

T TITLE 4 AMUSEMENTS AND SPORTS*

1. General Provisions
2. Gaming Commission Administration and Enforcement Procedures
3. Licensing
4. Rules of Operation and General Accountability
5. Licensing Procedures For and Background Investigations of Key Employees and Primary Management Officials
6. Hearings and Appeals

At the time of printing, LA 26–10 and LA 10–11 are pending approval by the National Gaming Commission.

Code of Federal Regulations

Class III tribal state gaming compact process, see 25 C.F.R. § 293.1 et seq.

Gaming on trust lands acquired after October 17, 1988, see 25 C.F.R. § 292.1 et seq.

National Indian gaming commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

CHAPTER 1

GENERAL PROVISIONS

Section

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Cross References

Bingo and regulated gaming not prohibited, see 21 CNCA § 978.

Oklahoma Statutes

State-tribal gaming act, see 3A O.S. § 261 et seq.

§ 1. Short title

This enactment shall be known and may be cited as the Cherokee Nation Tribal Gaming Act.

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History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 01–94.

United States Code

Findings, see 25 U.S.C. § 2701 et seq.

Library References

Indians ○330.

Westlaw Topic No. 209.

§ 2. Purpose

The purpose of this Act is:

1. To amend Legislative Act #10–11 to make technical amendments to conform Cherokee Nation’s gaming ordinance to the regulations of the National Indian Gaming Commission.
2. To amend Legislative Act #10–11.
3. To repeal Legislative Act 30–89, as amended by Legislative Acts 9–90, 1–94, 126–95 (resolution), 29–03, 37–03, 44–04, 20–06, and 15–07; and amend Legislative Act 26–10.
4. To regulate the conduct of all gaming owned and operated by the Cherokee Nation, or its officially licensed agents, on Indian lands as defined by the Indian Gaming Regulatory Act and any other lands owned by the Cherokee Nation (hereafter referred to as Cherokee Nation) in compliance with Public Law 100–497, October 17, 1988, as amended, and in compliance with any tribal–state compact between the Cherokee Nation and the State of Oklahoma or that the State has authorized by enactment.
5. To provide a basis under tribal law for the regulation of all gaming by the Cherokee Nation adequate to shield it from organized crime and other corrupting influences; to insure that Cherokee Nation is the sole beneficiary of the gaming operation; and to assure that gaming is conducted fairly and honestly by the tribe, its agents and the players; and to implement the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. (“IGRA”), as amended, the regulations of the National Indian Gaming Commission (“NIGC”) at 25 C.F.R. Parts 500 et seq., as amended, and in compliance with any tribal–state compact between the Cherokee Nation and the State of Oklahoma or that the State has authorized by enactment.
6. To authorize and regulate all forms of gaming as defined by this Act and the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., as amended, for which the Nation has duly compacted with the State of Oklahoma or the State has authorized by enactment.
7. To authorize and regulate gaming on Indian lands as defined by the Indian Gaming Regulatory Act and any other lands owned by the Cherokee

Nation, for which the Nation has compacted with the State of Oklahoma or that the State has authorized by enactment. Provided, however that license requirements and regulations promulgated by the Gaming Commission

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shall be in addition to and shall not conflict with any and all regulations issued by the Oklahoma Horse Racing Commission.

History

Source. LA 26–10, eff. September 13, 2010.	LA 30–89.
Amended. LA 10–11, eff. June 19, 2011.	LA 09–90.
Amended. LA 07–14, eff. April 24, 2014.	LA 01–94.
Amended. LA 17–14, eff. July 18, 2014.	LA 29–03.
Derivation:	LA 20–06.

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. Part 500 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

Library References

Indians O338.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3. Legislative history

A. IGRA was enacted on October 17, 1988, establishing the NIGC. Under the IGRA, the NIGC is charged with regulating Class II gaming and certain aspects of Class III gaming.

B. The NIGC adopted certain regulations in Chapter III of Title 25, Code of Federal Regulations (Parts 500–599), to provide purpose and scope, procedures for service of NIGC determinations, requirements for submitting new and existing gaming ordinances to the Chairman for approval, requirements for background investigations on primary management officials and key employees, and requirements for licensing employees of Indian gaming operations.

C. Cherokee Nation enacted Legislative Act 30–89, on April 8, 1989, known as the “Cherokee Nation Tribal Gaming Act,” to regulate the conduct of gaming owned and operated by the Cherokee Nation.

D. On October 22, 1990, the Cherokee Nation amended the Gaming Act with Legislative Act 9–90, to comply with P.L. 100–497, October 17, 1988, 102 Stat. 2467, and to establish the Cherokee Nation Gaming Commission.

E. On April 11, 1994, the Cherokee Nation amended the Gaming Act with LA 1–94.

F. On October 16, 1995, the Cherokee Nation adopted Resolution 126–95 to authorize Class III gaming on Indian lands under its jurisdiction in the State of Kansas and other states where such gaming is permitted.

G. On October 2, 2003, the Cherokee Nation amended the Act with LA 29–03

to authorize and provide for the regulation of Class III gaming which

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had been compacted for with the State of Oklahoma and/or authorized by legislative action.

H. On November 10, 2003, the Cherokee Nation amended the Gaming Act with LA 37–03 to clarify the activities that fall under the jurisdiction of the Cherokee Nation Gaming Commission.

I. On November 15, 2004, the Cherokee Nation amended the Gaming Act with LA 44–04 to provide technical amendments to the Gaming Act and provide for the regulation of Class III gaming that had been compacted for with the State of Oklahoma and/or authorized by legislative acts.

J. On August 21, 2006, the Cherokee Nation amended the Gaming Act with LA 20–06 relating to gaming on lands within the jurisdiction of the Cherokee Nation.

K. On March 12, 2007, the Cherokee Nation amended the Gaming Act with LA 15–07 to clarify that the Cherokee Nation Gaming Commission shall issue a separate license to each place, facility, or location in which Class II or Class III gaming is conducted.

L. On September 13, 2010, the Cherokee Nation repealed and replaced Title 4-Amusements and Sports and the above gaming acts with the passage of Legislative Act 26–10.

M. On May 19, 2011, the Cherokee Nation enacted LA 10–11, which repealed and replaced LA 30–89, LA 9–90, LA 1–94, R 126–95, LA 29–03, LA 37–03, LA 44–04, LA 20–06, LA 15–07 and amended LA 26–10.

N. On April 24, 2014, the Cherokee Nation enacted LA 07–14 which amended LA 10–11.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 01–94.

Library References

Indians ○331, 333, 338.

Westlaw Topic No. 209.

C.J.S. Indians §§ 77, 193.

§ 4. Definitions

For the purposes of this Title, and unless a different code meaning is clearly indicated, the terms used in this Title shall have the same meaning as defined in the “Indian Gaming Regulatory Act,” Public Law 100–497, codified at 25 U.S.C. § 2701 et seq., as amended:

1. **“Advisory Member”** means a member of the Tribal Council, appointed by the Tribal Council, to attend and participate in meetings of the Cherokee Nation Gaming Commission and shall serve in an advisory, non-voting capacity.

2. **“Agent”** and **“Officially Licensed Agent”** means any entity/corporation, wholly or majority owned by the Nation, its parent, subsidiary, and/or affiliate companies that conducts or has responsibility for gaming activities.

3. **“Class I Gaming”** means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.
4. **“Class II Gaming”** means:
 - a. Bingo or lotto (whether or not electronic, computer, or other technological aids are used) when players:
 - i. Play for prizes with cards bearing numbers or other designations;
 - ii. Cover numbers or designations when object, similarly numbered or designated, are drawn or electronically determined; and
 - iii. Win the game by being the first person to cover a designated pattern on such cards.
 - b. If played in the same location as bingo or lotto, Class II gaming includes:
 - i. Pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo; and
 - ii. Non-banking games that:
 - (a) State law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and
 - (b) Play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.
 - c. Class II Gaming does not include any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind.
5. **“Class III Gaming”** includes all those forms of gaming that are not Class I or Class II gaming.
6. **“Compact”** means any agreement entered into between the Cherokee Nation and the State of Oklahoma, as approved by the Secretary of the Interior, for the purposes of conducting Class III gaming. Any such agreement shall only affect the scope of Class III gaming activities.
7. **“Facility License”** means a separate license issued by the Gaming Commission to each place, facility or location on Indian lands and any other lands owned by the Cherokee Nation where Class II or Class III gaming may be conducted.
8. **“Gaming Commission”** means the Cherokee Nation Gaming Commission.
9. **“Gaming Commissioner”** means any member of the Gaming Commission duly appointed by the Principal Chief and confirmed by the Tribal Council.
10. **“Gaming Equipment”** means all electronic, electro-mechanical, mechanical, or other physical components utilized in the play of Class II and Class III games.

11. **“Gaming Facility”** means any premises, buildings, facilities, improvements, and/or equipment used or maintained in connection with the conduct of gaming, including but not limited to the storage of gaming equipment and/or materials and directly tied to the gaming operation/facility. This definition shall not include non-gaming operations, even if such operations are within the same building as gaming operations.
12. **“Gaming Facility Employee”** means any employee of a gaming facility engaged in gaming or gaming related activity.
13. **“Gaming Public”** or **“Patron”** means any natural person that is on the premises of a gaming facility acting or serving in the capacity as a customer or guest for the purpose of gaming.
14. **“Gaming System”** means all components, whether or not technologic aids in electronic, computer, mechanical, or other technologic form, that function together to aid the play of one or more Class II games or any Class III games, inclusive of any and all support systems, player tracking and gaming accounting functions.
15. **“Gaming Vendor”** means any person or entity who provides, through the sale, lease, rental or otherwise, any games, parts, maintenance or service in connection therewith to the Officially Licensed Agent in any amount.
16. **“IGRA”** means the Indian Gaming Regulatory Act of 1988, Public Law 100–497, as codified at 25 U.S.C. § 2701 et. seq., as amended.
17. **“Indian Lands”** means land over which Cherokee Nation exercises governmental power and that is either:
 - a. Held in trust by the United States for the benefit of Cherokee Nation or any member of Cherokee Nation; or
 - b. Held by Cherokee Nation or any member of Cherokee Nation which is subject to restriction by the United States against alienation.
18. **“Jurisdiction”** means all lands owned by the Nation or over which the Nation exercises commercial and/or governmental authority or control.
19. **“Key Employee”** means:
 - a. A person who performs one or more of the following functions:
 - i. Bingo Caller;
 - ii. Counting room supervisor;
 - iii. Security and Surveillance;
 - iv. Custodian of gaming supplies or cash;
 - v. Floor manager;
 - vi. Pit boss;
 - vii. Dealer;
 - viii. Croupier;
 - ix. Approver of credit;
 - x. Information technology employee with access to gaming related systems and equipment; or

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- xi. Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - b. If not otherwise included, any other person whose total cash compensation is in excess of Fifty Thousand Dollars (\$50,000.00) per year; or,
 - c. If not otherwise included, the four most highly compensated persons in the gaming operation.
 - d. Any other person designated by the Nation as a Key Employee.
20. **"License"** means:
- a. In connection with a gaming facility, a license issued by the Cherokee Nation Gaming Commission authorizing the operation of a gaming facility at a particular location owned and operated by the Nation;
 - b. In connection with an individual person, a license or permit issued by the Cherokee Nation Gaming Commission authorizing the person to be engaged as a non-gaming employee, Key Employee, or Primary Management Official of a licensed gaming facility; and
 - c. In connection with certain vendors, a license or permit issued by the Cherokee Nation Gaming Commission authorizing an individual or entity to conduct business and/or engage in activities that impact the operation of a gaming facility.
21. **"Nation"** or **"Tribe"** means the Cherokee Nation.
22. **"NIGC"** means the National Indian Gaming Commission.
23. **"Non-Gaming Employee"** means any employee of the gaming operation who is not a Key Employee or Primary Management Official. If applicable, any Non-gaming employees licensed by the Gaming Commission shall be licensed in accordance with any limitations, restrictions, or regulatory requirements included in 4 CNCA § 22.
24. **"Non-Gaming Vendor"** means 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 an Officially Licensed Agent within the gaming facility's fiscal year. PROVIDED, that attorneys or certified public accountants and their firms shall be exempt from this definition to the extent that they are providing services covered by their respective professional licenses.
25. **"Person"** means any natural individual, company, partnership, firm, joint venture, association, Limited Liability Company (LLC), corporation, estate, political entity of the Cherokee Nation, or other identifiable entity to which this Title can be applied.
26. **"Primary Management Official"** means:
- a. The person having management responsibility for a management contract;
 - b. Any person who has authority:
 - i. To hire and fire employees;
 - ii. To set up working policy for the gaming operation; or

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- c. The chief financial officer or other person who has financial management responsibility.
- d. Any other person designated by the Nation as a Primary Management Official.

27. **“Working Days”** means Monday through Friday, except for holidays recognized by the Cherokee Nation and/or the federal government.

Source. LA 26–10, eff. September 19, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 09–90.

LA 01–94.

Former 4 CNCA §§ 3, 42.

LA 29–03.

LA 20–06.

Cross References

Establishment of Cherokee Nation Gaming Commission, see 4 CNCA § 20.
License required for gaming facilities, see 4 CNCA § 30.
Vendor licensing, see 4 CNCA § 37.

§ 5. Protection of the environment, public health and safety

A. All gaming facilities licensed by the Gaming Commission shall be constructed, maintained, and operated in a manner that adequately protects the human environment and the health and safety of the public.

B. The Gaming Commission shall utilize and/or rely on the Nation's established regulatory systems or certifications by appropriately licensed professionals for the purposes of enforcing applicable codes or regulations at each gaming facility. Laws, codes, regulations, policies, standards or procedures shall cover, at a minimum:

1. Emergency preparedness, including but not limited to fire suppression, law enforcement, security, and ambulatory services;
2. Food and potable water;
3. Construction and maintenance;
4. Hazardous materials;
5. Sanitation (both solid waste and wastewater);
6. Other environmental or public health and safety standards adopted by the tribe in light of climate, geography, and other local conditions as may be applicable to the individually licensed gaming facilities; and
7. Other city, county, and/or state standards the Nation may elect to abide by.

The Gaming Commission shall recommend to the Principal Chief and the Council of the Cherokee Nation any revisions or additions to laws, regulations, policies, standards or procedures necessary to comply with IGRA.

C. Each facility shall be required to follow all applicable federal, tribal, and/or state codes or regulations provided in the Cherokee Nation Code Annotated, and any modifications or amendments made thereto, and/or that may be recognized, adopted, or followed by an appropriate Nation commission or department. The Gaming Commission shall rely on and not duplicate the regulation of such commissions and departments to ensure compliance with all applicable codes or regulations.

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History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.
Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Derivation:
LA 01–94.
Former 4 CNCA § 35.

C.J.S. Indians § 193.

Facility license, see 4 CNCA § 36.

§ 6. Words and terms

Indians O339.
Westlaw Topic No. 209.

Cross References

Library References

In constructing the provisions of this code, save when otherwise plainly declared or clearly apparent from the context:

1. Words in the present tense shall include the future tense;
2. Words in masculine, feminine and neutral genders shall include all genders, and;
3. Words in the singular shall include the plural, and in the plural shall include the singular.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

§ 7. Provisions as cumulative

The provisions of this Act shall be cumulative to existing law.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

Former 4 CNCA §§ 6, 50.

§ 8. Severability

The provisions of this Act are severable and if any part of provision hereof shall be held void, the decision of the Court so holding shall not affect or impair any of the remaining parts or provisions of this Act.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

Former 4 CNCA §§ 7, 51.

Library References

Indians ○331.

Westlaw Topic No. 209.

C.J.S. Indians §§ 77, 193.

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§ 9. Self-help contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

§ 10. Sovereign immunity

Notwithstanding any provisions herein, this Act shall not limit or restrict the inherent sovereignty of Cherokee Nation, and neither the Act nor any of its provisions shall operate to waive, in whole or in part, the sovereign immunity of Cherokee Nation.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.
Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.
Derivation:

LA 30–89.
LA 09–90.
LA 01–94.
Former 4 CNCA §§ 8, 34.

Library References

Indians O342.
Westlaw Topic No. 209.

C.J.S. Indians §§ 12, 16 to 17, 19 to 22, 24, 193.

§ 11. Emergency declared

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect and be in full force after its passage and approval.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.
Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Derivation:
LA 01–94.
Former 4 CNCA §§ 9, 53.

§§ 12 to 19. Reserved

CHAPTER 2

GAMING COMMISSION ADMINISTRATION AND ENFORCEMENT PROCEDURES

Section

- 20. Establishment of Cherokee Nation Gaming Commission
- 21. Membership
- 22. Powers and duties of the Gaming Commission
- 23. Restrictions on commissioners
- 24. Financial interest
- 25. Limitations; recommendations
- 26. Budget and compensation
- 27. Authorization of gaming
- 28. Prohibited acts
- 29. Reserved

Oklahoma Statutes

Horse racing,

Generally, see 3A O.S. § 200 et seq.
Authorized gaming licenses, see 3A O.S. § 262.

§ 20. Establishment of Cherokee Nation Gaming Commission

The Cherokee Nation Gaming Commission is hereby established as a part of the Executive Branch of the government of the Nation in order to carry out the Nation's responsibilities under the IGRA (as amended) and the NIGC's regulations at 25 C.F.R. § 501 et seq. (as amended) and to implement the provisions of this Act. Provided, however, all actions and regulations of the Gaming Commission shall be consistent with the provisions of this Act, all other laws and resolutions of the Cherokee Nation Tribal Council, and the Constitution of Cherokee Nation and any applicable laws and/or regulations of regulating agencies established by the State of Oklahoma either:

- 1. Pursuant to a compact on lands other than the lands defined in 4 CNCA § 4(17); or
- 2. Applicable to facilities operating:
 - a. under the jurisdiction of the Oklahoma Horse Racing Act, 3A O.S. § 200 et seq.; or
 - b. in connection with a horse racing facility under a license granted under the authority of 3A O.S. § 262.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 09–90.

LA 01–94.

Former 4 CNCA § 11.

Code of Federal Regulations

Purpose and scope of the National Indian Gaming Commission, see 25 C.F.R. Part 501 et seq.

Library References

Indians O341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 21. Membership

A. The Gaming Commission shall consist of no less than five (5) members of the Cherokee Nation to be appointed by the Principal Chief of the Cherokee Nation and approved by the Tribal Council of the Cherokee Nation. In addition to the Gaming Commission, three (3) Tribal Council members shall be appointed to participate in Gaming Commission meetings in an advisory, non-voting capacity. These Advisory Members shall be appointed to serve by the Tribal Council. The term of an advisory member shall be three (3) years. Advisory Members shall be provided the same information as the Gaming Commissioners and the Gaming Commission shall inform the Advisory Members of all meetings so Advisory Members shall be able to attend all meetings of the Gaming Commission.

B. To be eligible to serve as a commissioner, a person must:

1. Be at least twenty-five (25) years of age;
2. Have a bachelor's degree from a college or university or equivalent experience;
3. Be of high moral character or integrity;
4. Be physically able to carry out the duties of office; and,
5. Be able to pass a background investigation equivalent to that of a Primary Management Official to obtain and maintain a gaming license.

C. The Principal Chief shall, at the time of making the initial appointments and also at the time of making each appointment to fill a vacancy on the Commission as provided herein, designate one member to serve as Chairman, one member to serve as Vice Chairman and one member to serve as Secretary.

D. The terms of office of the Gaming Commission shall be three (3) years. Provided, however, the amendments set forth in this Legislative Act shall not affect the terms of office of the persons who are members of the Gaming Commission as of the effective date of this Act.

E. At the expiration of their term, a Gaming Commissioner shall continue to serve until they are reappointed or replaced pursuant to subsection (G) of this section.

F. Gaming Commission members shall serve their terms of office free from political influence from any department of the government of the Nation and may be removed only for cause, after a hearing by the Cherokee Nation District Court under such rules and procedures as prescribed by the Tribal Council. A petition for removal for cause may be brought by a vote of the majority of Tribal Council Members or the Principal Chief. Except as authorized under the Constitution of the Cherokee Nation, no member of the Gaming Commission shall, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any tribal political organization,

candidacy or other tribal political purpose. No member of the Gaming Commission shall be a member of a committee of a

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partisan tribal political club, or a candidate for nomination or election to any paid tribal office, or take part in the management or affairs of any tribal political party or in any tribal political campaign, except to exercise his or her right as a private citizen privately to express his or her opinion and to cast his or her vote.

G. In the event of the expiration of a Gaming Commissioner's term or a vacancy in the membership of the Gaming Commission, the Principal Chief shall, within one hundred eighty (180) days of the occurrence of the vacancy, fill such vacancy for the unexpired term, subject to confirmation by a majority vote of the Tribal Council. In the case of filling a vacancy, such appointment shall only be for the unexpired term.

History

Source. LA 26–10, eff. September 13, 2010.

LA 30–89.

Amended. LA 10–11, eff. June 19, 2011.

LA 09–90.

Amended. LA 07–14, eff. April 24, 2014.

LA 01–94.

Amended. LA 17–14, eff. July 18, 2014.

Former 4 CNCA § 12.

Derivation:

Library References

Indians O341.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

**§ 22. Powers
and duties of the
Gaming
Commission**

A. The Gaming Commission shall have the power to regulate and generally oversee conduct of all gaming operations in order to ensure compliance with this Act and any regulations adopted and orders issued by the Gaming Commission. The Gaming Commission shall execute a conflict of interest provision disclosing potential unethical situations.

B. Th

e Gaming Commission shall be charged with the sole responsibilities of administering and enforcing the gaming provisions of this Act and any Tribal-State Compact to which the Nation may be a party.

C. It shall be the responsibility of the Commission to promulgate regulations necessary to administer the relevant provisions of this Act, provided that rules and regulations promulgated or created by the Cherokee Nation Gaming Commission shall not exceed or conflict with the regulations issued by the National Indian Gaming Commission, including but not limited to the National Indian Gaming Commission Minimum Internal Control Standards or the provisions of the Indian Gaming Regulatory Act, as applicable, unless specifically outlined by law; nor shall the regulations promulgated exceed or conflict what is required under any Cherokee Nation-State of Oklahoma Gaming Compact.

D. The powers and duties of the Gaming Commission shall include, but not be limited to, the following:

1. Making available application forms for all licenses and/or permits.
2. Supervising the collection of all fees prescribed by this Act, Gaming Commission regulation, federal statutes or regulations, and any Tribal-State Compact to which the Nation may be a party.

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3. Processing all license applications and tax returns, which will be submitted under oath.
4. Determining applicable fees.
5. Auditing and/or reviewing financial records directly related to gaming activities only to ensure proper accountability.
6. Reviewing all records, documents and anything else necessary and pertinent to the financial accountability of licensees or enforcement of any provision of this ordinance.
7. Assessing sanctions, fines, or other penalties as needed against all vendors and/or facilities under the jurisdiction of and as deemed proper by the Gaming Commission for any violation of laws, rules, and/or regulations applicable to gaming activities.
8. Establishing procedures for conducting background investigations on and licensing of Key Employees, Primary Management Officials, other gaming facility employees, and vendors.
9. Establishing procedures for issuing licenses and permits to such employees, officials, and vendors.
10. Obtain and process fingerprints, or designate a law enforcement agency to obtain and process fingerprints.
11. Review and approve all investigative work conducted and report any possible or suspected criminal violation to the Cherokee Nation Marshal Service.
12. Make license and/or permit suitability determinations.
13. Report background investigation results to the National Indian Gaming Commission, as required.
14. Inspect, examine, and monitor all gaming activities on a continuing basis.
15. Have immediate, unfettered access to all areas of a gaming facility to review, inspect, examine, photocopy and/or audit all records of the gaming facility.
16. Conduct civil/regulatory investigations of any suspected or reported violations of this Act, Gaming Commission regulation, tribal and/or federal statutes or regulations, or any Tribal–State Compact provision pertaining to gaming activities.
17. Establish procedures for resolving disputes between the gaming public and a licensed gaming facility.
18. Hold hearings on patron complaints, in compliance with procedures established by the Gaming Commission and/or any Tribal–State Compact provision.
19. Comply with any and all reporting requirements under the IGRA, any Tribal–State Compact to which the Nation may be a party, and any other applicable law.
20. Promulgate, issue, and enforce regulations necessary to comply with the minimum internal control standards issued by the Gaming Commission or the National Indian Gaming Commission, as amended. Provided that, all regulations shall be drafted in accordance with 4 CNCA § 22(C) as set further herein.

21. Promulgate, issue, and enforce regulations on levying of fines and/or denial, suspension, restriction, or revocation of a gaming license or permit for violations of this Act, any Gaming Commission regulation, or any other applicable Tribal, Federal, or State law or regulation. Fines may not be assessed on employees.

22. Ensure compliance with National Indian Gaming Commission regulations requiring payment of annual fees to, and filing reports with, the National Indian Gaming Commission.

23. Ensure that all gaming facilities are in compliance with the federal Privacy Act procedures as required by NIGC regulations.

24. The Gaming Commission or any member thereof, in the performance of its duties as defined by law, shall have the power to, in administrative proceedings administer oaths and conduct administrative hearings for the purpose of the enforcement of this Act and/or any rules and regulations adopted by the Gaming Commission, assessment or collection of any fine, costs or other fees. The gaming facility shall provide the attendance of witnesses and the production of the books, records and papers of any person, firm, association or corporation under the jurisdiction of the Nation as necessary to show cause why action should not be taken by the Commission. Provided that the Cherokee Nation Marshal Service and Office of Attorney General have primary jurisdiction to enforce all criminal laws concerning gaming.

E. Dispute Resolution

1. The Gaming Commission shall promulgate regulations for resolving disputes between the gaming public and a gaming facility.

a. Separate regulations shall be provided for Class II and Class III gaming activities.

b. For Class III disputes, the Gaming Commission shall follow the parameters set forth in any Tribal–State Compact to which the Nation may be a party.

2. In resolving such disputes, the Gaming Commission may receive written statements, affidavits, or other materials from the parties of said dispute or their witnesses and, in its discretion, may order one or more hearings to take oral statements or testimony.

3. Any decision of the Gaming Commission in resolving such disputes shall be in writing and may be appealed by the parties to the Cherokee Nation District Court by filing an appeal, which shall contain a statement of the grounds for the appeal, within thirty (30) days of the date of receipt of the Gaming Commission’s decision, in accordance with 4 CNCA § 67.

4. All decisions of the Gaming Commission for which a timely appeal has not been filed shall be final.

5. The dispute resolution procedures shall not apply to disputes governed by the regulations of the Oklahoma Horse Racing Commission.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

4 CNCA § 22

AMUSEMENTS AND SPORTS

Derivation:

LA 30–89.

LA 09–90.

LA 01–94.

LA 20–06.

Former 4 CNCA §§ 12, 12.1, 16.

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

Library References

Indians O341, 413.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179, 193.

§ 23. Restrictions on commissioners

A. To avoid potential conflicts of interest between the management and regulation of a gaming operation, the Nation hereby declares that:

1. No person, while actively serving in any of the following capacities may serve on the Gaming Commission: Principal Chief or Deputy Principal Chief, member of the Tribal Council, Justice or Judge of the Nation's courts, Nation employee, employee of the Gaming Commission, any employee of a gaming facility owned and operated by the Nation or its authorized agent or any appointed member thereof, or any vendor actively conducting business with a gaming facility. However, nothing herein shall prevent a Tribal Council member from serving as a non-voting Advisory Member to the Gaming Commission.
2. No person who is ineligible to be a Key Employee or Primary Management Official or any person convicted of a felony, embezzlement, theft or any other financially-related crime or honesty-related crime, such as fraud, may serve on the Gaming Commission.
3. Gaming Commissioners are prohibited from:
 - a. Gambling in any gaming facility owned and operated by the Nation or its authorized agents;
 - b. Providing contractual services of any kind to any gaming facility;
 - c. Providing any management services to any gaming facility pursuant to a management contract;
 - d. Accepting complimentary items from a gaming facility;
 - e. Accepting gratuities or any other thing of value that could be considered a bribe from any licensee or applicant for a license or permit; and,
 - f. Engaging in outside employment or activities, including seeking or negotiating for future employment, that conflicts with their official duties and responsibilities.

B. For purposes of this section, subparagraphs (A)(3)(d) and (A)(3)(e), complimentary items and/or gratuities, shall not include ceremonial gifts or

other items of nominal value, or meals provided at the expense of a gaming facility, provided that such items do not each exceed One Hundred Dollars (\$100.00) in value and are not offered as an inducement or for any action taken by the Gaming Commission.

History

Source. LA 26–10, eff. September 13, 2010.	LA 30–89.
Amended. LA 10–11, eff. June 19, 2011.	LA 09–90.
Amended. LA 07–14, eff. April 24, 2014.	LA 01–94.
Amended. LA 17–14, eff. July 18, 2014.	LA 20–06.
Derivation:	Former 4 CNCA § 12.

Library References

Indians O341, 413.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 24. Financial interest

No Gaming Commissioner shall have any direct or indirect financial interest in any gaming facility or gaming vendor licensee. For purposes of this section, indirect financial interest shall not include ownership of any mutual funds or other non-self-directed investment fund which holds stock in a publicly-traded company but shall include direct ownership of such stock.

History

Source. LA 26–10, eff. September 13, 2010.	Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 10–11, eff. June 19, 2011.	Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians O341, 413.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 25. Limitations; recommendations

The Gaming Commission shall exercise only that authority granted herein, but may make additional recommendations to the Principal Chief at any time it deems proper.

History

Source. LA 26–10, eff. September 13, 2010.	LA 30–89.
Amended. LA 10–11, eff. June 19, 2011.	LA 09–90.
Amended. LA 07–14, eff. April 24, 2014.	LA 01–94.
Amended. LA 17–14, eff. July 18, 2014.	LA 20–06.
Derivation:	Former 4 CNCA § 17.

O

Indians 341, 413. Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

Library References

§ 26. Budget and compensation

- A. Commission funding and budget

1. Fees; general

- a. The Gaming Commission shall be subject to the annual budgeting process as prescribed by the Principal Chief.
- b. Each licensee under the jurisdiction of the Gaming Commission shall pay to the Nation fees as established and scheduled by the Gaming Commission.
- c. The Gaming Commission, by a vote of not less than a majority of its members, shall adopt the rate of the fees imposed on any gaming vendor, employee, facility, and any other licensing fee schedule on a bi-annual basis.
- d. The projected expenditures of the Gaming Commission shall be in an amount not to exceed the amount of funds projected to be derived from fee assessments made under this section.
- e. Any increases to the Gaming Commission budget shall follow the established tribal budgetary process.
- f. Any unexpended fees shall be considered gaming revenues and shall be used in accordance with 4 CNCA § 38.

2. Operational fees

- a. The Treasurer shall adopt preliminary rates for gaming operations fees prior to the beginning of each fiscal year based upon the approved budget for the Commission and, if deemed necessary, shall modify those rates at any time during the fiscal year.
- b. The Gaming Commission shall establish a schedule of fees to be paid to the Nation by each operation regulated under this Act. Fees shall be paid to the Nation on a monthly basis.

3. Penalties

- a. Failure by any vendor or facility to pay the fees imposed under the schedules established by the Gaming Commission shall, subject to the regulations of the Gaming Commission, be grounds for denial or revocation of the approval of any permit or license issued the licensee.
- b. The Gaming Commission may assess a fine on any vendor or facility for failure to pay any prescribed license fee.
 - i. Any assessed fines shall be collected by the Nation to be used in accordance with 4 CNCA § 38 and shall not be considered a part of the Gaming Commission budget.

B. Gaming Commissioner compensation

1. The annual compensation, payable monthly, of the Gaming Commissioners shall be determined as a part of the annual budget appropriation.
2. In no event shall compensation be based on a percentage of net profits from gaming operations of the Nation.
3. Members are eligible to be reimbursed for actual expenses incurred for Gaming Commission business, including necessary travel expenses, in addition to their monthly compensation.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

LA 09–90.

Amended. LA 17–14, eff. July 18, 2014.

LA 01–94.

Derivation:

Former 4 CNCA § 18.

LA 30–89.

Library References

Indians O341.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 27. Authorization of gaming

A. Prohibition of unauthorized gaming. No person licensed by the Gaming Commission shall engage, conduct or condone any game in a facility under the jurisdiction of the Gaming Commission unless such game is approved by the Gaming Commission and regulations for rules governing such game have been duly promulgated and approved by the Gaming Commission.

B. Authorization of gaming. The Gaming Commission may authorize the playing of any game not prohibited by the IGRA, any game not prohibited by a Tribal–State Compact, and/or not specifically prohibited by the laws of the State of Oklahoma. The Gaming Commission shall promulgate regulations for rules governing all authorized games, including regulations governing the equipment, whether electronic or manual (e.g. chips, cards, machines, computer systems, etc.) used in such game. Any provision in a Tribal–State Compact with the State of Oklahoma providing for testing, notice to, and comment from the State shall be complied with before any game is authorized by the Gaming Commission.

C. Approval of gaming equipment. The Gaming Commission shall have the discretion to review and approve all gaming systems and other equipment used in the gaming facility as to quality, design, integrity, fairness, honesty, and suitability.

1. The Gaming Commission may require a prototype or sample of any model of gaming system or other equipment used in the gaming facility to be placed in the custody of the Gaming Commission and retained as a control for comparison purposes.

2. The Gaming Commission may rely on an independent outside testing laboratory or other professional expertise it deems necessary or appropriate to ensure the integrity of gaming systems, equipment, supplies, etc.

D. Rules and regulations of games

1. It shall be the responsibility of the Gaming Commission to promulgate regulations establishing the particular rules of all classes of gaming for each authorized game in order that said gaming will be conducted with fairness and uniformity.

2. The rules of each authorized game offered at facilities licensed by the Gaming Commission shall be posted, and shall be clearly legible, in a conspicuous location and/or made available to patrons in pamphlet form. Such rules, and any modifications or amendments thereto, must be approved by the Gaming Commission prior to publication and implementa-

tion.

E. Gaming related activity of the Nation. The Gaming Commission shall have full jurisdiction for regulatory compliance and enforcement of any other gaming related activity that the Nation may elect to conduct. The Gaming Commission shall promulgate such regulations as it deems necessary to ensure the integrity of such activity and to ensure compliance with all applicable laws and regulations but the scope of such regulations shall be in accordance with 4 CNCA § 22(C). Gaming Commission approval with regard to compliance with applicable gaming laws and regulations shall be required for any contracts related to any such gaming related activities. For the purposes of this section, such gaming related activities shall include, but are not limited to the following:

1. Manufacture, development, assembly, sales, or distribution of any gaming machines, devices, equipment, software, or components thereof;
2. Joint ventures with other Tribes, entities, persons, etc. related to gaming activity;
3. Pre-licensure of any entity or individual providing loans, grants or similar financial arrangements related to gaming activity in excess of Fifty Thousand Dollars (\$50,000.00) in any twelve (12)-month period, subject to the exceptions set forth in the Compact between the Cherokee Nation and State of Oklahoma.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

Library References

Indians O334, 337.
 Westlaw Topic No. 209.
 C.J.S. Indians § 193.

§ 28. Prohibited acts

A. In addition to other civil and criminal acts that may be regulated or prohibited by this Act, any tribal-state compact to which the Nation may be a party, other Tribal law or applicable federal law, the following shall constitute prohibited activities and unauthorized gaming under this Act and shall subject any perpetrator to Gaming Commission action including, but not limited to, the imposition of civil penalties, referral to appropriate law enforcement authorities

for criminal proceedings, and license suspension or revocation. It is prohibited for any person:

1. To alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is determined but before it is revealed to the players;
2. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or knowledge of any event that affects the outcome of the game or knowledge that is the subject of the bet or wager;
3. To aid anyone in acquiring such knowledge as set forth in paragraph (2) above for the purpose of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome;
4. To claim, collect, or take or attempt to claim, collect or take, money or anything of value in or from a gambling game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
5. To knowingly entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this Act, with the intent that the other person play or participate in that gambling game;
6. To place or increase a bet or wager after acquiring knowledge of the outcome of the game or event which is the subject of the bet or wager, including past-posting and pressing bets;
7. To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
8. To manipulate with intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose of the components, with knowledge or hope that the manipulation affects the outcome of the game or prize or with knowledge of any event that affects the outcome of the game or prize;
9. To solicit funds or anything of value from any patron or employee for personal gain, such as panhandling, vagrancy, or prostitution.
10. To unlawfully take or attempt to take any chips, currency, machine redemption tickets, or anything of value from any patron or employee on the gaming facility premises;
11. To refuse to leave the gaming facility when appropriately advised to do so by a member of management, security, and/or the Gaming Commission;
12. To damage or attempt to damage, either intentionally or negligently, any property, gaming device or equipment, or any article belonging to the Tribe, patron, or employee;
13. Under the age of eighteen (18) to make any wager either directly or indirectly in any gaming facility;
14. To either intentionally or knowingly cause injury or harm to any patron, or employee or threaten to do so;
15. To possess any chips, cards, devices, paraphernalia, etc., that could reasonably be concluded as useful in cheating, defrauding, manipulating,

or altering any game, gaming device, equipment, machine, computer, or supplies;

16. For any employee to aid, conspire, collude or assist in any way any other employee or patron to win or have an unfair advantage to win or otherwise acquire anything of value unfairly;

17. For any employee to knowingly provide false information or to misrepresent information contained in a gaming license application and/or during the course of a background investigation;

18. For any employee to knowingly make a false or misleading statement to the independent auditors or internal auditors, nor shall any employee conceal or intentionally fail to reveal any information necessary to make the statements to such auditors not false or misleading;

19. For any employee to knowingly make a false or misleading statement in connection with any contract for services or property or in response to any official inquiry by the Gaming Commission or its agents;

20. For any employee to knowingly make a false or misleading statement to any investigator or other representative of the Gaming Commission in the course of an investigation of a complaint or violation of this Act, the Gaming Commission rules and regulations, or of any provision of a tribal-state compact to which the Nation may be a party;

21. For any employee to knowingly alter and/or destroy gaming records (e.g. surveillance footage, gaming paperwork, accounting/financial reports) without proper authorization and/or that is outside of prescribed policies and procedures for such records;

22. For any person to offer or attempt to offer anything of value to a licensee in an attempt to induce the licensee to act or refrain from acting in a manner contrary to the official duties of the licensee contained in this Act, the Gaming Commission rules and regulations, any tribal-state compact to which the Nation may be a party, or any applicable law;

23. For any licensee to accept anything of value with the expectation that receipt of such thing of value is intended, or that may be perceived as intended, to induce the licensee to act or refrain from acting in a manner contrary to the official duties of the licensee contained in this Act, the Gaming Commission rules and regulations, any tribal-state compact to which the Nation may be a party, or any applicable federal law;

24. For any person to take any action which interferes with or prevents the Gaming Commission or its agents from fulfilling its duties and responsibilities under this Act;

25. Any person possessing knowledge and/or any evidence that any gaming system or other equipment used in the gaming facility has been tampered with or altered in any way that would affect the integrity, fairness, honesty, or suitability of the system or equipment shall be immediately reported to the Gaming Commission;

26. Any action the Gaming Commission may take on an individual for engaging in any of the foregoing does not preclude the Cherokee Nation Marshal Service and/or the Office of the Attorney General from taking any

action they may deem necessary.

B. Unauthorized gaming. Any person who commits any act of unauthorized gaming on any premises licensed by the Gaming Commission and/or owned and operated by the Tribe shall be in violation of this Act and the Gaming Commission shall seek prosecution in the appropriate court of competent jurisdiction. Prosecution for such violations in other than a federal court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the federal government from jurisdiction.

C. Prohibition against electronic aids. Except as specifically permitted by the Gaming Commission, it is a crime for any person to possess with the intent to use, or actually use, at any table game, either alone or in concert with others, any calculator, computer, or other electronic, electrical, or electromechanical device to assist in projecting an outcome at any table game, to keep track of or analyze the cards having been dealt, to change the probabilities of any table game or the playing strategies to be utilized. Violations are subject to Gaming Commission action and/or prosecution by the Nation and/or federal government under applicable laws.

D. Violations and sanctions.

1. Any patron, employee, vendor, or vendor agent who violates any part of this Act or any applicable law or regulation either referenced or contained herein, shall be deemed to have committed a crime. All matters and occurrences which indicate that a criminal act under the Tribal Code, any tribal-state compact to which the Nation may be a party, and/or federal law may have occurred in or around any gaming facility shall be immediately reported to the appropriate law enforcement agency and the Gaming Commission.
2. Violations which are not covered under a criminal code shall be deemed a civil violation. The Gaming Commission is authorized to establish a civil violations list of penalties and fines which shall be imposed by the Gaming Commission for all such civil violations of a vendor or facility with the violator afforded the rights to a hearing as provided in Chapter 6 of this Title.
3. If the Gaming Commission should have reasonable cause to believe any such violation was committed, it may impose licensing sanctions, vendor or facility fines, seek prosecution and/or exclusion.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

4 CNCA § 28

AMUSEMENTS AND SPORTS

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§ 29. Reserved

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CHAPTER 3 LICENSING

- 30. License required for gaming facilities
- 31. Classes and fees
- 32. Charitable gaming
- 33. Class I gaming
- 34. Class II gaming license
- 35. Class III gaming license
- 36. Facility license
- 37. Vendor licensing
- 38. Use of gaming revenue
- 39. Reserved

§ 30. License required for gaming facilities

A. Any agent of Cherokee Nation conducting gaming operations for the benefit of Cherokee Nation on property of Cherokee Nation, including lands under the jurisdiction of Cherokee Nation other than the lands defined in 4 CNCA § 4(17), shall be required to have and display prominently an appropriate, valid and current license issued pursuant to provisions of this Act.

B. The Gaming Commission shall issue a separate license to each place, facility, or location where Class II and/or Class III gaming is conducted under the jurisdiction of Cherokee Nation pursuant to this Title. Said license shall be renewed annually as set out herein.

C. The Gaming Commission shall specify the form, conditions and content for the application for such licenses, which shall be submitted by the chief management official of the facility, and the initial application shall include a legal description of the lands whereon the facility is located, and a certification that said premises are lands under the jurisdiction of Cherokee Nation as defined by this Title and shall identify the environmental, health, and public safety standards with which the place, facility, or location must comply, and a certification that the facility is in compliance therewith. Each subsequent application for the renewal of such facility license shall identify any changes or additions to said legal description and applicable environmental, health and safety standards, and include current certifications of compliance therewith. The Gaming Commission shall only issue such licenses if the applications therefore include the required information, certifications, and such further conditions as the Gaming Commission shall have specified.

D. Conducting gaming operations without the lawful written approval and licensure of the Gaming Commission is a crime, and is punishable under 21 CNCA § 10. The Cherokee Nation Marshal Service and Office of the Attorney General have primary authority to enforce tribal criminal laws concerning gaming.

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

History

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

4 CNCA § 30

AMUSEMENTS AND SPORTS

Derivation:

LA 30–89.

LA 01–94.

LA 37–03.

LA 20–06.

LA 15–07.

Former 4 CNCA § 21.

Library References

Indians ○334, 341, 417.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179, 193.

§ 31. Classes and fees

There shall be four (4) different classes of gaming, each characterized by its separate requirements and fees. These classes are created in compliance with the Indian Gaming Regulatory Act, Public Law 100–497, October 17, 1988, 25 U.S.C. § 2501 et seq., and the rules and regulations adopted pursuant to said Act.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 44–04.

Former 4 CNCA § 22.

Library References

Indians ○336, 337(1).

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 32. Charitable gaming

Charitable gaming operations are not required to be licensed by the Gaming Commission provided that:

1. All proceeds are for the benefit of a charitable organization;
2. The Gaming Commission determines the charitable organization to be exempt from this Act;
3. The charitable gaming operation is operated wholly by the charitable organization's employees and/or volunteers; and
4. The Gaming Commission, at its sole discretion, may require the charitable organization to adopt procedures that protect the integrity of the gaming offered and that safeguard the assets used in connection with the gaming operation.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians O336, 337(1).
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 33. Class I gaming

There is no license requirement for Class I gaming.

History

Source. LA 26–10, eff. September 13, 2010.	LA 30–89.
Amended. LA 10–11, eff. June 19, 2011.	LA 01–94.
Amended. LA 07–14, eff. April 24, 2014.	LA 44–04.
Amended. LA 17–14, eff. July 18, 2014.	Former 4 CNCA § 23.
Derivation:	

Library References

Indians O336.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 34. Class II gaming license

Only a tribal enterprise wholly-owned by the Cherokee Nation or its designated and approved agent or employee may apply for and receive a Class II gaming license. Gaming operations must be conducted in facilities of the Cherokee Nation. A separate license must be issued by the Gaming Commission for each place, facility or location in which Class II gaming is conducted.

History

Source. LA 26–10, eff. September 13, 2010.	Derivation:
Amended. LA 10–11, eff. June 19, 2011.	LA 30–89.
Amended. LA 07–14, eff. April 24, 2014.	LA 01–94.
Amended. LA 17–14, eff. July 18, 2014.	Former 4 CNCA § 24.

Library References

Indians O337(1).
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 35. Class III gaming license

Only a tribal enterprise wholly-owned by the Cherokee Nation or its designated and approved agent or employee may apply for and receive a Class III Gaming license. Gaming operations must be conducted in facilities of the Cherokee Nation. A separate license must be issued by the Gaming Commission for each place, facility or location on which Class III gaming is conducted.

History

Source. LA 26–10, eff. September 13, 2010.	Derivation:
Amended. LA 10–11, eff. June 19, 2011.	LA 30–89.
Amended. LA 07–14, eff. April 24, 2014.	LA 44–04.
Amended. LA 17–14, eff. July 18, 2014.	Former 4 CNCA § 25.

Library References

Indians O337(1).
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 36. Facility license

The Gaming Commission may issue a facility license, pursuant to regulations adopted by the Gaming Commission, to a gaming facility if the gaming facility:

1. Is adequate in all respects to accommodate the gaming intended to be carried on within the structure.
2. Is equipped with security and surveillance equipment meeting or exceeding provisions set forth in regulations established by the Gaming Commission.
3. Meets environmental, public health and safety standards of the Nation pursuant to 4 CNCA § 5.
4. Meets all requirements of applicable tribal, federal, and/or state law.
5. Has paid all applicable license fees and other costs.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians O334.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 37. Vendor licensing

A. All gaming and non-gaming vendors as defined in 4 CNCA § 4 are required to apply for and obtain a vendor license from the Gaming Commission prior to conducting business with any gaming facility, unless exempted under subsection (B) of this section.

B. The requirement in subsection (A) above does not apply to the following vendor categories:

1. Tribal, local, state, or federal governments and associated agencies;
2. Cherokee Nation-owned and/or chartered companies;
3. Attorneys and certified public accountants and their firms, to the extent that they provide services covered by their respective professional licenses;
4. Sponsorships or charitable organizations;
5. Public utilities;
6. Entertainment;
7. Insurance companies;
8. Travel companies;
9. Fleet service providers;
10. Any person that qualifies for an exemption under the terms of any tribal-state compact to which the Nation may be a party; or
11. Any person otherwise specifically excluded by the Gaming Commission based on circumstances unique to that vendor or vendor category as determined by the Gaming Commission.

C. The Gaming Commission shall:

1. Promulgate regulations for the vendor licensing application, background investigation, and licensing process, which shall be in conformity

with the terms of any tribal-state compact to which the Nation may be a party;

2. Promulgate regulations that provide two tiers of licensure. The first tier shall cover non-gaming vendors, and the second tier shall cover gaming vendors;

3. Promulgate regulations that provide for due process for all license actions taken against a vendor and/or for any sanctions or fines levied against a vendor for violations of the Cherokee Nation gaming ordinance, Gaming Commission rules and regulations, the IGRA, NIGC rules and regulations, or any provision of any tribal-state compact to which the Nation may be a party;

4. Promulgate fee schedules applicable to gaming and non-gaming vendor licenses, provided the non-gaming vendors shall be assessed a fee not to exceed the cost of the required background check;

5. Require vendor agreements and/or contracts over Twenty-Five Thousand Dollars (\$25,000.00) to be included in the annual external audit.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 01–94.

Former 4 CNCA § 12.

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

Library References

Indians O226, 339.

Westlaw Topic No. 209.

C.J.S. Indians §§ 140 to 149, 193.

§ 38. Use of gaming revenue

The Cherokee Nation will have the sole proprietary interest and responsibility for the conduct of any gaming activity under a Class II or Class III license and all net revenues from any such gaming are to be used for tribal purposes, including:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the Cherokee Nation and its tribal citizens;
3. To promote tribal economic development;
4. To donate to charitable organizations; or

5. To help fund operations of local government agencies.

4 CNCA § 38

AMUSEMENTS AND SPORTS

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

LA 44–04.

Former 4 CNCA § 26.

Cross References

Budget and compensation, see 4 CNCA § 26.

Library References

Indians O340.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 39. Reserved

CHAPTER 4

RULES OF OPERATION AND GENERAL ACCOUNTABILITY

Section

- 40. Records, returns and audits
- 41. Certification of gaming systems and equipment
- 42. Age limit for all gaming
- 43. Oversight of fiscal affairs
- 44. Prohibition against embezzlement
- 45 to 49. Reserved

§ 40. Records, returns and audits

A. It shall be the responsibility of the Gaming Commission to promulgate regulations and ensure the gaming operation establishes proper gaming accounting procedures and methods of operations for all licensees of Class II or Class III gaming activities so that all monies or things of value received and paid out may be properly monitored and accounted. All gaming facilities under the jurisdiction of the Gaming Commission shall be required to keep an approved gaming accounting system that shall comply with, but not be limited to, all applicable provisions of this Act and/or regulations of the Gaming Commission. Said accounting system shall reflect all business and financial transactions involved or connected in any manner with the gaming operation and conducting of gaming activities authorized by this Act. The Gaming Commission shall have the right to access such records or to secure a court order to seize records or property not surrendered.

B. No applicant, licensee or employee thereof shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by the Director of the Gaming Commission, or shall otherwise interfere, with any proper and lawful efforts by the Director of the Gaming Commission to produce such information. The Gaming Commission may conduct such hearings as deemed necessary to ensure compliance with the provisions of this Act and accountability for all monies received and spent. Failure to comply with the provisions of this Act or any rule or regulation promulgated by the Gaming Commission shall constitute grounds for denying, restricting, or revoking a gaming license or permit and/or levying sanctions or fines against gaming vendors and/or gaming facilities as determined by the Gaming Commission.

C. The Gaming Commission shall ensure annual independent audits of all gaming operations are conducted and shall submit the resulting annual audit report to the National Indian Gaming Commission in conformance with the NIGC's regulations, as applicable. The management and operation of any gaming facility shall be subject to all applicable provisions of the Indian Gaming Regulatory Act and any tribal-state compact to which the Nation may be a party.

D. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of Twenty-Five Thousand Dollars (\$25,000.00) annually, except contracts for professional legal and accounting

services, shall be specifically included within the scope of the audit described in the preceding subsection.

History

Source. LA 26–10, eff. September 13, 2010.	LA 30–89.
Amended. LA 10–11, eff. June 19, 2011.	LA 01–94.
Amended. LA 07–14, eff. April 24, 2014.	LA 44–04.
Amended. LA 17–14, eff. July 18, 2014.	Former 4 CNCA § 31.
Derivation:	

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

Library References

Indians ○339, 341, 413.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 41. Certification of gaming systems and equipment

All gaming systems and/or equipment purchased, leased or otherwise acquired and utilized by a licensed gaming facility must meet all standards promulgated by the Gaming Commission. The Gaming Commission shall maintain records of all gaming equipment located at any gaming facility or storage facility approved by the Gaming Commission.

History

Source. LA 26–10, eff. September 13, 2010.	Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 10–11, eff. June 19, 2011.	Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians ○339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 42. Age limit for all gaming

No person who is under the age of eighteen (18) shall operate, engage, or participate in any manner in the operation of any class of gaming activity. It shall be the responsibility of the manager of all licensed gaming operations of the Cherokee Nation to ensure compliance with this age limit requirement.

Source. LA 26–10, eff. September 13, 2010. **History**

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 30–89.

LA 01–94.

Former 4 CNCA § 33.

Library References

Indians O339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 43. Oversight of fiscal affairs

The Gaming Commission shall promulgate regulations for internal controls and fiscal audits of all gaming activities operated by the Nation. At a minimum, those regulations shall:

1. Require minimum procedures for safeguarding the gaming operation's gaming assets and revenues, including recording of cash and evidences of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, gaming accounting system, and gaming control procedures that safeguard the assets of the organization, assures that operating transactions are properly recorded, and encourage adherence to prescribed policies;
2. Require minimum reporting requirements to the Gaming Commission;
3. Shall promulgate regulations for internal controls and fiscal audits of the gaming facilities. At a minimum, those regulations shall require external and internal audits by Gaming Commission, Cherokee Nation Businesses Internal Audit or External Certified Public Accountants that meet federal requirements;
4. Ensure that an adequate accounting system and uniform code of accounts and accounting classifications are in place to assure consistency, comparability, and effective disclosure of financial information;
5. Require intervals at which such information shall be furnished;
6. Provide for the maintenance of documentation to evidence all internal work performed as it relates to the requirements of this section, and;
7. Provide that all financial statements and documentation referred to in subdivision 6 be maintained for a minimum of five (5) years.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians O339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 44.
Prohibition
against
embezzlement

Any
delay,
maneuve
r or

action of any kind which is caused by any non-gaming employee, key employee, primary management official, and/or vendor to unlawfully divert gaming or other proceeds properly belonging to the Nation shall constitute grounds for taking sanctions against that

licensee.
If the
Gaming
Commiss
ion finds
an
unlawful
diversion
was
conducted or
attempted, it shall
sanction
the
licensee,
report
the
matter to
the
appropriate
law
enforcement
agency
for
further
action
and may
take such
other
action as
it deems
necessary
or
appropriate.
Sanctions
may
include
the
imposition
of fines
and/or
the
revocation,
suspension,
or
limitation
of, or
refusal to
renew,
any

license.

4 CNCA § 44

AMUSEMENTS

AND SPORTS

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians **O**339, 341.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§§ 45 to 49. Reserved

CHAPTER 5

LICENSING PROCEDURES FOR AND BACKGROUND INVESTIGATIONS OF KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

Section

- 50. Gaming permits and licenses—Generally
- 51. Standard for licenses and permits
- 52. Application forms
- 53. Background investigations
- 54. Continuing duty to provide information
- 55. Terms and parameters of licenses and permits
- 56. Eligibility determination
- 57. Federal review of gaming applicants
- 58. Granting a gaming license or permit
- 59. Preliminary determination and license suspension

§ 50. Gaming permits and licenses – Generally

A. The Gaming Commission shall ensure that the following rules and regulations as prescribed by the IGRA, as amended, 25 C.F.R. §§ 556 and 558, as amended, and any tribal-state compact to which the Nation may be a party, are implemented with respect to key employees and primary management officials employed at any gaming facility under the jurisdiction of the Gaming Commission.

B. The Gaming Commission shall ensure that rules and regulations are developed and implemented for the licensure of all non-gaming employees of a gaming facility that are not key employees or primary management officials.

C. The Gaming Commissioners and Gaming Commission staff shall be subject to the licensing standards for primary management officials.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

LA 44–04.

Former 4 CNCA § 41.

Code of Federal Regulations

Background investigations for primary management officials and key employees, see 25 C.F.R. Part 556.

Gaming licenses for key employees and primary management officials, see 25 C.F.R. Part 558.

Library References

Indians O339.5.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 51. Standard for licenses and permits

A. Licenses issued to Key Employees and Primary Management Officials hereunder shall comply with and incorporate all standards and requirements

enumerated in 25 C.F.R. and any amendments thereto, and also according to

all standards and requirements enumerated in any Tribal–State Compact to which the Nation may be a party.

B. Licenses and permits issued to non-gaming employees shall comply with and incorporate all standards and requirements as provided for by the Gaming Commission in rules and regulations adopted pursuant to this act.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians O339.5.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 52. Application forms

A. The following notice shall be placed on the application form for Key Employees or a Primary Management Official before that form is filled out by an applicant:

“In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25

U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe’s being unable to license you for a Primary Management Official or Key Employee position.”

“The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors on processing your application.”

B. The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

“A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, Section 1001.)”

C. The Gaming Commission shall request the following information from each applicant for a Key Employee and Primary Management Official license:

1. Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);
2. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addressed, and driver's license numbers(s);
3. The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph 2 of subsection A of this section;
4. Current business and residence telephone numbers;
5. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the Court involved, and date and disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the Court involved, and the date and disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraphs 7 or 8 of this subsection, the criminal charge, the name and address of the Court involved, and the date and disposition, if any;
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A current photograph;
13. Any other information the Gaming Commission deems relevant; and,
14. Fingerprints consistent with procedures adopted by the Gaming Commission in accordance with 25 C.F.R. § 522.2(h).

D. The Gaming Commission shall determine the information required from and the content of a non-gaming employee license application.

E. The Gaming Commission shall notify in writing existing vendors that they shall complete an application for licensure by the Gaming Commission.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

Former 4 CNCA § 43.

4 CNCA § 52

AMUSEMENTS AND SPORTS

Code of Federal Regulations

Submission requirements, see 25 C.F.R. § 522.2.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.
Statements or entries generally, see 18 U.S.C. § 1001.

Library References

Indians O339.5.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 53. Background investigations

A. The Gaming Commission shall conduct a background investigation of all applicants, including Key Employees and Primary Management Officials, sufficient to make a determination under 4 CNCA § 56 of the applicant's eligibility for continued employment in a gaming operation. In conducting a background investigation, the Gaming Commission and/or an agent acting on its behalf will keep confidential the identity of each person contacted in the course of the investigation.

B. The Gaming Commission shall ensure that all records and information obtained as a result of a background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the background investigation be disclosed to members of management, human resources personnel or others employed by the gaming facility without a signed and notarized release from the individual.

C. Section B above does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Gaming Commission and staff in the performance of their official duties.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.
Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Derivation:
LA 01–94.
Former 4 CNCA § 44.

Library References

Indians O339.5.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 54. Continuing duty to provide information

All applicants and licensees shall have a continuing duty to provide any materials, assistance or other information required by the Gaming Commission, and to fully

cooperate
in any
investiga
tion
conducted by or on
behalf of
the
Gaming
Commission. If
any
information
provided
on the
application
on
changes
or
becomes
inaccurate in any
way, the
applicant
or
licensee
shall
promptly
notify the
Gaming
Commission or the
Director
of the
Gaming
Commission of
such
changes
or
inaccuracies.

4 CNCA § 44

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Westlaw Topic No. 209.
C.J.S. Indians § 193.

Indians O339, 341.

§§ 45 to 49. Reserved

Library References

CHAPTER 5

LICENSING PROCEDURES FOR AND BACKGROUND INVESTIGATIONS OF KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

Section

- 60. Gaming permits and licenses—Generally
- 61. Standard for licenses and permits
- 62. Application forms
- 63. Background investigations
- 64. Continuing duty to provide information
- 65. Terms and parameters of licenses and permits
- 66. Eligibility determination
- 67. Federal review of gaming applicants
- 68. Granting a gaming license or permit
- 69. Preliminary determination and license suspension

§ 50. Gaming permits and licenses – Generally

A. The Gaming Commission shall ensure that the following rules and regulations as prescribed by the IGRA, as amended, 25 C.F.R. §§ 556 and 558, as amended, and any tribal-state compact to which the Nation may be a party, are implemented with respect to key employees and primary management officials employed at any gaming facility under the jurisdiction of the Gaming Commission.

B. The Gaming Commission shall ensure that rules and regulations are developed and implemented for the licensure of all non-gaming employees of a gaming facility that are not key employees or primary management officials.

C. The Gaming Commissioners and Gaming Commission staff shall be subject to the licensing standards for primary management officials.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

LA 44–04.

Former 4 CNCA § 41.

Code of Federal Regulations

Background investigations for primary management officials and key employees, see 25 C.F.R. Part 556.

Gaming licenses for key employees and primary management officials, see 25 C.F.R. Part 558.

Library References

Indians O339.5.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 51. Standard for licenses and permits

C. Licenses issued to Key Employees and Primary Management Officials hereunder shall comply with and incorporate all standards and requirements

enumerated in 25 C.F.R. and any amendments thereto, and also according to

all standards and requirements enumerated in any Tribal–State Compact to which the Nation may be a party.

D. Licenses and permits issued to non-gaming employees shall comply with and incorporate all standards and requirements as provided for by the Gaming Commission in rules and regulations adopted pursuant to this act.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians O339.5.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 52. Application forms

A. The following notice shall be placed on the application form for Key Employees or a Primary Management Official before that form is filled out by an applicant:

“In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25

U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe’s being unable to license you for a Primary Management Official or Key Employee position.”

“The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors on processing your application.”

F. The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

“A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, Section 1001.)”

G. The Gaming Commission shall request the following information from each applicant for a Key Employee and Primary Management Official license:

1. Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);
2. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addressed, and driver's license numbers(s);
3. The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph 2 of subsection A of this section;
4. Current business and residence telephone numbers;
5. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the Court involved, and date and disposition, if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the Court involved, and the date and disposition, if any;
10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to paragraphs 7 or 8 of this subsection, the criminal charge, the name and address of the Court involved, and the date and disposition, if any;
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A current photograph;
13. Any other information the Gaming Commission deems relevant; and,
14. Fingerprints consistent with procedures adopted by the Gaming Commission in accordance with 25 C.F.R. § 522.2(h).

H. The Gaming Commission shall determine the information required from and the content of a non-gaming employee license application.

I. The Gaming Commission shall notify in writing existing vendors that they shall complete an application for licensure by the Gaming Commission.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

Former 4 CNCA § 43.

4 CNCA § 52

AMUSEMENTS AND SPORTS

Code of Federal Regulations

Submission requirements, see 25 C.F.R. § 522.2.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.
Statements or entries generally, see 18 U.S.C. § 1001.

Library References

Indians O339.5.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 53. Background investigations

D. The Gaming Commission shall conduct a background investigation of all applicants, including Key Employees and Primary Management Officials, sufficient to make a determination under 4 CNCA § 56 of the applicant's eligibility for continued employment in a gaming operation. In conducting a background investigation, the Gaming Commission and/or an agent acting on its behalf will keep confidential the identity of each person contacted in the course of the investigation.

E. The Gaming Commission shall ensure that all records and information obtained as a result of a background investigation shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process. Under no circumstances shall information obtained during the background investigation be disclosed to members of management, human resources personnel or others employed by the gaming facility without a signed and notarized release from the individual.

F. Section B above does not apply to requests for such information or records from any Tribal, Federal or State law enforcement or regulatory agency, or for the use of such information or records by the Gaming Commission and staff in the performance of their official duties.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.
Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Derivation:
LA 01–94.
Former 4 CNCA § 44.

Library References

Indians O339.5.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 54. Continuing duty to provide information

All applicants and licensees shall have a continuing duty to provide any materials, assistance or other information required by the Gaming Commission, and to fully

AMUSEMENTS AND SPORTS

cooperate
in any
investiga
tion
conducted by or on
behalf of
the
Gaming
Commission. If
any
information
provided
on the
application
on
changes
or
becomes
inaccurate in any
way, the
applicant
or
licensee
shall
promptly
notify the
Gaming
Commission or the
Director
of the
Gaming
Commission of
such
changes
or
inaccuracies.

4 CNCA §65

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Code of Federal Regulations

National Indian Gaming Commission, see 25 C.F.R. § 501.1 et seq.

United States Code

Indian gaming regulation, see 25 U.S.C. § 2701 et seq.

Oklahoma Statutes

State-Tribal Gaming Act, see 3A O.S. § 261 et seq.

Library References

Indians ○341, 423.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 66. Request for re-hearing

A. For permit or license determinations, the Gaming Commission may, in its discretion, grant a rehearing upon written request from a licensee, only upon a showing of substantial new evidence affecting the outcome of the decision, provided such request is made within fourteen (14) days of receipt of the initial decision rendered by the Gaming Commission.

B. For disputes, the decision rendered by the Gaming Commission is not subject to a rehearing and shall follow the procedure outlined in 4 CNCA § 67.

History

Source. LA 26–10, eff. September 13, 2010.
Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.
Amended. LA 17–14, eff. July 18, 2014.

Library References

Indians ○341, 428.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 67. Appeals

A. The Cherokee Nation District Court shall have exclusive jurisdiction to hear appeals from final decisions of the Gaming Commission denying, modifying, conditioning, or revoking any license.

B. Any affected party may appeal any final decision of the Gaming Commission within thirty (30) days after such decision by filing a notice of appeal with the District Court and serving a copy to the Gaming Commission. Thereafter the Gaming Commission shall promptly file the full record of the proceeding with the District Court.

C. In all appeals, the District Court shall give proper deference to the administrative findings of the Gaming Commission. The District Court shall not set aside, modify or remand any determination by the Gaming Commission unless it finds that the determination is arbitrary and capricious, unsupported

HEARINGS AND APPEALS

4 CNCA §69 Reserved

by substantial evidence or contrary to law. The District Court shall issue a written decision on all appeals.

D. The District Court may, in its discretion, award costs and attorney fees to the Gaming Commission against any appellant whose appeal was frivolous, malicious, or in bad faith. Such fees shall be assessed and collected as a tax imposed under this Act.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

Former 4 CNCA § 19.

Cross References

Powers and duties of the Gaming Commission, see 4 CNCA § 22.

Library References

Indians O341, 430.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179, 193.

§ 68. Finality of Gaming Commission or Cherokee Nation District Court action

Any final finding or determination of the Gaming Commission which is not timely appealed, and any final determination of the Courts of the Cherokee Nation of an appeal of a decision rendered by the Gaming Commission in proceedings pursuant to 4 CNCA § 67 shall be final and binding in any other proceeding against or by the same person before the Gaming Commission or the Courts of Cherokee Nation.

History

Source. LA 26–10, eff. September 13, 2010.

Amended. LA 10–11, eff. June 19, 2011.

Amended. LA 07–14, eff. April 24, 2014.

Amended. LA 17–14, eff. July 18, 2014.

Derivation:

LA 01–94.

Former 4 CNCA § 20.

Indians O339.5, 341, 423, 430.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179, 193.

§ 69. Reserved

