

*3314 3A Okl.St. Ann. § 262

**OKLAHOMA STATUTES
ANNOTATED
TITLE 3A. AMUSEMENTS
AND SPORTS
CHAPTER 2. HORSE RACING
STATE-TRIBAL GAMING
ACT**

*Current with chapters of the 2006 Second
Regular Session effective through July 1,
2006.*

§ 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.

*3315 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.

*3316 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

2005 Electronic Pocket Part 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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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).

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