

ENROLLED HOUSE BILL NUMBER 2074
ENACTED BY THE SECOND REGULAR SESSION OF THE
43RD LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE

STATE QUESTION NUMBER 650
LEGISLATIVE REFERENDUM NUMBER 294

Received: May 28, 1992

An Act

ENROLLED HOUSE
BILL NO. 2074

BY: LITTLEFIELD of the HOUSE
and
SMITH of the SENATE

DIRECTING THE SECRETARY OF STATE TO REFER TO THE PEOPLE FOR THEIR APPROVAL OR REJECTION A PROPOSED ACT RELATING TO AMUSEMENTS AND SPORTS; PROVIDING SHORT TITLE; SPECIFYING LEGISLATIVE DECLARATION AND FINDINGS; CREATING THE OKLAHOMA CHARITY GAMES ACT; PROHIBITING CERTAIN ACTS; DECLARING CERTAIN ACTIVITIES TO BE IN VIOLATION OF THE LAW; DEFINING TERMS; PROVIDING DUTIES AND POWERS OF THE TAX COMMISSION; PROVIDING FOR LICENSES AND SPECIFYING RESTRICTIONS THEREON; PROVIDING LICENSING FEES AND APPLICATION PROCEDURES; PROVIDING PROCEDURES FOR EXEMPTING CERTAIN ORGANIZATIONS AND ENTITIES FROM CERTAIN PROVISIONS OF THE OKLAHOMA CHARITY GAMES ACT; PROHIBITING LICENSING IN CERTAIN CIRCUMSTANCES; PROVIDING FOR REFUSAL TO ISSUE, DENIAL OF RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE AND SPECIFYING GROUNDS THEREFOR; REQUIRING NOTICE TO CERTAIN OFFICIALS OF LICENSE APPLICATION; PROVIDING PROTEST PROCEDURES; PROVIDING PROCEDURES FOR PETITION FOR REVOCATION OF LICENSE; REQUIRING MAINTENANCE OF CERTAIN RECORDS AND REQUIRING CERTAIN REPORTS; ESTABLISHING REQUIREMENTS FOR CONDUCTING CHARITY GAMES; REGULATING PURCHASING AND SUPPLYING OF CHARITY GAME EQUIPMENT; PRESCRIBING PROCEDURES REGARDING CERTAIN DAMAGED AND WINNING CHARITY GAME EQUIPMENT; PROHIBITING CERTAIN ACTIVITIES RELATING TO CHARITY GAMES; PROHIBITING CERTAIN BEVERAGES AT LOCATIONS WHERE CHARITY GAMES ARE BEING CONDUCTED; SPECIFYING LIMITATIONS ON CONDUCTING OF BINGO GAMES; REQUIRING SALES TAX PERMIT TO BE OBTAINED IN CERTAIN CIRCUMSTANCES; LEVYING TAXES; PROVIDING PROCEDURES FOR COLLECTION AND APPORTIONMENT OF REVENUES; PROVIDING PENALTIES; AUTHORIZING ADMINISTRATIVE FINES AND SPECIFYING PROCEDURES; AUTHORIZING CHARITY GAME ACTIVITIES TO CONTINUE UNDER CERTAIN CIRCUMSTANCES; PROVIDING PROCEDURES FOR TRANSITION TO COMPLETE IMPLEMENTATION OF ACT; CONSTRUING ACT; DECLARING CERTAIN ITEMS CONTRABAND AND PROVIDING PROCEDURES RELATING THERETO; AMENDING 21 O.S. 1991, SECTIONS 941, 966 AND 981, WHICH RELATE TO GAMBLING; ADDING AN EXCEPTION AND MODIFYING DEFINITIONS; AMENDING 68 O.S. 1991, SECTION 1355 (SECTION 1, CHAPTER 337, O.S.L. 1991), WHICH RELATES TO EXEMPTIONS FROM SALES TAX; ADDING AN EXEMPTION; INCORPORATING LANGUAGE FROM DUPLICATE VERSION OF STATUTE; REPEALING 21 O.S. 1991, SECTIONS 995.1, 995.1a, 995.2, 995.3, 995.3a, 995.4, 995.5, 995.6, 995.7, 995.8, 995.9, 995.10, 995.11, 995.12, 995.13, 995.14 AND 995.15, WHICH RELATE TO BINGO; REPEALING 68 O.S. 1991, SECTION 1355 (SECTION 19, CHAPTER 235, O.S.L. 1991), WHICH IS A DUPLICATE SECTION RELATING TO SALES TAX EXEMPTIONS; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; PROVIDING A BALLOT TITLE; AND DIRECTING FILING.

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

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection at the next general election, as and in the manner provided for by law, Sections 2 through 34 of this act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 401 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Sections 2 through 28 of this act shall be known and may be cited as the "Oklahoma Charity Games Act".

B. For the protection of charitable organizations and the general public seeking to assist such organizations through participation in certain charity organized activities, the Legislature declares that it is necessary to restrict the conducting of certain games of chance by enacting an Oklahoma Charity Games Act. Such restrictions are for the purpose of authorizing the conducting of certain games of chance to certain organizations which function exclusively for charitable purposes in conformance with state and federal laws regulating such organizations.

The Legislature finds that it is in the interest of the health, welfare, and safety of the citizens of the State of Oklahoma that games of chance offered to the public by other than charitable organizations which are commonly referred to as "commercial bingo" or "commercial operations" are hereby prohibited in this state.

The Legislature further finds that offering to the public certain types of games of chance including but not limited to games commonly referred to as bingo games and other types of instant winner games by other than a licensed organization is declared to be a "commercial operation" and is in violation of the law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 402 of Title 3A, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Charity Games Act:

1. "Bingo" means a game in which each player receives a bingo face and covers the squares according to the numbers, letters, or combination of numbers and letters that have been announced by the caller. The numbers and letters called are on an object selected at random either manually or mechanically from a receptacle in which have been placed the objects bearing the numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the bingo face squares. The winner of each bingo game is the player who first properly covers a predetermined and announced pattern of squares upon the bingo face being used by the player;

2. "Bingo face" means a flat piece of paper which is marked off into any number of squares in any arrangement of rows, with each square being designated by number, letter or combination of numbers and letters and with one or more squares designated as a "free" space with one or more word "Oklahoma" and a facsimile outline of a map of Oklahoma in it, which cannot be reused after the game in which a player has used it is over;

3. "Breakopen ticket card" means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal a number, letter, symbol, or set of letters or symbols, a few of which numbers, letters or symbols out of

every set of charity game tickets have been designated in advance at random as prize winners and which is used in a breakopen ticket game;

4. "Breakopen ticket game" means a game wherein a player receives a breakopen ticket card. A breakopen ticket game shall meet the following criteria:

- a. the game shall be assembled so that no placement of winners or losers exists that allows the possibility of prize manipulation,
- b. the concealed numbers, letters, or symbols shall not be visible from the outside of the game using high intensity lamps. Protection shall be provided by the opaque paper stock employed, with the possible addition of colors and printed blockout patterns or by use of an aluminum foil laminate,
- c. a unique symbol or printed security device, such as a specific number keyed to particular winners or the name of the symbol or some of the symbol colors changed for a window, or other similar protection shall be placed in the winning windows of prize windows to ensure that the winner image is unique,
- d. it shall not be possible to detect or pick out winning from losing tickets through variations in printing graphics, color, or use of different printing plates,
- e. it shall not be possible to isolate winning or potential winning tickets from minor variations in size or cutting of the tickets comprising a particular packet, and
- f. each ticket in a game shall have a serial number. All tickets in a game shall have the same serial number appearing in a conspicuous place on the ticket;

5. "Business entity" is a person, company, corporation, or partnership organized for profit;

6. "Charity game" means a bingo game, U-PIK-EM bingo game, or breakopen ticket game conducted by an organization pursuant to the provisions of the Oklahoma Charity Games Act;

7. "Charity game equipment" means any object uniquely designed for use in the conducting of a charity game including but not limited to bingo faces, U-PIK-EM bingo game sets, and breakopen ticket cards. Items used in conducting charity games which are not charity game equipment are ink markers, furniture and general furnishings of rooms where charity games are conducted;

8. "Commission" means the Oklahoma Tax Commission;

9. "Day session" means the set time frame within which conducting of charity games is authorized beginning no earlier than 10:00 a.m. and ending no later than 5:00 p.m.;

10. "Deal" means one series of breakopen ticket game cards which have a stated number of winner payouts and a stated amount of the payouts;

11. "Distributor" means a person or business entity that sells, markets, or otherwise provides charity game equipment to an organization;

12. "Doing business" means either conducting a charity game by an organization or providing goods or services to an organization by a business entity;

13. "Licensee" means any person, organization, or business entity which has received a license from the Commission;

14. "Location" means the building, including the individual rooms and equipment in the rooms, grounds, and appurtenances, including adjacent premises if subject to the direct or indirect control of the organization while conducting a charity game, which are used in connection with or in furtherance of the conducting of a charity game;

15. "Manufacturer" means a person or business entity that assembles from raw materials, supplies, or subparts to form a completed series of charity game equipment for use in charity games and that sells, markets, or otherwise provides such equipment to a distributor;

16. "Night session" means the set time frame within which conducting of charity games is authorized beginning no earlier than 5:00 p.m. and ending no later than 12:00 p.m. midnight;

17. "Organization" means a religious, charitable, labor, fraternal, educational, or other type of association or any branch, lodge, chapter, or auxiliary of such association which:

- a. operates without profit to its members,
- b. has been in existence and been operating as a nonprofit organization for not less than two (2) years prior to applying for an organization license,
- c. is tax exempt pursuant to the provisions of paragraphs (3), (4), (5), (6), (7), (8), (9), (10), or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, and
- d. formulates bylaws which clearly identify and establish:
 - (1) method of electing officers and their duties,
 - (2) method by which members are elected, initiated or admitted,
 - (3) the rights and privileges of each member,
 - (4) that each member has one vote, and
 - (5) that membership rights are personal to the member and not assignable;

18. "U-PIK-EM bingo game" means a game played wherein a player writes the numbers on a U-PIK-EM bingo game set. The player retains one sheet of the set and deposits the second sheet in a locked receptacle in the control of the organization. The player then covers the numbers as the caller announces a number. The numbers called are on an object selected at random either manually or mechanically from a receptacle in which have been placed the objects bearing the numbers. The winner of each U-PIK-EM bingo game is the player who first covers all the numbers appearing on the retained sheet in accordance with the pattern as designated on the sheet; and

19. "U-PIK-EM bingo game set" means two paper sheets of carbonless paper both bearing identical serial numbers on which a player writes numbers, wherein one sheet is retained by the player

and used for playing and one sheet is held by the organization and used for verifying winners.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 403 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall be the licensing authority for the licensing of organizations, manufacturers, and distributors conducting, supplying, or otherwise providing charity games to the public in this state.

B. The Commission shall be responsible for the administration and enforcement of the Oklahoma Charity Games Act. In addition to such other duties as may be imposed on the Commission by law, and in order to perform that responsibility, the Commission shall:

1. Adopt and promulgate rules for the purpose of administering and enforcing the Oklahoma Charity Games Act;

2. Have the authority to issue, renew, suspend, or revoke any license authorized by the Oklahoma Charity Games Act;

3. Conduct or direct the conducting of investigations relating to issuing, renewing, suspending, or revoking any license authorized by the Oklahoma Charity Games Act;

4. Institute proceedings as the complainant against both licensees and nonlicensees for violations of the Oklahoma Charity Games Act;

5. Maintain records of all proceedings including minutes of meetings, applications for licenses and related documents of applicants, and official documents filed in any hearings conducted by the Commission arising out of any provision of the Oklahoma Charity Games Act or the rules and regulations of the Commission. Copies of such records certified by the Secretary-Member of the Commission shall be admissible as evidence in a civil or criminal action;

6. Make such expenditures including employing such additional staff as may be necessary for the administration and enforcement of the Oklahoma Charity Games Act;

7. Establish a standard recordkeeping system for the conduct of charity games;

8. Establish a model internal control system for use by organizations;

9. Conduct all hearings including actions on investigations, issuance, denial, revocation, or suspension of a license, adoption of rules, and conduct meetings in accordance with the provisions of the Administrative Procedures Act and the Oklahoma Open Meeting Act; and

10. Be responsible for approving locations for the conducting of charity games.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. All licenses issued pursuant to the provisions of the Oklahoma Charity Games Act shall be valid for one (1) year from the date of issue.

B. A license issued by the Commission shall not be transferable, sold, leased or assigned under any circumstances.

C. The initial and renewal fees for licenses authorized by the Oklahoma Charity Games Act shall be as follows:

1. Organization License - One Hundred Dollars (\$100.00);
2. Distributor License - Five Thousand Dollars (\$5,000.00); and
3. Manufacturer License - Two Thousand Dollars (\$2,000.00).

D. All fees received by the Commission pursuant to this section shall be forwarded to the State Treasurer for deposit in the General Revenue Fund.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 405 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any organization which conducts any charity game activities not more than four times per year may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. Such exemption shall be obtained by the filing of a verified application with the Commission, signed by the executive officer of said organization stating that said organization shall conduct a charity game session four or fewer times per calendar year and the dates and times and location wherein such activities shall occur.

Any organization which conducts any charity game activities not more than four times per year which has obtained an exemption from the Commission shall not:

1. Be required to obtain any type of license required by the Oklahoma Charity Games Act;
2. Be restricted to the use of bingo faces as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces; or
3. Be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act.

B. Any hospital, nursing home or convalescent facility which conducts charity games at such facilities on a regular basis for the residents of the facility may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. Such exemption shall be obtained by the filing of a verified application with the Commission, signed by the owner or supervisor of the facility stating that said facility shall conduct charity games at the specified facility for the residents of the facility.

1. Any hospital, nursing home, or convalescent facility which conducts charity games at such facilities on a regular basis for the residents of the facility which has obtained an exemption from the Commission may conduct charity games at the specified facility for the residents of the facility only in accordance with the following restrictions:

- a. the facility shall only conduct bingo games on a weekday between the hours of 1:00 p.m. and 8:00 p.m. No sessions shall be conducted on Sunday, and
- b. the prizes awarded either in cash or any other thing of value shall not exceed Two Hundred Fifty Dollars (\$250.00) in any one 1:00 p.m. to 8:00 p.m. period of play.

2. Any hospital, nursing home, or convalescent facility which conducts charity games at such facilities on a regular basis for the residents of the facility which has obtained an exemption from the Commission shall not:

- a. be required to obtain any type of license required by the Oklahoma Charity Games Act,
- b. be restricted to the use of bingo faces, as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces, or
- c. be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 406 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall refuse to issue, deny renewal, suspend, or revoke a distributor license or a manufacturer license for any individual who:

1. Is not a citizen of the United States; or
2. Has been convicted, pled guilty, or pled nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States.

B. The Commission shall refuse to issue, deny renewal, suspend or revoke a distributor license or a manufacturer license for a partnership if a partner of the partnership has been convicted, pled guilty, or pled nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States.

C. The Commission shall refuse to issue a distributor license or a manufacturer license for a corporation which has an officer or stockholder owning more than ten percent (10%) of the corporate stock who has been convicted, pled guilty, or pled nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 407 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall refuse to issue, deny renewal, suspend, or revoke any license for any one or more of the following reasons:

1. Obtaining a license from the Commission through fraud, misrepresentation, or concealment of a material fact;
2. Noncompliance with the tax laws of this state.

B. The Commission may refuse to issue, deny renewal, suspend, or revoke any license for any one or more of the following reasons:

1. Violation of any provision of the Oklahoma Charity Games Act. A determination of action on a license pursuant to the provisions of this subsection shall not be limited to actions against a licensee that has been convicted of a violation in a court of competent jurisdiction;

2. Violation of any rule adopted by the Commission;
3. Failure to implement an order of the Commission;

4. Failure by an organization to provide adequate internal control in accordance with the rules for such control established by the Commission; or

5. Failure to keep financial records in accordance with the standard system established by the Commission.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 408 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any organization desiring to conduct a charity game in this state shall apply to the Commission for an organization license. An organization license shall only be issued to an organization. A business entity shall not be qualified under any conditions to hold an organization license.

B. An organization shall be limited to only one license and to doing business at only one location.

C. An organization shall use only disposable bingo faces purchased from a licensed distributor. Only one game shall be played on each bingo face.

D. Only an organization or a person paid by an organization shall conduct a charity game for which a charge is made. Compensation paid to an organization or other person for conducting a charity game shall not exceed two times the amount of the minimum wage specified pursuant to federal law.

E. An initial application for an organization license shall be sworn and attested to by a principal officer of the applicant organization and shall include:

1. A certified copy of the document from the U.S. Internal Revenue Service which grants the applicant tax-exempt status and the federal identification number;

2. A certified copy of the articles of incorporation and certificate of incorporation of the organization;

3. A copy of the bylaws of the organization;

4. A copy of the minutes of the meeting of the organization at which the governing body was elected and the terms of office of each member of the governing body;

5. A copy of the minutes of the meeting of the governing body of the organization at which the application for the license was authorized;

6. The name and address of a person authorized to receive service of process on behalf of the organization;

7. The address of the location where the charity games will be conducted; and

8. Such other information deemed necessary by the Commission to assure eligibility for a license.

F. A renewal application shall only include any changes in the information required to be submitted with the initial application.

G. An organization license shall be placed within public view at all times in a conspicuous place at the location where the charity game is being conducted.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 409 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person or business entity desiring to sell or supply any charity game equipment to a licensed organization in this state shall apply to the Commission for a distributor license.

B. An application for a distributor license shall include:

1. The name and address of the applicant and the name and address of each of its separate locations distributing charity game equipment; and

2. The name and address of all owners of the distributing business entity, if the business entity is not a corporation. If the business entity is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning ten percent (10%) or more of any class of stock in the corporation.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 410 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person or business entity desiring to sell or supply charity game equipment to a distributor in this state shall apply to the Commission for a manufacturer license.

B. An application for a manufacturer license shall include:

1. The name and address of the applicant and the name and address of each of its separate locations manufacturing charity game equipment;

2. The name and address of all owners of the manufacturing business entity, if the business entity is not a corporation. If the business entity is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning ten percent (10%) or more of any class of stock in the corporation; and

3. If the applicant is a foreign manufacturer, the full name, business address, and home address of the person who is a resident of this state authorized to receive service of process on behalf of the business entity.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 411 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Upon an application for a license being filed with the Commission, the Commission shall give written notice of the application to the district attorney, county sheriff, city attorney, and chief of police or marshal of the municipality and county in which the applicant will be doing business.

1. The written notice shall be provided by regular first-class mail sent not more than ten (10) calendar days from the date of receipt of the application.

2. The written notice shall contain the name of the applicant, the location at which the organization or business entity will be doing business, and the date on which the Commission will consider the application.

B. Applications for any of the licenses provided for in the Oklahoma Charity Games Act shall be on such form as designated by the Commission.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 412 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person who is a resident of the municipality or county in which the organization or business entity will be doing business may protest such application.

B. To be considered by the Commission, the protest must:

1. Be submitted in writing;
2. Be signed by the person protesting;
3. Contain the place of residence and the mailing address of the protester; and
4. Contain a concise statement as to why the application is being protested.

C. Within thirty (30) calendar days of the date of receipt of the written protest the Commission shall conduct a hearing on all written protests meeting the requirements of this section.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 413 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The district attorney of the county or the city attorney of the municipality wherein a license has been issued may file a petition with the Commission to revoke a license alleging the violation of the Oklahoma Charity Games Act or rule promulgated by the Commission by the holder of the license, its agents, officers, or employees.

1. Within ten (10) calendar days of receiving the petition from the district attorney or city attorney, the Commission shall notify by mail with return receipt requested the person, organization, or business entity against whom the application for revocation was filed.

2. The Commission shall conduct a hearing on the petition and enter a written order setting out the decision regarding the petition.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 414 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Every licensee shall keep and maintain a set of records which shall include such details as required by the Commission of the activities of the licensee relating to doing business in this state pursuant to the provisions of the Oklahoma Charity Games Act.

1. Such records shall be available for inspection by the Commission during regular business hours.

2. Such records shall be maintained for a period of not less than three (3) years from the date of the end of the fiscal year of the licensee.

3. Such records maintained shall include copies of all invoices to all organizations in this state which shall include but not be limited to information as to the amount of charity game equipment sold in this state.

B. Each distributor shall also submit a quarterly report to the Commission containing the name, address, and license or exemption number of each purchaser of charity game equipment.

C. Each licensed manufacturer shall also submit a quarterly report to the Commission containing the following information:

1. The total amount of charity game equipment sold in this state;
2. The total number with the serial numbers and sequential order of bingo faces, U-PIK-EM bingo sets, and breakopen deals sold; and
3. Copies of all invoices for all charity game equipment sold which shall include but not be limited to information as to the number of games sold in this state.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 415 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Licensed organizations shall purchase their supplies only from distributors licensed by this state and payment for said supplies shall be made upon receipt of the supplies at the place of delivery.

B. Distributors shall market, sell, or supply charity game equipment in this state only to an organization, exempt organization, exempt hospital, nursing home, or convalescent facility, or federally recognized Indian tribe or nation.

C. Distributors shall purchase or otherwise obtain charity game equipment only from manufacturers licensed pursuant to the provisions of the Oklahoma Charity Games Act.

D. Manufacturers shall sell charity game equipment in this state only to distributors licensed pursuant to the provisions of the Oklahoma Charity Games Act or federally recognized Indian tribes or nations.

E. Charity game equipment owned by an organization may be disposed of by selling it or giving it away to another organization, an exempt organization, or exempt hospital, nursing home, or convalescent facility, with proper notification to the Tax Commission.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 416 of Title 3A, unless there is created a duplication in numbering, reads as follows:

All damaged and winning bingo faces, breakopen ticket cards, and U-PIK-EM bingo game sets shall be reported and disposed of in such manner as the Commission shall prescribe.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 417 of Title 3A, unless there is created a duplication in numbering, reads as follows:

No licensed organization shall sell, serve or permit to be consumed any alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes or nonintoxicating beverage as defined in Section 163.2 of Title 37 of the Oklahoma Statutes in any room or outdoor area where and during the time a charity game is being conducted.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 418 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. No charity game shall be conducted on the first day of the week, commonly known and designated as Sunday.

B. No charity game shall be conducted between the hours of midnight and 10:00 a.m.

C. Not more than one session shall be conducted at a location during a calendar day.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 419 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. In the conducting of a bingo game or a U-PIK-EM bingo game, not more than a total of Six Thousand Dollars (\$6,000.00) in cash or any other thing of value shall be paid out during a day session or a night session. Such total shall include awards for winning the game, and all other cash or other thing of value given or awarded during the session. For purposes of this subsection, value means the retail cost which would be paid if the item were bought in a retail store.

B. The Commission is hereby authorized to set the limits on the type and purchase price of each breakopen ticket game. Such breakopen ticket card price limit shall not exceed Two Dollars (\$2.00). A breakopen ticket game shall be submitted by the manufacturer to the Commission for approval. Only approved breakopen ticket games may be offered to an organization.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any person, organization or business entity selling food, drink, or any other product subject to sales tax at any charity game location shall be required to obtain an Oklahoma sales tax permit prior to such sale.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 421 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby levied a tax in the amount of one and one-half cent (\$.015) upon each bingo face and each U-PIK-EM bingo game set sold in this state to be paid by the distributor.

B. There is hereby levied upon each breakopen ticket game sold in this state a tax in the amount of ten percent (10%) on the gross receipts of the retail sales value to be paid by the distributor. For purposes of this subsection, "gross receipts of the retail sales value" means the stated retail per breakopen ticket price multiplied by the number of tickets in each packaging container of breakopen tickets.

C. There is hereby levied upon all charity game equipment except bingo faces, U-PIK-EM bingo game sets, and breakopen ticket games a tax in the amount of ten percent (10%) of the price paid for such equipment as shown on the purchase invoice.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 422 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. All taxes levied pursuant to the provisions of Section 22 of the Oklahoma Charity Games Act shall be collected and remitted by the distributor to the Commission.

B. The distributor shall submit a copy of each invoice from the manufacturer from which the distributor obtained the charity game equipment stating the amount and price of each item obtained.

C. The distributor shall submit a copy of each invoice submitted for payment to a purchaser of charity game equipment.

D. The taxes shall be due and paid monthly, and shall be deemed delinquent if not paid within ten (10) calendar days of the month following the month during which the items were sold to an organization.

E. Charity game equipment taxed pursuant to the provisions of the Oklahoma Charity Games Act shall be exempt from taxation pursuant to any other law of this state levying a sales tax, consumers tax, or use tax.

F. A licensed distributor shall be allowed a discount of one-tenth of one percent (1/10 of 1%) of the taxes due pursuant to the provisions of the Oklahoma Charity Games Act as remuneration for establishing and maintaining the records required by the Commission and for collecting such tax for the benefit of the state, if such tax is timely reported and remitted. If the tax becomes delinquent, the licensed distributor forfeits any claim to the remuneration.

G. The Commission shall devise such tax reporting forms as necessary.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 423 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The revenues collected by the Commission pursuant to subsection A of Section 22 of this act shall be distributed as follows:

1. Ninety-five percent (95%) shall be paid monthly by the Commission to the State Treasurer to be placed in the General Revenue Fund, to be paid out pursuant to direct appropriation by the Legislature; and

2. Five percent (5%) shall be placed in the Oklahoma Tax Commission Fund for use by the Commission to be used in implementing and enforcing the provisions of the Oklahoma Charity Games Act.

B. All of the revenues collected by the Commission pursuant to subsections B and C of Section 22 of this act shall be paid monthly by the Commission to be placed in the General Revenue Fund, to be paid out pursuant to direct appropriation by the Legislature.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 424 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any person convicted of violating the provisions of the Oklahoma Charity Games Act shall be guilty of a misdemeanor punishable by incarceration for a period not to exceed one (1) year and by a fine of not less than Two Hundred Dollars (\$200.00) and not more than Two Thousand Dollars (\$2,000.00) or both such fine and incarceration.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 425 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other powers conferred on the Commission to impose penalties for violations of the provisions of the Oklahoma Charity Games Act, whenever in the judgment of the Commission any person, organization, or business entity has committed an act which

constitutes a violation of the Oklahoma Charity Games Act, the Commission may:

1. After notice and hearing, issue a cease and desist order to any person or business entity that should have obtained a license;

2. Impose a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation in the event that after the issuance of an order to cease and desist the illegal activity, the person or business entity that the order is directed to commits any act in violation of the order; and

3. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Commission that such violations have occurred, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond.

B. Each day a violation is continuing shall constitute a separate offense.

C. Administrative fines imposed pursuant to the provisions of this section shall be enforceable in the district courts of this state.

D. All administrative fines collected by the Commission pursuant to the provisions of this section shall be forwarded to the State Treasurer for deposit in the General Revenue Fund.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 426 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. On and after January 1, 1993, any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards that are not purchased from a licensed distributor are declared to be contraband, unless such items are:

1. Purchased by an exempt organization, exempt hospital, nursing home or convalescent facility;

2. Purchased by a federally recognized Indian tribe or nation;
or

3. Sold or given by a licensed organization to another licensed organization, an exempt organization, or exempt hospital, nursing home or convalescent facility, if proper notification is given to the Tax Commission.

B. On and after January 1, 1993, any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards sold or offered for sale by a business entity which is not a licensed distributor is declared to be contraband.

C. Any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards which were not in the possession of an organization or business entity on December 31, 1992, on which the taxes have not been paid are declared to be contraband unless the items are being transported through this state from another state to be sold or distributed in another state.

D. On and after January 1, 1993, any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards in the possession of an organization or business entity which has not been licensed or obtained an exemption pursuant to the Oklahoma Charity Games Act shall be declared contraband.

E. Such contraband shall be subject to confiscation, forfeiture, and destruction in the following manner:

1. The Commission, its agent, or the district attorney of the county wherein the alleged contraband is located shall seize any such item and maintain it for safekeeping pending a final adjudication of the legality of the sale or purchase;

2. The Commission, its agent, or the district attorney seizing the alleged contraband shall apply to the district court for an order forfeiting the alleged contraband and directing its destruction;

3. The court clerk shall give the owner of the alleged contraband fourteen (14) calendar days' written notice of the hearing on the request for the order for destruction; and

4. Upon obtaining an order from the court ordering destruction, the Commission or the district attorney shall destroy the contraband in the manner they deem most appropriate.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any organization which holds an unexpired license to conduct a bingo game issued pursuant to the provisions of Sections 995.1 through 995.15 of Title 21 of the Oklahoma Statutes is authorized to continue conducting such licensed game until the expiration date of said license.

1. Any such licensee continuing to conduct bingo games pursuant to the license issued by a district court clerk shall submit the information required in Section 9 of this act by March 1, 1993.

2. Upon expiration of the license issued by the district court clerk, the organization shall submit a new application and pay the appropriate fees as required for organizations which did not have a license to conduct bingo games on December 1, 1992.

3. The provisions of this subsection shall not be construed to guarantee the issuance of an organization license to the organization upon the expiration of the license issued by a district court clerk.

B. Applicants for an organization license or a distributor license which have charity game equipment may submit a full and complete inventory of such equipment in the form of a sworn affidavit of the total amount of charity game equipment in each tax category in the possession of the applicant to the Commission on or before December 31, 1992.

1. Before December 31, 1992, and upon receipt of said sworn affidavit of inventory, the Commission shall provide the applicant with a stamp or seal, in a manner to be determined by the Commission for marking the charity game equipment which will be exempt from the tax provisions of the Oklahoma Charity Games Act.

2. After December 31, 1992, all charity game equipment shall be subject to the taxes and contraband provisions of the Oklahoma Charity Games Act.

C. Upon passage and approval of the Oklahoma Charity Games Act, the Commission shall promulgate such emergency rules as deemed necessary to issue licenses and collect taxes pursuant to the provisions of said act. The Commission shall promulgate rules necessary for implementation and enforcement of the Oklahoma Charity Games Act for submission to the Legislature at the beginning of the next regular legislative session.

SECTION 29. AMENDATORY 21 O.S. 1991, Section 941, is amended to read as follows:

Section 941. Every Except as provided in the Oklahoma Charity Games Act, every person who opens, or causes to be opened, or who conducts, whether for hire or not, or carries on either poker, roulette, craps or any banking or percentage, or any gambling game played with dice, cards or any device, for money, checks, credits, or any representatives of value, or who either as owner or employee, whether for hire or not, deals for those engaged in any such game, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than ten (10) years.

SECTION 30. AMENDATORY 21 O.S. 1991, Section 966, is amended to read as follows:

Section 966. For the purposes of this act, "punch board" is defined to be any card, board, substance or thing upon or in which is placed or concealed in any manner any number, figure, name, design, character, symbol, picture, substance or thing which may be drawn, uncovered, exposed or removed therefrom by any person paying a thing of value, which number, figure, name, design, character, symbol, picture, substance or any other thing, when drawn, uncovered, exposed or removed therefrom, will stand the person drawing, uncovering, exposing or removing the same to win or lose a thing of value, but shall not include a breakopen ticket card, as defined in the Oklahoma Charity Games Act.

SECTION 31. AMENDATORY 21 O.S. 1991, Section 981, is amended to read as follows:

Section 981. As used in this act:

1. A "bet" is a bargain in which the parties agree that, dependent upon chance, or in which one of the parties to the transaction has valid reason to believe that it is dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

- a. bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance; or
- b. ~~any bingo game or a game of chance with comparable characteristics by or for participants conducted by an authorized nonprofit organization under the laws of this state pursuant to Title 21, Oklahoma Statutes, Sections 995.1 to 995.18~~ charity game conducted pursuant to the provisions of the Oklahoma Charity Games Act; or
- c. offers of purses, prizes or premiums to the actual participants in public and semipublic events, as follows, to wit: Rodeos, animal shows, expositions, fairs, athletic events, tournaments and other shows and contests where the participants qualify for a monetary prize or other recognition. This subparagraph further excepts an entry fee from the definition of "a bet" as applied to enumerated public and semipublic events.

2. "Consideration" as used in this section means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. As used in this paragraph, the term "consideration" shall not include sums of money paid by or for participants in any bingo game or a game of chance with comparable characteristics as defined by subparagraph b of paragraph 1 of this section and it shall be conclusively presumed that such sums paid by or for said participants were intended by said participants to be for the benefit of the organizations described in subparagraph b of paragraph 1 of this section for the use of such organizations in furthering the purposes of such organizations;

3. A "gambling device" is a contrivance designed primarily for gambling purposes which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, or any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device; and

4. A "gambling place" is any place, room, building, vehicle, tent or location which is used for any of the following: making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

SECTION 32. AMENDATORY 68 O.S. 1991, Section 1355
(Section 1, Chapter 337, O.S.L. 1991), is amended to read as follows:

Section 1355. Exemptions - Subject to other tax.

There are hereby specifically exempted from the tax levied pursuant to the provisions of this article:

(A) Sale of gasoline or, motor fuel, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, or Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of this title has been, or will be paid;

(B) Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been, or will be paid;

(C) Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of this title. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This subsection shall not operate to increase or repeal the gross production tax levied by the laws of this state;

(D) Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of this title has been, or will be paid;

(E) Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of this title has been paid; and

(F) Leases of twenty-four (24) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title. ~~Provided any such lease exempt from the tax levied pursuant to the provisions of this article which is terminated prior to the expiration of the original term shall be subject to the tax levied by this article in an amount equal to the amount of tax which would have been due without the exemption plus a penalty of twenty percent (20%) of the principal amount of tax which would have been due; provided, however, the penalty provided by this subsection shall not apply if the original lessee acquires title to the leased vehicle within the original term of the lease; and~~

(G) Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act.

SECTION 33. REPEALER 21 O.S. 1991, Sections 995.1, 995.1a, 995.2, 995.3, 995.3a, 995.4, 995.5, 995.6, 995.7, 995.8, 995.9, 995.10, 995.11, 995.12, 995.13, 995.14 and 995.15, are hereby repealed. 68 O.S. 1991, Section 1355 (Section 19, Chapter 235, O.S.L. 1991), is hereby repealed.

SECTION 34. This act shall become effective December 1, 1992.

SECTION 35. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure enacts new laws that allow and regulate charity games. Charity games are bingo games and breakopen ticket games. The Oklahoma Tax Commission would administer and enforce the laws. The Commission would also issue licenses to organizations, distributors and manufacturers. Certain entities may obtain an exemption from specific provisions of the act. The measure sets limits on the value of prizes for bingo sessions and the cost of breakopen ticket games. The measure imposes a 1.5 cent tax upon each bingo face or bingo set sold. It imposes a 10% gross receipts tax on breakopen ticket prices and a 10% tax on the price paid for charity game equipment. The measure provides for distribution of tax and fee proceeds. The measure sets penalties for violation of the act. The measure repeals the present laws regarding bingo.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

YES, FOR THE ACT

NO, AGAINST THE ACT

SECTION 36. The Chief Clerk of the House of Representatives, immediately after the passage of this act, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 35 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the House of Representatives the 22nd day of May, 1992.

Jim R. Glover
Speaker *Pro Tempore* of the House of
Representatives

Passed the Senate the 22nd day of May, 1992.

[Signature]
Acting President of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 22nd
day of May, 1992,
at 9:20, o'clock P. M.

By: [Signature]

Approved by the Governor of the State of Oklahoma the 28 day of
May, 1992, at 2:15, o'clock P. M.

[Signature]
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 28th
day of May, 1992,
at 3:43, o'clock P. M.

By: [Signature]