each violation of any provision of Horse Racing Act, or any rules or regulations adopted by the Commission, or any order of the Commission. *Butler v. Oklahoma Horse Racing Com'n*, Okla., 874 P.2d 1278 (1994). *Theaters And Shows* ☞3.10

Under statute, Horse Racing Commission may assess multiple fines against one individual totalling more than \$5,000 for multiple offenses occurring on the same day so long as no individual fine exceeds \$5,000. *Op.Atty.Gen. No. 84-179*, Feb. 19, 1985.

#### 2. Referrals to Commission

Board of stewards at race track did not overstep their jurisdiction by referring matter involving sanctions against horse trainer, whose horse tested positive for opium derivative, to

Horse Racing Commission with recommended punishment; stewards had discretion under rules of racing to refer any matter within their jurisdiction to Commission and there was no question that matter involving trainer was within jurisdiction of stewards. *Butler v. Oklahoma Horse Racing Com'n*, Okla., 874 P.2d 1278 (1994). *Theaters And Shows* ☞3.10

**\*3192** Use of term "may," in rules for racing authorizing stewards to refer matters to Horse Racing Commission, indicates that such referrals are permissive and not mandatory; thus, stewards have discretion to refer any matter within their jurisdiction to Commission, and referral may be made with or without a recommendation. *Butler v. Oklahoma Horse Racing Com'n*, Okla., 874 P.2d 1278 (1994). *Theaters And Shows*☞ 3.10

#### 3. Actions

Horsemen suing public facilities authority for breach of contract in allegedly misappropriating pari-mutuel handle from wagers on horse races were required to first exhaust their administrative remedies before the Horse Racing Commission, as breach of contract claim depended on Commission's determination of whether there had been a violation of statutes dealing with distribution of purse money. *Oklahoma Horsemen's Benevolent and Protective Ass'n, Inc. v. Shotts*, Okla.Civ.App. Div. 3, 38 P.3d 916 (2001), certiorari denied. *Theaters And Shows* ☞3.10

Oklahoma Horse Racing Commission (OHRC) has statutory authority to enforce its rules, and no authority exists allowing other parties to bring an action to force another's compliance with OHRC rules. *Oklahoma Quarter Horse Racing Ass'n v. Remington Park, Inc.*, Okla.Civ.App. Div. 1, 987 P.2d 1216 (1999), rehearing denied, certiorari denied. *Theaters And Shows* ☞3.10

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3193 3A Okl.St. Ann. § 204.1**

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through Chapter 36 of the First Regular  
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**§ 204.1. Repealed by Laws 1986, c. 223, § 59,  
operative July 1, 1986**

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

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The repealed section, relating to the Oklahoma Horse Racing Commission Revolving Fund, was derived from:

Laws 1983, c. 11, § 14.

Laws 1983, c. 249, § 5.

Laws 1984, c. 203, § 1.

Laws 1985, c. 181, § 216.

See Title 3A, § 204.1A.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3194 3A Okl.St. Ann. § 204.1A**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 204.1A. Oklahoma Horse Racing  
Commission Revolving Fund abolished**

A. The Oklahoma Horse Racing Commission Revolving Fund is hereby abolished.

B. All unencumbered balances contained in the Oklahoma Horse Racing Commission Revolving Fund as of July 1, 1986, shall be deposited to the credit of the General Revenue Fund of the State Treasury. The Director of State Finance shall be authorized to transfer the unencumbered balance described by this subsection to the General Revenue Fund.

C. Any unexpended balance contained in the Oklahoma Horse Racing Commission Revolving Fund as of November 15, 1986, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury. The Director of State Finance shall be authorized to transfer the unexpended balance described by this subsection to the General Revenue Fund.

D. All funds received by the Commission from fees, fines, reimbursements, and sale of materials shall be deposited to the credit of the General Revenue Fund of the State Treasury.

**CREDIT(S)**

*Laws 1986, c. 223, § 9, operative July 1, 1986.*

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

States  127.

Westlaw Topic No. 360.

C.J.S. States § 228.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3195 3A Okl.St. Ann. § 204.1B**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 204.1B. Equine Drug Testing Revolving  
Fund**

There is hereby created in the State Treasury a revolving fund for the Oklahoma Horse Racing Commission, to be designated the "Equine Drug Testing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Horse Racing Commission, from appropriations made to the Commission for deposit in the fund and monies paid by organization licensees to the Commission pursuant to assessments

made by the Commission for equine drug testing. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Horse Racing Commission for the purpose specified in paragraph 14 of subsection A of Section 204 of Title 3A of the Oklahoma Statutes. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

**CREDIT(S)**

*Laws 1989, c. 369, § 103, operative July 1, 1989.*

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

States  127.

Westlaw Topic No. 360.

C.J.S. States § 228.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3196 3A Okl.St. Ann. § 204.2**

**OKLAHOMA STATUTES  
ANNOTATED  
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SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 204.2. Occupation licenses for certain  
racetrack personnel--Application--Fees--  
Grounds for refusal to issue--Suspension  
or revocation--Disposition of fees**

A. The Oklahoma Horse Racing Commission shall issue occupation licenses to horse owners, trainers, jockeys, agents, apprentices, grooms, exercise persons, veterinarians, valets, blacksmiths, concessionaires, stewards, starters, timers, judges, supervisors of mutuels, guards, and such other personnel designated by the Commission whose work, in whole or in part, is conducted upon racetrack grounds which are owned by an organization licensee. The licenses shall be obtained prior to the time such persons engage in their vocations upon such racetrack grounds at any time during the calendar year for which the organization license has been issued. No person required to be licensed pursuant to the provisions of this section may participate in any capacity in any race meeting without a valid license authorizing such participation.

B. Each application for an occupation license shall be on a form prescribed and furnished by the Commission and shall include a search waiver. The license shall be renewed either annually or triennially beginning January 1. The application shall be accompanied by a fee in an amount of not more than One Hundred Dollars (\$100.00) if renewed annually or not more than Three Hundred Dollars (\$300.00) if renewed triennially. Each application shall contain the following information concerning the applicant:

1. Full name and address;
2. Age;

3. Whether the applicant was issued any prior occupation license from this state;

4. Whether the applicant was issued any occupation license from another state;

5. Whether an occupation license from another state is or has been denied, suspended, or revoked;

6. Whether the applicant has been convicted of a felony in this state or any other state as established by a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes; and

**\*3197** 7. Such other information as required by the Commission.

C. The Commission may refuse an occupation license to any person:

1. Who has been convicted of a felony; or
2. Who has been convicted of violating any law regarding gambling or controlled dangerous substances of the United States, this state, or any other state; or
3. Who is unqualified to perform the duties required of the applicant; or
4. Who fails to disclose or states falsely any information required in the application; or
5. Who has been found guilty of a violation of any provision of the Oklahoma Horse Racing Act or of the rules and regulations of the Commission; or
6. Whose license has been suspended, revoked, or denied for just cause in any other state.

D. The Commission may suspend or revoke any occupation license or fine an occupation licensee for:

1. Violation of any of the provisions of the Oklahoma Horse Racing Act; or
2. Violation of any provision of the rules or regulations of the Commission; or

3. Any cause which, if known to the Commission, would have justified the refusal of the Commission to issue the occupation license; or

4. Any other just cause as determined by the Commission.

E. Except as provided for in this subsection, the license fees received by the Commission pursuant to the provisions of this section shall be deposited to the credit of the General Revenue Fund of the State Treasury. Of the original application fee for an occupation license, the amount of the fingerprinting fee shall be deposited in the OSBI Revolving Fund.

F. Notwithstanding any other provision of the Oklahoma Horse Racing Act, Section 200 et seq. of this title, licenses for personnel specified in subsection A of this section whose work is limited to racetrack grounds which are owned by an organization licensee which only conducts non-pari-mutuel race meetings or training races shall be issued pursuant to rules adopted by the Commission in accordance with the American Quarter Horse Association rules.

**\*3198** G. The Commission may promulgate rules to facilitate and promote uniform, reciprocal occupation licensing with other jurisdictions.

H. Nothing in the Oklahoma Horse Racing Act or rules promulgated pursuant thereto shall prohibit or be construed as prohibiting issuance of any occupational license solely because the applicant is an organizational licensee or racetrack owner or holds an interest in a race track.

### CREDIT(S)

*Laws 1983, c. 11, § 15, emerg. eff. March 22, 1983; Laws 1985, c. 196, § 4, operative July 1, 1985; Laws 1986, c. 223, § 12, operative July 1, 1986; Laws 1988, c. 210, § 6, operative July 1, 1988; Laws 1989, c. 369, § 98, operative July 1, 1989; Laws 1992, c. 16, § 4, emerg. eff. March 26, 1992; Laws 1999, c. 8, § 1, eff. Nov. 1, 1999; Laws 2000, c. 238, § 1, emerg. eff. May 24, 2000; Laws 2003, c. 204, § 2, eff. Nov. 1, 2003.*

### HISTORICAL NOTES

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### NOTES

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The 1985 amendment, in subsection A, first sentence, deleted "stable foremen," following "grooms," and deleted "stable watchmen," following "exercise persons," and in the second sentence added "at any time during the calendar year for which the organization license has been issued".

The 1986 amendment, in subsection E, substituted "to the credit of the General Revenue Fund of the State Treasury" for "in the Horse Racing Commission Revolving Fund".

The 1988 amendment, in subsection B, introductory paragraph, second sentence, inserted "either" and "or triennially", and in the third sentence inserted "if renewed annually or not more than Three Hundred Dollars (\$300.00) if renewed triennially".

The 1989 amendment inserted a new subsection E and redesignated former subsection E as subsection F (now E). The new subsection E read:

"The fingerprint card fee charged the Commission by the Oklahoma State Bureau of Investigation shall not exceed Thirty-five Dollars (\$35.00) for each fingerprint card."

; and in subsection F (former E, now E), first sentence, substituted "Except as provided for in this subsection, the" for "The" and added the second sentence.

**\*3199** The 1992 amendment deleted subsection E as added by the 1989 amendment and redesignated former subsection F as subsection E; in subsection E, second sentence, substituted "Of" for "Thirty-five Dollars (\$35.00) of" at the beginning and inserted ", the amount of the fingerprinting fee".

The 1992 amendment also added the present subsection F.

The 1999 amendment added subsection G.

The 2000 amendment added subsection H.

### REFERENCES

#### LIBRARY REFERENCES

#### 2003 Main Volume

Theaters and Shows ☞ 3.10.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3200 3A Okl.St. Ann. § 204.3**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
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**§ 204.3. Suspension or revocation of  
occupation license at race meeting--  
Procedure**

A. The Commission or the stewards or the judges at a race meeting shall have the authority to revoke or suspend an occupation license. If the Commission revokes or suspends an occupation license, or a steward or the judges at any race meeting suspend an occupation license, the occupation license of the person shall remain suspended or revoked until the final determination has been made pursuant to the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

B. The Commission or the stewards or the judges at a race meeting may summarily suspend an

occupation license pending further proceedings pursuant to the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes. Such proceedings shall be promptly instituted.

**CREDIT(S)**

*Laws 1983, c. 11, § 16, emerg. eff. March 22, 1983; Laws 1985, c. 196, § 5, operative July 1, 1985.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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The 1985 amendment designated the former section as subsection A and added subsection B.

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ¶3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3201 3A Okl.St. Ann. § 205**

**OKLAHOMA STATUTES  
ANNOTATED  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 205. License required**

A. No person shall conduct a horse race where the public is charged any type of fee for admission, parking, or to race a horse without a valid organization license issued pursuant to the provisions of the Oklahoma Horse Racing Act.

B. Any person violating the provision of this section, upon conviction, shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment.

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982; Laws 1983, c. 11, § 17, emerg. eff. March 22, 1983; Laws 2006, c. 274, § 2, emerg. eff. June 7, 2006.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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The 1983 amendment rewrote the section which prior thereto read:

"It shall be a felony for any person, firm, association or corporation to hold a public horse race or race meeting where pari-mutuel wagering is conducted unless a license therefore has first been obtained from the Commission."

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ↻3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.  
Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3202 3A Okl.St. Ann. § 205.1**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
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**§ 205.1. Organization license--Applications--  
Silent or undisclosed interest**

A. Any person desiring to conduct a race meeting may apply to the Commission for an organization license. The application shall be made on a form prescribed and furnished by the Commission and shall include a search waiver. The application shall contain the following information:

1. the dates on which the applicant intends to conduct the race meeting; and
2. the hours of each racing day between which the applicant intends to conduct horse racing at such meeting; and
3. the location where the applicant proposes to conduct the race meeting; and
4. the name and mailing address of the person, association, or corporation making the application; and
5. if the applicant is a corporation:
  - a. a certified copy of the articles of incorporation and bylaws, and
  - b. the names and mailing addresses of all stockholders who own at least three percent (3%) of the total stock issued by the corporation, officers, and directors and the number of shares of stock owned by each; and
6. if the applicant is a partnership:
  - a. a copy of the partnership agreement, and
  - b. the names and mailing addresses of all general and limited partners with a statement

of their respective interest in the partnership; and

7. any other information the Commission may require.

B. A separate application shall be filed for each race meeting which such person proposes to conduct. The application:

1. if made by an individual, shall be signed and verified under oath by the individual; and
2. if made by more than one individual or by a partnership, shall be signed and verified under oath by at least two of the individuals or members of the partnership; and

**\*3203** 3. if made by an association, a corporation, or any other entity, shall be signed by the president, attested to by the secretary under the seal of such association or corporation if it has a seal, and verified under oath by one of the signing officers.

C. No person shall own any silent or undisclosed interest in any entity requesting an organization license.

D. No organization license shall be issued to any applicant that fails to comply with the provisions of this section.

**CREDIT(S)**

*Laws 1983, c. 11, § 18, emerg. eff. March 22, 1983.*

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

**ANNOTATIONS**

**NOTES OF DECISIONS**

**Construction and application 1  
Indian tribes 2**

**1. Construction and application**

Horse Racing Commission lacks power to establish five year moratorium on licensing of racetrack facilities; establishment of such moratorium would be contrary to duties imposed upon Commission by statute. Op.Atty.Gen. No. 86-20 (March 19, 1986).

Under statutes, Horse Racing Commission must examine organization license applications for 1986 for conformity with statutes, by August 31, 1985; however, no set time frame is established by which the Commission must render final decisions. Op.Atty.Gen. No. 85-1 (Feb. 21, 1985).

## **2. Indian tribes**

Apache Tribe of Indians may not hold horse race at which pari-mutuel wagering by non-Indians or non-tribal members is allowed on Indian trust land owned by United States and held in trust for the Tribe without first obtaining valid organization license from Horse Racing Commission under provisions of statute. Op.Atty.Gen. No. 84-172 (June 6, 1985).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3204 3A Okl.St. Ann. § 205.2**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 205.2. Organization license--Fees--Issuance--Racing days allocated--Bond--Citizenship and residency--Revocation of license--Disposition of fees**

A. Applications for organization licenses must be filed with the Commission at a time and place prescribed by the rules and regulations of the Commission. Beginning with organization license applications for the 1994 calendar year, the Commission shall develop and use separate application forms for applicants requesting an organization license to conduct horse racing with the pari-mutuel system of wagering and applicants requesting an organization license to conduct horse racing without the pari-mutuel system of wagering. For use for the 1993 calendar year organization licenses, an applicant requesting to conduct horse racing without the pari-mutuel system of wagering shall make application with the Commission on American Quarter Horse Association application forms. Applications for an organization license to conduct horse racing without the pari-mutuel system of wagering for the 1993 calendar year shall be filed with the Commission on or before the 1st day of August, 1992. Each applicant requesting an organization license to conduct horse racing with the pari-mutuel system of wagering shall include with each application a nonrefundable license fee equal to the sum of Five Thousand Dollars (\$5,000.00) for each race meeting and Two Hundred Dollars (\$200.00) for each racing day requested. Provided, the fee for Five Thousand Dollars (\$5,000.00) shall be waived for applicants applying pursuant to the provisions of Section 208.2 of this title. Each applicant requesting an organization license to conduct horse racing without the pari-mutuel system of wagering or to conduct accredited work or training races shall include with each application a

nonrefundable license fee of Five Hundred Dollars (\$500.00) for each race meeting. Such fee shall be in the form of a certified check or bank draft payable to the order of the Commission. Within thirty (30) days after the date specified for filing, the Commission shall examine the applications for compliance with the provisions of the Oklahoma Horse Racing Act [FN1] and such rules and regulations as may be promulgated by the Commission. If any application does not comply with the provisions of the Oklahoma Horse Racing Act or the rules and regulations promulgated by the Commission, the application may be rejected or the Commission may direct the applicant to comply with the provisions of the Oklahoma Horse Racing Act or the rules and regulations of the Commission within a reasonable time as determined by the Commission. Upon proof by the applicant of compliance, the Commission may reconsider the application. If it is found to be in compliance with the provisions of the Oklahoma Horse Racing Act and the rules and regulations of the Commission, the Commission may then issue an organization license to the applicant.

**\*3205** B. The Commission may exercise discretion in the issuing of organization licenses to qualified applicants. The Commission may also determine and grant racing dates different from those requested by the applicants in their applications.

C. The Commission may determine and grant the number of racing days to be allotted to each applicant. When granting organization licenses and allocating dates for race meetings which will, in the judgment of the Commission, be conducive to the best interests of the public and the sport of horse racing, the Commission shall give consideration to:

1. the character, reputation, experience, and financial integrity of each applicant and of any other person that:

- a. directly or indirectly controls such applicant, or
- b. is directly or indirectly controlled by such applicant or by a person who directly or indirectly controls such applicant; and

2. the facilities and accommodations of the applicant for the conduct of race meetings; and

3. the location of the race meeting of the applicant in relation to the principal centers of population of this state; and

4. the highest prospective total revenue to be derived by the state from the conduct of the race meeting.

D. Prior to the issuance of an organization license to conduct pari-mutuel race meetings, the applicant shall file with the Commission a bond payable to the State of Oklahoma in an amount determined by the Commission which is not less than Two Hundred Thousand Dollars (\$200,000.00) and not more than the total financial liability of the organization licensee throughout the race meeting for which the organization license is requested, executed by the applicant and a surety company or companies authorized to do business in this state, and conditioned upon the payment by the organization licensee of all taxes and other monies due and payable pursuant to the provisions of the Oklahoma Horse Racing Act and all purses due and payable, and upon the fact that, upon presentation of winning tickets, the organization licensee will distribute all sums due to the patrons of pari-mutuel pools. The financial liabilities incurred by the organization licensee in the form of real estate mortgages shall not be included in the determination of the bond amount.

E. The Commission shall notify each applicant of the racing dates allotted to such applicant. The notice shall be in writing and sent by registered mail to the applicant at the address stated in the application. The notice shall be mailed within two (2) business days of the date the allotment is made. After the mailing of such notice of allotment, each applicant shall file with the Commission within ten (10) days an acceptance of such allotment on a form prescribed and furnished by the Commission.

\*3206 F. Each organization license shall specify the name of the person to whom it is issued, the dates upon which horse racing is permitted, and the location, place, track, or enclosure where the race meeting is to be held.

G. All employees of an organization licensee shall be citizens of the United States, and not less than ninety percent (90%) of such employees shall be residents of this state for not less than eighteen (18)

months immediately preceding such employment.

H. All horse racing conducted pursuant to the provisions of an organization license is subject to the provisions of the Oklahoma Horse Racing Act and of the rules, regulations and directives promulgated by the Commission, and every organization license issued by the Commission shall contain a statement to that effect.

I. Any organization licensee may provide, with prior approval by the Commission, that at least one horse race a day may be devoted to the racing of a type of horse which is different from the type of horse being raced in the other races conducted by the organization licensee on that day. When scheduled races are trial heats for futurities or stakes races electronically timed from the starting gates, no organization licensee shall move the starting gates or allow the starting gates to be moved until all trial heats are complete, except in an emergency as determined by the stewards.

J. Organization licenses may be revoked if the organization licensee or any person owning an interest in the organization licensee:

1. violates any provision of the Oklahoma Horse Racing Act; or

2. violates any provision of the rules and regulations promulgated pursuant to the provisions of the Oklahoma Horse Racing Act; or

3. has been convicted of a felony; or

4. has been convicted of violating any law regarding gambling or controlled dangerous substances of the United States, this state, or any other state; or

5. has failed to disclose or has stated falsely any information contained in the application; or

6. has concealed in whole or in part the true ownership of the organization licensee.

Any organization license revocation proceeding shall be conducted pursuant to the provisions of Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

\***3207** K. The fees received by the Commission pursuant to the provisions of this section shall be deposited to the credit of the General Revenue Fund of the State Treasury.

L. The provisions of the Oklahoma Horse Racing Act and rules promulgated by the Commission shall apply to an organization licensee during the entire calendar year in which the license was issued.

### CREDIT(S)

*Laws 1983, c. 11, § 19, emerg. eff. March 22, 1983; Laws 1984, c. 203, § 2, operative July 1, 1984; Laws 1985, c. 196, § 6, operative July 1, 1985; Laws 1986, c. 223, § 13, operative July 1, 1986; Laws 1987, c. 208, § 70, operative July 1, 1987; Laws 1987, c. 236, § 89, emerg. eff. July 20, 1987; Laws 1989, c. 369, § 102, emerg. eff. June 6, 1989; Laws 1991, c. 269, § 8, eff. July 1, 1991; Laws 1992, c. 16, § 5, emerg. eff. March 26, 1992; Laws 1992, c. 364, § 18, emerg. eff. June 4, 1992.*

[FN1] Title 3A, § 200 et seq.

### HISTORICAL NOTES

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The 1984 amendment, in subsection D, first sentence, inserted "for a license to conduct pari-mutuel horse races, and not less than Ten Thousand Dollars (\$10,000.00) for a license to conduct nonpari-mutuel horse races,".

The 1985 amendment, in subsection A, second (now fifth) sentence, inserted "nonrefundable" preceding "license fee", substituted "Two Thousand Dollars (\$2,000.00)" for "One Thousand Dollars (\$1,000.00)" following "license fee equal to the sum of", inserted "beginning on and after January 1, 1986, and Five Thousand Dollars (\$5,000.00) for each race meeting beginning beginning on and after January 1, 1987" and substituted "Two Hundred Dollars (\$200.00)" for "One Hundred Dollars (\$100.00)" preceding "for each racing day requested" and in the third (now seventh) sentence inserted "nonrefundable" preceding "license fee" and added "for each race meeting" at the end; rewrote subsection E which prior thereto read:

"The Commission shall notify each applicant of the racing dates allotted to such applicant. The notice shall be in writing and sent by registered mail to the applicant at the address stated in the application. The notice shall be mailed within two (2) business days of the date the allotment is made. After the mailing of such notice of allotment, each applicant shall:

\***3208** "1. within ten (10) days file with the Commission an acceptance of such allotment on a form prescribed and furnished by the Commission; and

"2. file with the Commission the bond required in this section at least twenty (20) days prior to the first day of each race meeting."

; in subsection I, second sentence, substituted "electronically timed from the starting gate" for "for Quarter Horses" and added ", except in an emergency as determined by the stewards"; and added subsection L.

The 1986 amendment, in subsection A, inserted a fifth sentence which read: "Provided, that the Commission shall refund to any applicant any license fee deposited prior to July 1, 1986, if such applicant withdraws the application for an organization license within thirty (30) days of the date application is made."; and in subsection K, substituted "to the credit of the General Revenue Fund of the State Treasury" for "in the Oklahoma Horse Racing Commission Revolving Fund".

Laws 1987, c. 208, § 70 and Laws 1987, c. 236, § 89, in subsection A, second (now fifth) sentence, deleted "Two Thousand Dollars (\$2,000.00) for each race meeting beginning on and after January 1, 1986, and" following "license fee equal to the sum of" and deleted "beginning on and after January 1, 1987," following "Five Thousand Dollars (\$5,000.00) for each race meeting, in the third (now seventh) sentence inserted "or to conduct accredited work or training races" following "pari-mutuel system of racing", and deleted the fifth sentence as added by the 1986 amendment (see above).

The 1989 amendment, in subsection A, inserted a new third (now sixth) sentence.

The 1991 amendment, in subsection A, deleted the former fourth sentence which read: "Each applicant requesting an organization license to conduct horse racing without the pari-mutuel system of wagering or to conduct accredited work or training races shall include with each application a nonrefundable license fee of Five Hundred Dollars (\$500.00) for each race meeting."

Laws 1991, H.B. 1261 (c. 269), § 8, was vetoed by Governor May 28, 1991. Veto was overridden by both houses of the legislature May 30, 1991 and filed with the Secretary of State on the same date.

Laws 1992, c. 16, § 5, in subsection A, inserted the second, third and sixth (now seventh) sentences; and in subsection D, first sentence, inserted "to conduct pari-mutuel race meetings" following "organization license" and deleted "for a license to conduct pari-mutuel horse races" following "Two Hundred Thousand Dollars (\$200,000.00)".

\***3209** Laws 1992, c. 364, § 18, in subsection A, second sentence, substituted "1994" for "1993", in the third sentence substituted "For" for "If such application forms are not ready for" preceding "use for the 1993 calendar year", and inserted the fourth sentence.

### REFERENCES

### CROSS REFERENCES

Non-pari-mutuel tracks, failure to timely pay claim, action under this section, see Title 3A, § 203.8.

such moratorium would be contrary to duties imposed upon Commission by statute. Op.Atty.Gen. No. 86-20 (March 19, 1986).

## LIBRARY REFERENCES

### 2003 Main Volume

Theaters and Shows ☞3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

## ANNOTATIONS

## NOTES OF DECISIONS

### Bond 3

#### Construction and application 1

#### Licenses, in general 2

##### 1. Construction and application

Horse Racing Commission lacks power to establish five year moratorium on licensing of racetrack facilities; establishment of

### 2. Licenses, in general

Horse Racing Commission was empowered by statute to consider financial integrity of both proposed financial package, and sources of funding, in deciding whether to grant organization license for race track, notwithstanding claim that no evidence existed that those involved with financial arrangements could exercise control of enterprise. Oklahoma Park, Inc. v. Oklahoma Horse Racing Com'n, Okla., 716 P.2d 666 (1986). Theaters And Shows ☞3.10

### 3. Bond

The provisions of Title 3A O.S.1991, Section 205.2(D) do not allow an organization licensee to submit a form of security to the state other than a bond issued by a surety company licensed to do business in Oklahoma. Op.Atty.Gen. No. 95-19 (Feb. 24, 1995).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3210 3A Okl.St. Ann. § 205.2a**

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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 205.2a. Ownership interest in organization license**

Whenever an organization license to conduct a horse race meeting has been issued, no person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership of any interest in such organization licensee without first having obtained the approval of the Commission. The Commission may, after hearing, revoke such organization license granted to any person which shall register on its books in the name of any person its shares of stock or certificates or other evidence of ownership of any interest in such organization licensee without the approval of the Commission having first been obtained, or which shall knowingly permit a person to be directly or indirectly interested in its shares of stock or certificates or other evidence of ownership of any interest in such organization license without reporting the same to the Commission. Whenever the Commission gives to any person its approval to own or hold the shares of stock or certificates or other evidence of ownership of any interest in any such organization licensee it shall by registered mail notify the secretary of such licensee of such approval. Under no circumstances shall the

Commission give such approval to any person who has been convicted of a felony or a crime involving moral turpitude, unless said person has been granted a full and unconditional pardon. Under no circumstances shall the Commission give such approval to any person who has violated any of the provisions of the racing laws of this state or any other state, or has at any time been denied a license or permit of any kind by the Commission.

**CREDIT(S)**

*Laws 1985, c. 196, § 7, operative July 1, 1985.*

**REFERENCES****LIBRARY REFERENCES****2003 Main Volume**

Theaters and Shows ☞ 3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

**ANNOTATIONS****NOTES OF DECISIONS****\*3211 Construction and application 1****1. Construction and application**

The provisions of 3A Okl.St. Ann. § 205.2a do not prohibit the Oklahoma Horse Racing Commission from approving organization license ownership by persons who were denied a license in the past for reasons unrelated to bad character, such as a denial based on market saturation. Op. Atty. Gen. No. 92-24 (Nov. 18, 1992).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3212 3A Okl.St. Ann. § 205.3**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 205.3. Persons ineligible for grant of organization license**

No organization license shall be granted:

1. to any applicant if the applicant or a person owning an interest in the applicant:

- a. has been convicted of a felony, or
- b. has been convicted of violating any law regarding gambling or controlled dangerous substances of the United States, this state, or any other state, or
- c. has a federal or state criminal charge pending, or
- d. is or has been connected with or engaged in the operation of any illegal business; or

2. to any person who, at the time of application for the organization license, does not own a finished racetrack or have architectural plans and specifications approved by the Commission for a

racetrack which is suitable for the type of racing intended to be held by the applicant and for the accommodation and safety of the public and the horses.

**CREDIT(S)**

*Laws 1983, c. 11, § 20, emerg. eff. March 22, 1983.*

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

- Theaters and Shows ☞ 3.10.
- Westlaw Topic No. 376.
- C.J.S. Entertainment and Amusement.
- C.J.S. Sports §§ 38 to 46.

**ANNOTATIONS**

**NOTES OF DECISIONS**

**Construction and application 1**

**1. Construction and application**

Successor corporation may be eligible for organization license to conduct horse racing under statute if it is sufficiently removed from predecessor corporation which has been convicted of felony; whether successor corporation is sufficiently removed is decision for Horse Racing Commission. Op. Atty. Gen. No. 85-175 (May 14, 1986).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3213 3A Okl.St. Ann. § 205.4**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 205.4. Minimum standard for organization  
licensees--Penalty**

A. The Commission shall promulgate rules and regulations setting minimum standards to be met by organization licensees.

B. The failure of an organization licensee which has been awarded racing dates to meet the minimum standards set by the Commission shall result in the mandatory suspension of the organization license by

the Commission. The suspended organization license of the organization shall not be reinstated until the minimum standards are met. Those organization licensees which apply for racing dates shall not be granted organization licenses if they are not in compliance with the minimum standards to be set by the Commission.

**CREDIT(S)**

*Laws 1983, c. 11, § 21, emerg. eff. March 22, 1983.*

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞ 3.10, 8.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 17, 38 to 46.

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**\*3214 3A Okl.St. Ann. § 205.5**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 205.5. Fire safety standards in grandstand facilities--Inspections**

A. Prior to commencing construction, remodeling, or alteration of grandstand or other spectator areas, including but not limited to clubs, lounges, and restaurants, plans and specifications shall be presented to the State Fire Marshal for approval. Life safety provisions of the National Fire Protection Association "Life Safety Code", No. 101, as adopted by the State Fire Marshal Commission, shall be the state standard for regulation of fire safety in grandstand facilities.

B. Prior to commencing construction, remodeling, or alteration of stables, dormitories, barns, and other buildings in the stabling areas, plans and specifications shall be presented to the State Fire Marshal for approval.

C. The State Fire Marshal Commission shall adopt rules and regulations for conducting fire safety inspections on a regular basis at operating tracks.

**CREDIT(S)**

*Laws 1983, c. 11, § 22, emerg. eff. March 22, 1983; Laws 1985, c. 196, § 8, operative July 1, 1985.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2003 Main Volume**

The 1985 amendment, in subsection B, deleted the former second sentence which prior thereto read: "The National Fire Protection Association, Standard No. 150, 'Fire Safety in Racetrack Stables', as adopted by the State Fire Marshal Commission shall be the state standard for regulation of fire safety in stabling facilities."

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

- Theaters and Shows ↻3.10.
- Westlaw Topic No. 376.
- C.J.S. Entertainment and Amusement.
- C.J.S. Sports §§ 38 to 46.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3215 3A Okl.St. Ann. § 205.6**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 205.6. Pari-mutuel system of wagering authorized--Distribution of funds retained from money wagered--Revenue bond financing of racetrack or facility prohibited**

A. Any organization licensee conducting a race meeting may provide places on the race meeting grounds at which it may conduct and supervise the pari-mutuel system of wagering on the horse races conducted by the organization licensee at the race meeting. No other place or method of betting, pool making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on horse races conducted at a racetrack where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Horse Racing Act.

B. Each organization licensee that holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain an amount equal to eighteen percent (18%) of all money wagered, to be distributed as follows:

1. The first One Hundred Million Dollars (\$100,000,000.00) wagered per calendar year for each type of racing shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

a. One-ninth ( 1/9) of the eighteen percent

(18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

b. Five-ninths ( 5/9) of the eighteen percent (18%) shall be retained by the organization licensee; and

**\*3216** c. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses.

2. All money wagered per calendar year for each type of racing in excess of One Hundred Million Dollars (\$100,000,000.00) but not to exceed One Hundred Fifty Million Dollars (\$150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

a. One-ninth ( 1/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

b. Four-ninths ( 4/9) of the eighteen percent (18%) shall be retained by the organization licensee; and

c. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses; and

d. One-ninth ( 1/9) of the eighteen percent

(18%) shall be retained by the organization licensee to be distributed as follows:

- (1) seventy-five percent (75%) as purses for participating horses, and
- (2) twenty-five percent (25%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

3. All money wagered per calendar year for each type of racing in excess of One Hundred Fifty Million Dollars (\$150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

**\*3217** a. One-ninth ( 1/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

b. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee; and

c. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses; and

d. Two-ninths ( 2/9) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as follows:

- (1) seventy-five percent (75%) as purses for participating horses, and
- (2) twenty-five percent (25%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma

Breeding Development Fund  
Special Account.

C. Notwithstanding any other provisions of this act, the state shall collect six percent (6%) of the total amount wagered under the provisions of this act at such time the organization licensee has no further debt service.

D. In addition to the amount required to be retained by the provisions of subsection B of this section, each organization licensee holding a race meeting at which the pari-mutuel system of wagering is conducted shall retain an additional amount equal to three percent (3%) of all money wagered on multiple race wagers involving not to exceed two races and on multiple horse wagers not to exceed two horses in the same race.

Such amount shall be retained by the organization licensee to be distributed as follows:

1. Two-thirds ( 2/3) of three percent (3%) shall be distributed:

a. Seventy-five percent (75%) as purses for participating horses; and

b. Twenty-five percent (25%) shall be remitted to the Commission, at such intervals or [FN1] required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

2. One-third ( 1/3) of the three percent (3%) shall be distributed:

a. Fifty percent (50%) as purses for participating horses; and

b. Fifty percent (50%) to the organization licensee.

**\*3218** E. Each organization licensee shall retain an amount not less than twenty-one percent (21%) nor greater than twenty-five percent (25%) of all money wagered on multiple race wagers involving more than two races, and on multiple horse wagers involving more than two horses such amount shall be distributed as follows:

1. Eighteen percent (18%) pursuant to subsection B of this section;

2. Three percent (3%) pursuant to subsection D of this section; and

3. Of the remainder, fifty percent (50%) to be distributed as purses for participating horses and fifty percent (50%) to the organization licensee.

F. Organization licensees shall keep accurate books and records of all moneys wagered on each day of a race meeting and of the taxes paid pursuant to the provisions of this section. The Oklahoma Tax Commission or an authorized representative shall have access at all reasonable times to such records for the purpose of examining and checking the records and ascertaining whether the proper amount of taxes is being paid. The Oklahoma Tax Commission shall require verified reports and a statement of the total of all moneys wagered daily at a race meeting and may prescribe forms upon which such reports and statement shall be made. The organization licensee shall provide the Oklahoma Tax Commission with such space and accommodations as may be necessary for the Oklahoma Tax Commission to implement its duties pursuant to the provisions of the Oklahoma Horse Racing Act.

G. No revenue bonds issued by a public trust, as authorized by the provisions of Title 62 of the Oklahoma Statutes, shall be used to finance any racetrack or racing facility.

### CREDIT(S)

*Laws 1983, c. 11, § 23, emerg. eff. March 22, 1983; Laws 1985, c. 52, § 1, operative July 1, 1985; Laws 1986, c. 223, § 14, operative July 1, 1986; Laws 1989, c. 249, § 1, eff. July 1, 1989; Laws 1990, c. 275, § 4, emerg. eff. May 25, 1990; Laws 1992, c. 26, § 1, eff. July 1, 1992; Laws 1992, c. 364, § 15, eff. July 1, 1992; Laws 1995, c. 124, § 1, emerg. eff. April 21, 1995; Laws 2001, c. 182, § 1, emerg. eff. May 2, 2001.*

\*3219 [FN1] So in enrolled bill.

### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

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As originally enacted this section read:

"A. Any organization licensee conducting a race meeting may provide places on the race meeting grounds at which it may

conduct and supervise the pari-mutuel system of wagering on the horse races conducted by the organization licensee at the race meeting. No other place or method of betting, pool making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on horse races conducted at a racetrack where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Horse Racing Act.

"B. Each organization licensee that holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain an amount equal to eighteen percent (18%) of all money wagered, to be distributed as follows:

"1. One-third ( 1/3) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue derived pursuant to the provisions of this paragraph shall be distributed as follows:

"a. For the first two (2) years of operation, ninety-five percent (95%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature. Five percent (5%) shall be apportioned monthly to the Oklahoma Tax Commission Fund, to be paid out only pursuant to the law governing the use of said fund.

"b. For the third and all following years, one hundred percent (100%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"2. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee; and

"3. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses.

"C. Organization licensees shall keep accurate books and records of all moneys wagered on each day of a race meeting and of the taxes paid pursuant to the provisions of this section. The Oklahoma Tax Commission or an authorized representative shall have access at all reasonable times to such records for the purpose of examining and checking the records and ascertaining whether the proper amount of taxes is being paid. The Oklahoma Tax Commission shall require verified reports and a statement of the total of all moneys wagered daily at a race meeting and may prescribe forms upon which such reports and statement shall be made. The organization licensee shall provide the Oklahoma Tax Commission with such space and accommodations as may be necessary for the Oklahoma Tax Commission to implement its duties pursuant to the provisions of the Oklahoma Horse Racing Act."

\*3220 The 1985 amendment rewrote the section to read:

"A. Any organization licensee conducting a race meeting may provide places on the race meeting grounds at which it may conduct and supervise the pari-mutuel system of wagering on the horse races conducted by the organization licensee at the race meeting. No other place or method of betting, pool

making, wagering, or gambling shall be used or permitted by the organization licensee. The pari-mutuel system of wagering shall be permitted only on horse races conducted at a racetrack where such pari-mutuel system of wagering is authorized pursuant to the provisions of the Oklahoma Horse Racing Act.

"B. Each organization licensee that holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain an amount equal to eighteen percent (18%) of all money wagered on win, place, or show wagers, to be distributed as follows:

"1. The first One Hundred Million Dollars (\$100,000,000.00) wagered per calendar year for each type of racing shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

"a. One-ninth ( 1/2) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue derived pursuant to the provisions of this paragraph shall be distributed as follows:

"(1) For the first two (2) years of operation, ninety-five percent (95%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature. Five percent (5%) shall be apportioned monthly to the Oklahoma Tax Commission Fund, to be paid out only pursuant to the law governing the use of said fund.

"(2) For the third and all following years, one hundred percent (100%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"b. Five-ninths ( 5/9) of the eighteen percent (18%) shall be retained by the organization licensee; and

**\*3221** "c. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses.

"2. All money wagered per calendar year for each type of racing in excess of One Hundred Million Dollars (\$100,000,000.00) but not to exceed One Hundred Fifty Million Dollars (\$150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

"a. Two-ninths ( 2/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue derived pursuant to the provisions of this

paragraph shall be distributed as follows:

"(1) For the first two (2) years of operation, ninety-five percent (95%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature. Five percent (5%) shall be apportioned monthly to the Oklahoma Tax Commission Fund, to be paid out only pursuant to the law governing the use of said fund.

"(2) For the third and all following years, one hundred percent (100%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"b. Four-ninths ( 4/9) of the eighteen percent (18%) shall be retained by the organization licensee; and

"c. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses.

"3. All money wagered per calendar year for each type of racing in excess of One Hundred Fifty Million Dollars (\$150,000,000.00) shall be distributed as follows provided, that all racing dates exclusively for Thoroughbred racing in a calendar year shall be combined for the purpose of computing taxation rates and all racing dates for mixed racing and all other individual breeds in a calendar year shall be combined but considered separate from Thoroughbred racing for the purpose of computing taxation rates:

"a. One-third ( 1/3) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue derived pursuant to the provisions of this paragraph shall be distributed as follows:

**\*3222** "(1) For the first two (2) years of operation, ninety-five percent (95%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature. Five percent (5%) shall be apportioned monthly to the Oklahoma Tax Commission Fund, to be paid out only pursuant to the law governing the use of said fund.

"(2) For the third and all following years, one hundred percent (100%) shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"b. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee; and

"c. One-third ( 1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses.

"C. Notwithstanding any other provisions of this act, the state shall collect six percent (6%) of the total amount wagered under the provisions of this act at such time the organization licensee has no further debt service.

"D. In addition to the amount required to be retained by the provisions of subsection B of this section, each organization licensee holding a race meeting at which the pari-mutuel system of wagering is conducted shall retain an additional amount equal to two percent (2%) of all money wagered on a daily double, quinella, or exacta. The revenue derived from the provisions of this subsection shall be paid monthly to the State Treasurer to be deposited to the credit of the Oklahoma Horse Racing Commission Revolving Fund.

"E. Organization licensees shall keep accurate books and records of all moneys wagered on each day of a race meeting and of the taxes paid pursuant to the provisions of this section. The Oklahoma Tax Commission or an authorized representative shall have access at all reasonable times to such records for the purpose of examining and checking the records and ascertaining whether the proper amount of taxes is being paid. The Oklahoma Tax Commission shall require verified reports and a statement of the total of all moneys wagered daily at a race meeting and may prescribe forms upon which such reports and statement shall be made. The organization licensee shall provide the Oklahoma Tax Commission with such space and accommodations as may be necessary for the Oklahoma Tax Commission to implement its duties pursuant to the provisions of the Oklahoma Horse Racing Act.

"F. No revenue bonds issued by a public trust, as authorized by the provisions of Title 62 of the Oklahoma Statutes, shall be used to finance any racetrack or racing facility."

The 1986 amendment, in subsection B, introductory paragraph, substituted "Except as provided in subsection E of this section, each" for "Each" and deleted "on win, place, or show wagers" following "all money wagered"; in subsection B, paragraph 1, rewrote subparagraph a to read:

**\*3223** "One-ninth ( 1/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and"

; in subsection B, paragraph 2, rewrote subparagraph a to read:

"Two-ninths ( 2/9) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and"

; in subsection B, paragraph 3, rewrote subparagraph a to read:

"One-third ( 1/3) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to

appropriation by the Legislature; and"

; in subsection D, second sentence, substituted "General Revenue Fund of the State Treasury" for "Oklahoma Horse Racing Commission Revolving Fund"; added subsection E (now paragraph 2 of subsection E); and redesignated former subsections E and F as subsections F and G.

The 1989 amendment, in subsection D, inserted a new second sentence which read: "Such amount shall be remitted to the Oklahoma Tax Commission on the first business date following the close of the racing day on which it was assessed."

The 1990 amendment, in subsection D, third (former second) sentence, inserted "by the Oklahoma Tax Commission" following "shall be paid monthly".

Laws 1992, c. 26, § 1, in subsection B, paragraph 2, inserted subparagraph a and redesignated former subparagraphs a, b and c and paragraphs 1, 2 and 3 of subparagraph b; in subparagraph b, added "Beginning July 1, 1995:"; in subsection B, paragraph 3, added subparagraph a and redesignated former subparagraphs a, b and c as paragraph 1, 2 and 3 of subparagraph b; in subparagraph b, added "Beginning July 1, 1995:"; in subsection C, substituted "Beginning July 1, 1995, notwithstanding" for "Notwithstanding"; and rewrote subsections D and E which prior thereto read:

"D. In addition to the amount required to be retained by the provisions of subsection B of this section, each organization licensee holding a race meeting at which the pari-mutuel system of wagering is conducted shall retain an additional amount equal to two percent (2%) of all money wagered on a daily double, quinella, or exacta. Such amount shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue derived from the provisions of this subsection shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer to be deposited to the credit of the General Revenue Fund of the State Treasury.

**\*3224** "E. Each organization licensee shall retain an amount equal to twenty-five percent (25%) of all money wagered on pick six wagers, to be distributed as follows:

"1. Seven twenty-fifths ( 7/25) of the twenty-five percent (25%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature;

"2. Two-fifths ( 2/5) of the twenty-five percent (25%) shall be retained by the organization licensee; and

"3. Eight twenty-fifths ( 8/25) of the twenty-five percent (25%) shall be retained by the organization licensee to be distributed as purses for participating horses."

Laws 1992, c. 364, § 15, in subsection D, first paragraph, substituted "multiple race wagers involving not to exceed three races and on multiple horse wagers in the same race" for "a daily double, quinella, or exacta"; and in subsection E,

paragraphs 1 and 2, introductory paragraphs, substituted "multiple race wagers involving more than three races" for "pick six wagers".

The 1995 amendment, in subsection B.2, deleted "Until July 1, 1995:" from the beginning of subparagraph a, and deleted former subparagraph b, which read:

"b. Beginning July 1, 1995:

"(1) Two-ninths ( 2/9 ) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"(2) Four-ninths (4/9) of the eighteen percent (18%) shall be retained by the organization licensee; and

"(3) One-third (1/3) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses."

; in subsection B.3, deleted "Until July 1, 1995:" from the beginning of paragraph a, and deleted former subparagraph b, which read:

"b. Beginning July 1, 1995:

"(1) One-third ( 1/3 ) of the eighteen percent (18%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. One hundred percent (100%) of the revenue derived pursuant to the provisions of this paragraph shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

**\*3225** "(2) One-third ( 1/3 ) of the eighteen percent (18%) shall be retained by the organization licensee; and

"(3) One-third ( 1/3 ) of the eighteen percent (18%) shall be retained by the organization licensee to be distributed as purses for participating horses."

; in subsection C, deleted from the beginning "Beginning July 1, 1995,;" in subsection D, deleted "Until July 1, 1995" from the beginning of paragraph 1, and deleted paragraph 2, which read:

"Beginning July 1, 1995, such amount shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue derived from the provisions of this paragraph shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer to be deposited to the credit of the General Revenue Fund of the State Treasury."

; in subsection E, deleted "Until July 1, 1995" from the beginning, and deleted paragraph 2, which read:

"2. Beginning July 1, 1995, each organization licensee shall retain an amount equal to twenty-five percent (25%) of all money wagered on multiple race wagers involving more than

three races, to be distributed as follows:

"a. Seven twenty-fifths (7/25) of the twenty-five percent (25%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"b. Two-fifths (2/5) of the twenty-five percent (25%) shall be retained by the organization licensee; and

"c. Eight twenty-fifths (8/25) of the twenty-five percent (25%) shall be retained by the organization licensee to be distributed as purses for participating horses."

; and changed various paragraph and subparagraph designations.

The 2001 amendment, in subsection B, deleted from the beginning "Except as provided in subsection E of this section"; and rewrote subsections D and E, which prior thereto read:

"D. In addition to the amount required to be retained by the provisions of subsection B of this section, each organization licensee holding a race meeting at which the pari-mutuel system of wagering is conducted shall retain an additional amount equal to two percent (2%) of all money wagered on multiple race wagers involving not to exceed three races and on multiple horse wagers in the same race.

**\*3226** "Such amount shall be retained by the organization licensee to be distributed as follows:

"1. Seventy-five percent (75%) as purses for participating horses; and

"2. Twenty-five percent (25%) shall be remitted to the Commission, at such intervals or required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account.

"E. Each organization licensee shall retain an amount equal to twenty-five percent (25%) of all money wagered on multiple race wagers involving more than three races, to be distributed as follows:

"1. Two twenty-fifths ( 2/25 ) of the twenty-five percent (25%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature; and

"2. Two-fifths ( 2/5 ) of the twenty-five percent (25%) shall be retained by the organization licensee; and

"3. Eight twenty-fifths ( 8/25 ) of the twenty-five percent (25%) shall be retained by the organization licensee to be distributed as purses for participating horses; and

"4. One-fifth (1/5) of the twenty-five percent (25%) shall be retained by the organization licensee to be distributed as

follows:

"a. Seventy-five percent (75%) as purses for participating horses; and

"b. Twenty-five percent (25%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding Development Fund Special Account."

such pari-mutuel system of wagering is authorized pursuant to the provisions of statute. 3A Okl.St. Ann. § 201 et seq. Op. Atty. Gen. No. 89-41 (June 28, 1990).

Statute would only prohibit a county public trust from financing pari-mutuel horseracing facilities pursuant to Title 62 of the Oklahoma Statutes which includes the Local Industrial Development Act, 62 O.S.1981, § 651 et seq.; statute does not preclude such financing under 60 O.S.1981, § 176 et seq. Op. Atty. Gen. No. 87-58 (6-29-87).

**REFERENCES**

**LAW REVIEW AND JOURNAL COMMENTARIES**

U.S. politics and tribal nation gaming: How it all plays out in Oklahoma. Angelique Eaglewoman, 77 Okla. B.J. 525 (2006).

**LIBRARY REFERENCES**

**2003 Main Volume**

- Theaters and Shows ☞3.10.
- Westlaw Topic No. 376.
- C.J.S. Entertainment and Amusement.
- C.J.S. Sports §§ 38 to 46.

**ANNOTATIONS**

**NOTES OF DECISIONS**

- Construction and application 1**
- Eighteen percent general retainage 2**
- Exhaustion of remedies 3**
- Internet or telephone wagering 4**

**\*3227 1. Construction and application**

The Commission is not empowered by the Act to authorize the acceptance of pari-mutuel wagers on previously run horse races. Op. Atty. Gen. No. 01-54 (Dec. 4, 2001).

The pari-mutuel system of wagering in Oklahoma is permitted only on horse races conducted at a racetrack where

**2. Eighteen percent general retainage**

Fair associations granted an organization license must remit a portion of the eighteen percent general retainage, except for win, place show, daily double, quinella, exacta and pick six wagers accepted during the race meetings, to the Oklahoma Horse Racing Commission for deposit in the Oklahoma Breeding Development Fund Special Account. Op. Atty. Gen. No. 00-50 (Oct. 4, 2000).

**3. Exhaustion of remedies**

Horsemen suing public facilities authority for breach of contract in allegedly misappropriating pari-mutuel handle from wagers on horse races were required to first exhaust their administrative remedies before the Horse Racing Commission, as breach of contract claim depended on Commission's determination of whether there had been a violation of statutes dealing with distribution of purse money. Oklahoma Horsemen's Benevolent and Protective Ass'n, Inc. v. Shotts, Okla. Civ. App. Div. 3, 38 P.3d 916 (2001), certiorari denied. Theaters And Shows ☞3.10

**4. Internet or telephone wagering**

Pari-mutuel wagering on horseraces via telephone or the internet is illegal because the Oklahoma Horse Racing Act and the Oklahoma Horse Racing Commission Administrative Rules does not allow for telephone or internet wagering on the outcome of horse racing. Op. Atty. Gen. No. 02-025 (June 26, 2002).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3228 3A Okl.St. Ann. § 205.6a**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 205.6a. Offtrack wagering plans--Conditions--Notification--Licensing--Breakage and unclaimed ticket proceeds**

A. Any organization licensee shall file with the Oklahoma Horse Racing Commission its plan to conduct pari-mutuel wagering at a facility or facilities located outside the organization licensee's racing enclosure. Such pari-mutuel wagering may be conducted at any time as authorized by the Commission. The conducting of pari-mutuel wagering at a facility outside the organization licensee's enclosure is subject to the following:

1. Pari-mutuel wagering shall be permitted only in a county which approves or has approved the conducting of pari-mutuel horse racing in that county pursuant to the provisions of Section 209 of this title;

2. Pari-mutuel wagering conducted by an organization licensee shall not be permitted within thirty (30) miles of another organization licensee's racing enclosure without the express permission granted by the other organization licensee;

3. All pari-mutuel wagering facilities located outside any organization licensee's racing enclosure shall be operated in accordance with all applicable rules of the Oklahoma Horse Racing Commission Rules of Racing (Pari-Mutuel Edition);

4. The organization licensee sending its racing signal to a facility or facilities outside its racing enclosure may combine the pari-mutuel pools of all facilities with those of the organization licensee for the purpose of determining odds and computing payoffs. The amount of money to be retained and distributed by the organization licensee and to be

remitted to the Oklahoma Tax Commission from money wagered pursuant to the provisions of this section shall be the same as set forth in paragraph 1 of subsection B, in subsection D, and in subsection E of Section 205.6 of this title and in Section 208.2 of this title;

5. One percent (1%) of the total monies wagered at a facility other than an organization licensee's racing enclosure shall be distributed from the amount retained pursuant to paragraph 4 of this subsection as follows:

- \*3229** a. ten percent (10%) to the State Auditor and Inspector for the purpose of auditing such facilities, and
- b. forty-five percent (45%) to the county in which the facility is located, and
- c. forty-five percent (45%) to the city in which the facility is located, or
- d. if the facility is not located within the corporate limits of any city, ninety percent (90%) to the county in which the facility is located;

6. The distribution for purses at facilities other than an organization licensee's racing enclosures shall be:

- a. six and one-half percent (6.5%) of total handle during the first thirty-six (36) months after the opening of a facility in a county, and
- b. seven and one-half percent (7.5%) of total handle thereafter.

Upon completion of three hundred sixty-five (365) calendar days since the opening of a facility in a county, the thirty-six-month period commences retroactive to the opening of that facility. If the facility does not operate for three hundred sixty-five (365) calendar days, a new facility may be opened and operated, with the thirty-six-month period commencing consistent with this paragraph. If a facility terminates operation after the three-hundred-sixty-fifth calendar day, all days shall be allotted to subsequent facilities not to exceed one thousand ninety-five (1,095) calendar days per facility; and

7. The organization licensee, after the distribution to the Oklahoma Tax Commission pursuant to the provisions of paragraph 4 of this subsection and

distributions pursuant to paragraphs 5 and 6 of this subsection, shall retain the balance of the monies wagered.

B. Notification by an organization licensee to conduct pari-mutuel wagering at a facility or facilities outside of the organization licensee's racing enclosure shall be made annually to the Oklahoma Horse Racing Commission. An organization licensee may make an original notification to conduct pari-mutuel wagering at a facility or facilities outside of the organization licensee's racing enclosure at any time.

C. All persons employed in the actual conduct of pari-mutuel wagering at a facility outside an organization licensee's racing enclosure shall be licensed by the Commission, consistent with Section 204.2 of this title.

\*3230 D. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee sending the racing program.

#### CREDIT(S)

*Laws 1995, c. 125, § 1; Laws 1996, c. 176, § 1, emerg. eff. May 14, 1996.*

#### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

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The 1996 amendment rewrote the introductory paragraph of subsection A, which prior thereto read:

"Any organization licensee shall file with the Oklahoma Horse Racing Commission its plan to conduct pari-mutuel wagering on the organization licensee's race program at a facility or facilities located outside the organization licensee's racing enclosure. Such pari-mutuel wagering shall be conducted only during the organization licensee's approved race meeting or meetings and shall be conducted simultaneous to all pari-mutuel wagering at the organization licensee's racing facility in this state. The conducting of pari-mutuel wagering at a facility outside the organization licensee's enclosure is subject to the following:"

, and in paragraph 4, rewrote the second sentence, which prior thereto read: "The amount of money to be retained and distributed by the organization licensee and to be remitted to the Oklahoma Tax Commission from money wagered pursuant to

the provisions of this section shall be the same as set forth in paragraph 1 of subsection B, paragraph 1 of subsection D and paragraph 1 of subsection E of Section 205.6 of Title 3A of the Oklahoma Statutes and Section 208.2 of Title 3A of the Oklahoma Statutes;" and made a nonsubstantive change.

#### REFERENCES

##### LIBRARY REFERENCES

##### 2003 Main Volume

Theaters and Shows ↻3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

#### ANNOTATIONS

##### NOTES OF DECISIONS

##### Construction and application 1 County approval 3 Purses 2

##### 1. Construction and application

The Commission is not empowered by the Act to authorize the acceptance of pari-mutuel wagers on previously run horse races. Op.Atty.Gen. No. 01-54 (Dec. 4, 2001).

##### \*3231 2. Purses

Under the provisions of 3A O.S. Supp.1996, § 205.6a, when a licensed racetrack receives a simulcast race from another racetrack and transmits that simulcast signal to one or more of its off-track wagering facilities, the racetrack, in calculating the amounts to be distributed as purses to participating horses, must treat wagers accepted at the racetrack separately from those accepted at off-track wagering facilities, because the percentage of the wagers accepted at off-track facilities to be paid to purses for participating horses is different from the amount to be paid from wagers accepted at the racetrack's racing enclosure. Op.Atty.Gen. No. 96-37 (Feb. 19, 1997).

##### 3. County approval

Under provisions of Indian Gaming Regulatory Act, 25 U.S.C.A. §§ 2701 to 2721, the applicability of the "county option" restrictions of 3A O.S.1991, § 209 and 3A O.S.Supp.1997, § 205.6a to tribal gambling in Indian Country is governed by terms of negotiated Tribal-State Compact. Op.Atty.Gen. No. 97-106 (Jan. 27, 1998).

Where Tribal-State Compact negotiated under Indian Gaming Regulatory Act, 25 U.S.C.A. §§ 2701 to 2721, does not provide for applicability of "county option" restrictions to pari-mutuel horse race wagering conducted in Indian Country under the Compact, the Oklahoma Horse Racing Commission can lawfully authorize an organization licensee to simulcast its live horse races to the compacting Tribe off-track pari-mutuel

wagering facilities located in Indian Country, even when the Tribe's facilities are located in a county whose voters have not approved pari-mutuel horse racing. Op.Atty.Gen. No. 97-106 (Jan. 27, 1998).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3232 3A Okl.St. Ann. § 205.7**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 205.7. Wagering on out-of-state races**

A. The Oklahoma Horse Racing Commission may authorize an organization licensee to accept wagers on the results of out-of-state full racing programs for simulcast races as follows:

1. On days when the organization licensee is conducting live racing, the licensee may accept wagers on out-of-state full racing programs during the hours when it is conducting live racing, and may accept wagers on the results of out-of-state full racing programs during the hours it is not conducting live racing;

2. a. On days when the organization licensee is not conducting live racing, the licensee may accept wagers on the results of out-of-state full racing programs, provided that the number of days, not included in its race meeting, which an organization licensee may be authorized to accept wagering pursuant to this paragraph is limited to fifty percent (50%) of the number of days the licensee conducts live racing;

b. notwithstanding the limitations contained in subparagraph a of this paragraph, an organization licensee may accept wagers on races run at any racetrack licensed by the Oklahoma Horse Racing Commission, and may accept wagers on the out-of-state full racing programs received by said racetrack; and

3. On days when the licensee is conducting live racing, the Oklahoma Horse Racing Commission may authorize the organization licensee to accept wagers on individual out-of-state simulcast races in addition to the out-of-state full racing programs.

B. The authorization provided in subsection A of this section must comply with federal laws including, but not limited to, Chapter 57 of Title 15 of the United States Code. [FN1]

C. Wagers on out-of-state races conducted pursuant to the provisions of this section may be placed in a separate pari-mutuel pool or pools, or may be combined with the pari-mutuel pool or pools of the track where the race is run, or may be combined with other organization licensees licensed by the Oklahoma Horse Racing Commission and their wagering facilities located within this state.

**\*3233** D. Each organization licensee accepting wagers on an out-of-state race shall deduct a percentage of the amount handled which is equal to the percentage deducted from the amount handled by the organization licensee in pari-mutuel pools at the race meeting or meetings held by the organization licensee if the wagers on the out-of-state races are not being combined with the pari-mutuel pool or pools where the race or races are being run.

E. For the day on which the out-of-state race is offered, each organization licensee shall pay the state share of the organization licensee at the rate applicable to the races of the racing program of the organization licensee.

F. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee.

G. Except as otherwise provided by law, the amount remaining from the deduction pursuant to the provisions of subsection D of this section after payment of the state share and the contractual payment to the out-of-state host racing organization, shall be distributed as follows:

1. Fifty percent (50%) to the organization licensee; and

2. Fifty percent (50%) to the organization licensee to be distributed as purses.

H. An organization licensee accepting wagers on out-of-state full racing programs pursuant to subsection A of this section shall, for any year in which it intends to accept such out-of-state full racing programs, make application to the Commission for not less than eighty percent (80%)

of the number of live racing days awarded for each race meeting to that licensee in 1996.

I. Notwithstanding subsection H of this section, any organization licensee may apply for less than the eighty percent (80%) of the number of live race days for a designated race meeting awarded to the licensee in 1996 if such application is approved by the organization licensee's official horsemen's representative at that designated race meeting.

J. One-tenth of one percent ( 1/10 of 1%) of the total monies wagered at the racing enclosure on out-of-state simulcast races shall be remitted by the organization licensee from the amount retained pursuant to this section to the State Auditor and Inspector for the purpose of auditing racing facilities.

### CREDIT(S)

*Laws 1983, c. 11, § 24, emerg. eff. March 22, 1983; Laws 1988, c. 210, § 7, operative July 1, 1988; Laws 1991, c. 269, § 4, eff. July 1, 1991; Laws 1993, c. 160, § 1, eff. Sept. 1, 1993; Laws 1994, c. 83, § 1, emerg. eff. April 19, 1994; Laws 1995, c. 125, § 2; Laws 1996, c. 176, § 2, emerg. eff. May 14, 1996; Laws 2002, c. 152, § 1, emerg. eff. April 29, 2002.*

\*3234 [FN1] 15 U.S.C.A. § 3001 et seq.

### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

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The 1988 amendment added subsection G.

The 1991 amendment, in subsection F, introductory paragraph, substituted "Except as otherwise provided by law, the" for "The".

Laws 1991, H.B. 1261 (c. 269), § 4, was vetoed by Governor May 28, 1991. Veto was overridden by both houses of the legislature May 30, 1991 and filed with the Secretary of State on the same date.

The 1993 amendment, in subsection A, substituted "Fifty Thousand Dollars (\$50,000.00) or more" for "more than One Hundred Thousand Dollars (\$100,000.00)"; and in subsection G, inserted the third sentence.

The 1994 amendment rewrote subsection A, which prior thereto read:

"A. The Commission may authorize an organization licensee during the period it is conducting a race meeting, to accept

wagers on the results of out-of-state feature races having a gross purse of Fifty Thousand Dollars (\$50,000.00) or more if the following conditions are met:

"1. The authorization complies with federal laws including but not limited to Chapter 57 of Title 15 of the United States Code; and

"2. Wagering is offered only within the racing enclosure and only within thirty-six (36) hours prior to the running of the out-of-state feature race."

; in subsections B to E, deleted "feature" preceding "race(s)"; and made a nonsubstantive change.

The 1995 amendment, in subsection A, in the introductory paragraph inserted "or accepting pari-mutuel wagers on races run at any racetrack licensed by the Commission", and in paragraph 2 deleted from the end of the third sentence "except with written approval of the official horsemen's representative during the meet in which the races are taken"; and deleted subsection G, which read:

"Any race run at any racetrack licensed by the Oklahoma Horse Racing Commission may be televised to another racetrack licensed by the Oklahoma Horse Racing Commission or may be televised out of state. Pari-mutuel wagering may be permitted on such race at any other licensed track within this state, or at any racetrack or other entity in another state or country. Money wagered on such races may be placed in separate or common pools as determined by rules of the Oklahoma Horse Racing Commission. A written application to televise a race shall contain the details of such race, its agreements and contracts, and shall be submitted to the Oklahoma Horse Racing Commission for its approval at least thirty (30) days prior to the racing event. Such agreement shall comply with all applicable laws of the United States and the laws of this state. The proceeds of the agreement shall be distributed in the same manner as money wagered pursuant to the provisions of Section 205.6 of this title."

\*3235 The 1996 amendment rewrote the section, which prior thereto read:

"A. The Oklahoma Horse Racing Commission may authorize an organization licensee during the period it is conducting a race meeting or accepting pari-mutuel wagers on races run at any racetrack licensed by the Commission, to accept wagers on the results of out-of-state races having a gross purse of Fifty Thousand Dollars (\$50,000.00) or more. Any organization licensee may be exempt from the minimum gross purse requirements of this section if authorized by the Oklahoma Horse Racing Commission. The authorization may be granted by the Oklahoma Horse Racing Commission only if:

"1. The out-of-state races are part of a national pari-mutuel wagering promotion; or

"2. The out-of-state races under Fifty Thousand Dollars (\$50,000.00) constitute no more than twenty-five percent (25%) of the total number of out-of-state races simulcast at the organization licensee's racing enclosure during any race meeting. For purposes of such computation all races under paragraph 1 of this subsection shall be excluded. No out-of-state races exceeding the limits specified in this paragraph shall be

allowed.

"The authorization must comply with federal laws including but not limited to Chapter 57 of Title 15 of the United States Code.

"B. Wagers on out-of-state races conducted pursuant to the provisions of this section shall be placed in a separate pari-mutuel pool or pools.

"C. Each organization licensee accepting wagers on an out-of-state race shall deduct a percentage of the amount handled which is equal to the percentage deducted from the amount handled by the organization licensee in pari-mutuel pools at the race meeting held by the organization licensee.

"D. Each organization licensee shall pay the state share of the organization licensee at the rate applicable to the races of the racing program of the organization licensee for the day on which the out-of-state race is offered.

"E. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee for the day on which the out-of-state race is offered.

"F. Except as otherwise provided by law, the amount remaining from the deduction pursuant to the provisions of subsection C of this section after payment of the state share and the contractual payment to the out-of-state host racing organization, shall be distributed as follows:

\*3236 "1. Fifty percent (50%) to the organization licensee; and

"2. Fifty percent (50%) to the organization licensee to be distributed as purses."

The 2002 amendment, in subsection A, in paragraphs 1 and 2, deleted "not more than two", "not more than four", and "not more than six", respectively, preceding "out-of-state", deleted "and" from the end of paragraph 1, and added "and" at the end of paragraph 2; and deleted the first sentence from subsection B, which read: "For purposes of this section, fifty percent (50%) or more of the races being run at an out-of-state track constitutes a full racing program."

## REFERENCES

### LIBRARY REFERENCES

#### 2003 Main Volume

Gaming ☞9.

Theaters and Shows ☞3.10.

Westlaw Topic Nos. 188, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46.

C.J.S. Gaming § 26.

## ANNOTATIONS

### NOTES OF DECISIONS

#### Construction and application 1

#### Exemption from license fee 2

#### Exhaustion of remedies 4

#### Live racing days 3

##### 1. Construction and application

The Commission is not empowered by the Act to authorize the acceptance of pari-mutuel wagers on previously run horse races. Op.Atty.Gen. No. 01-54 (Dec. 4, 2001).

##### 2. Exemption from license fee

The provisions of 3A O.S.Supp.1995, § 205.7a(B), which exempt from the \$200.00 a day racetrack license fee "days on which a licensed track within this state conducts pari-mutuel wagering only on races televised from another licensed track within this state," apply to days on which a State licensed racetrack conducts pari-mutuel wagering only on races televised from another licensed racetrack or racetracks within this State, and do not apply to days on which a State licensed racetrack conducts pari-mutuel wagering on races televised from out-of-state, or days on which a State licensed racetrack conducts pari-mutuel wagering on live races held at that race track. Op.Atty.Gen. No. 95-107 (Dec. 21, 1995).

##### \*3237 3. Live racing days

An Oklahoma licensed racetrack (the receiving racetrack) that receives simulcasts of and accepts wagers on the live races conducted at a sister Oklahoma licensed racetrack (the sending racetrack), may also accept wagers on the out-of-state full racing programs received by the sending racetrack. Op.Atty.Gen. No.97-115 (Jan. 8, 1998).

##### 4. Exhaustion of remedies

Horsemen suing public facilities authority for breach of contract in allegedly misappropriating pari-mutuel handle from wagers on horse races were required to first exhaust their administrative remedies before the Horse Racing Commission, as breach of contract claim depended on Commission's determination of whether there had been a violation of statutes dealing with distribution of purse money. Oklahoma Horsemen's Benevolent and Protective Ass'n, Inc. v. Shotts, Okla.Civ.App. Div. 3, 38 P.3d 916 (2001), certiorari denied. Theaters And Shows ☞3.10

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3238 3A Okl.St. Ann. § 205.7a**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 205.7a. Televised races**

A. Any organization licensee that accepts full-card out-of-state simulcast wagering at any time during a calendar year shall be required to televise to all other racetracks licensed by the Oklahoma Horse Racing Commission all of its live races, or the number of days of its live racing which is equivalent to the number of days of live racing conducted at the receiving track, whichever is less. Pari-mutuel wagering may be conducted on such races at all other racetracks licensed by the Oklahoma Horse Racing Commission and may be allowed at their in-state offtrack pari-mutuel wagering facilities or at any other racetrack or entity in another state or country. Money wagered on such races may be placed in separate or common pools as determined by rules of the Oklahoma Horse Racing Commission. A written application to televise a race shall contain the details of such race, its agreements and contracts, and shall be submitted to the Oklahoma Horse Racing Commission for its approval prior to the racing event. Such agreement shall comply with all applicable laws of the United States and the laws of this state. The proceeds of the agreement shall be distributed in the same manner as money wagered pursuant to the provisions of paragraph 1 of subsection B, in subsection D, and in subsection E of Section 205.6 of this title and Section 208.2 of this title.

B. For the days on which a licensed track within this state does not conduct live racing but conducts pari-mutuel wagering on races televised from another licensed track within this state or on out-of-state races, the conducting of pari-mutuel wagering

shall not be considered racing days for the purposes of this title.

C. When any licensed track within this state conducts pari-mutuel wagering on races televised from another licensed track within this state, the receiving licensee shall not retransmit the sending licensee's signal without the express permission of the sending licensee.

**\*3239 D.** Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensees who are sending and receiving the racing program.

**CREDIT(S)**

*Laws 1995, c. 125, § 3; Laws 1996, c. 176, § 3, emerg. eff. May 14, 1996.*

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2003 Main Volume**

The 1996 amendment rewrote the first, second, and sixth sentences of subsection A, which prior thereto read: "Any race run at any racetrack licensed by the Oklahoma Horse Racing Commission may be televised to another racetrack licensed by the Oklahoma Horse Racing Commission or may be televised out of state. Pari-mutuel wagering may be permitted on such race at any other licensed track within this state, or at any racetrack or other entity in another state or country. The proceeds of the agreement shall be distributed in the same manner as money wagered pursuant to the provisions of paragraph 1 of subsection B, paragraph 1 of subsection D and paragraph 1 of subsection E of Section 205.6 of Title 3A of the Oklahoma Statutes and Section 208.2 of Title 3A of the Oklahoma Statutes."; and rewrote subsection B, which prior thereto read:

"For the days on which a licensed track within this state conducts pari-mutuel wagering only on races televised from another licensed track within this state, the conducting of pari-mutuel wagering shall not be considered racing days for the purposes of Section 205.2 of Title 3A of the Oklahoma Statutes ."

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3240 3A Okl.St. Ann. § 205.8**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 205.8. National Breeders' Cup--Pick seven wagers--Apportionment of wagered funds**

A. Pursuant to rules and regulations of the Oklahoma Horse Racing Commission, an organization licensee shall be permitted to conduct a National Breeders' Cup pick seven.

B. Any organization licensee authorized by the Commission to accept wagers on the results of the National Breeders' Cup races shall apportion all money wagered on pick seven wagers as follows:

1. Seven percent (7%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature;

2. Ten percent (10%) shall be retained by the organization licensee;

3. Eight percent (8%) shall be retained by the organization licensee to be distributed as purses; and

4. Seventy-five percent (75%) shall be placed in a separate pari-mutuel pool but shall be commingled with other states' pick seven wager pari-mutuel pools as governed by rules set forth by the Commission.

**CREDIT(S)**

*Laws 1991, c. 269, § 5, eff. July 1, 1991.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2003 Main Volume**

Laws 1991, H.B. 1261 (c. 269), § 5, was vetoed by Governor May 28, 1991. Veto was overridden by both houses of the legislature May 30, 1991 and filed with the Secretary of State on the same date.

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

- Gaming ☞9.
- Theaters and Shows ☞3.10.
- Westlaw Topic Nos. 188, 376.
- \*3241 C.J.S. Entertainment and Amusement.
- C.J.S. Sports §§ 38 to 46.
- C.J.S. Gaming § 26.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3242 3A Okl.St. Ann. § 206**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 206. Repealed by Laws 1983, c. 11, § 38,  
emerg. eff. March 22, 1983**

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2003 Main Volume**

The repealed section, derived from State Question No. 553, Initiative Petition No. 315, adopted at election held September 21, 1982, related to rules and regulations for wagering on horse races, the sale of tickets and the status of existing statutes.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3243 3A Okl.St. Ann. § 207**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 207. Tax imposed--Distribution of proceeds**

Each organization licensee shall collect a tax of ten percent (10%) of the amount received by the organization licensee for tickets for admission to the race meeting grounds. If an organization licensee offers a reduced price for admission to the race meeting grounds based upon the purchase of a season ticket or pass, the amount of tax collected by the licensee for admission to the race meeting grounds as a result of the purchase of such ticket or pass by any person shall be equal to the amount of tax that would have been collected by the licensee for admission to the race meeting grounds if such person did not hold a season ticket or pass. On the first business day after the close of the racing day on which the tax was collected, the organization licensee shall remit to the Oklahoma Tax Commission the proceeds from the tax. The proceeds of the tax shall be distributed as follows:

1. For the first two (2) years of operation, forty-five percent (45%) shall be apportioned monthly to the municipality in which the racetrack is located. Fifty percent (50%) shall be apportioned monthly to the county in which the racetrack is located. Five percent (5%) shall be apportioned monthly to the General Revenue Fund of the State Treasury.

2. For the third and all following years, fifty percent (50%) shall be apportioned monthly to the municipality in which the racetrack is located and fifty percent (50%) shall be apportioned monthly to the county in which the racetrack is located.

If the racetrack is not located in a municipality or is located in a municipality with a population of less than one thousand (1,000), one hundred percent (100%) of the proceeds shall be distributed to the county in which the racetrack is located.

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982; Laws 1983, c. 11, § 25, emerg. eff. March 22, 1983; Laws 1983, c. 249, § 6, operative July 1, 1983; Laws 1986, c. 223, § 15, operative July 1, 1986; Laws 1989, c. 249, § 2, eff. July 1, 1989. \*3244*

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2003 Main Volume**

As originally enacted, this section read:

"The following taxes are hereby imposed;

"(a) A tax of ten percent (10%) of the amount received by any licensee on tickets for admission to the grounds where such horse races or meetings are held or conducted. All taxes levied herein on admission tickets shall be paid to the city in which the track is located. If a track is not located within the city limits, taxes levied on admission tickets shall be paid to the county in which the track is located.

"(b) A tax of not less than twelve percent (12%) or more than eighteen percent (18%) on the proceeds from the sale of pari-mutuel tickets. The tax shall be divided into three equal parts with one-third to be retained by the licensee; one-third held by licensee as trustee to be distributed as purses for participating horses and one-third to be paid by the Commission to the State of Oklahoma general revenue fund. One-third of all taxes levied on pari-mutuel wagers shall be paid to the Commission within a reasonable period of time after the close of each day's racing program."

Laws 1983, c. 11, § 25 rewrote the section to read:

"Each organization licensee shall collect a tax of ten percent (10%) of the amount received by the organization licensee for tickets for admission to the race meeting grounds. On the first business day after the close of the racing day on which the tax was collected, the organization licensee shall remit to the Oklahoma Tax Commission the proceeds from the tax. The proceeds of the tax shall be distributed as follows:

"1. For the first two (2) years of operation, ninety-five percent (95%) shall be apportioned monthly to the municipality. five percent (5%) shall be apportioned monthly to the Oklahoma Tax Commission Fund, to be paid out only pursuant to the law governing the use of said fund.

"2. For the third and all following years, one hundred percent (100%) shall be apportioned monthly to the municipality in which the racetrack is located.

"If the racetrack is not located in a municipality, the proceeds shall be distributed to the county in which the racetrack is located in the same proportion as provided for in this section for distribution to a municipality."

\*3245 Laws 1983, c. 249, § 6, rewrote the section the section to read:

"Each organization licensee shall collect a tax of ten percent (10%) of the amount received by the organization licensee for tickets for admission to the race meeting grounds. On the first business day after the close of the racing day on which the tax was collected, the organization licensee shall remit to the Oklahoma Tax Commission the proceeds from the tax. The proceeds of the tax shall be distributed as follows:

"1. For the first two (2) years of operation, forty-five percent (45%) shall be apportioned monthly to the municipality in which the racetrack is located. Fifty percent (50%) shall be apportioned monthly to the county in which the racetrack is located. Five percent (5%) shall be apportioned monthly to the Oklahoma Tax Commission Fund, to be paid out only pursuant to the law governing the use of said fund.

"2. For the third and all following years, fifty percent (50%) shall be apportioned monthly to the municipality in which the racetrack is located and fifty percent (50%) shall be apportioned monthly to the county in which the racetrack is located.

"If the racetrack is not located in a municipality or is located in a municipality with a population of less than one thousand (1,000), one hundred percent (100%) of the proceeds shall be distributed to the county in which the racetrack is located."

The 1986 amendment, in paragraph 1, third sentence, substituted "General Revenue Fund of the State Treasury" for "Oklahoma Tax Commission Fund, to paid out only pursuant to the law governing the use of said fund".

The 1989 amendment, in the introductory paragraph, inserted the second sentence.

## REFERENCES

### LIBRARY REFERENCES

#### 2003 Main Volume

Theaters and Shows ☞3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

### ANNOTATIONS

### NOTES OF DECISIONS

#### Validity 1

### 1. Validity

Where taxes imposed under authority of section of horse racing initiative petition providing for tax on gate admissions and tax on sale of pari-mutuel tickets was not an annually recurring tax, but, rather, was in nature of special tax, purpose requirement of Const. Art. 10, § 19 would be inapplicable. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Gaming ☞4

\*3246 Inasmuch as only one third of total proceeds of tax on pari-mutuel tickets were intended to be paid to state of Oklahoma general revenue fund and other two-thirds were to be retained by licensee, the two-thirds was not a "tax" within meaning of Const. Art. 10, § 14 providing that taxes shall be levied and collected for public purposes only. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Gaming ☞4; Taxation ☞2010

Under paragraph of section of horse racing initiative petition which authorized pari-mutuel betting fee in an amount not less than four nor more than six percent, which was to be retained by licensee who conducts pari-mutuel betting, fee was not a "tax" within meaning of Const. Art. 10, § 14 providing that "taxes" shall be levied and collected for public purposes only and, thus, distribution of monies did not contravene Oklahoma Constitution. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Gaming ☞4; Taxation ☞2001

Regulatory means employed in horse racing initiative petition, including 8% to 12% fee on proceeds from sale of pari-mutuel tickets, were not so unreasonable, arbitrary or discriminatory as to be struck down as a matter of law. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Gaming ☞4

Imposition of a "tax" on sale of pari-mutuel tickets, proposed by section of initiative petition, did not impose unconstitutional "property tax." In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Gaming ☞3

Horse racing initiative ballot title which provided ... "for a tax on pari-mutuel wagers; providing for distribution of taxes collected \* \* \* " would be modified to indicate that it would establish a tax and fees on pari-mutuel wagers and provide for distribution of taxes and fees collected. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Statutes ☞320

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3247 3A Okl.St.Ann. § 208**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 208. Breakage--Distribution of proceeds**

A. From any payment made to an individual who has wagered by contributing to a pari-mutuel pool operated by an organization licensee, the organization licensee shall deduct the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents (\$0.10). If there is a minus pari-mutuel pool, the organization licensee shall deduct the odd cents by which the amount payable on each dollar wagered exceeds a multiple of five cents (\$0.05). The amount so deducted shall be known as breakage.

B. All breakage proceeds shall be remitted by the organization licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account.

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982; Laws 1983, c. 11, § 26, emerg. eff. March 22, 1983; Laws 1989, c. 369, § 99, operative July 1, 1989.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2003 Main Volume**

The 1983 amendment rewrote the section which originally read:

"Breakage and unclaimed ticket proceeds shall be retained by the licensee and utilized for the award of additional purses for Oklahoma bred horses."

The 1989 amendment, in subsection B, substituted deleted "Revolving" preceding "Fund" and added "Special Account" following "Fund".

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

- Gaming ☞9.
- Theaters and Shows ☞3.10.
- Westlaw Topic Nos. 188, 376.
- C.J.S. Entertainment and Amusement.
- C.J.S. Sports §§ 38 to 46.
- C.J.S. Gaming § 26.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3248 3A Okl.St. Ann. § 208.1**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 208.1. Failure to receive money due--  
Claims--Unclaimed proceeds**

A. Any individual who claims to be entitled to any part of a pari-mutuel pool conducted by an organization licensee and who fails to receive the money due may file the following with the organization licensee within sixty (60) days after the wager has been made:

1. A verified claim on a form prescribed and furnished by the Oklahoma Horse Racing Commission setting forth such information as may be necessary to identify the particular pool and the amount claimed therefrom; and

2. A substantial portion of the pari-mutuel ticket upon which the claim is based, sufficient to identify the particular racetrack, race, and horse involved, the amount wagered, and whether the ticket was a win, place, or show ticket.

B. Upon proper application by an individual or an organization licensee the Commission shall hear any disputed claim and consider the proof offered in its support. Unless the claimant satisfactorily establishes the right to participate in the pool, the claim shall be rejected. If the claim is allowed, the organization licensee shall pay the amount of the claim to the claimant upon order of the Commission.

C. All unclaimed ticket proceeds shall be remitted by the organization licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account as follows:

1. The payment for unclaimed ticket proceeds shall be accompanied by a completed form as prescribed by the Commission; and

2. The organization licensee shall remit calendar quarterly payments of all unclaimed ticket proceeds which have been in the organization licensee's possession for no fewer than sixty (60) days after the wager has been made, regardless of whether the wager was from live racing or simulcasting or during or between live race meetings.

**CREDIT(S)**

*Laws 1983, c. 11, § 27, emerg. eff. March 22, 1983; Laws 1989, c. 369, § 100, operative July 1, 1989; Laws 2001, c. 145, § 2, eff. July 1, 2001. \*3249*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2003 Main Volume**

The 1989 amendment, in subsection C, deleted "Revolving" preceding "Fund" and added "Special Account" following "Fund".

The 2001 amendment rewrote the introductory clause of subsection A, which prior thereto read:

"Any individual who claims to be entitled to any part of a pari-mutuel pool conducted by an organization licensee and who fails to claim the money due him prior to the completion of the race meeting at which the pool was formed may file the following with the organization licensee within sixty (60) days after the close of the race meeting:"

; rewrote subsection C, which prior thereto read:

"All unclaimed ticket proceeds shall be remitted by the organization licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account on the sixty-first day after the close of the race meeting."

; and made other nonsubstantive changes.

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Gaming ☞9.  
Theaters and Shows ☞3.10.  
Westlaw Topic Nos. 188, 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.  
C.J.S. Gaming § 26.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3250 3A Okl.St. Ann. § 208.2**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 208.2. Race meetings conducted by fair associations--Proportions of wagers retained--Licenses**

A. Any fair association organized pursuant to the provisions of Title 2 of the Oklahoma Statutes for Agricultural Fair Corporations, the Free Oklahoma State Fair, Free District Fairs, and Agricultural and Industrial Expositions and Fairs or any existing county, district, or state fair as of January 1, 1983, may apply to the Commission for one race meeting each year to be held within the boundaries of the county where the fair association is located. The Oklahoma Horse Racing Commission may set the number of days and the dates of such race meeting requested by the fair association. A race meeting conducted by a fair association shall not exceed sixteen (16) days during a twenty-eight-consecutive-day period or a fair association shall be permitted to conduct a race meeting of twenty (20) to twenty-two (22) days during a thirty-eight-consecutive-day period. A race meeting conducted pursuant to the provisions of this section shall be conducted in such a manner that all profits shall accrue to the fair association.

B. Each organization licensee that, pursuant to this section, holds a race meeting at which the pari-mutuel system of wagering is conducted shall retain the following amounts from the monies wagered:

1. On win, place, and show wagers, an amount equal to eighteen percent (18%) shall be retained and distributed as follows:

- a. two-thirds (2/3) of the eighteen percent (18%) to the organization licensee, and
- b. one-third (1/3) of the eighteen percent (18%) to purses for participating horses;

2. On race wagers involving two races or two horses, an amount equal to twenty-one percent (21%) shall be retained and distributed as follows:

- a. one percent (1%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding and Development Fund Special Account for participating horses,
- \*3251** b. two-thirds (2/3) of the balance of the amount retained to the organization licensee, and
- c. one-third (1/3) of the balance of the amount retained to purses for participating horses;

3. On race wagers involving three or more races or three or more horses, an amount equal to not less than twenty-one percent (21%) nor more than twenty-five percent (25%) shall be retained and distributed as follows:

- a. one percent (1%) shall be remitted to the Commission, at such intervals as required by the Commission, for deposit in the Oklahoma Breeding and Development Fund Special Account for participating horses,
- b. two-thirds (2/3) of the balance of the amount retained to the organization licensee, and
- c. one-third (1/3) of the balance of the amount retained to purses for participating horses; and

4. a. Wagers conducted pursuant to Section 205.7 of this title by an organization licensee pursuant to this section whether or not such wagers are accepted during the live race meeting of the organization licensee shall be exempt from the provisions of subsection E of Section 205.7 of this title.

- b. Except as otherwise provided by law, the amount remaining after the deduction made pursuant to the provisions of subsection D of Section 205.7 of this title and after the contractual payment to the out-of-state host racing organization shall be distributed as follows: an amount equal to two percent (2%) of the monies wagered shall be distributed to the organization

licensee and the balance shall be distributed as follows:

- (1) fifty percent (50%) to the organization licensee, and
- (2) fifty percent (50%) to the organization licensee to be distributed as purses.

C. Any organization licensed pursuant to this section and conducting pari-mutuel wagering on races being run at another organization licensee within the State of Oklahoma shall retain from the monies being wagered an amount equal to the amount being retained from wagers by the sending track. The amount of money retained shall be distributed as follows:

- \*3252** 1. Fifty percent (50%) to the organization licensee; and
2. Fifty percent (50%) to the organization licensee as purses for participating horses.

D. The Commission shall issue occupation licenses for personnel of organization licensees licensed pursuant to this section. Each occupation license shall be issued pursuant to Section 204.2 of this title except that the occupation license fee shall not be more than Ten Dollars (\$10.00) excluding fingerprinting fees.

### CREDIT(S)

*Laws 1983, c. 11, § 28, emerg. eff. March 22, 1983; Laws 1990, c. 162, § 1, operative July 1, 1990; Laws 1994, c. 83, § 2, emerg. eff. April 19, 1994; Laws 1995, c. 125, § 4; Laws 2001, c. 182, § 2, emerg. eff. May 2, 2001; Laws 2004, c. 8, § 23.*

### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

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The 1990 amendment rewrote the section which prior thereto read:

"Any fair association organized pursuant to the provisions of Title 2 of the Oklahoma Statutes for Agricultural Fair Corporations, the Free Oklahoma State Fair, Free District Fairs, and Agricultural and Industrial Expositions Fairs or any existing county, district or state fair as of January 1, 1983, may apply to the Commission for one race meeting each year to be held within the boundaries of the county where the fair association is located on specified dates which coincide with the dates of the

fair sponsored by the fair association not to exceed fourteen (14) days. The Commission may set the number of days and the dates of such race meeting. A race meeting conducted pursuant to the provisions of this section shall be conducted in such a manner that all profits shall accrue to the fair association. The profits shall not exceed eighteen percent (18%) of the total amount of moneys wagered. All race meetings conducted by fair associations pursuant to the provisions of this section shall be exempt from the provisions of paragraph 1 of subsection B of Section 23 of the Oklahoma Horse Racing Act."

**\*3253** Laws 1990, H.B. 1437 (c. 162) was vetoed by Governor on May 1, 1990. Veto was overridden by the Oklahoma Senate and House of Representatives on May 2, 1990 filed with the Secretary of State on the same date.

The 1994 amendment, in subsection A, in the first sentence deleted from the end "on specified dates which coincide with the dates of the fair sponsored by the fair association not to exceed fourteen (14) days", in the second sentence added "requested by the fair association", and inserted the third sentence; and made a nonsubstantive change.

The 1995 amendment, in subsection A, increased the days from fourteen to sixteen and the day period from twenty-three to twenty-eight.

The 2001 amendment, in subsection A, in the third sentence, added "or a fair association shall be permitted to conduct a race meeting of twenty (20) to twenty-two (22) days during a thirty-eight-consecutive-day period"; in subsection B, rewrote paragraphs 2 and 3, which prior thereto read:

"2. On daily double, quinella, and exacta wagers, an amount equal to twenty percent (20%) shall be retained and distributed as follows:

"a. seven-tenths ( 7/10 ) of the twenty percent (20%) to the organization licensee, and

"b. three-tenths ( 3/10 ) of the twenty percent (20%) to purses for participating horses;

"3. On pick six wagers, an amount equal to twenty-five percent (25%) shall be retained and distributed as follows:

"a. three-fifths ( 3/5 ) of the twenty-five percent (25%) to the organization licensee, and

"b. two-fifths ( 2/5 ) of the twenty-five percent (25%) to purses for participating horses."

; inserted subsection C; and redesignated former subsection C as subsection D.

### REFERENCES

#### LIBRARY REFERENCES

##### 2003 Main Volume

Theaters and Shows ↻3.10'.

Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports § 20.

## ANNOTATIONS

### NOTES OF DECISIONS

**Exempt wagering 1**  
**Exhaustion of remedies 3**  
**Multiple wagers 2**

#### 1. Exempt wagering

Tax exemption for fair associations's revenue from parimutuel wagers was limited to revenue from wagers on simulcast racing occurring while fair meet was in session; revenues from simulcast racing conducted at fair association facilities at other times during the year were subject to tax. *Tulsa County Public Facilities Authority v. State ex rel. Oklahoma Tax Com'n*, Okla.Civ.App. Div. 1, 955 P.2d 741 (1997), certiorari denied. Gaming ☞4

\*3254 The provisions of 3A O.S.Supp.1995, § 208.2, which exempt from taxation wagers placed on horse races conducted during a fair meet held by a fair association or like entity, does not exempt from taxation inter-track, simulcast wagering placed at such facility when no fair meet is being conducted. Op.Atty.Gen. No. 95-101 (Dec. 21, 1995).

The tax exemptions provided to fair organizations granted an organization license extend to monies received during the race meetings on all win, place and show wagers, daily double, quinella, exacta and pick six wagers, but not to multiple wagers. Op.Atty.Gen. 00-50 (Oct. 4, 2000).

#### 2. Multiple wagers

Fairs associations granted an organization license may accept any Commission-approved multiple wagers. Op.Atty.Gen. No. 00-50 (Oct. 4, 2000).

#### 3. Exhaustion of remedies

Horsemen suing public facilities authority for breach of contract in allegedly misappropriating pari-mutuel handle from wagers on horse races were required to first exhaust their administrative remedies before the Horse Racing Commission, as breach of contract claim depended on Commission's determination of whether there had been a violation of statutes dealing with distribution of purse money. *Oklahoma Horsemen's Benevolent and Protective Ass'n, Inc. v. Shotts*, Okla.Civ.App. Div. 3, 38 P.3d 916 (2001), certiorari denied. Theaters And Shows ☞3.10

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3255 3A Okl.St. Ann. § 208.3**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 208.3. Oklahoma Breeding Development Fund Special Account**

A. There is hereby created in the State Treasury an agency special account for the Oklahoma Horse Racing Commission, to be designated the "Oklahoma Breeding Development Fund Special Account". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission for deposit in the fund pursuant to Section 205.6 of this title and from revenue received as breakage and from unclaimed pari-mutuel tickets. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the purposes specified in subsection B of this section. Expenditures from said fund shall be made upon vouchers prescribed by the State Treasurer and issued by the Commission against the Oklahoma Breeding Development Fund Special Account. The official registering agency designated by the Commission pursuant to subsection D of this section shall verify the current eligibility of a participating horse prior to distributing any purse supplement, stake, reward or award from the Oklahoma Breeding Development Fund Special Account. Any person entitled to monies from the Oklahoma Breeding Development Fund Special Account as a purse supplement, stake, reward, or award ("awards"), will forfeit such monies if that person fails to comply with all requirements necessary for earning the awards. Further, any such person will forfeit such monies if, within one (1) year from the date of the race in which such award was earned, that person does not submit the state voucher for payment or for replacement in the event of an expired voucher, or if that person fails to submit all documentation required by the Oklahoma Horse Racing Commission. In such event, monies accrued from forfeiture will be returned to the Oklahoma Breeding

Development Fund for expenditure by the Commission for the purposes specified in subsection B of this section.

B. No monies shall be expended by the Commission from the Oklahoma Breeding Development Fund Special Account except for any of the following purposes:

**\*3256** 1. To provide purse supplements to owners of Oklahoma-bred horses;

2. To provide stakes and rewards to be paid to the owners of the winning Oklahoma-bred horses in certain horse races;

3. To provide stallion awards to the owner of the Oklahoma stallion which is the sire of an Oklahoma-bred horse if such a horse wins any race conducted at a race meeting;

4. To provide breeders awards to the owner of the Oklahoma-registered mare which is the dam of an Oklahoma-bred horse if such a horse wins any race conducted at a race meeting;

5. To provide monies for equine research through state institutions accredited for the same;

6. To provide monies for use in marketing, promoting and advertising the Oklahoma-Bred Program and the Oklahoma horse racing industry to the people of Oklahoma, the United States and abroad; and

7. To provide for the administration of the Oklahoma Breeding Development Program. The Oklahoma Horse Racing Commission is hereby authorized to utilize up to ten percent (10%) of the prior year's receipts for administration. All expenses reimbursed as administrative pursuant to this subsection shall be itemized and audited pursuant to subsection E of this section. Any monies transferred from the Oklahoma Breeding Development Fund Special Account to the Oklahoma Breeding Development Revolving Fund for administrative reimbursement found to be unsubstantiated, excessive or ineligible for reimbursement by said audit shall be returned to the Oklahoma Breeding Development Fund Special Account within thirty (30) days of the conclusion of the audit.

C. By rule the Commission shall:

1. Define the term Oklahoma-bred horse;
2. Qualify stallions for participation in Oklahoma-bred stallion awards;
3. Provide for the registration of Oklahoma-domiciled mares and stallions and Oklahoma-bred horses. No such horse shall compete in the races limited to Oklahoma-bred horses unless registered with the Commission. The Commission may prescribe such forms as are necessary to determine the eligibility of such horses; provided, breeding stallions shall be eligible for registration in the Oklahoma-bred breeding program until July 1 of the breeding year. No person shall knowingly prepare or cause preparation of an application for registration of such foals which contains false information;

**\*3257** 4. Establish a schedule of fees for the registration of Oklahoma-domiciled mares and stallions and Oklahoma-bred horses sufficient to provide for all expenses incurred in the administration of the Oklahoma Breeding Development Fund Special Account; and

5. Allow a mare registered as Oklahoma-bred racing stock which has not been registered as an Oklahoma broodmare prior to foaling to be registered as an Oklahoma broodmare upon payment of the registration fee and a late fee not to exceed Two Hundred Dollars (\$200.00), which action shall entitle the foals of the mare to be registered as Oklahoma-bred horses provided all other qualifications of the Commission are met.

D. The Commission may contract with and designate an official registering agency to implement the registration of horses and the payment of awards from the Oklahoma Breeding Development Fund Special Account. The official registering agency shall operate under the supervision of the Commission and be subject to the rules and regulations of the Commission. The official registering agency shall receive no compensation except fees received for registration of horses. In the event the Commission elects to perform as the official registering agency rather than contracting for such services, the Commission shall deposit all registration fees from the registration of Oklahoma-bred horses into the Oklahoma Breeding Development Fund Special Account.

E. The State Auditor and Inspector shall audit the Oklahoma Breeding Development Fund Special Account on an annual basis. The expense of the audit shall be paid from said Special Account.

### CREDIT(S)

*Laws 1983, c. 11, § 29, emerg. eff. March 22, 1983; Laws 1985, c. 52, § 2, operative July 1, 1985; Laws 1985, c. 196, § 9, operative July 1, 1985; Laws 1989, c. 369, § 101, operative July 1, 1989; Laws 1992, c. 26, § 2, eff. July 1, 1992; Laws 1993, c. 270, § 29, eff. Sept. 1, 1993; Laws 1993, c. 360, § 1, eff. Sept. 1, 1993; Laws 1998, c. 409, § 1, eff. July 1, 1999; Laws 2003, c. 299, § 4, eff. July 1, 2003; Laws 2006, c. 274, § 3, emerg. eff. June 7, 2006. \*3258*

### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

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Section 1 of Laws 1993, S.B. No. 341 (c. 254), amending this section, was repealed by Laws 1993, c. 360, § 17.

Laws 1993, c. 270, § 29 added paragraph 6 in subsection B; and in subsection C, in paragraph 3, in the third sentence, added the proviso, and added paragraph 5.

Laws 1993, c. 360, § 1, in subsection A, added the sixth to eighth sentences; in subsection B, in paragraph 3 deleted the second sentence, which read: "Such award shall not be paid to the owner of an Oklahoma stallion that served outside this state at any time during the calendar year in which the winning Oklahoma-bred horse was conceived;"; inserted paragraph 6, and redesignated former paragraph 6 as paragraph 7; and in subsection C.2, deleted the second sentence, which read: "Such stallion must not stand for service at any place outside Oklahoma during the calendar year in which the foal is conceived;".

The 1998 amendment, deleted "and regulation" following "rule"; and in subsection D, added the fourth sentence.

### REFERENCES

#### CROSS REFERENCES

Oklahoma Breeding Development Administration Revolving Fund, transfer of funds into and audit pursuant to this section, see Title 3A, § 208.3a.

#### LIBRARY REFERENCES

##### 2003 Main Volume

States  127.  
Theaters and Shows  3.10.  
Westlaw Topic Nos. 360, 376.

C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.  
C.J.S. States § 228.

**ANNOTATIONS**

**NOTES OF DECISIONS**

**Payments to Commission members or family members 1**

**1. Payments to Commission members or family members**

Members of the Oklahoma Horse Racing Commission and members of their immediate family are prohibited from receiving purses, stakes, rewards, stallion awards, or mare awards, paid out of the Oklahoma Breeding Development Revolving Fund, established in statute. Op.Atty.Gen. No. 87-73 (March 9, 1988).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3259 3A Okl.St. Ann. § 208.3a**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 208.3a. Oklahoma Breeding Development  
Administration Revolving Fund**

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Horse Racing Commission, to be designated the "Oklahoma Breeding Development Administration Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission from transfers made pursuant to paragraph 6 of subsection B of Section 208.3 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the purpose of administering the Oklahoma Breeding Development Program, or additions to purses of Oklahoma-bred races, and for no other purpose. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Monies received by and expenditures from said fund shall be subject to an annual audit pursuant to paragraph 6 of subsection B and subsection E of

Section 208.3 of this title.

At the close of each fiscal year any unencumbered, unobligated, and unexpended monies in the Oklahoma Breeding Development Administration Revolving Fund shall be transferred to the Oklahoma Breeding Development Fund Special Account.

**CREDIT(S)**

*Laws 1993, c. 270, § 30, eff. Sept. 1, 1993; Laws 1998, c. 409,  
§ 2, effective July 1, 1999.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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The 1998 amendment, in subsection A, in the third sentence, added ", or additions to purses of Oklahoma-bred races, and for no other purpose"; in subsection B, in the second paragraph, deleted "the fiscal year ending June 30, 1994, and at the close of" following "close of"; and made other nonsubstantive changes.

**\*3260**

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

States  127.

Westlaw Topic No. 360.

C.J.S. States § 228.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3261 3A Okl.St. Ann. § 208.4**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 208.4. Conducting race or race meeting without license--Permitting minors to participate in certain activities--Penalties**

A. Any person holding a race or race meeting at which pari-mutuel or non-pari-mutuel wagering is conducted without a valid organization license issued pursuant to the provisions of the Oklahoma Horse Racing Act, upon conviction, shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment.

B. No organization licensee shall knowingly permit any minor to be a patron of the pari-mutuel system of wagering conducted by the organization licensee. Any person convicted of violating any provision of this subsection shall be guilty of a misdemeanor.

**CREDIT(S)**

*Laws 1983, c. 11, § 30, emerg. eff. March 22, 1983; Laws 1993, c. 254, § 2, emerg. eff. May 26, 1993; Laws 1997, c. 133, § 112, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 45, eff. July 1, 1999; Laws 2006, c. 274, § 4, emerg. eff. June 7, 2006.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2003 Main Volume**

The 1993 amendment, in subsection B, in the first sentence, deleted "other than an employee of such organization licensee or an occupation licensee to be admitted to the grandstand and any other pari-mutuel wagering areas during a race meeting, or any minor" following "minor".

The 1997 amendment, in subsection A, substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

**\*3262** The 1999 amendment restored the language changed by the 1997 amendment.

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞ 3.10, 9.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46, 102 to 103.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3263 3A Okl.St. Ann. § 208.5**

**eff. Sept. 1, 1993**

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*Current with emergency effective chapters  
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See, now, Title 3A, § 208.11.

Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
Legislature (2007).

**§ 208.5. Repealed by Laws 1993, c. 85, § 2,**

**\*3264 3A Okl.St. Ann. § 208.6**

**OKLAHOMA STATUTES  
ANNOTATED  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 208.6. True name of horse to be used--Violations**

A. No person shall knowingly enter or cause to be entered for competition any horse under any other name than its true name, or out of its proper class, for any purse, prize, premium, stake, or sweepstakes offered to the winner of a contest of speed at any race meeting held by an organization licensee.

B. The name of any horse, for the purpose of entry for competition in any contest of speed, shall be the name under which the horse has been registered and has publicly performed.

C. Any person convicted of violating the provisions of this section shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment.

**CREDIT(S)**

*Laws 1983, c. 11, § 32, emerg. eff. March 22, 1983; Laws 1997, c. 133, § 113, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 46, eff. July 1, 1999.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

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The 1997 amendment, in subsection C, substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

The 1999 amendment restored the language changed by the 1997 amendment.

**REFERENCES**

**CROSS REFERENCES**

Racketeering activity defined for purposes of charges or indictment under this section, see Title 22, § 1402.

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞ 3.10, 9.

\*3265 Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 38 to 46, 102 to 103.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3266 3A Okl.St.Ann. § 208.7**

**OKLAHOMA STATUTES  
ANNOTATED  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 208.7. Use of certain devices for stimulating or depressing horse prohibited--Violations--Penalties**

A. It shall be unlawful for any person to:

1. Use or conspire to use any battery, buzzer, electrical or mechanical device, or other device other than the ordinary whip for the purpose of stimulating or depressing a horse or affecting its speed at any time; or

2. Sponge the nostrils or windpipe of a horse for the purpose of stimulating or depressing a horse or affecting its speed at any time; or

3. Have in the possession of the person, within the confines of a racetrack, stables, sheds, buildings, or grounds where horses are kept which are eligible to race over a racetrack of any organization licensee, any device other than the ordinary whip which may or can be used for the purpose of stimulating or depressing a horse or affecting its speed at any time; or

4. Have in the possession of the person with the intent to sell, give away, or exchange any such devices.

B. Possession of such devices by anyone within the confines of a racetrack, stables, sheds, buildings, or grounds where horses are kept which are eligible to race over the racetracks of any organization licensee shall be prima facie evidence of intention to

use such devices.

C. Any person who violates the provisions of this section, upon conviction, shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment. The Commission shall suspend or revoke the license of any person convicted of violating the provisions of this section.

**CREDIT(S)**

*Laws 1983, c. 11, § 33, emerg. eff. March 22, 1983; Laws 1997, c. 133, § 114, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 47, eff. July 1, 1999. \*3267*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2003 Main Volume**

The 1997 amendment, in subsection C, substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

The 1999 amendment restored the language changed by the 1997 amendment.

**REFERENCES**

**CROSS REFERENCES**

Racketeering activity defined for purposes of charges or indictment under this section, see Title 22, § 1402.

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞9.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 102 to 103.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3268 3A Okl.St. Ann. § 208.8**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 208.8. Corrupt acts and practices--Penalties**

A. It shall be unlawful for any person to directly or indirectly engage or to conspire with or aid, assist, or abet any other person in the commission of any corrupt act or practice, including but not limited to:

1. The giving, offering, promising, accepting, soliciting or receiving, directly or indirectly, any gratuity or bribe in any form to any person having duties in relation to any race or race horse or to any trainer, jockey, starter, assistant starter, gatekeeper or agent or to any other person having charge of, or access to, any race horse; or

2. The passing or attempting to pass or the cashing or attempting to cash any altered or fraudulent pari-mutuel ticket; or

3. The unauthorized sale or the attempt to make an unauthorized sale of any racetrack admission ticket.

B. Any person who is convicted of violating the provisions of subsection A of this section shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment.

C. If any person who is convicted of violating the provisions of subsection A of this section is licensed pursuant to the provisions of the Oklahoma Horse Racing Act, Section 200 et seq. of this title, the Commission shall suspend or revoke the

organization or occupation license of the person in addition to the penalty and fine imposed in subsection B of this section.

**CREDIT(S)**

*Laws 1983, c. 11, § 34, emerg. eff. March 22, 1983; Laws 1990, c. 275, § 2, emerg. eff. May 25, 1990; Laws 1997, c. 133, § 115, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 48, eff. July 1, 1999. \*3269*

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2003 Main Volume**

The 1990 amendment, in subsection A, introductory paragraph, substituted "commission" for "Commission"; in subsection A, paragraph 1, deleted "or," preceding and following "offering", substituted ", accepting, soliciting or receiving," for "to" following "promising", deleted "official" preceding "duties" and inserted "starter, assistant starter, gatekeeper"; and in subsection C, inserted "Section 200 et seq. of this title".

The 1997 amendment, in subsection B, substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

The 1999 amendment restored the language changed by the 1997 amendment.

**REFERENCES****CROSS REFERENCES**

Racketeering activity defined for purposes of charges or indictment under this section, see Title 22, § 1402.

**LIBRARY REFERENCES****2003 Main Volume**

Theaters and Shows  9.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 102 to 103.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3270 3A Okl.St. Ann. § 208.9**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 208.9. Compensation for wagering prohibited--Penalties**

No person shall directly or indirectly, for any type of compensation including but not limited to fees, dues, or donations, accept anything of value from another to be transmitted or delivered for wager in any pari-mutuel system of wagering on horse races or collect a wager in any pari-mutuel system of wagering on horse races. Nothing in this section prohibits wagering transactions authorized pursuant to the provisions of the Oklahoma Horse Racing Act . Any person that violates the provisions of this section, upon conviction, shall be guilty of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment.

**CREDIT(S)**

*Laws 1983, c. 11, § 35, emerg. eff. March 22, 1983; Laws 1990,*

*c. 275, § 3, emerg. eff. May 25, 1990; Laws 1997, c. 133, § 116, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 49, eff. July 1, 1999.*

**HISTORICAL NOTES****HISTORICAL AND STATUTORY NOTES****2003 Main Volume**

The 1997 amendment substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

The 1999 amendment restored the language changed by the 1997 amendment.

The 1990 amendment, in the first sentence, added "or collect a wager in any pari-mutuel system of wagering on horse races".

**REFERENCES****LIBRARY REFERENCES****2003 Main Volume**

Gaming ☞71, 73.

Theaters and Shows ☞9.

\*3271 Westlaw Topic Nos. 188, 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 102 to 103.

C.J.S. Gaming §§ 85, 89, 91 to 92, 98.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3272 3A Okl.St. Ann. § 208.10**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 208.10. Fraud regarding prior racing record, pedigree, identity or ownership of registered animal**

It shall be unlawful for any person to falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry regarding the prior racing record, pedigree, identity or ownership of a registered animal in any matter related to the breeding, buying, selling, or racing of such animal. Whoever violates any provision of this section shall be guilty of a felony and fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for not more than ten (10) years, or be both so fined and imprisoned.

**CREDIT(S)**

*Laws 1985, c. 196, § 10, operative July 1, 1985; Laws 1997, c. 133, § 117, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 50, eff. July 1, 1999.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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The 1997 amendment substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

The 1999 amendment restored the language changed by the 1997 amendment.

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞9.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 102 to 103.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3273 3A Okl.St. Ann. § 208.11**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 208.11. Administration of drugs or  
medications--Determination by rule--  
Penalties**

A. Except as provided in subsection B of this section, the Oklahoma Horse Racing Commission is hereby authorized to determine by rule which drugs and medications, if any, may be administered to a horse prior to or during a horse race and to determine by rule the conditions under which such drugs and medications may be used or administered.

B. All horses participating in a horse race may be administered Furosemide prior to a horse race as authorized by the rules of the Oklahoma Horse Racing Commission.

C. The administration of any drug or medication to a horse prior to or during a horse race which is not permitted by rule of the Commission is prohibited.

D. Any person who violates the provisions of this section or who knowingly enters in a race a horse to which any drug or medication has been administered in violation of this section shall be guilty, upon conviction, of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10)

years, or by both said fine and imprisonment. The Commission shall suspend or revoke the license of any such guilty party.

**CREDIT(S)**

*Laws 1993, c. 85, § 1, eff. Sept. 1, 1993; Laws 1997, c. 133, § 118, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 51, eff. July 1, 1999; Laws 2003, c. 48, § 1, emerg. eff. April 7, 2003; Laws 2004, c. 517, § 2, emerg. eff. June 9, 2004.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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The 1997 amendment, in subsection C, substituted ". The fine for a violation of this subsection shall not exceed Ten Thousand Dollars (\$10,000.00)" for "and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years or both said fine and imprisonment", thereby creating the second sentence.

**\*3274** The 1999 amendment restored the language changed by the 1997 amendment.

Source:

Laws 1983, c. 11, § 31.  
3A O.S.1991, § 208.5.

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ☞ 3.10, 9.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46, 102 to 103.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3275 3A Okl.St. Ann. § 208.12**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 208.12. Gaming areas not subject to certain  
smoking prohibitions--Requirements**

The gaming areas of the premises of an organization licensee and, except for the off-track wagering facilities specified in Section 205.6a of Title 3A of the Oklahoma Statutes, the areas where simulcast wagering is conducted by an organization licensee shall not be subject to the provisions of Section 1247 of Title 21 of the Oklahoma Statutes or to the provisions of the Smoking in Public Places

and Indoor Workplaces Act [FN1] if the following conditions are met:

1. Each gaming or simulcast area in which smoking is permitted shall be fully enclosed, directly exhausted to the outside, under negative air pressure so smoke cannot escape to nonsmoking areas when a door is opened, and no air from a smoking area is recirculated to nonsmoking areas of the building; and

2. No exhaust from such gaming or simulcast area shall be located within twenty-five (25) feet of any entrance, exit, or air intake.

**CREDIT(S)**

*Laws 2004, c. 517, § 3, emerg. eff. June 9, 2004.*

[FN1] Title 63, § 1-1521 et seq.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3276 3A Okl.St. Ann. § 209**

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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 209. County option**

No pari-mutuel racetrack shall be licensed in any county unless the majority of the voters of said county, voting at an election held for that purpose, approve the conducting of pari-mutuel horse racing in said county. An election shall be called upon the filing of a petition with the county election board containing not less than ten percent (10%) of the qualified voters within any such county.

**CREDIT(S)**

*State Question No. 553, Initiative Petition No. 315, adopted at election held Sept. 21, 1982.*

**REFERENCES****LIBRARY REFERENCES****2003 Main Volume**

Theaters and Shows ☞3.10.  
Westlaw Topic No. 376.  
C.J.S. Entertainment and Amusement.  
C.J.S. Sports §§ 38 to 46.

**ANNOTATIONS****NOTES OF DECISIONS****Construction and application 2****Elections 3****Indian tribe facilities 4****Validity 1****1. Validity**

County option vote provided for in section of horse racing initiative petition did not fall within definition of "initiative process" because it could not be acted upon at county level in absence of legislative authorization at state level and thus did not violate Const. Art. 5, § 5 which required signatures of 16% of voters in county to invoke initiative petition procedures in the county. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Statutes ☞301

**2. Construction and application**

Voters of county could not by means of county initiative procedures legalize pari-mutuel horse race betting in the absence of statewide legislative action to remove statewide criminal prohibitions. In re Initiative Petition No. 315, State Question No. 553, Okla., 649 P.2d 545 (1982). Gaming ☞4

**\*3277** The repeal of § 210 of this title does not render the provisions of statute inoperative. Op.Atty.Gen. No. 83-283 (March 19, 1984).

**3. Elections**

Statute does not permit county to rescind earlier vote by which it had approved conducting of pari-mutuel horse racing. Op.Atty.Gen. No. 85-18 (March 18, 1985).

Statute provides sufficient statutory authority to hold county-option pari-mutuel elections. Op.Atty.Gen. No. 83-283 (March 19, 1984).

**4. Indian tribe facilities**

Under provisions of Indian Gaming Regulatory Act, 25 U.S.C.A. §§ 2701 to 2721, the applicability of the "county option" restrictions of 3A O.S.1991, § 209 and 3A O.S.Supp.1997, § 205.6a to tribal gambling in Indian Country is governed by terms of negotiated Tribal-State Compact. Op.Atty.Gen. No. 97-106 (Jan. 27, 1998).

Where Tribal-State Compact negotiated under Indian Gaming Regulatory Act, 25 U.S.C.A. §§ 2701 to 2721, does not provide for applicability of "county option" restrictions to pari-mutuel horse race wagering conducted in Indian Country under the Compact, the Oklahoma Horse Racing Commission can lawfully authorize an organization licensee to simulcast its live horse races to the compacting Tribe off-track pari-mutuel wagering facilities located in Indian Country, even when the Tribe's facilities are located in a county whose voters have not approved pari-mutuel horse racing. Op.Atty.Gen. No. 97-106 (Jan. 27, 1998).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3278 3A Okl.St. Ann. § 210**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
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**§ 210. Repealed by Laws 1983, c. 11, § 38,  
emerg. eff. March 22, 1983**

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The repealed section, derived from State Question No. 553, Initiative Petition No. 315, adopted at election held September 21, 1982; Laws 1983, c. 1, § 1, related the duty of Legislature to enact legislation for implementing Horse Racing Act.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3279 3A Okl.St. Ann. § 211**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§§ 211 to 231. Repealed by Laws 2004, c. 316,  
§ 26**

**HISTORICAL NOTES**

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NOTES**

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Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3280** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

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*Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
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**\*3281 3A Okl.St. Ann. § 212**

2004, c. 8, § 7.

**OKLAHOMA STATUTES  
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Repealed § 217, relating to official representatives of Thoroughbred and non-Thoroughbred horses, negotiations and covenants, and financial accounting, was derived from Laws

**\*3283 3A Okl.St. Ann. § 213**

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**\*3285 3A Okl.St. Ann. § 214**

2004, c. 8, § 7.

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ANNOTATED  
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**\*3287 3A Okl.St. Ann. § 215**

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Chapter 36 of the First Regular Session of the 51st  
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**\*3289 3A Okl.St. Ann. § 216**

**OKLAHOMA STATUTES  
ANNOTATED  
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**\*3291 3A Okl.St. Ann. § 217**

2004, c. 8, § 7.

**OKLAHOMA STATUTES  
ANNOTATED  
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**\*3293 3A Okl.St. Ann. § 218**

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**\*3297 3A Okl.St. Ann. § 220**

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**\*3298** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

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Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§§ 211 to 231. Repealed by Laws 2004, c. 316,  
§ 26**

**HISTORICAL NOTES**

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**2007 Electronic Update**

Repealed § 211, relating to the title of the State-Tribal Gaming Act, was derived from Laws 2004, c. 8, § 1

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Repealed § 215, relating to the transfer of purse money, agreements and rescission, was derived from Laws 2004, c. 8, § 5.

Repealed § 216, relating to out-of-state full card simulcast races, was derived from Laws 2004, c. 8, § 6.

Repealed § 217, relating to official representatives of Thoroughbred and non-Thoroughbred horses, negotiations and covenants, and financial accounting, was derived from Laws

**\*3299 3A Okl.St. Ann. § 221**

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§ 26**

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Repealed § 219, relating to definitions, was derived from Laws 2004, c. 8, § 9.

Repealed § 220, relating to player terminals and recording, monitoring and regulating of plays, was derived from Laws 2004, c. 8, § 10.

Repealed § 221, relating to minimum standards for games, was derived from Laws 2004, c. 8, § 11.

Repealed § 222, relating to the audit of game software, was derived from Laws 2004, c. 8, § 12.

Repealed § 223, relating to bonanza-style games, was derived from Laws 2004, c. 8, § 13.

Repealed § 224, relating to instant bingo games, was derived from Laws 2004, c. 8, § 14.

Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3300** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through  
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**\*3301 3A Okl.St. Ann. § 222**

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Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3302** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

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**\*3303 3A Okl.St. Ann. § 223**

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Repealed § 219, relating to definitions, was derived from Laws 2004, c. 8, § 9.

Repealed § 220, relating to player terminals and recording, monitoring and regulating of plays, was derived from Laws 2004, c. 8, § 10.

Repealed § 221, relating to minimum standards for games, was derived from Laws 2004, c. 8, § 11.

Repealed § 222, relating to the audit of game software, was derived from Laws 2004, c. 8, § 12.

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Repealed § 224, relating to instant bingo games, was derived from Laws 2004, c. 8, § 14.

Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3304** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
Legislature (2007).*

**\*3305 3A Okl.St. Ann. § 224**

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Repealed § 218, relating to certification of electronic games, review by the commission, and modification of electronic games, was derived from Laws 2004, c. 8, § 8.

Repealed § 219, relating to definitions, was derived from Laws 2004, c. 8, § 9.

Repealed § 220, relating to player terminals and recording, monitoring and regulating of plays, was derived from Laws 2004, c. 8, § 10.

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Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3306** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
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**\*3307 3A Okl.St. Ann. § 225**

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Repealed § 219, relating to definitions, was derived from Laws 2004, c. 8, § 9.

Repealed § 220, relating to player terminals and recording, monitoring and regulating of plays, was derived from Laws 2004, c. 8, § 10.

Repealed § 221, relating to minimum standards for games, was derived from Laws 2004, c. 8, § 11.

Repealed § 222, relating to the audit of game software, was derived from Laws 2004, c. 8, § 12.

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Repealed § 224, relating to instant bingo games, was derived from Laws 2004, c. 8, § 14.

Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3308** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

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**\*3309 3A Okl.St. Ann. § 226**

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Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3310** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

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**\*3311 3A Okl.St. Ann. § 227**

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Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3312** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**\*3313 3A Okl.St. Ann. § 228**

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Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3314** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

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**\*3315 3A Okl.St. Ann. § 229**

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Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3316** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
Legislature (2007).*

**\*3317 3A Okl.St. Ann. § 230**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§§ 211 to 231. Repealed by Laws 2004, c. 316,  
§ 26**

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

Repealed § 211, relating to the title of the State-Tribal Gaming Act, was derived from Laws 2004, c. 8, § 1

Repealed § 212, relating to authorized gaming licenses, was derived from Laws 2004, c. 8, § 2.

Repealed § 213, relating to distributions and payments by licensees, was derived from Laws 2004, c. 8, § 3.

Repealed § 214, relating to race meetings and the number required, was derived from Laws 2004, c. 8, § 4.

Repealed § 215, relating to the transfer of purse money, agreements and rescission, was derived from Laws 2004, c. 8, § 5.

Repealed § 216, relating to out-of-state full card simulcast races, was derived from Laws 2004, c. 8, § 6.

Repealed § 217, relating to official representatives of Thoroughbred and non-Thoroughbred horses, negotiations and covenants, and financial accounting, was derived from Laws

2004, c. 8, § 7.

Repealed § 218, relating to certification of electronic games, review by the commission, and modification of electronic games, was derived from Laws 2004, c. 8, § 8.

Repealed § 219, relating to definitions, was derived from Laws 2004, c. 8, § 9.

Repealed § 220, relating to player terminals and recording, monitoring and regulating of plays, was derived from Laws 2004, c. 8, § 10.

Repealed § 221, relating to minimum standards for games, was derived from Laws 2004, c. 8, § 11.

Repealed § 222, relating to the audit of game software, was derived from Laws 2004, c. 8, § 12.

Repealed § 223, relating to bonanza-style games, was derived from Laws 2004, c. 8, § 13.

Repealed § 224, relating to instant bingo games, was derived from Laws 2004, c. 8, § 14.

Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3318** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
Legislature (2007).*

**\*3319 3A Okl.St. Ann. § 231**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§§ 211 to 231. Repealed by Laws 2004, c. 316,  
§ 26**

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

Repealed § 211, relating to the title of the State-Tribal Gaming Act, was derived from Laws 2004, c. 8, § 1

Repealed § 212, relating to authorized gaming licenses, was derived from Laws 2004, c. 8, § 2.

Repealed § 213, relating to distributions and payments by licensees, was derived from Laws 2004, c. 8, § 3.

Repealed § 214, relating to race meetings and the number required, was derived from Laws 2004, c. 8, § 4.

Repealed § 215, relating to the transfer of purse money, agreements and rescission, was derived from Laws 2004, c. 8, § 5.

Repealed § 216, relating to out-of-state full card simulcast races, was derived from Laws 2004, c. 8, § 6.

Repealed § 217, relating to official representatives of Thoroughbred and non-Thoroughbred horses, negotiations and covenants, and financial accounting, was derived from Laws

2004, c. 8, § 7.

Repealed § 218, relating to certification of electronic games, review by the commission, and modification of electronic games, was derived from Laws 2004, c. 8, § 8.

Repealed § 219, relating to definitions, was derived from Laws 2004, c. 8, § 9.

Repealed § 220, relating to player terminals and recording, monitoring and regulating of plays, was derived from Laws 2004, c. 8, § 10.

Repealed § 221, relating to minimum standards for games, was derived from Laws 2004, c. 8, § 11.

Repealed § 222, relating to the audit of game software, was derived from Laws 2004, c. 8, § 12.

Repealed § 223, relating to bonanza-style games, was derived from Laws 2004, c. 8, § 13.

Repealed § 224, relating to instant bingo games, was derived from Laws 2004, c. 8, § 14.

Repealed § 225, relating to standards for player terminals, was derived from Laws 2004, c. 8, § 15.

Repealed § 226, relating to electronic accounting systems, was derived from Laws 2004, c. 8, § 16.

Repealed § 227, relating to standards for cashless transaction systems, was derived from Laws 2004, c. 8, § 17.

**\*3320** Repealed § 228, relating to electronic game components and certification by the manufacturer, was derived from Laws 2004, c. 8, § 18.

Repealed § 229, relating to disputes and collection of data, was derived from Laws 2004, c. 8, § 19.

Repealed § 230, relating to an offer of a model tribal gaming contract, was derived from Laws 2004, c. 8, § 20.

Repealed § 231, relating to a model tribal gaming compact, was derived from Laws 2004, c. 8, § 21.

*Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
Legislature (2007).*

**\*3321 3A Okl.St. Ann. § 251**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
RODEOS**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 251. Local rodeo committees--Acceptance  
of local entries**

A local rodeo committee may accept a local entry

for participation in a professionally sanctioned rodeo sponsored by such committee.

**CREDIT(S)**

*Laws 1996, c. 176, § 4, emerg. eff. May 4, 1996.*

**REFERENCES**

**LIBRARY REFERENCES**

**2003 Main Volume**

Theaters and Shows ↻3.60.

Westlaw Topic No. 376.

C.J.S. Entertainment and Amusement.

C.J.S. Sports §§ 24, 48.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3322 3A Okl.St. Ann. § 261**

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 261. Short title**

This act [FN1] shall be known and may be cited  
as the "State-Tribal Gaming Act".

**CREDIT(S)**

*Laws 2004, c. 316, § 2.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335,  
proposing enactment of this section by Laws 2004, c. 316, was  
approved by the people Nov. 2, 2004.

**REFERENCES**

**LAW REVIEW AND JOURNAL  
COMMENTARIES**

A new era of economic termination? Justice Department  
announces an effort to restrict Class II Indian gaming. D.  
Michael McBride III, 77 Okla. B.J. 541 (2006).

Current with emergency effective chapters through  
Chapter 36 of the First Regular Session of the 51st  
Legislature (2007).

**\*3323 3A Okl.St. Ann. § 262**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 262. Authorized gaming licenses**

A. If at least four (4) 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 [FN1] 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 [FN2] 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. 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. In any week, authorized gaming may be conducted for not more than one hundred six (106) total hours, with not more than eighteen (18) hours in any twenty-four-hour period. 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.

**\*3324** 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. Provided, 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 in a nonsmoking area. Provided further, 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 in a nonsmoking area; 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 [FN3] 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.

**\*3325 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 or games where winners are determined by the outcome of a sports contest.

#### CREDIT(S)

*Laws 2004, c. 316, § 3; Laws 2005, c. 222, § 1, emerg. eff. May 25, 2005.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

[FN2] O.S.L.2005, c. 222 [Title 3A, § 262]

[FN3] 25 U.S.C.A. § 2701 et seq.

#### HISTORICAL NOTES

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

\*3326

**REFERENCES**

**LAW REVIEW AND JOURNAL  
COMMENTARIES**

U.S. politics and tribal nation gaming: How it all plays out in Oklahoma. Angelique Eaglewoman, 77 Okla. B.J. 525 (2006).

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3327 3A Okl.St. Ann. § 262.1**

**OKLAHOMA STATUTES  
ANNOTATED  
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SPORTS  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 262.1. Occupation gaming licenses--  
Independent testing laboratory license**

A. The Oklahoma Horse Racing Commission shall issue occupation gaming licenses to manufacturer, distributor, manufacturer/distributor, vendor, manufacturer's employee, distributor's employee, manufacturer/distributor's employee, key executive, vendor employee, gaming employee and such other personnel designated by the Commission whose work, in whole or in part, is conducted at a gaming facility upon racetrack grounds which are owned by an organization licensee. The occupation gaming licenses shall be obtained prior to the time such persons engage in their vocations at the gaming facility upon such racetrack grounds at any time during the calendar year for which the Racetrack Gaming Operator License has been issued. No person required to be licensed pursuant to the provisions of this section may participate in any capacity at a gaming facility at a racetrack without a valid license authorizing such participation.

B. The activities authorized by the occupation gaming licenses issued pursuant to this section are as follows:

(1) Manufacturer License, which authorizes the approved licensee to manufacture, fabricate, assemble, produce, program, refurbish, or make modification to any gaming machine or device, authorized game, or associated equipment in accordance with the State-Tribal Gaming Act and Commission rules;

(2) Distributor License, which authorizes the approved nonmanufacturer to lease, sell, distribute or market any gaming machine, associated equipment, game program or program storage device

in Oklahoma or outside the state in accordance with the State-Tribal Gaming Act and Commission rules;

(3) Manufacturer/Distributor License, which authorizes the approved licensee to manufacture, fabricate, assemble, produce, refurbish, lease, sell, distribute, market or make modifications to any gaming machine, associated equipment, game program or program storage device in Oklahoma or outside the state in accordance with the State-Tribal Gaming Act and Commission rules;

**\*3328** (4) Vendor License, which authorizes a vendor, not licensed as a manufacturer, distributor, or manufacturer/distributor, that conducts operations on-site at a racetrack gaming facility to sell or lease goods and/or services to racetrack gaming operators;

(5) Manufacturer's Employee License, which authorizes the approved licensee to be an employee of a manufacturer who supplies gaming-related goods and/or services to the racetrack gaming operator on-site at the gaming facility;

(6) Distributor's Employee License, which authorizes the approved licensee to be an employee of a distributor who supplies gaming-related goods and/or services to the racetrack gaming operator on-site at the gaming facility;

(7) Manufacturer/Distributor's Employee License, which authorizes the approved licensee to be an employee of a manufacturer/distributor who supplies gaming-related goods and/or services to the racetrack gaming operator on-site at the gaming facility;

(8) Key Executive License, which authorizes the recipient to be employed as a key executive;

(9) Vendor Employee License, which authorizes any employee to work for a licensed vendor and supply goods and/or services on-site at the gaming facility;

(10) Gaming Employee License, which authorizes the recipient to be employed as a gaming employee; and

(11) Gaming Machine or Device License, which authorizes the racetrack gaming operator to use or have a gaming machine or device on the racetrack premises.

None of these gaming licenses may be transferred, sold, or assigned.

C. Testing laboratories that wish to function as a Commission-approved independent testing laboratory must apply to be issued an Independent Testing Laboratory License. The application must be accompanied by the required application fee and an investigation fee in an amount equal to one-half

of the license fee. The application fee shall be Five Thousand Dollars (\$5,000.00).

**CREDIT(S)**

*Laws 2005, c. 148, § 2, emerg. eff. May 9, 2005.*

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3329 3A Okl.St. Ann. § 263**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 263. Distributions and payments by licensees**

A. Each organization licensee described in paragraph 2 of subsection C of Section 3 of this act [FN1] shall distribute from the first Ten Million Dollars (\$10,000,000.00) of adjusted gross revenues generated by any gaming conducted pursuant to this act [FN2] as follows:

1. Ten percent (10%) shall be remitted to the Oklahoma Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty-five percent (25%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Sixty-five percent (65%) shall be retained by the organization licensee.

B. The organization licensee described in paragraph 1 of subsection C of Section 3 of this act shall distribute from the first Ten Million Dollars (\$10,000,000.00) of adjusted gross revenues generated by any gaming conducted pursuant to this act as follows:

1. Ten percent (10%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the

Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Thirty percent (30%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Sixty percent (60%) shall be retained by the organization licensee.

**\*3330** C. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Ten Million Dollars (\$10,000,000.00) per calendar year but not to exceed Thirty Million Dollars (\$30,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Ten percent (10%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Thirty percent (30%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Sixty percent (60%) shall be retained by the organization licensee.

D. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Thirty Million Dollars (\$30,000,000.00) per calendar year but not to exceed Forty Million Dollars (\$40,000,000.00) per calendar year generated by any gaming conducted pursuant to this act as follows:

1. Fifteen percent (15%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Thirty percent (30%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty-five percent (55%) shall be retained by the organization licensee.

E. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Forty Million Dollars (\$40,000,000.00) per calendar year but not to exceed Fifty Million Dollars (\$50,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Twenty percent (20%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

**\*3331** 2. Twenty-five percent (25%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty-five percent (55%) shall be retained by the organization licensee.

F. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Fifty Million Dollars (\$50,000,000.00) per calendar year but not to exceed Seventy Million Dollars (\$70,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Twenty-five percent (25%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty-two and one-half percent (22 1/2%) shall be retained by the organization licensee to be

distributed according to subsection H of this section; and

3. Fifty-two and one-half percent (52 1/2%) shall be retained by the organization licensee.

G. Each organization licensee shall distribute from retained adjusted gross revenues in excess of Seventy Million Dollars (\$70,000,000.00) per calendar year generated from any gaming conducted pursuant to this act as follows:

1. Thirty percent (30%) shall be remitted to the Tax Commission on the fifteenth day following the end of the month in which it was retained. Twelve percent (12%) of the revenue derived pursuant to this paragraph shall be apportioned monthly to the Oklahoma Higher Learning Access Trust Fund and eighty-eight percent (88%) of such revenue shall be apportioned to the Education Reform Revolving Fund;

2. Twenty percent (20%) shall be retained by the organization licensee to be distributed according to subsection H of this section; and

3. Fifty percent (50%) shall be retained by the organization licensee.

H. Each organization licensee shall remit, on the fifteenth day following the end of the month in which they were retained, an amount equal to nine percent (9%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section to the Oklahoma Horse Racing Commission for deposit in the Oklahoma Breeding Development Fund Special Account pursuant to Section 208.3 of Title 3A of the Oklahoma Statutes, to be distributed to the participating breeds as provided in paragraphs 1 and 2 of this subsection.

**\*3332** Each organization licensee shall remit to the official horsemen's organization representing participating horsemen during the live race meets, on the fifteenth day following the end of the month in which they were retained, an amount equal to one and five-tenths percent (1.5%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section on a pro rata basis based on the distribution of purse funds available to the breeds of horses participating in the live race meetings with one percent (1%) to be used for administrative expenses and five-tenths of one

percent (0.5%) to provide funding for a benevolence program at each racetrack to benefit participating horsemen and their employees. Such benevolence program shall provide medical benefits or services to persons associated with the horse racing industry who are in financial need.

Each organization licensee shall remit to the breed organizations designated by the official horsemen's representative, on the fifteenth day following the end of the month in which they were retained, an amount equal to one percent (1%) of the funds generated pursuant to paragraph 2 of subsections A through G of this section on a pro rata basis based on the distribution of purse funds available to the breeds of horses participating in the live race meetings for funding to support the breed organizations dedicated to the promotion of breeding and racing horses in Oklahoma.

Subject to the provisions of subsection I of this section, the remainder of the funds generated pursuant to paragraph 2 of subsections A through G of this section shall be distributed by the organization licensee as purses for participating horses as follows:

1. For organization licensees that conduct one or more race meetings dedicated to Thoroughbred racing and one or more race meetings dedicated to Quarter Horse, Paint and Appaloosa horse racing, fifty percent (50%) to purses for Thoroughbred races, forty-five percent (45%) to purses for Quarter Horse races, and five percent (5%) to purses for Paint and Appaloosa races; and

2. For all other organization licensees, forty-five percent (45%) to purses for Thoroughbred races, forty-five percent (45%) to purses for Quarter Horse races and ten percent (10%) to purses for Paint and Appaloosa horse races.

I. The percentage of purse money generated by an organization licensee that is designated for deposit to the Oklahoma Breeding Development Fund Special Account pursuant to subsection H of this section may be increased by an additional percentage that shall not exceed thirty-three percent (33%) of the total funds for participating horsemen upon the written application of the official horsemen's representative for each of the breeds of horses participating in a race meeting at the track.

All Oklahoma Breeding Development Fund Special Account monies generated pursuant to this section shall not be subject to a reduction pursuant to paragraph 7 of subsection B of Section 208.3 of Title 3A of the Oklahoma Statutes.

**\*3333** J. An organization licensee's annual application for race dates shall include any existing agreement between the organization licensee and the official horsemen's representative for each breed participating in the live racing meeting at that track which sets forth the thresholds whereby the minimum number of races will increase or decrease during that calendar year.

K. For purposes of this act a "recipient licensee" means 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 208.2 of Title 3A of the Oklahoma Statutes located in a county with a population exceeding five hundred thousand (500,000) persons, according to the most recent federal decennial census, and a "participating tribe" means a tribe which operates a gaming facility within a radius of twenty (20) miles from the enclosure of a recipient licensee pursuant to a compact set forth in Section 22 of this act. [FN3] Such compact shall require that a participating tribe contribute a percentage of its "monthly average take" from electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games (hereinafter referred to collectively as "electronic covered games") as defined in that tribe's Gaming Compact as long as the prohibition against fair associations or organizations licensed pursuant to Section 208.2 of Title 3A of the Oklahoma Statutes conducting authorized gaming under this act as set forth in subsection A of Section 3 of this act remains in effect. Participating tribes shall make contributions in accordance with the following requirements:

1. Each participating tribe shall calculate its monthly average take for electronic covered games for each calendar month of operation of electronic covered games. For purposes of this paragraph, the "monthly average take" shall mean all adjusted gross revenue from electronic covered games at the tribal gaming facilities that are located within a radius of twenty (20) miles from the enclosure of a recipient licensee during the applicable calendar month, divided by the number of electronic covered games

operated by the tribe at the gaming facility during the applicable calendar month;

2. Each participating tribe shall calculate its pro rata share of the payments required by this subsection, based on the number of electronic covered games in the tribal gaming facilities within the twenty-mile radius described in paragraph 1 of this subsection, during the applicable calendar month ("tribal share"). As an example only, if three (3) tribes participate in this subsection during a calendar month, and have the respective number of games in the amount of 500, 1,000, and 1,000, then the payments called for in paragraph 3 of this subsection would be multiplied by 20%, 40% and 40% to determine each tribe's pro rata share; and

**\*3334** 3. Each participating tribe shall make the following payments no later than the fifteenth day following the end of the applicable calendar month, with the first payment to be due no later than the fifteenth day following the end of the first month in which a participating tribe commences gaming operations pursuant to the compact set out in Section 22 of this act:

- a. the tribe shall pay its pro rata share of the product of 450 multiplied by .05 multiplied by the greater of Seven Thousand Four Hundred Eight Dollars (\$7,408.00) or the tribe's monthly average take for the applicable month to the recipient licensee, and
- b. the tribe shall pay its pro rata share of the product of 450 multiplied by .25 multiplied by the tribe's monthly average take for the applicable month to the Oklahoma Horse Racing Commission to be distributed to organization licensees for purses for participating horses pursuant to subsection L of this section.

L. The "purse committees" shall be comprised of the official elected horsemen representatives for each breed as designated in Section 8 of this act. The total contribution of the participating tribes made pursuant to subparagraph b of paragraph 3 of subsection K of this section shall be distributed as directed by the purse committees based on the following formula, to wit: fifty percent (50%) by the purse committee representing Thoroughbred horses; forty percent (40%) by the purse committee representing Quarter Horses; and ten percent (10%)

by the purse committee representing Paint and Appaloosa horses.

The purse committees shall meet at least sixty (60) days prior to the beginning of a calendar year to provide directions for placement of the purse funds described in subparagraph b of paragraph 3 subsection K of this section with one or more organization licensees for the succeeding calendar year. In providing such directions the purse committees shall consider and attempt to achieve the following preferences in the order set forth below:

**FIRST.** Through the use of no more than fifty percent (50%) of the purse funds available for distribution under this section, maintaining the purse structures of any organization licensee operating a racetrack location located in a county with a population exceeding six hundred thousand (600,000) persons, according to the most recent federal decennial census, at a level that is competitive with the purse structures of similarly situated race tracks, including those in surrounding states, and that will encourage the participation by horsemen in that organization licensee's race meet or meets; and

**\*3335 SECOND.** Maintaining the purse structures of the organization licensee closest in geographic proximity to the location where the purse funds described in subparagraph b of paragraph 3 of subsection K of this section were generated at a level that is competitive with the purse structures of similarly situated race tracks, including those in surrounding states, and that will encourage the participation by horsemen in that organization licensee's race meet or meets; and

**THIRD.** Maintaining the purse structures of the remaining organization licensees in the state at a level that will encourage the participation by horsemen in those organization licensees' race meet or meets.

#### **CREDIT(S)**

*Laws 2004, c. 316, § 4.*

[FN1] O.S.L.2004, c. 316, § 3 [Title 3A, § 262].

[FN2] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

[FN3] O.S.L.2004, c. 316, § 22 [Title 3A, § 281].

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3336 3A Okl.St. Ann. § 264**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 264. Race meetings--Number required**

A. The organization licensee that is located in a county with a population of greater than six hundred thousand (600,000) according to the most recent federal decennial census shall, for each year it conducts authorized gaming:

1. Conduct annually a race meeting restricted to Thoroughbred horses that provides no fewer than six hundred (600) races for Thoroughbred horses; and

2. Conduct annually a race meeting restricted to Quarter Horse, Paint and Appaloosa horses that provides no fewer than five hundred (500) races for Quarter Horse, Paint and Appaloosa horses within a period of twelve (12) consecutive weeks.

B. Each organization licensee that is located in a county with a population of fewer than four hundred thousand (400,000) according to the most recent federal decennial census shall be required, for each year it conducts authorized gaming, to conduct annually no less than two hundred seventy (270) races for Thoroughbred horses, no fewer than two hundred seventy (270) races for Quarter Horses, and no fewer than sixty (60) races for Paint and Appaloosa horses.

C. An organization licensed pursuant to Section 208.2 of Title 3A of the Oklahoma Statutes shall in order to be eligible to receive money pursuant to the provision of subsection K in Section 4 of this act, [FN1] conduct annually no less than four hundred (400) total races, which shall include conducting no fewer than an average of four (4) races per day for Thoroughbred horses.

D. Notwithstanding the provisions of subsection H of Section 4 of this act, the Oklahoma Horse Racing Commission shall approve, upon joint application of the organization licensee and the official horsemen's representative organization that represents the horsemen for a given breed of horses participating in a given race meeting, a reduction or increase in the number of races to be conducted as prescribed in this section. Any agreed-upon change to the number of races shall include specifying the number of races to be conducted each race day and the calendar days that the races will be conducted. For purposes of any agreement entered into pursuant to this section, a race day shall be not less than seven (7) races nor more than twelve (12) races unless all of the races on a particular day are time trial races. The organization licensees and the elected horsemen's representative organization shall use their best efforts to establish race meets with the number of races that is reasonable in light of the available purse money, the racing calendar of all organization licensees operating pursuant to this act, and the number of races run at similar facilities in surrounding markets.

**\*3337 E.** Notwithstanding anything in this section to the contrary, the requirements set forth in this section shall become effective with the first race meeting that commences at each organization licensee following the initial six (6) months that the organization licensee commences authorized gaming as authorized by this act. [FN2]

**CREDIT(S)**

*Laws 2004, c. 316, § 5.*

[FN1] O.S.L.2004, c. 316, § 4 [Title 3A, § 263].

[FN2] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3338 3A Okl.St. Ann. § 265**

**OKLAHOMA STATUTES  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 265. Transfer of purse money--  
Agreements--Rescission**

A. The Oklahoma Horse Racing Commission shall approve the transfer of purse money generated for races for Thoroughbred horses, races for Quarter Horses or races for Paint and Appaloosa horses pursuant to this section, by one organization licensee to another organization licensee, upon joint application of the organization licensee generating the purse money, the organization licensee receiving the transferred purse money, and in the case of a transfer of purse money for Thoroughbred racing, the official horsemen's representative organization that represents participating horsemen at a race meeting in a county with a population exceeding six hundred thousand (600,000) persons by an organization licensee licensed pursuant to Section 205.2 of Title 3A of the Oklahoma Statutes that is restricted to Thoroughbred horses, and in the case of a transfer of purse money for Quarter Horse, Paint and Appaloosa horse racing, the official horsemen's representative organization that represents participating horsemen at a race meeting in a county with a population exceeding six hundred thousand (600,000) persons by an organization licensee

licensed pursuant to Section 205.2 of Title 3A of the Oklahoma Statutes that is restricted to Quarter Horse, Paint and Appaloosa horses. Purse money transferred to one organization licensee from purse money for a particular breed of horse generated by another organization licensee shall only be used to supplement purses for that breed of horse. Notwithstanding the foregoing, any agreement for the transfer of purse money may be rescinded by order of the Commission if the Commission is petitioned by not less than two-thirds ( 2/3) of the licensed owners, owner/trainers and trainers of starters of a particular breed of horses during the most recently concluded meet for that breed of horses at the tracks affected by the transfer.

B. The provisions of this section shall not be applicable to any purse money generated pursuant to the provisions of subsection K of Section 4 of this act. [FN1]

**\*3339**

**CREDIT(S)**

*Laws 2004, c. 316, § 6.*

[FN1] O.S.L.2004, c. 316, § 4 [Title 3A, § 263].

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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**\*3340 3A Okl.St. Ann. § 266**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 266. Out-of-state full card simulcast races**

Notwithstanding the provisions of Section 205.7 of Title 3A of the Oklahoma Statutes, an organization licensee may conduct, for any year in which the organization licensee meets the requirements to conduct authorized gaming, an unlimited number of out-of-state full card simulcast races for an unlimited number of days during that calendar year. An organization which is licensed under Section 208.2 of Title 3A of the Oklahoma

Statutes may also conduct an unlimited number of out-of-state full card simulcast races for an unlimited number of days, provided that such licensee conducts, in such year, no less than four hundred (400) total races, which shall include conducting no fewer than an average of four (4) races per day for Thoroughbred horses.

**CREDIT(S)**

*Laws 2004, c. 316, § 7.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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**\*3341 3A Okl.St. Ann. § 267**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 267. Official representatives of Thoroughbred and non-Thoroughbred horses--Negotiations and covenants--Financial accounting**

For purposes of this act, the organization elected by horsemen that was, in 2003, providing representation for participating Thoroughbred horsemen at meets restricted to Thoroughbred horses only shall be the official representative of all Thoroughbreds participating in live race meets conducted by an organization licensee. The organization elected by horsemen that was, in 2003, providing representation for the breeds participating in mixed-breed racing shall be the official representative of all non-Thoroughbreds participating in live race meets conducted by an organization licensee.

Organization licensees shall negotiate and covenant with the official representative for each breed participating at any race meeting as to the conditions for each race meeting, the distribution of commissions and purses not governed by statutory distribution formulae, simulcast transmission and reception, off-track wagering, all matters relating to welfare, benefits and prerogatives of the participants in the meet, and any other matter required as a matter of law or necessity. During race meets at which there is more than one official representative for horsemen, each official representative association shall designate an equal number of

horsemen to serve on a single committee that will periodically meet with the organization licensee to discuss and facilitate track management operations. Any participating horsemen may with written notice filed with the track's horsemen's bookkeeper elect to opt out of representation by the above-referenced organizations. In the event more than fifty percent (50%) of the total participating horsemen for a single breed opt to be excluded, the Oklahoma Horse Racing Commission may determine that an election be held among all participating horsemen of that breed to designate an alternate representative organization.

The official horsemen's representative organizations, and any breed organizations receiving funding as a result of this act, shall provide the Commission annually with a complete financial accounting for the use of all funds received pursuant to this act. [FN1] The official horsemen's representative organization shall administer the benevolence program for participants in each live race meeting and a complete accounting of those funds along with the guidelines for administration and determination of eligibility for the benevolence program are subject to approval by the Commission. **\*3342**

**CREDIT(S)**

*Laws 2004, c. 316, § 8.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3343 3A Okl.St. Ann. § 268**

**OKLAHOMA STATUTES  
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*Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).*

**§ 268. Certification of electronic games--  
Review by Commission--Modification of  
electronic games**

A. No electronic game, and no component thereof, may be offered for play by an organization licensee unless it has been certified by an independent testing laboratory approved by the Oklahoma Horse Racing Commission as conforming to the standards contained in this act. [FN1]

B. It is the intent and policy of the Legislature that the standards for the games provided in this act shall operate so as to permit a large number of potential vendors to compete to furnish devices to the organization licensees. If the Commission determines that such standards serve to limit competition, the Commission is authorized to adopt rules modifying such standards so as to encourage competition while preserving the basic nature of the games permitted by this act; provided, that any tribe that has entered into an effective compact pursuant to Sections 21 and 22 of this act [FN2] may, pursuant to such compact, conduct any electronic bonanza-style bingo game, any electronic amusement game or any electronic instant bingo game certified as meeting the standards contained in any such Commission rules modifying the standards of the games that may be conducted by organizational licensees.

C. A prototype of any electronic game which a licensee intends to offer for play shall be tested and certified by an independent testing laboratory as meeting the standards contained in this act.

D. A licensee shall provide, or require that the manufacturer or vendor provide to the independent

testing laboratory a written request as to each electronic game for which certification is sought, any fees required to be deposited by the independent testing laboratory, and, on a confidential basis: two (2) copies of the game illustrations, schematics, block diagrams, circuit analyses, technical and enterprise manuals, program object and source codes, hexadecimal dumps (the compiled computer program represented in base 16 format), and any other information requested by the independent testing laboratory. The licensee shall send copies of the requests for certification to the Commission when made and shall make all materials submitted to the independent testing laboratory available to the Commission upon request. Any materials so submitted which are designated by the manufacturer or vendor as proprietary shall remain confidential and shall not be subject to the disclosure requirements of the Oklahoma Open Records Act. [FN3]

**\*3344** E. If requested by the independent testing laboratory, the licensee shall require the manufacturer or vendor to transport not more than two (2) working models of the electronic game for which certification is sought to a location designated by the laboratory for testing, examination or analysis. Neither the state nor the independent testing laboratory shall be liable for any costs associated with the transportation, testing, examination, or analysis, including any damage to the components of the electronic game. If requested by the independent testing laboratory, the licensee shall require the manufacturer or vendor to provide specialized equipment or the services of an independent technical expert to assist with the testing, examination and analysis. At the conclusion of each test, the independent testing laboratory shall provide to the Commission a report that contains findings, conclusions and a certification that the electronic game conforms or fails to conform to the standards contained in this act. If the independent testing laboratory determines that the device fails to conform to such standards, and if modifications can be made which would bring the electronic game into compliance, the report may contain recommendations for such modifications. The independent testing laboratory shall retest for compliance following such modifications. The independent testing laboratory shall report all findings and conclusions to the licensee, the manufacturer/vendor and the Commission, provided

that at any time prior to issuance of a final report by the laboratory the licensee may instruct it to terminate the process, in which case no report shall be made.

F. The Commission shall review and approve a proposed electronic game, or component thereof, based solely on the standards contained in this act, subject to modification in accordance with subsection B of this section, and the report and certification received from the independent testing laboratory. The Commission shall approve any proposed electronic game that meets the standards contained in this act. The Commission's review shall be completed within twenty (20) days of receipt of the certification from the independent testing laboratory as to any new electronic game or component thereof, and within ten (10) days of the receipt of the certification as to any modification to an electronic game which has already been approved by the Commission. The certification shall be deemed approved if the Commission does not disapprove the proposed electronic game as not meeting the standards contained in this act within the twenty- or ten-day period, as may be applicable. If within the twenty- or ten-day periods described in this section for approval by the Commission of an electronic game or modification thereof, the Commission gives notice to the licensee that it has disapproved a proposed electronic game, such electronic game shall not be placed in any facility or, if already there, shall be removed or taken offline for play, to allow time for an appeal to be made in accordance with the applicable appeal process if an appeal is sought. The sole issue in the appeal process shall be whether the electronic game, or a component thereof, which is the subject of the appeal, meets the standards contained in this act. The Commission shall have the authority to discuss the independent testing laboratory's report with representatives of the independent testing laboratory without any cost to the Commission and to physically review any electronic game as part of the applicable appeal process.

G. No modification to any electronic game may be made by an organization licensee after it is tested, certified and approved, without certification of the modification by the independent testing laboratory and approval thereof by the Commission. In situations where immediate modifications are necessary to preserve the integrity of an electronic game which has been operating pursuant to an approval obtained under this section, the independent testing laboratory may issue an emergency certification of the modification and a certification that is based on information provided to it by the licensee or obtained independently, emergency certification must be issued immediately to preserve the integrity of the electronic game, and that certification would likely be issued under ordinary circumstances. Such emergency certifications shall be deemed to be temporarily approved by the Commission and remain in effect until the Commission takes final action under this section on the certification.

\*3345

#### CREDIT(S)

*Laws 2004, c. 316, § 9.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

[FN2] O.S.L.2004, c. 316, §§ 21, 22 [Title 3A, §§ 280, 281].

[FN3] Title 51, § 24A.1, et seq.

#### HISTORICAL NOTES

#### HISTORICAL AND STATUTORY NOTES

#### 2007 Electronic Update

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**\*3346 3A Okl.St. Ann. § 269**

**OKLAHOMA STATUTES**  
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**STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
 through Chapter 36 of the First Regular  
 Session of the 51st Legislature (2007).*

**§ 269. Definitions**

As used in Sections 2 through 20 of this act:  
 [FN1]

1. "Authorized games" means the games that organizational licensees are authorized to conduct pursuant to this act, as more specifically described in paragraph 2 of subsection C of Section 3 of this act;  
 [FN2]

2. "Central computer" means a computer or computers to which player terminals may be linked to allow competition in electronic bonanza-style bingo games;

3. "Compact" means a model tribal-state compact between the state and a tribe entered into pursuant to Sections 21 and 22 of this act; [FN3]

4. "Electronic accounting system" means an electronic system that provides a secure means to receive, store and access data and record critical functions and activities, as set forth in this act;

5. "Electronic amusement game" means a game that is played in an electronic environment in which a player's performance and opportunity for success can be improved by skill that conforms to the standards set forth in this act;

6. "Electronic bonanza-style bingo game" means a game played in an electronic environment in which some or all of the numbers or symbols are drawn or electronically determined before the bingo cards for that game are sold that conforms with the standards set forth in this act;

7. "Electronic instant bingo game" means a game

played in an electronic environment in which a player wins if his or her electronic instant bingo card contains a combination of numbers or symbols that was designated in advance of the game as a winning combination. There may be multiple winning combinations in each game and multiple winning cards;

**\*3347** 8. "Electronic gaming" means the electronic amusement game, the electronic bonanza-style bingo game and the electronic instant bingo game described in this act, which are included in the authorized gaming available to be offered by organization licensees;

9. "Game play credits" means a method of representing value obtained from the exchange of cash or cash equivalents, or earned as a prize, in connection with electronic gaming. Game play credits may be redeemed for cash or a cash equivalent;

10. "Independent testing laboratory" means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with this act and to otherwise perform the functions assigned to it in this act. An independent testing laboratory shall not be owned or controlled by an organizational licensee, an Indian tribe, the state, or any manufacturer, supplier or operator of gaming devices. The use of an independent testing laboratory for any purpose related to the conduct of electronic gaming by an organization licensee under this act shall be made from a list of one or more laboratories approved by the Commission;

11. "Player terminals" means electronic terminals housed in cabinets with input devices and video screens or electromechanical displays on which players play authorized gaming; and

12. "Standards" means the descriptions and specifications of electronic games or components thereof as set forth in this act, including technical specifications for component parts, requirements for cashless transaction systems, software tools for security and audit purposes, and procedures for operation of such games.

**CREDIT(S)**

*Laws 2004, c. 316, § 10.*

[FN1] O.S.L.2004, c. 316, §§ 21 to 20 [Title 3A, §§ 261 to 279].

[FN2] O.S.L.2004, c. 316, § 3 [Title 3A, § 262].

[FN3] O.S.L.2004, c. 316, §§ 21, 22 [Title 3A, §§ 280, 281].

**\*3348**

### **HISTORICAL NOTES**

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#### **2007 Electronic Update**

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**\*3349 3A Okl.St. Ann. § 270**

**OKLAHOMA STATUTES  
ANNOTATED  
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STATE-TRIBAL GAMING ACT**

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through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 270. Player terminals--Recording,  
monitoring and regulating play**

A. Electronic amusement games shall be played through the employment of player terminals which, following the payment of a fee, present games in which the player can win prizes in a format in which a player's performance can be improved by skill.

B. A player may purchase an opportunity to play an electronic amusement game at a player terminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games are displayed on the player terminal's video screen or otherwise prominently displayed on the terminal. The rules of the game are also displayed either prominently on the terminal or on a help screen, and include sufficient information to alert novice players on the concept of the game so that a novice player can understand how to improve his or her

performance. Depending on the game selected, the player must physically interact with the screen (through touch screen technology) or by depressing or activating buttons or other input devices, to cause an intended result.

C. Following play on a player terminal, the result shall be displayed and prizes awarded. Prizes may be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.

D. Every play of the game shall be recorded, monitored and regulated to ensure full accountability and integrity of play, in accordance with the provisions of this act. [FN1]

**CREDIT(S)**

*Laws 2004, c. 316, § 11.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
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**\*3350 3A Okl.St. Ann. § 271**

**OKLAHOMA STATUTES  
ANNOTATED  
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CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 271. Minimum standards for games**

A. Electronic amusement games are games in which a player's performance can be improved by skill. Consistent with this intent, each player terminal employed in an electronic amusement game shall only offer games that meet the following minimum standards:

1. Each electronic amusement game must require decisions or actions by players that could affect the result of the game;

2. No auto-hold, "smart-hold", or similar feature shall be employed which permits the player terminal to automatically determine optimum play or make decisions for players;

3. Each player terminal must prominently display either on the terminal or on a help screen:

a. the rules of the game and instructions and other information regarding the concept of the game so that a novice player can understand how to improve his or her performance, and

b. possible winning combinations based on the amounts paid to play the game and the other information required in this section. Such information may not be incomplete, confusing or misleading;

4. In electronic amusement games in which players are competing against others, the players shall be informed about whether and how winning prizes will be shared; and

5. No electronic amusement game shall base its outcome on the number or ratio of prior wins to prior losses or any other factor relating to the profit or revenues retained by the operator from prior plays of the game.

B. Following any play on a player terminal, data shall be maintained electronically and shall be viewable either electronically or by printed report. Such data shall provide basic information regarding the amount paid in, the game played, the result, and the prize awarded, if any.

**CREDIT(S)**

*Laws 2004, c. 316, § 12. \*3351*

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
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**\*3352 3A Okl.St. Ann. § 272**

**OKLAHOMA STATUTES  
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STATE-TRIBAL GAMING ACT**

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**§ 272. Audit of game software**

For auditing and security purposes, any electronic amusement game shall include and have available a secure software tool to audit the software of each electronic amusement game. Such tool shall be used

only during authorized audits of electronic amusement games, or in cases of player disputes.

**CREDIT(S)**

*Laws 2004, c. 316, § 13.*

**HISTORICAL NOTES**

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**\*3353 3A Okl.St. Ann. § 273**

**OKLAHOMA STATUTES  
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Session of the 51st Legislature (2007).*

**§ 273. Bonanza-style games**

A. Electronic bonanza-style bingo games authorized by this act [FN1] shall only be conducted using a system which utilizes linked player terminals which allow players to purchase and play electronic bonanza-style bingo cards. Players compete, following the payment of a fee, to be the first player to cover a previously designated bingo pattern using a set of numbers or symbols at least some of which were drawn or electronically determined before the sale of bingo cards began. The first player to cover the game-winning pattern wins the game-winning prize. Interim and consolation prizes also may be awarded.

B. A player may purchase an opportunity to play an electronic bonanza-style bingo game at a player terminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games are displayed on the player terminal's video screen or otherwise prominently displayed on the terminal. The rules of the game are also displayed either

prominently on the terminal or a help screen.

C. After the player purchases a bingo card, the player terminal must cover any numbers on the player's bingo card that match numbers previously drawn or electronically determined for that game.

D. Although the results of the bingo game may be shown using entertaining video and/or mechanical displays, the player may have the option to view the electronic bingo card and current ball draw on the video screen of the player terminal.

E. Following play on a player terminal, the result shall be displayed and prizes awarded. Prizes may be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.

**CREDIT(S)**

*Laws 2004, c. 316, § 14.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**\*3354**

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3355 3A Okl.St.Ann. § 274**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 274. Instant bingo games**

A. Electronic instant bingo games authorized by this act [FN1] shall only utilize player terminals which allow players to purchase and play electronic instant bingo cards. Players receive, after the payment of a fee, an electronic instant bingo card. A player wins if his or her card contains a combination of numbers which was designated in advance of the game as a winning combination. There may be multiple winning combinations in each game and multiple winning cards.

B. A player may purchase an opportunity to play an electronic instant bingo game at a player terminal, either through the insertion of coins or currency, cash voucher, or through the use of a cashless transaction system. The available games are displayed on the player terminal's video screen or otherwise prominently displayed on the terminal.

The rules of the game are also displayed either prominently on the terminal or on a help screen.

C. After the player purchases an electronic instant bingo card, the combination of numbers on that card is revealed to the player.

D. The results of the electronic instant bingo card shall be shown to the player using entertaining video and/or mechanical displays.

E. Following play on a player terminal, the result shall be displayed and prizes awarded. Prizes may be dispensed in the form of cash, coin, cash voucher, merchandise or through a cashless transaction system.

**CREDIT(S)**

*Laws 2004, c. 316, § 15.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3356 3A Okl.St. Ann. § 275**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 275. Standards for player terminals**

A. Player terminals used in connection with electronic games shall conform to the following standards:

1. No player terminal shall be capable of being used as a stand-alone unit for the purposes of engaging in any game not permitted by this act; [FN1]

2. In addition to a video monitor or other electromechanical display, each player terminal may have one or more of the following: a printer, graphics and signage;

3. Each player terminal may have one or more of the following: electronic buttons, touch screen capability, and a mechanical, electromechanical or electronic means of activating the game and providing player input, including a means for making player selections and choices in games;

4. Each player terminal shall have a nonvolatile backup memory or its equivalent, which shall be maintained in a secure compartment on each player terminal for the purpose of storing and preserving a redundant set of critical data which has been error checked in accordance with this act, and which data shall include, at a minimum, the following player terminal information:

- a. electronic meters required by paragraph 7 of this subsection,
- b. recall of all wagers and other information associated with the last ten (10) plays, and
- c. error conditions that may have occurred on the player terminal;

5. An on/off switch that controls the electrical current that supplies power to the player terminal, which must be located in a secure place that is readily accessible within the interior of the player terminal;

6. The operation of each player terminal must not be adversely compromised or affected by static discharge, liquid spills, or electromagnetic interference;

7. A player terminal must have electronic accounting meters which have tally totals to a minimum of seven (7) digits and be capable of rolling over when the maximum value of at least 9,999,999 is reached. The player terminal must provide a means for on-demand display of the electronic meters via a key switch or other secure method on the exterior of the machine. Electronic meters on each player terminal for each of the following data categories are required:

- \***3357** a. credits, or equivalent monetary units, deposited on a cumulative basis on that terminal,
- b. if a player terminal offers more than one electronic bonanza-style bingo game or electronic amusement game for play, then for each game, the meter shall record the number of credits, or equivalent monetary units, wagered and won for each game,
- c. hand-paid and progressive jackpots paid for that terminal, which must include the cumulative amounts paid by an attendant for any such jackpot not otherwise metered pursuant to subparagraph b of this paragraph,
- d. the number of electronic games played on the terminal, and
- e. the number of times the cabinet door is opened or accessed;

8. Under no circumstances shall the player terminal electronic accounting meters be capable of being automatically reset or cleared, whether due to an error in any aspect of its or a game's operation or otherwise. All meter readings must be recorded and dated both before and after an electronic accounting meter is cleared;

9. At a minimum, each player terminal shall have the following game information available for display

on the video screen and/or displayed on the player terminal itself, in a location conspicuous to the player:

- a. the rules of the game being played,
- b. the maximum and minimum cost of a wager, purchase or play activation and the amount of credits, or cash equivalents, which may be won for each game offered through that terminal,
- c. the player's credit balance,
- d. the outcome of the game then being played, and
- e. any prize won on the game then being played;

10. The video screen or other means for displaying game rules, outcomes and other game information shall be kept under a glass or other transparent substance which places a barrier between the player and the actual surface of the display. At no time may stickers or other removable media be placed on the player terminal's face for purposes of displaying rules or payouts;

11. No hardware switches may be installed on a player terminal or any associated equipment which may affect the outcome or payout of any game for which the player terminal is used. Switches may be

installed to control the ergonomics of the player terminal; and

**\*3358** 12. Where the electronic game system or components are linked with one another in a local network for progressive jackpot, function sharing, aggregate prizes or other purposes, communication protocols must be used which ensure that erroneous data or signals will not adversely affect the operations of any such system or components.

#### **CREDIT(S)**

*Laws 2004, c. 316, § 16.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

#### **HISTORICAL NOTES**

#### **HISTORICAL AND STATUTORY NOTES**

#### **2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3359 3A Okl.St. Ann. § 276**

**OKLAHOMA STATUTES  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 276. Electronic accounting systems**

One or more electronic accounting systems shall be required to perform reporting and other functions in support of the electronic game activities described in this act. [FN1] These systems may communicate with the other computers, player terminals and other game components described in this act utilizing the

standards set forth in this act. The electronic accounting system shall not interfere with the outcome of any electronic game functions.

**CREDIT(S)**

*Laws 2004, c. 316, § 17.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).

**\*3360 3A Okl.St. Ann. § 277**

**OKLAHOMA STATUTES  
ANNOTATED  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 277. Standards for cashless transaction systems**

A. The following standards shall be met in connection with any cashless transaction system:

1. All player account information must be stored on at least two (2) separate nonvolatile media;

2. An audit file must be kept of all financial transactions against the account. This file must be stored in at least two (2) separate nonvolatile media, and be accessible for purposes of audit and disputes resolution to authorized individuals. This file must be available on-line for a minimum of thirty (30) days, after which it must be available off-line for a minimum of one hundred eighty (180) days;

3. Access controls must be in place to guarantee that unauthorized individuals will not have access to account information or history;

4. Passwords or personal identification numbers (PINs), if used, must be protected from unauthorized access;

5. All means for communicating information within the system shall conform to the standards set forth in this act; [FN1]

6. Player accounts shall follow accounting procedures which are designed to verify and protect the accurate recording of all player transactions;

7. Any card or other tangible instrument issued to a player for the purpose of using the cashless transaction system shall bear on its face a control or inventory number unique to that instrument;

8. Encoded bearer instruments printed or magnetic may include coupons and other items distributed or sold for game play, promotional, advertising or other purposes, but may not include cash. Such instruments must be in electronically readable form in addition to having unique identification information printed on the instrument face. The daily and monthly reporting must include with respect to such instruments:

- \*3361** a. cash converted to game play credits,  
b. outstanding unredeemed balance,  
c. game play credits converted to cash,  
d. game play credits used, and  
e. game play credits won;

9. All customer accounts or instruments must have a redemption period of at least fourteen (14) days; and

10. No ATM card, financial institution debit card or credit card shall be utilized as part of any cashless transaction system.

B. Any "smart card" system which the licensee intends to implement as part of the cashless transaction system shall be tested by an independent testing laboratory approved by the Commission to ensure the integrity of player funds. Any smart card must store on the card or on the system using the card an audit trail of the last ten (10) transactions involving the use of the card. Each transaction record must include, at a minimum, the type of transaction, the amount of the transaction, the date of the transaction, the time of the transaction, and the identification of the player terminal or cashier terminal or other points of cash exchange where the transaction occurred. The minimum daily and monthly reporting for smart card activity must include:

1. Total of cash transferred to smart cards;
2. Total of smart card amounts transferred to cash;
3. Total of smart card amounts transferred to game play credits;
4. Total of game play credits transferred to smart card amounts; and
5. Total unredeemed smart card balance.

C. Systems shall be permissible that allow player tracking, maintenance tracking, and other gaming management or marketing functions. These systems shall not interfere with, or in any way affect, the outcome of any game being played. Systems shall be permissible that allow progressive prize management with the certification of the independent testing laboratory approved by the Oklahoma Horse Racing Commission.

**CREDIT(S)**

*Laws 2004, c. 316, § 18.*

\*3362 [FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3363 3A Okl.St.Ann. § 278**

**OKLAHOMA STATUTES  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 278. Electronic game components--  
Certification by manufacturer**

A. Before any component of an electronic game may be placed into operation by an organizational licensee, the licensee shall first have obtained and submitted to the Oklahoma Horse Racing Commission a written certification from the manufacturer that upon installation, each such component:

1. Conforms to the standards of electronic games contained in this act as certified by the independent testing laboratory;

2. Can be used with components manufactured by others in accordance with open architectural and communication standards, platform and protocols to be approved by the Commission that promotes competition among manufacturers and vendors of equipment and components for such games; and

3. Operates and plays in accordance with the standards contained in this act. Any certification of an electronic game which was obtained from the Commission by another licensee may be relied upon as providing certification compliance under this section.

B. The organization licensee shall be responsible for the payment of all independent testing laboratory fees and costs in connection with the duties described herein. Provided, the organization licensee may rely on any certification of an electronic game previously approved by the Oklahoma Horse Racing Commission for any other licensee. The licensee may also rely on any certification of an electronic game obtained by a tribe and approved pursuant to the provisions of the State-Tribal Gaming Act. In order to assure independence of the independent testing laboratory, any independent testing laboratory payment delinquency may be grounds by the Commission for rejecting such laboratory's reports or certification.

C. The organization licensee shall allow the Commission to inspect any electronic games or components of electronic games for the purposes of confirming that such component is operating in accordance with the requirements of this act [FN1] and that such component is identical to that game or component tested by an independent testing laboratory.

**\*3364**

**CREDIT(S)**

*Laws 2004, c. 316, § 19.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3365 3A Okl.St. Ann. § 279**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
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CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 279. Disputes--Collection of data**

In the event of a dispute by a player that cannot be resolved by ordinary means by licensee personnel as to the outcome, prize, fee paid or any other aspect of the player's participation in an electronic game being played ("prize claim"), all relevant data shall be immediately collected, including, but not limited to, all meter readings, memory records, surveillance tapes, and any other reports or information regarding the disputed play on the player terminal for the play

in dispute. Following the collection of all relevant data, the Oklahoma Horse Racing Commission shall be notified and requested to make an evaluation of whether or not the dispute involves the integrity of the hardware or software being used and to try and resolve the dispute. A report of all prize claims shall be maintained by the licensee.

**CREDIT(S)**

*Laws 2004, c. 316, § 20.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY  
NOTES**

**2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3366 3A Okl.St. Ann. § 280**

**OKLAHOMA STATUTES  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 280. Offer of model tribal gaming contract**

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 this act, [FN1] and with the concurrence of the State Legislature through the enactment of this 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. [FN2] 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 22 of this act. 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.

**\*3367** 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 22 of this act [FN3] are lawful when played pursuant to a compact which has become effective.

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 22 of this act shall be deposited in the Oklahoma Higher Learning Access Trust Fund, and 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 22 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.

**CREDIT(S)**

*Laws 2004, c. 316, § 21.*

[FN1] O.S.L.2004, c. 316 [Title 3A, § 261 et seq.]

[FN2] 25 U.S.C.A. § 2701 et seq.

[FN3] O.S.L.2004, c. 316, § 22 [Title 3A, § 281].

**HISTORICAL NOTES****HISTORICAL AND STATUTORY  
NOTES****2007 Electronic Update**

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

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**\*3368 3A Okl.St. Ann. § 281**

**OKLAHOMA STATUTES  
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STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 281. Model Tribal Gaming Compact**

This section sets forth the provisions of the Model Tribal Gaming Compact.

**MODEL TRIBAL GAMING  
COMPACT**

**Between the [Name of Tribe]**

**and the STATE OF OKLAHOMA**

This Compact is made and entered into by and between the [Name of Tribe], a federally recognized Indian tribe ("tribe"), and the State of Oklahoma ("state"), with respect to the operation of covered games (as defined herein) on the tribe's Indian lands as defined by the Indian Gaming Regulatory Act, 25 U.S.C., Section 2703(4).

## Part 1. TITLE

This document shall be referred to as the "[Name of Tribe] and State of Oklahoma Gaming Compact".

## Part 2. RECITALS

1. The tribe is a federally recognized tribal government possessing sovereign powers and rights of self-government.

2. The State of Oklahoma is a state of the United States of America possessing the sovereign powers and rights of a state.

3. The state and the tribe maintain a government-to-government relationship, and this Compact will help to foster mutual respect and understanding among Indians and non-Indians.

4. The United States Supreme Court has long recognized the right of an Indian tribe to regulate activity on lands within its jurisdiction.

5. The tribe desires to offer the play of covered games, as defined in paragraphs 5, 10, 11 and 12 of Part 3 of this Compact, as a means of generating revenues for purposes authorized by the Indian Gaming Regulatory Act, 25 U.S.C., Section 2701, et seq., including without limitation the support of tribal governmental programs, such as health care, housing, sewer and water projects, police, corrections, fire, judicial services, highway and bridge construction, general assistance for tribal elders, day care for the children, economic development, educational opportunities and other typical and valuable governmental services and programs for tribal members.

**\*3369** 6. The state recognizes that the positive effects of this Compact will extend beyond the tribe's lands to the tribe's neighbors and surrounding communities and will generally benefit all of Oklahoma. These positive effects and benefits may include not only those described in paragraph 5 of this Part, but also may include increased tourism and related economic development activities.

7. The tribe and the state jointly wish to protect their citizens from any criminal involvement in the gaming operations regulated under this Compact.

## Part 3. DEFINITIONS

As used in this Compact:

1. "Adjusted gross revenues" means the total receipts received from the play of all covered games minus all prize payouts;

2. "Annual oversight assessment" means the assessment described in subsection B of Part 11 of this Compact;

3. "Central computer" means a computer to which player terminals are linked to allow competition in electronic bonanza-style bingo games;

4. "Compact" means this Tribal Gaming Compact between the state and the tribe, entered into pursuant to Sections 21 and 22 of the State-Tribal Gaming Act;

5. "Covered game" means the following games conducted in accordance with the standards, as applicable, set forth in Sections 11 through 18 of the State-Tribal Gaming Act: an electronic bonanza-style bingo game, an electronic amusement game, an electronic instant bingo game, nonhouse-banked card games; any other game, if the operation of such game by a tribe would require a compact and if such game has been: (i) approved by the Oklahoma Horse Racing Commission for use by an organizational licensee, (ii) approved by state legislation for use by any person or entity, or (iii) approved by amendment of the State-Tribal Gaming Act; and upon election by the tribe by written supplement to this Compact, any Class II game in use by the tribe, provided that no exclusivity payments shall be required for the operation of such Class II game;

6. "Covered game employee" means any individual employed by the enterprise or a third party providing management services to the enterprise, whose responsibilities include the rendering of services with respect to the operation, maintenance or management of covered games. The term "covered game employee" includes, but is not limited to, the following: managers and assistant managers; accounting personnel; surveillance and security personnel; cashiers, supervisors, and floor personnel; cage personnel; and any other person whose employment duties require or authorize access to areas of the facility related to the conduct of covered games or the maintenance or storage of covered game components. This shall not include upper level tribal employees or tribe's elected officials so long as such individuals are not directly involved in the operation, maintenance, or management of covered game components. The enterprise may, at its discretion, include other persons employed at or in connection with the enterprise within the definition of covered game employee;

**\*3370** 7. "Documents" means books, records, electronic, magnetic and computer media documents and other writings and materials, copies thereof, and information contained therein;

8. "Effective date" means the date on which the last of the conditions set forth in subsection A of Part 15 of this Compact have been met;

9. "Electronic accounting system" means an

electronic system that provides a secure means to receive, store and access data and record critical functions and activities, as set forth in the State-Tribal Gaming Act;

10. "Electronic amusement game" means a game that is played in an electronic environment in which a player's performance and opportunity for success can be improved by skill that conforms to the standards set forth in the State-Tribal Gaming Act;

11. "Electronic bonanza-style bingo game" means a game played in an electronic environment in which some or all of the numbers or symbols are drawn or electronically determined before the electronic bingo cards for that game are sold that conforms to the standards set forth in the State-Tribal Gaming Act;

12. "Electronic instant bingo game" means a game played in an electronic environment in which a player wins if his or her electronic instant bingo card contains a combination of numbers or symbols that was designated in advance of the game as a winning combination. There may be multiple winning combinations in each game and multiple winning cards that conform to the standards set forth in the State-Tribal Gaming Act;

13. "Enterprise" means the tribe or the tribal agency or section of tribal management with direct responsibility for the conduct of covered games, the tribal business enterprise that conducts covered games, or a person, corporation or other entity that has entered into a management contract with the tribe to conduct covered games, in accordance with IGRA. The names, addresses and identifying information of any covered game employees shall be forwarded to the SCA at least annually. In any event, the tribe shall have the ultimate responsibility for ensuring that the tribe or enterprise fulfills the responsibilities under this Compact. For purposes of enforcement, the tribe is deemed to have made all promises for the enterprise;

14. "Facility" means any building of the tribe in which the covered games authorized by this Compact are conducted by the enterprise, located on Indian lands as defined by IGRA. The tribe shall have the ultimate responsibility for ensuring that a facility conforms to the Compact as required herein;

**\*3371** 15. "Game play credits" means a method of representing value obtained from the exchange of

cash or cash equivalents, or earned as a prize, in connection with electronic gaming. Game play credits may be redeemed for cash or a cash equivalent;

16. "Player terminals" means electronic or electromechanical terminals housed in cabinets with input devices and video screens or electromechanical displays on which players play electronic bonanza-style bingo games, electronic instant bingo games or electronic amusement games;

17. "Independent testing laboratory" means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with this Compact and to otherwise perform the functions assigned to it in this Compact. An independent testing laboratory shall not be owned or controlled by the tribe, the enterprise, an organizational licensee as defined in the State-Tribal Gaming Act, the state, or any manufacturer, supplier or operator of gaming devices. The selection of an independent testing laboratory for any purpose under this Compact shall be made from a list of one or more laboratories mutually agreed upon by the parties; provided that the parties hereby agree that any laboratory upon which the National Indian Gaming Commission has relied for such testing may be utilized for testing required by this Compact;

18. "IGRA" means the Indian Gaming Regulatory Act, Pub. L. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C., Section 2701 et seq. and 18 U.S.C., Sections 1166 to 1168;

19. "Nonhouse-banked card games" means any card game 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 herein, administrative fees may be charged by the tribe against any common pool in an amount equal to any fee paid the state; provided that the tribe may seed the pool as it determines necessary from time to time;

20. "Patron" means any person who is on the premises of a gaming facility, for the purpose of playing covered games authorized by this Compact;

21. "Principal" means, with respect to any entity, its sole proprietor or any partner, trustee, beneficiary or shareholder holding five percent (5%) or more of its beneficial or controlling ownership, either directly or indirectly, or any officer, director, principal management employee, or key employee thereof;

\*3372 22. "Rules and regulations" means the rules and regulations promulgated by the Tribal Compliance Agency for implementation of this Compact;

23. "Standards" means the descriptions and specifications of electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games or components thereof as set forth in Sections 11 through 18 of the State-Tribal Gaming Act as enacted in 2004 or as amended pursuant to paragraph 27 of this Part or subsection D of Part 13 of this Compact, including technical specifications for component parts, requirements for cashless transaction systems, software tools for security and audit purposes, and procedures for operation of such games;

24. "State" means the State of Oklahoma;

25. "State Compliance Agency" ("SCA") means the state agency that has the authority to carry out the state's oversight responsibilities under this Compact, which shall be the Office of State Finance or its successor agency. Nothing herein shall supplant the role or duties of the Oklahoma State Bureau of Investigation under state law. The Oklahoma Horse Racing Commission and the Oklahoma Tax Commission shall have no role in regulating or oversight of any gaming conducted by a tribe;

26. "Tribal Compliance Agency" ("TCA") means the tribal governmental agency that has the authority to carry out the tribe's regulatory and oversight responsibilities under this Compact. Unless and until otherwise designated by the tribe, the TCA shall be the [Name of Tribe] Gaming Commission. No covered game employee may be a member or employee of the TCA. The tribe shall have the ultimate responsibility for ensuring that the TCA fulfills its responsibilities under this Compact. The members of the TCA shall be subject to background investigations and licensed to the extent required by any tribal or federal law, and in accordance with

subsection B of Part 7 of this Compact. The tribe shall ensure that all TCA officers and agents are qualified for such position and receive ongoing training to obtain and maintain skills that are sufficient to carry out their responsibilities in accordance with industry standards;

27. "State-Tribal Gaming Act" means the legislation in which this Model Tribal Gaming Compact is set forth and, at the tribe's option, amendments or successor statutes thereto;

**\*3373** 28. "Tribal law enforcement agency" means a police or security force established and maintained by the tribe pursuant to the tribe's powers of self-government to carry out law enforcement duties at or in connection with a facility; and

29. "Tribe" means the [Name of Nation].

#### Part 4. AUTHORIZATION OF COVERED GAMES

A. The tribe and state agree that the tribe is authorized to operate covered games only in accordance with this Compact. However, nothing in this Compact shall limit the tribe's right to operate any game that is Class II under IGRA and no Class II games shall be subject to the exclusivity payments set forth in Part 11 of this Compact. In the case of electronic bonanza-style bingo games, there have been disagreements between tribes and federal regulators as to whether or not such games are Class II. Without conceding that such games are Class III, the tribe has agreed to compact with the state to operate the specific type of electronic bonanza-style bingo game described in this Compact to remove any legal uncertainty as to the tribe's right to lawfully operate the game. Should the electronic bonanza-style bingo game or the electronic instant bingo game described in this act be determined to be Class II by the NIGC or a federal court, then the tribe shall have the option to operate such games outside of this Compact; provided, any obligations pursuant to subsection F of Part 11 of this Compact shall not be affected thereby.

B. A tribe shall not operate an electronic bonanza-style bingo game, an electronic instant bingo game or an electronic amusement game pursuant to this Compact until such game has been certified by an independent testing laboratory and the TCA as meeting the standards set out in the State-Tribal

Gaming Act for electronic bonanza-style bingo games, electronic instant bingo games or electronic amusement games, as applicable or any standards contained in the Oklahoma Horse Racing Commission rules issued pursuant to subsection B of Section 9 the State-Tribal Gaming Act that modify the standards for such games that may be conducted by organizational licensees. Provided, the tribe may rely on any certification of an electronic bonanza-style bingo game, an electronic instant bingo, or electronic amusement games by the Oklahoma Horse Racing Commission which was obtained by an organization licensee pursuant to the State-Tribal Gaming Act to establish certification compliance under this Compact. The tribe may also rely on any certification of an electronic bonanza-style bingo game, electronic instant bingo or an electronic amusement game by the TCA obtained by another tribe which has entered into the model compact to establish certification compliance under this Compact.

#### **\*3374** Part 5. RULES AND REGULATIONS; MINIMUM REQUIREMENTS FOR OPERATIONS

A. Regulations. At all times during the Term of this Compact, the tribe shall be responsible for all duties which are assigned to it, the enterprise, the facility, and the TCA under this Compact. The tribe shall promulgate any rules and regulations necessary to implement this Compact, which at a minimum shall expressly include or incorporate by reference all provisions of Part 5 and the procedural requirements of Part 6 of this Compact. Nothing in this Compact shall be construed to affect the tribe's right to amend its rules and regulations, provided that any such amendment shall be in conformity with this Compact. The SCA may propose additional rules and regulations related to implementation of this Compact to the TCA at any time, and the TCA shall give good faith consideration to such suggestions and shall notify the SCA of its response or action with respect thereto.

B. Compliance; Internal Control Standards. All enterprises and facilities shall comply with, and all covered games approved under the procedures set forth in this Compact shall be operated in accordance with the requirements set forth in this Compact, including, but not limited to, those set forth in subsections C and D of this Part. In addition, all enterprises and facilities shall comply

with tribal internal control standards that provide a level of control that equals or exceeds those set forth in the National Indian Gaming Commission's Minimum Internal Control Standards (25 C.F.R., Part 542).

C. Records. In addition to other records required to be maintained herein, the enterprise or tribe shall maintain the following records related to implementation of this Compact in permanent form and as written or entered, whether manually or by computer, and which shall be maintained by the enterprise and made available for inspection by the SCA for no less than three (3) years from the date generated:

1. A log recording all surveillance activities in the monitoring room of the facility, including, but not limited to, surveillance records kept in the normal course of enterprise operations and in accordance with industry standards; provided, notwithstanding anything to the contrary herein, surveillance records may, at the discretion of the enterprise, be destroyed if no incident has been reported within one (1) year following the date such records were made. Records, as used in this Compact, shall include video tapes and any other storage media;

**\*3375** 2. Payout from the conduct of all covered games;

3. Maintenance logs for all covered games gaming equipment used by the enterprise;

4. Security logs as kept in the normal course of conducting and maintaining security at the facility, which at a minimum shall conform to industry practices for such reports. The security logs shall document any unusual or nonstandard activities, occurrences or events at or related to the facility or in connection with the enterprise. Each incident, without regard to materiality, shall be assigned a sequential number for each such report. At a minimum, the security logs shall consist of the following information, which shall be recorded in a reasonable fashion noting:

- a. the assigned number of the incident,
- b. the date of the incident,
- c. the time of the incident,
- d. the location of the incident,
- e. the nature of the incident,
- f. the identity, including identification

information, of any persons involved in the incident and any known witnesses to the incident, and

g. the tribal compliance officer making the report and any other persons contributing to its preparation;

5. Books and records on all covered game activities of the enterprise shall be maintained in accordance with generally accepted accounting principles (GAAP); and

6. All documents generated in accordance with this Compact.

D. Use of Net Revenues. Net revenues that the tribe receives from covered games are to be used for any one or more of those purposes permitted under IGRA:

1. To fund tribal government operations or programs;

2. To provide for the general welfare of the tribe and its members;

3. To promote tribal economic development;

4. To donate to charitable organizations; or

5. To help fund operations of local government agencies.

E. 1. The tribe's rules and regulations shall require the enterprise at a minimum to bar persons based on their prior conduct at the facility or who, because of their criminal history or association with criminal offenders, pose a threat to the integrity of the conduct of covered games.

**\*3376** 2. The TCA shall establish a list of the persons barred from the facility.

3. The enterprise shall employ its best efforts to exclude persons on such list from entry into its facility; provided, neither persons who are barred but gain access to the facility, nor any other person, shall have any claim against the state, the tribe or the enterprise or any other person for failing to enforce such bar.

4. Patrons who believe they may be playing covered games on a compulsive basis may request

that their names be placed on the list. All covered game employees shall receive training on identifying players who have a problem with compulsive playing and shall be instructed to ask them to leave. Signs and other materials shall be readily available to direct such compulsive players to agencies where they may receive counseling.

F. Audits. 1. Consistent with 25 C.F.R., Section 571.12, Audit Standards, the TCA shall ensure that an annual independent financial audit of the enterprise's conduct of covered games subject to this Compact is secured. The audit shall, at a minimum, examine revenues and expenses in connection with the conduct of covered games in accordance with generally accepted auditing standards and shall include, but not be limited to, those matters necessary to verify the determination of adjusted gross revenues and the basis of the payments made to the state pursuant to Part 11 of this Compact.

2. The auditor selected by the TCA shall be a firm of known and demonstrable experience, expertise and stature in conducting audits of this kind and scope.

3. The audit shall be concluded within five (5) months following the close of each calendar year, provided that extensions may be requested by the tribe and shall not be refused by the state where the circumstances justifying the extension request are beyond the tribe's control.

4. The audit of the conduct of covered games may be conducted as part of or in conjunction with the audit of the enterprise, but if so conducted shall be separately stated for the reporting purposes required herein.

5. The audit shall conform to generally accepted auditing standards. As part of the audit report, the auditor shall certify to the TCA that, in the course of the audit, the auditor discovered no matters within the scope of the audit which were determined or believed to be in violation of any provision of this Compact.

\*3377 6. The enterprise shall assume all costs in connection with the audit.

7. The audit report for the conduct of covered games shall be submitted to the SCA within thirty (30) days of completion. The auditor's work papers

concerning covered games shall be made available to the SCA upon request.

8. Representatives of the SCA may, upon request, meet with the auditors to discuss the work papers, the audit or any matters in connection therewith; provided, such discussions are limited to covered games information and pursue legitimate state covered games interests.

G. Rules for Play of and Prizes for Covered Games. Summaries of the rules for playing covered games and winning prizes shall be visibly displayed in the facility. Complete sets of rules shall be available in pamphlet form in the facility.

H. Supervisory Line of Authority. The enterprise shall provide the TCA and SCA with a chart of the supervisory lines of authority with respect to those directly responsible for the conduct of covered games, and shall promptly notify those agencies of any material changes thereto.

I. Sale of Alcoholic Beverages. The sale and service of alcoholic beverages in a facility shall be in compliance with state, federal and tribal law in regard to the licensing and sale of such beverages.

J. Age Restrictions. 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 Title 3A of the Oklahoma Statutes shall be admitted into any area in a facility where covered games are played, nor be permitted to operate, or obtain a prize from or in connection with the operation of, any covered game, directly or indirectly.

K. Destruction of Documents. Enterprise books, records and other materials documenting the conduct of covered games shall be destroyed only in accordance with rules and regulations adopted by the TCA, which at a minimum shall provide as follows:

1. Material that might be utilized in connection with a potential tort claim pursuant to Part 6 of this Compact, including, but not limited to, incident reports, surveillance records, statements, and the like, shall be maintained at least one (1) year beyond the time which a claim can be made under Part 6 of this Compact or, if a tort claim is made, beyond the final disposition of such claim;

\*3378 2. Material that might be utilized in connection with a prize claim, including but not limited to incident reports, surveillance records, statements, and the like, shall be maintained at least one hundred eighty (180) days beyond the time which a claim can be made under Part 6 of this Compact or, if a prize claim is made, beyond the final disposition of such claim; and

3. Notwithstanding anything herein to the contrary, all enterprise books and records with respect to the conduct of covered games or the operation of the enterprise, including, but not limited to, all interim and final financial and audit reports and materials related thereto which have been generated in the ordinary course of business, shall be maintained for the minimum period of three (3) years.

L. Location. The tribe may establish and operate enterprises and facilities that operate covered games only on its Indian lands as defined by IGRA. The tribe shall notify the SCA of the operation of any new facility following the effective date of this Compact. Nothing herein shall be construed as expanding or otherwise altering the term "Indian lands", as that term is defined in the IGRA, nor shall anything herein be construed as altering the federal process governing the tribal acquisition of "Indian lands" for gaming purposes.

M. Records of Covered Games. The TCA shall keep a record of, and shall report at least quarterly to the SCA, the number of covered games in each facility, by the name or type of each and its identifying number.

#### Part 6. TORT CLAIMS; PRIZE CLAIMS; LIMITED CONSENT TO SUIT

A. Tort Claims. The enterprise shall ensure that patrons of a facility are afforded due process in seeking and receiving just and reasonable compensation for a tort claim for personal injury or property damage against the enterprise arising out of incidents occurring at a facility, hereinafter "tort claim", as follows:

1. During the term of this Compact, the enterprise shall maintain public liability insurance for the express purposes of covering and satisfying tort claims. The insurance shall have liability limits of not less than Two Hundred Fifty Thousand Dollars

(\$250,000.00) for any one person and Two Million Dollars (\$2,000,000.00) for any one occurrence for personal injury, and One Million Dollars (\$1,000,000.00) for any one occurrence for property damage, hereinafter the "limit of liability", or the corresponding limits under the Governmental Tort Claims Act, whichever is greater. No tort claim shall be paid, or be the subject of any award, in excess of the limit of liability;

\*3379 2. The tribe consents to suit on a limited basis with respect to tort claims subject to the limitations set forth in this subsection and subsection C of this Part. No consents to suit with respect to tort claims, or as to any other claims against the tribe shall be deemed to have been made under this Compact, except as provided in subsections B and C of this Part;

3. The enterprise's insurance policy shall include an endorsement providing that the insurer may not invoke tribal sovereign immunity in connection with any claim made within the limit of liability if the claim complies with the limited consent provisions of subsection C of this Part. Copies of all such insurance policies shall be forwarded to the SCA;

4. Any patron having a tort claim shall file a written tort claim notice by delivery to the enterprise or the TCA. The date the tort claim notice is filed with the enterprise or the TCA shall be deemed the official date of filing the tort claim notice. The tort claim notice shall be filed within one (1) year of the date of the event which allegedly caused the claimed loss. Failure to file the tort claim notice during such period of time shall forever bar such tort claim; provided that a tort claim notice filed with the enterprise or the TCA more than ninety (90) days, but within one (1) year, after the event shall be deemed to be timely filed, but any judgment thereon shall be reduced by ten percent (10%).

5. If the tort claim notice is filed with the TCA, the TCA shall forward a copy of the tort claim to the enterprise and the SCA within forty-eight (48) hours of filing, and if the tort claim notice is filed with the enterprise, the enterprise shall forward a copy of the tort claim to the TCA and the SCA within forty-eight (48) hours of filing;

6. The tort claim notice shall state the date, time, place and circumstances of the incident upon which the tort claim is based, the identity of any persons

known to have information regarding the incident, including employees or others involved in or who witnessed the incident, the amount of compensation and the basis for said relief; the name, address and telephone number of the claimant, and the name, address and telephone number of any representative authorized to act or settle the claim on behalf of the claimant;

7. All tort claim notices shall be signed by the claimant. The rules and regulations may additionally require that the tort claim notices be signed under oath. The rules and regulations may also require that as a condition of prosecuting tort claims, the claimant shall appear to be interviewed or deposed at least once under reasonable circumstances, which shall include the attendance of the claimant's legal counsel if requested; provided that the enterprise shall afford claimant at least thirty (30) days' written notice of the interview or deposition; and provided further that the claimant's failure to appear without cause for any interview or deposition properly noticed pursuant to this paragraph shall be deemed a voluntary withdrawal of the tort claim;

**\*3380** 8. The enterprise shall promptly review, investigate, and make a determination regarding the tort claim. Any portion of a tort claim which is unresolved shall be deemed denied if the enterprise fails to notify the claimant in writing of its approval within ninety (90) days of the filing date, unless the parties by written agreement extend the date by which a denial shall be deemed issued if no other action is taken. Each extension shall be for no more than ninety (90) days, but there shall be no limit on the number of written agreements for extensions, provided that no written agreement for extension shall be valid unless signed by the claimant and an authorized representative of the enterprise. The claimant and the enterprise may continue attempts to settle a claim beyond an extended date; provided, settlement negotiations shall not extend the date of denial in the absence of a written agreement for extension as required by this paragraph;

9. A judicial proceeding for any cause arising from a tort claim may be maintained in accordance with and subject to the limitations of subsection C of this Part only if the following requirements have been met:

- a. the claimant has followed all procedures

required by this Part, including, without limitation, the delivery of a valid and timely written tort claim notice to the enterprise,

b. the enterprise has denied the tort claim, and

c. the claimant has filed the judicial proceeding no later than the one-hundred-eightieth day after denial of the claim by the enterprise; provided, that neither the claimant nor the enterprise may agree to extend the time to commence a judicial proceeding; and

10. Notices explaining the procedure and time limitations with respect to making a tort claim shall be prominently posted in the facility. Such notices shall explain the method and places for making a tort claim, that this procedure is the exclusive method of making a tort claim, and that claims that do not follow these procedures shall be forever barred. The enterprise shall make pamphlets containing the requirements in this subsection readily available to all patrons of the facility and shall provide such pamphlets to a claimant within five (5) days of the filing of a claim.

B. Prize Claims. The enterprise shall ensure that patrons of a facility are afforded due process in seeking and receiving just and reasonable compensation arising from a patron's dispute, in connection with his or her play of any covered game, the amount of any prize which has been awarded, the failure to be awarded a prize, or the right to receive a refund or other compensation, hereafter "prize claim", as follows:

1. The tribe consents to suit on a limited basis with respect to prize claims against the enterprise only as set forth in subsection C of this Part; no consents to suit with respect to prize claims, or as to any other claims against the tribe shall be deemed to have been made under this Compact, except as provided in subsections A and C of this Part;

2. The maximum amount of any prize claim shall be the amount of the prize which the claimant establishes he or she was entitled to be awarded, hereafter "prize limit";

**\*3381** 3. Any patron having a prize claim shall file a written prize claim notice by delivery to the enterprise or the TCA. The date the prize claim is

filed with the enterprise or the TCA shall be deemed the official date of filing the prize claim notice. The prize claim notice shall be filed within ten (10) days of the event which is the basis of the claim. Failure to file the prize claim notice during such period of time shall forever bar such prize claim;

4. If the prize claim notice is filed with the TCA, the TCA shall forward a copy of the prize claim to the enterprise and the SCA within forty-eight (48) hours of its filing; and if the prize claim notice is filed with the enterprise, the enterprise shall forward a copy of the tort claim to the TCA and the SCA within forty-eight (48) hours of filing;

5. The written prize claim notice shall state the date, time, place and circumstances of the incident upon which the prize claim is based, the identity of any persons known to have information regarding the incident, including employees or others involved in or who witnessed the incident, the amount demanded and the basis for said amount, the name, address and telephone number of the claimant, and the name, address and telephone number of any representative authorized to act or settle the claim on behalf of the claimant;

6. All notices of prize claims shall be signed by the claimant. The rules and regulations may additionally require that the prize claim notices be signed under oath;

7. The enterprise shall promptly review, investigate and make a determination regarding the prize claim. Claimants shall cooperate in providing information, including personal sworn statements and agreeing to be interviewed, as the enterprise shall reasonably request. The claimant is permitted to have counsel present during any such interview;

8. If the prize claim is not resolved within seventy-two (72) hours from the time of filing the claim in accordance with paragraph 5 of this subsection, the TCA shall immediately notify the SCA in writing that the claim has not been resolved;

9. In the event the claim is resolved, the TCA shall not be obligated to report that fact to the SCA, but shall make TCA reports available for review;

10. Any portion of a prize claim which is unresolved shall be deemed denied if the enterprise fails to notify the claimant in writing of its approval

within thirty (30) days of the filing date, unless the parties agree by written agreement to extend the date. Each extension shall be for no more than thirty (30) days, but there shall be no limit on the number of written agreements for extensions; provided, that no written agreements for extension shall be valid unless signed by the claimant and an authorized representative of the TCA. The claimant and the enterprise may continue attempts to settle a claim beyond an extended date; provided, settlement negotiations shall not extend the date of denial in the absence of a written extension required by this paragraph;

**\*3382** 11. A judicial proceeding for any cause arising from a prize claim may be maintained in accordance with and subject to the limitations of subsection C of this Part only if the following requirements have been met:

- a. the claimant has followed all procedures required by this Part, including without limitation, the delivery of a valid and timely written prize claim notice to the enterprise,
- b. the enterprise has denied the prize claim, and
- c. the claimant has filed the judicial proceeding no later than one hundred eighty (180) days after denial of the claim by the enterprise; provided that neither the claimant nor the enterprise may extend the time to commence a judicial proceeding; and

12. Notices explaining the procedure and time limitations with respect to making a prize claim shall be prominently posted in the facility. Such notices shall explain the method and places for making claims, that this procedure is the exclusive method of making a prize claim, and that claims that do not follow this procedure shall be forever barred. The enterprise shall make pamphlets containing the requirements in this subsection readily available to all patrons of the facility and shall provide such pamphlets to a claimant by the TCA within five (5) days of the filing date of a claim.

C. Limited Consent to Suit for Tort Claims and Prize Claims. The tribe consents to suit against the enterprise in a court of competent jurisdiction with respect to a tort claim or prize claim if all requirements of paragraph 9 of subsection A or all

requirements of paragraph 11 of subsection B of this Part have been met; provided that such consent shall be subject to the following additional conditions and limitations:

1. For tort claims, consent to suit is granted only to the extent such claim or any award or judgment rendered thereon does not exceed the limit of liability. Under no circumstances shall any consent to suit be effective as to any award which exceeds such applicable amounts. This consent shall only extend to the patron actually claiming to have been injured. A tort claim shall not be assignable. In the event any assignment of the tort claim is made in violation of this Compact, or any person other than the patron claiming the injury becomes a party to any action hereunder, this consent shall be deemed revoked for all purposes. Notwithstanding the foregoing, consent to suit shall not be revoked if an action on a tort claim is filed by (i) a court appointed representative of a claimant's estate, (ii) an indispensable party, or (iii) a health provider or other party subrogated to the claimant's rights by virtue of any insurance policy; provided, that nothing herein is intended to, or shall constitute a consent to suit against the enterprise as to such party except to the extent such party's claim is:

- \*3383** a. in lieu of and identical to the claim that would have been made by the claimant directly but for the appointment of said representative or indispensable party, and participation of such other party is in lieu of and not in addition to pursuit of the claim by the patron, and
- b. the claim of such other party would have been subject to a consent to suit hereunder if it had been made by the claimant directly; and

2. For prize claims, consent is granted only to the extent such claim does not exceed the prize limit. Under no circumstances shall any award exceed the prize limit. This consent shall only extend to the patron actually claiming to have engaged in the play of a covered game on which the claim is based. Prize claims shall not be assignable. In the event any assignment of the prize claim is made, or any person other than the claimant entitled to make the claim becomes a party to any action hereunder, this consent shall be deemed revoked for all purposes. Notwithstanding the foregoing, consent to suit shall not be revoked if an action on a prize claim is filed

by (i) a court-appointed representative of a claimant's estate, or (ii) an indispensable party, provided that nothing herein is intended to, or shall constitute a consent to suit against the enterprise as to such party except to the extent such party's claim is:

- a. in lieu of and identical to the claim that would have been made by the claimant directly but for the appointment of said representative or indispensable party, and participation of such other party is in lieu of and not in addition to pursuit of the claim by the patron, and
- b. the claim of such other party would have been subject to a consent to suit hereunder if it had been made by the claimant directly.

D. Remedies in the Event of No or Inadequate Insurance for Tort Claim. In the event a tort claim is made and there is no, or inadequate, insurance in effect as required under this Compact, the enterprise shall be deemed to be in default hereunder unless, within ten (10) days of a demand by the SCA or a claimant to do so, the enterprise has posted in an irrevocable escrow account at a state or federally chartered bank which is not owned or controlled by the tribe, sufficient cash, a bond or other security sufficient to cover any award that might be made within the limits set forth in paragraph 1 of subsection A of this Part, and informs the claimant and the state of:

1. The posting of the cash or bond;
2. The means by which the deposit can be independently verified as to the amount and the fact that it is irrevocable until the matter is finally resolved;

**\*3384** 3. The right of the claimant to have this claim satisfied from the deposit if the claimant is successful on the claim; and

4. The notice and hearing opportunities in accordance with the tribe's tort law, if any, otherwise in accordance with principles of due process, which will be afforded to the claimant so that the intent of this Compact to provide claimants with a meaningful opportunity to seek a just remedy under fair conditions will be fulfilled.

## Part 7. ENFORCEMENT OF COMPACT PROVISIONS

A. The tribe and TCA shall be responsible for regulating activities pursuant to this Compact. As part of its responsibilities, the tribe shall require the enterprise do the following:

1. Operate the conduct of covered games in compliance with this Compact, including, but not limited to, the standards and the tribe's rules and regulations;

2. Take reasonable measures to assure the physical safety of enterprise patrons and personnel, prevent illegal activity at the facility, and protect any rights of patrons under the Indian Civil Rights Act, 25 U.S.C., Sec. 1302-1303;

3. Promptly notify appropriate law enforcement authorities of persons who may be involved in illegal acts in accordance with applicable law;

4. Assure that the construction and maintenance of the facility meets or exceeds federal and tribal standards for comparable buildings; and

5. Prepare adequate emergency access plans to ensure the health and safety of all covered game patrons. Upon the finalization of emergency access plans, the TCA or enterprise shall forward copies of such plans to the SCA.

B. All licenses for members and employees of the TCA shall be issued according to the same standards and terms applicable to facility employees. The TCA shall employ qualified compliance officers under the authority of the TCA. The compliance officers shall be independent of the enterprise, and shall be supervised and accountable only to the TCA. A TCA compliance officer shall be available to the facility during all hours of operation upon reasonable notice, and shall have immediate access to any and all areas of the facility for the purpose of ensuring compliance with the provisions of this Compact. The TCA shall investigate any such suspected or reported violation of this Compact and shall require the enterprise to correct such violations. The TCA shall officially enter into its files timely written reports of investigations and any action taken thereon, and shall forward copies of such reports to the SCA within fifteen (15) days of such filing. Any such violations shall be reported immediately to the

TCA, and the TCA shall immediately forward the same to the SCA. In addition, the TCA shall promptly report to the SCA any such violations which it independently discovers.

**\*3385** C. In order to develop and foster a positive and effective relationship in the enforcement of the provisions of this Compact, representatives of the TCA and the SCA shall meet, not less than on an annual basis, to review past practices and examine methods to improve the regulatory scheme created by this Compact. The meetings shall take place at a location mutually agreed to by the TCA and the SCA. The SCA, prior to or during such meetings, shall disclose to the TCA any concerns, suspected activities, or pending matters reasonably believed to possibly constitute violations of this Compact by any person, organization or entity, if such disclosure will not compromise the interest sought to be protected.

## Part 8. STATE MONITORING OF COMPACT

A. The SCA shall, pursuant to the provisions of this Compact, have the authority to monitor the conduct of covered games to ensure that the covered games are conducted in compliance with the provisions of this Compact. In order to properly monitor the conduct of covered games, agents of the SCA shall have reasonable access to all areas of the facility related to the conduct of covered games as provided herein:

1. Access to the facility by the SCA shall be during the facility's normal operating hours only; provided that to the extent such inspections are limited to areas of the facility where the public is normally permitted, SCA agents may inspect the facility without giving prior notice to the enterprise;

2. Any suspected or claimed violations of this Compact or of law shall be directed in writing to the TCA; SCA agents shall not interfere with the functioning of the enterprise; and

3. Before SCA agents enter any nonpublic area of the facility, they shall provide proper photographic identification to the TCA. SCA agents shall be accompanied in nonpublic areas of the facility by a TCA agent. A one-hour notice by SCA to the TCA may be required to assure that a TCA officer is available to accompany SCA agents at all times.

B. Subject to the provisions herein, agents of the SCA shall have the right to review and copy documents of the enterprise related to its conduct of covered games. The review and copying of such documents shall be during normal business hours or hours otherwise at tribe's discretion. However, the SCA shall not be permitted to copy those portions of any documents of the enterprise related to its conduct of covered games that contain business or marketing strategies or other proprietary and confidential information of the enterprise, including, but not limited to, customer lists, business plans, advertising programs, marketing studies, and customer demographics or profiles. No documents of the enterprise related to its conduct of covered games or copies thereof shall be released to the public by the state under any circumstances. All such documents shall be deemed confidential documents owned by the tribe and shall not be subject to public release by the state.

**\*3386** C. At the completion of any SCA inspection or investigation, the SCA shall forward a written report thereof to the TCA. The TCA shall be apprised on a timely basis of all pertinent, nonconfidential information regarding any violation of federal, state, or tribal laws, the rules or regulations, or this Compact. Nothing herein prevents the SCA from contacting tribal or federal law enforcement authorities for suspected criminal wrongdoing involving the TCA. TCA may interview SCA inspectors upon reasonable notice and examine work papers and SCA in the same fashion that SCA inspectors may examine auditors' notes and make auditor inquiry unless providing such information to the TCA will compromise the interests sought to be protected. If the SCA determines that providing the information to the TCA will compromise the interests sought to be protected, then the SCA shall provide such information to the tribe in accordance with Part 13 of this Compact.

D. Nothing in this Compact shall be deemed to authorize the state to regulate the tribe's government, including the TCA, or to interfere in any way with the tribe's selection of its governmental officers, including members of the TCA; provided, however, the SCA and the tribe, upon request of the tribe, shall jointly employ, at the tribe's expense, an independent firm to perform on behalf of the SCA the duties set forth in subsections A and B of this Part.

## Part 9. JURISDICTION

This Compact shall not alter tribal, federal or state civil adjudicatory or criminal jurisdiction.

## Part 10. LICENSING

A. 1. Except as provided in paragraph 4 of Part 3, no covered game employee shall be employed at a facility or by an enterprise unless such person is licensed in accordance with this Compact. In addition to the provisions of this Part which are applicable to the licensing of all covered game employees, the requirements of 25 C.F.R., Part 556, Background Investigations for Primary Management Officials and Key Employees, and 25 C.F.R., Part 558, Gaming Licenses for Key Employees and Primary Management Officials, apply to Key Employees and Primary Management Officials of the facility and enterprise.

2. All prospective covered game employees shall apply to the TCA for a license. Licenses shall be issued for periods of no more than two (2) years, after which they may be renewed only following review and update of the information upon which the license was based; provided, the TCA may extend the period in which the license is valid for a reasonable time pending the outcome of any investigation being conducted in connection with the renewal of such license. In the event the SCA contends that any such extension is unreasonable, it may seek resolution of that issue pursuant to Part 11 of this Compact.

3. The application process shall require the TCA to obtain sufficient information and identification from the applicant to permit a background investigation to determine if a license should be issued in accordance with this Part and the rules and regulations. The TCA shall obtain information about a prospective covered game employee that includes:

- \*3387** a. full name, including any aliases by which applicant has ever been known,
- b. social security number,
- c. date and place of birth,
- d. residential addresses for the past five (5) years,
- e. employment history for the past five (5) years,
- f. driver license number,

- g. all licenses issued and disciplinary charges filed, whether or not discipline was imposed, by any state or tribal regulatory authority,
- h. all criminal arrests and proceedings, except for minor traffic offenses, to which the applicant has been a party,
- i. a set of fingerprints,
- j. a current photograph,
- k. military service history, and
- l. any other information the TCA determines is necessary to conduct a thorough background investigation.

4. Upon obtaining the required initial information from a prospective covered game employee, the TCA shall forward a copy of such information to the SCA, along with any determinations made with respect to the issuance or denial of a temporary or permanent license. The SCA may conduct its own background investigation of the applicant at SCA expense, shall notify the TCA of such investigation within a reasonable time from initiation of the investigation, and shall provide a written report to the TCA of the outcome of such investigation within a reasonable time from the receipt of a request from the TCA for such information. SCA inspector field notes and the SCA inspector shall be available upon reasonable notice for TCA review and inquiry.

5. The TCA may issue a temporary license for a period not to exceed ninety (90) days, and the enterprise may employ on a probationary basis, any prospective covered game employee who represents in writing that he or she meets the standards set forth in this Part, provided the TCA or enterprise is not in possession of information to the contrary. The temporary license shall expire at the end of the ninety-day period or upon issuance or denial of a permanent license, whichever event occurs first. Provided that the temporary license period may be extended at the discretion of the TCA so long as good faith efforts are being made by the applicant to provide required information, or the TCA is continuing to conduct its investigation or is waiting on information from others, and provided further that in the course of such temporary or extended temporary licensing period, no information has come to the attention of the TCA which, in the absence of countervailing information then in the record, would otherwise require denial of license. A permanent license shall be issued or denied within a reasonable time following the completion of the applicant's

background investigation.

**\*3388** 6. In covered gaming the tribe shall not employ and shall terminate, and the TCA shall not license and shall revoke a license previously issued to, any covered game employee who:

- a. has been convicted of any felony or an offense related to any covered games or other gaming activity,
- b. has knowingly and willfully provided false material, statements or information on his or her employment application, or
- c. is a person whose prior activities, criminal record, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of the conduct of covered games, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of covered games or the carrying on of the business and financial arrangements incidental thereto.

7. The SCA may object to the employment of any individual by the enterprise based upon the criteria set forth in paragraph 6 of subsection A of this Part. Such objection shall be in writing setting forth the basis of the objection. The SCA inspector's work papers, notes and exhibits which formed the SCA conclusion shall be available upon reasonable notice for TCA review. The enterprise shall have discretion to employ an individual over the objection of the SCA.

8. The TCA shall have the discretion to initiate or continue a background investigation of any licensee or license applicant and to take appropriate action with respect to the issuance or continued validity of any license at any time, including suspending or revoking such license.

9. The TCA shall require all covered game employees to wear, in plain view, identification cards issued by the TCA which include a photograph of the employee, his or her first name, a four-digit identification number unique to the license issued to the employee, a tribal seal or signature verifying official issuance of the card, and a date of expiration, which shall not extend beyond such employee's license expiration date.

B. 1. Any person or entity who, directly or indirectly, provides or is likely to provide at least Twenty-five Thousand Dollars (\$25,000.00) in goods or services to the enterprise in any twelve-month period, or who has received at least Twenty-five Thousand Dollars (\$25,000.00) for goods or services provided to the enterprise in any consecutive twelve-month period within the immediately preceding twenty-four-month period, or any person or entity who provides through sale, lease, rental or otherwise covered games, or parts, maintenance or service in connection therewith to the tribe or the enterprise at any time and in any amount, shall be licensed by the TCA prior to the provision thereof. Provided, that attorneys or certified public accountants and their firms shall be exempt from the licensing requirement herein to the extent that they are providing services covered by their professional licenses.

**\*3389** 2. Background investigations and licensing shall follow the same process and apply the same criteria as for covered game employees set forth in paragraph 6 of subsection A of this Part.

3. In the case of a license application of any entity, all principals thereof shall be subjected to the same background investigation required for the licensing of a covered game employee, but no license as such need be issued; provided, no license shall be issued to the entity if the TCA determines that one or more of its principals will be persons who would not be qualified to receive a license if they applied as covered game employees.

4. Nothing herein shall prohibit the TCA from processing and issuing a license to a principal in his or her own name.

5. Licenses issued under this subsection shall be reviewed at least every two (2) years for continuing compliance, and shall be promptly revoked if the licensee is determined to be in violation of the standards set forth in paragraph 6 of subsection A of this Part. In connection with such a review, the TCA shall require the person or entity to update all information provided in the previous application.

6. The enterprise shall not enter into, or continue to make payments pursuant to, any contract or agreement for the provision of goods or services with any person or entity who does not meet the requirements of this Part including, but not limited

to, any person or entity whose application to the TCA for a license has been denied, or whose license has expired or been suspended or revoked.

7. Pursuant to 25 C.F.R., Part 533, all management contracts must be approved by the Chair of the National Indian Gaming Commission. The SCA shall be notified promptly after any such approval.

8. In addition to any licensing criteria set forth above, if any person or entity seeking licensing under this subsection is to receive any fee or other payment based on the revenues or profits of the enterprise, the TCA may take into account whether or not such fee or other payment is fair in light of market conditions and practices.

C. 1. Subject to the exceptions set forth in paragraph 4 of this subsection, any person or entity extending financing, directly or indirectly, to the facility or enterprise in excess of Fifty Thousand Dollars (\$50,000.00) in any twelve-month period shall be licensed prior to providing such financing. Principals thereof shall be subjected to background investigations and determinations in accordance with the procedures and standards set forth in subsection A of this Part. Licenses issued under this section shall be reviewed at least every two (2) years for continuing compliance, and shall be promptly revoked if the licensee is determined to be in violation of the standards set forth in paragraph 6 of subsection A of this Part. In connection with such a review, the TCA shall require the person or entity to update all information provided in the previous application.

**\*3390** 2. The SCA shall be notified of all financing and loan transactions with respect to covered games or supplies in which the amount exceeds Fifty Thousand Dollars (\$50,000.00) in any twelve-month period, and shall be entitled to review copies of all agreements and documents in connection therewith.

3. A supplier of goods or services who provides financing exclusively in connection with the sale or lease of covered games equipment or supplies shall be licensed solely in accordance with licensing procedures applicable, if at all, to such suppliers herein.

4. Financing provided by a federally regulated or

state-regulated bank, savings and loan, or trust, or other federally or state-regulated lending institution; any agency of the federal, state, tribal or local government; or any person or entity, including, but not limited to, an institutional investor who, alone or in conjunction with others, lends money through publicly or commercially traded bonds or other commercially traded instruments, including but not limited to the holders of such bonds or instruments or their assignees or transferees, or which bonds or commercially traded instruments are underwritten by any entity whose shares are publicly traded or which underwriter, at the time of the underwriting, has assets in excess of One Hundred Million Dollars (\$100,000,000.00), shall be exempt from the licensing and background investigation requirements in subsection B of this Part or this subsection.

D. In the event the SCA objects to a lender, vendor or any other person or entity within subsection B or C of this Part seeking to do business with the enterprise, or to the continued holding of a license by such person or entity, it may notify the TCA of its objection. The notice shall set forth the basis of the objection with sufficient particularity to enable the TCA to investigate the basis of the objection. The SCA inspector and SCA inspector field notes shall be available for TCA review and inquiry. Within a reasonable time after such notification, the TCA shall report to the SCA on the outcome of its investigation and of any action taken or decision not to take action.

#### Part 11. EXCLUSIVITY AND FEES

A. The parties acknowledge and recognize that this Compact provides tribes with substantial exclusivity and, consistent with the goals of IGRA, special opportunities for tribal economic opportunity through gaming within the external boundaries of Oklahoma in respect to the covered games. In consideration thereof, so long as the state does not change its laws after the effective date of this Compact to permit the operation of any additional form of gaming by any such organization licensee, or change its laws to permit any additional electronic or machine gaming within Oklahoma, the tribe agrees to pay the following fees:

**\*3391** 1. The tribe covenants and agrees to pay to the state a fee derived from covered game revenues calculated as set forth in paragraph 2 of this subsection. Such fee shall be paid no later than the

twentieth day of the month for revenues received by the tribe in the preceding month; and

2. The fee shall be:

- a. four percent (4%) of the first Ten Million Dollars (\$10,000,000.00) of adjusted gross revenues received by a tribe in a calendar year from the play of electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games,
- b. five percent (5%) of the next Ten Million Dollars (\$10,000,000.00) of adjusted gross revenues received by a tribe in a calendar year from the play of electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games,
- c. six percent (6%) of all subsequent adjusted gross revenues received by a tribe in a calendar year from the play of electronic amusement games, electronic bonanza-style bingo games and electronic instant bingo games, and
- d. ten percent (10%) of the monthly net win of the common pool(s) or pot(s) from which prizes are paid for nonhouse-banked card 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.

Payments of such fees shall be made to the Treasurer of the State of Oklahoma. Nothing herein shall require the allocation of such fees to particular state purposes, including, but not limited to, the actual costs of performing the state's regulatory responsibilities hereunder.

B. Annual oversight assessment. In addition to the fee provided for in subsection A of this Part, the state shall be entitled to payment for its costs incurred in connection with the oversight of covered games to the extent provided herein, "annual oversight assessment". The annual oversight assessment, which shall be Thirty-five Thousand Dollars (\$35,000.00), shall be determined and paid in advance on a fiscal year basis for each twelve (12) months ending on June 30 of each year.

C. Upon the effective date of this Compact, the tribe shall deposit with the SCA the sum of Fifty

Thousand Dollars (\$50,000.00) ("start-up assessment"). The purpose of the start-up assessment shall be to assist the state in initiating its administrative and oversight responsibilities hereunder and shall be a one-time payment to the state for such purposes.

**\*3392** D. Nothing in this Compact shall be deemed to authorize the state to impose any tax, fee, charge or assessment upon the tribe or enterprise except as expressly authorized pursuant to this Compact; provided that, to the extent that the tribe is required under federal law to report prizes awarded, the tribe agrees to copy such reports to the SCA.

E. In consideration for the covenants and agreements contained herein, the state agrees that it will not, during the term of this Compact, permit the nontribal operation of any machines or devices to play covered games or electronic or mechanical gaming devices otherwise presently prohibited by law within the state in excess of the number and outside of the designated locations authorized by the State-Tribal Gaming Act. The state recognizes the importance of this provision to the tribe and agrees, in the event of a breach of this provision by the state, to require any nontribal entity which operates any such devices or machines in excess of such number or outside of the designated location to remit to the state at least quarterly no less than fifty percent (50%) of any increase in the entities' adjusted gross revenues following the addition of such excess machines. The state further agrees to remit at least quarterly to eligible tribes, as liquidated damages, a sum equal to fifty percent (50%) of any increase in the entities' adjusted gross revenues following the addition of such excess machines. For purposes of this Part, "eligible tribes" means those tribes which have entered into this Compact and are operating gaming pursuant to this Compact within forty-five (45) miles of an entity which is operating covered game machines in excess of the number authorized by, or outside of the location designated by, the State-Tribal Gaming Act. Such liquidated damages shall be allocated pro rata to eligible tribes based on the number of covered game machines operated by each Eligible Tribe in the time period when such adjusted gross revenues were generated.

F. In consideration for the covenants and agreements contained herein, the tribe agrees that in the event it has currently or locates in the future a

facility within a radius of twenty (20) miles from a recipient licensee as that term is defined in subsection K of Section 4 of the State-Tribal Gaming Act that it shall comply with the requirements of subsection K of Section 4 of the State-Tribal Gaming Act.

## Part 12. DISPUTE RESOLUTION

In the event that either party to this Compact believes that the other party has failed to comply with any requirement of this Compact, or in the event of any dispute hereunder, including, but not limited to, a dispute over the proper interpretation of the terms and conditions of this Compact, the following procedures may be invoked:

**\*3393** 1. The goal of the parties shall be to resolve all disputes amicably and voluntarily whenever possible. A party asserting noncompliance or seeking an interpretation of this Compact first shall serve written notice on the other party. The notice shall identify the specific Compact provision alleged to have been violated or in dispute and shall specify in detail the asserting party's contention and any factual basis for the claim. Representatives of the tribe and state shall meet within thirty (30) days of receipt of notice in an effort to resolve the dispute;

2. Subject to the limitation set forth in paragraph 3 of this Part, either party may refer a dispute arising under this Compact to arbitration under the rules of the American Arbitration Association (AAA), subject to enforcement or pursuant to review as provided by paragraph 3 of this Part by a federal district court. The remedies available through arbitration are limited to enforcement of the provisions of this Compact. The parties consent to the jurisdiction of such arbitration forum and court for such limited purposes and no other, and each waives immunity with respect thereto. One arbitrator shall be chosen by the parties from a list of qualified arbitrators to be provided by the AAA. If the parties cannot agree on an arbitrator, then the arbitrator shall be named by the AAA. The expenses of arbitration shall be borne equally by the parties.

A party asserting noncompliance or seeking an interpretation of this Compact under this section shall be deemed to have certified that to the best of the party's knowledge, information, and belief formed after reasonable inquiry, the claim of noncompliance or the request for interpretation of

this Compact is warranted and made in good faith and not for any improper purpose, such as to harass or to cause unnecessary delay or the needless incurring of the cost of resolving the dispute. If the dispute is found to have been initiated in violation of this Part, the Arbitrator, upon request or upon his or her own initiative, shall impose upon the violating party an appropriate sanction, which may include an award to the other party of its reasonable expenses incurred in having to participate in the arbitration; and

3. Notwithstanding any provision of law, either party to the Compact may bring an action against the other in a federal district court for the de novo review of any arbitration award under paragraph 2 of this Part. The decision of the court shall be subject to appeal. Each of the parties hereto waives immunity and consents to suit therein for such limited purposes, and agrees not to raise the Eleventh Amendment to the United States Constitution or comparable defense to the validity of such waiver.

Nothing herein shall be construed to authorize a money judgment other than for damages for failure to comply with an arbitration decision requiring the payment of monies.

**\*3394** Part 13. CONSTRUCTION OF COMPACT; FEDERAL APPROVAL

A. Each provision, section, and subsection of this Compact shall stand separate and independent of every other provision, section, or subsection. In the event that a federal district court shall find any provision, section, or subsection of this Compact to be invalid, the remaining provisions, sections, and subsections of this Compact shall remain in full force and effect, unless the invalidated provision, section or subsection is material.

B. Each party hereto agrees to defend the validity of this Compact and the legislation in which it is embodied. This Compact shall constitute a binding agreement between the parties and shall survive any repeal or amendment of the State-Tribal Gaming Act.

C. The parties shall cooperate in seeking approval of this Compact from an appropriate federal agency as a tribal-state compact under the Indian Gaming Regulatory Act.

D. The standards for electronic bonanza-style bingo games, electronic instant bingo games and electronic amusement games established in the State-Tribal Gaming Act as enacted in 2004, and, at the election of the tribe, any standards contained in the Oklahoma Horseracing Commission rules issued pursuant to subsection B of Section 9 of the State-Tribal Gaming Act are hereby incorporated in this Compact and shall survive any repeal of the State-Tribal Gaming Act, or any games authorized thereunder. In the event that any of said standards are changed by amendment of the State-Tribal Gaming Act, the tribe shall have the option to incorporate said changes into this Compact by delivery of written notice of said changes to the Governor and the SCA.

Part 14. NOTICES

All notices required under this Compact shall be given by certified mail, return receipt requested, commercial overnight courier service, or personal delivery, to the following persons:

Governor

Chair, State-Tribal Relations Committee

Attorney General

[Principal Chief, Governor or Chair]

[Name of Tribe]

[Address]

With copies to:

\_\_\_\_\_

\_\_\_\_\_

Part 15. DURATION AND NEGOTIATION

**\*3395** A. This Compact shall become effective upon the last date of the satisfaction of the following requirements:

1. Due execution on behalf of the tribe, including obtaining all tribal resolutions and completing other tribal procedures as may be necessary to render the tribe's execution effective;

2. Approval of this Compact by the Secretary of the Interior as a tribal-state compact within the meaning of IGRA and publication in the Federal Register or satisfaction of any other requirement of federal law; and

3. Payment of the start-up assessment provided for in subsection C of Part 11 of this Compact.

B. This Compact shall have a term which will expire on January 1, 2020, and at that time, if organization licensees or others are authorized to conduct electronic gaming in any form other than pari-mutuel wagering on live horse racing pursuant to any governmental action of the state or court order following the effective date of this Compact, the Compact shall automatically renew for successive additional fifteen-year terms; provided that, within one hundred eighty (180) days of the expiration of this Compact or any renewal thereof, either the tribe or the state, acting through its Governor, may request to renegotiate the terms of subsections A and E of Part 11 of this Compact.

C. This Compact shall remain in full force and effect until the sooner of expiration of the term or until the Compact is terminated by mutual consent of the parties.

D. This Compact may be terminated by state upon thirty (30) days' prior written notice to the tribe in the event of either (1) a material breach by the tribe of the terms of a tobacco Compact with the state as evidenced by a final determination of material breach from the dispute resolution forum agreed upon therein, including exhaustion of all available appellate remedies therefrom, or (2) the tribe's failure to comply with the provisions of Section 346 et seq. of Title 68 of the Oklahoma Statutes, provided that the tribe may cure either default within the thirty-day notice period, or within such additional period as may be reasonably required to cure the default, in order to preserve continuation of this Compact.

The state hereby agrees that this subsection is severable from this Compact and shall automatically be severed from this Compact in the event that the United States Department of the Interior determines that these provisions exceed the state's authority under IGRA.

\*3396 Part 16. AUTHORITY TO EXECUTE

This Compact, as an enactment of the people of Oklahoma, is deemed approved by the State of Oklahoma. No further action by the state or any state official is necessary for this Compact to take effect upon approval by the Secretary 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 Compact on behalf of the tribe for whom he or she is signing.

APPROVED:

[Name of Tribe]

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[CHIEF EXECUTIVE OFFICER]

### CREDIT(S)

*Laws 2004, c. 316, § 22.*

### HISTORICAL NOTES

### HISTORICAL AND STATUTORY NOTES

#### 2007 Electronic Update

State Question No. 712, Legislative Referendum No. 335, proposing enactment of this section by Laws 2004, c. 316, was approved by the people Nov. 2, 2004.

### REFERENCES

### LAW REVIEW AND JOURNAL COMMENTARIES

U.S. politics and tribal nation gaming: How it all plays out in Oklahoma. Angelique Eaglewoman, 77 Okla. B.J. 525 (2006).

### ANNOTATIONS

### NOTES OF DECISIONS

#### Construction and application 1

##### 1. Construction and application

Federally recognized Indian tribes that enter into Model Tribal Gaming Compact set forth in State-Tribal Gaming Act may lawfully operate, and their patrons may lawfully play, nonhouse-banked card games for money, checks, credit checks, and/or representatives of value. Op.Atty.Gen. Opinion No. 05-18 (May 20, 2005), 2005 WL 1284837.

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st

Legislature (2007).

**\*3397 3A Okl.St. Ann. § 282**

**OKLAHOMA STATUTES  
ANNOTATED  
TITLE 3A. AMUSEMENTS AND  
SPORTS  
CHAPTER 2. HORSE RACING  
STATE-TRIBAL GAMING ACT**

*Current with emergency effective chapters  
through Chapter 36 of the First Regular  
Session of the 51st Legislature (2007).*

**§ 282. Organization gaming license fees--  
Oklahoma Horse Racing Commission  
Gaming Regulation Revolving Fund--  
Budgetary limits--Occupation gaming  
license fees**

A. The Oklahoma Horse Racing Commission is authorized to charge an application fee of Fifty Thousand Dollars (\$50,000.00) to each organization licensee which desires to conduct gaming pursuant to the State-Tribal Gaming Act or which receives any funds as a "recipient licensee" as that term is defined by the State Tribal Gaming Act and desires to conduct pari-mutuel wagering in this state. Such fee must be paid prior to any organization licensee being authorized by the Oklahoma Horse Racing Commission to conduct gaming pursuant to the State-Tribal Gaming Act.

B. In addition to the application fee authorized in subsection A of this section and the fees authorized in subsection G of this section, the Oklahoma Horse Racing Commission is hereby authorized to assess a fee upon each organization licensee authorized by the State-Tribal Gaming Act to conduct gaming authorized by the State-Tribal Gaming Act to provide adequate funding to the Oklahoma Horse Racing Commission for the regulation of such gaming in this state.

C. The assessment authorized by subsection B shall be proportional to the number of player terminals an organization licensee is licensed to operate pursuant to the State-Tribal Gaming Act.

D. The Commission may provide that each licensee shall pay any assessment levied pursuant to subsection B of this section on a quarterly, semi-

annual or annual basis. Notice of the assessment shall be sent by certified mail, return receipt requested, to each licensee. Each licensee shall pay the amount assessed to the Commission for deposit to the Oklahoma Horse Racing Commission Gaming Regulation Revolving Fund created in subsection E of this section. The Commission shall establish the dates by which such assessment shall be due.

E. The application fee authorized in subsection A of this section and any assessment authorized in subsection B of this section and any fee authorized in subsection G of this section collected by the Commission shall be deposited in the "Oklahoma Horse Racing Commission Gaming Regulation Revolving Fund" hereby created. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of the monies received by the Commission from any assessment and fee levied pursuant to the provisions of this section and any other monies designated for deposit thereto. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission to pay the costs, both direct and indirect, of the Commission incurred to regulate gaming conducted by an organization licensee pursuant to the State-Tribal Gaming Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

**\*3398** F. The Legislature shall establish budgetary limits for the regulation of such gaming by the Commission. For the fiscal year ending June 30, 2005, the total of all assessments levied pursuant to subsection B of this section shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00). For subsequent fiscal years, the total of all assessments levied pursuant to this section shall not exceed the amount of the total budgetary limits minus the amount of any monies appropriated by the Legislature for such purpose.

G. The Oklahoma Horse Racing Commission shall issue occupation gaming licenses and charge to the applicants therefore the related license application fees, investigative fees and fingerprint fees authorized in this subsection. An occupation gaming license is any of the following gaming licenses issued by the Commission.

Manufacturer License  
 Distributor License  
 Manufacturer/Distributor License  
 Independent Testing Laboratory  
 Vendor License  
 Key Executive License  
 Gaming Employee License  
 Manufacturer, Distributor, or  
 Employee License  
 Vendor Employee License

Background Investigative fee for the categories:

Manufacturer, Distributor,  
 Testing Laboratory, Racetrack  
 Key Executive

Background Investigative fee for the categories:

Gaming Employee, Vendor  
 Fingerprint fees shall be charged as  
 Investigation and the Federal Bureau

**CREDIT(S)**

*Laws 2004, c. 487, § 1; Laws 2005, c. 148, § 1, emerg. eff. May 9, 2005.*

**HISTORICAL NOTES**

**HISTORICAL AND STATUTORY NOTES**

**2007 Electronic Update**

Laws 2004, c. 487, § 4 provides:

"This act shall become effective upon certification of election returns favoring passage of the legislative referendum proposed in Senate Bill No. 1252 of the 2nd Session of the 49th Oklahoma Legislature [Laws 2004, c. 316]."

Current with emergency effective chapters through Chapter 36 of the First Regular Session of the 51st Legislature (2007).