



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: LA-30-89, Version: 1

An Act

Enrolled

Legislative Act 30 -89

TITLE AND ACT RELATING TO CHEROKEE NATION OF OKLAHOMA LAW REGARDING REGULATION AND LICENSING OF GAMING ON TRIBAL LANDS: UNCODIFIED: AND DECLARING AN EMERGENCY
BE IT ENACTED BY THE CHEROKEE NATION:

Subchapter 1

General Provisions

Section 1-1 Title

This enactment shall be known as the "Cherokee Nation Tribal Gaming Act".

Section 1-2 Purpose

The purpose of this Act is:

- 1) To regulate the conduct of gaming owned Cherokee Nation of Oklahoma, or its officially tribal lands of the Cherokee Nation of Oklahoma, to as Cherokee Nation) in compliance with Public Law 100-497, October 1988, 102 Stat. 2467. and operated by the licensed agents, on (hereafter referred Law
- 2) To provide a basis under tribal law for the operation of gaming on tribal lands as a means for promoting tribal economic development, self-sufficiency, and a strong tribal government.
- 3) To provide a basis under tribal law for the regulation of gaming by the Cherokee Nation adequate to shield it from organized crime and other corrupting influences, and to insure that the tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by the tribe, its agents and the players.

Section 1-3 Definitions "Tribal lands" means:

- a) Any lands the title to which is either held in trust by the United States for the benefit of the Cherokee Nation or is held by the Cherokee Nation subject to restriction by the United States against alienation and over which the Cherokee Nation exercises governmental power.
- b) Land that title to which is either held in fee by the Cherokee Nation, or which is held in trust by the United States for the Cherokee Nation and land title to which was acquired by the tribe through purchase by or for the tribe.

"Class 1 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.

"Class 2 gaming" means the game commonly known as bingo (whether or not electronic, computer or other technology are used in connection therewith) and which is played with prizes including monetary prizes with cards bearing numbers or other designations, and in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, or drawn or are electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including pull tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo. This class of gaming also includes card games that are explicitly authorized by state laws or are not explicitly prohibited by state laws and are played at any location in the state.

Class 2 gaming does not include any banking card games, including baccarat, chemindefer, or black jack (21) or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

Subchapter 2

Administration and Enforcement

Section 2-1 Establishment of tribal gaming office and committee.

There is hereby established the Cherokee Nation Tribal Gaming Office and the Cherokee Nation Gaming Committee which shall have the duties and powers as hereinafter described.

The committee shall constitute no less than five (5) nor more than ten (10) 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. Committee members will serve for a period of two (2) years. Half of the committee member positions will be filled on odd years and the remaining half on even years. The committee shall elect from among its members a director, who shall be approved by the Principal Chief and the tribal council. The committee shall have the power to generally oversee the director and the tribal gaming office and review its actions for approval to ensure compliance with this Act and any regulations adopted and orders issued by the committee. The committee shall submit to a conflict of interest provision disclosing potential unethical situations.

The committee shall be charged with the sole responsibilities of administering and enforcing the provisions of this Act.

It shall be the responsibility of the committee to promulgate regulations necessary to administer the provisions of this Act. The duties shall include, but not be limited to the following:

- 1) Printing and making available application forms for initial and renewal licenses, as well as any other licenses or tax return forms.
- 2) Supervise the collection of all fees and taxes prescribed by this Act.
- 3) Processing all license applications and tax returns which will be submitted under oath.
- 4) Issuing of licenses.
- 5) Determining applicable license fees.
- 6) Auditing all returns.
- 7) Reviewing all records, documents and anything else necessary and pertinent to the financial accountabilities of licensees or enforcement of any provision of this ordinance.

8) Review for approval or denial any application or licensee, and to limit conditions to suspend or restrict any license.

9) Propose fines as needed. Section 2-2 Procedures

The committee shall afford an applicant for a license an application for hearing prior to final action denying such application and shall afford a licensee or any other person subject to this ordinance the opportunity for a hearing prior to taking final action resulting in denying, terminating, revoking, suspending, or limiting a license or any other adverse action the committee deems appropriate; provided, the director may summarily temporarily suspend or extend suspension of licenses for sixty (60) days in those cases where such action is deemed appropriate by the director. In cases where a license is suspended prior to hearing, an opportunity for a hearing shall be provided.

Section 2-3 Preliminary determination

Whenever, upon preliminary factual finding, the committee determines that any person has failed to comply with the provisions of this Act or any regulations promulgated hereunder, the committee shall make a certification of findings with a copy thereof to the subject or subjects of that determination. After five (5) days notice, and within thirty (30) days thereof, the committee shall hold a hearing at which time the subject shall have an opportunity to be heard and present evidence. The committee shall have the specific right to enjoin and restrain illegal activities.

Section 2-4 Hearing

At such hearing it shall be the obligation of the subject to show cause why the preliminary determination is incorrect, why the application in question should not be denied, why the license or licenses in question shall not be revoked or suspended, why the period of suspension should not be extended, or to show cause why special conditions or limitations upon a license should not be imposed, or to show cause why any other action regarding any other person or persons subject to any action should not be taken.

Section 2-5 Final determination

Following such hearing, the committee shall, within thirty (30) days, reach a final determination concerning the accuracy of the preliminary certification of facts, and whether the license in question should be granted, continued, suspended, revoked, conditioned or limited, and whether or not any other action recommended to or by the committee (including but not limited to forfeitures or fines) should be taken. The action of the committee will be the final action of the Nation.

Within thirty (30) days following this determination the director shall inform the subject in writing of that determination.

Section 2-6 Sanctions

Any person who engages in activities on property subject to the provisions of this Act without a license, in violation of the license or terms imposed thereon, in violation of terms of suspension, or in violation of any other provision of this Act, regulations promulgated thereunder, or amendments thereto, shall be in violation of this Act, including any person who unlawfully trespasses upon any premises licensed by this Act without the consent of the committee or the director. Separate violations shall be prosecuted as separate offense. Each day of violation shall constitute a separate count or violation of this Act. Each day of violation shall carry a potential fine of Five Hundred (\$500.00) to Five Thousand Dollars (\$5,000.00) to be determined at the discretion of the committee. Any property used in the furtherance of any violation of this Act may become the property of the Cherokee Nation. All winnings found to have been received in violation of this Act are subject to seizure and forfeiture and become the property of the Cherokee Nation.

Section 2-7 Reports

The committee will make an annual comprehensive report to the Principal Chief and Tribal Council.

Subchapter 3

Licensing

Section 3-1 License required.

Any agent of the Cherokee Nation conducting public gaming operations for the benefit of the Cherokee Nation on property of the Cherokee Nation shall be required to have and display prominently an appropriate, valid and current public gaming license issued pursuant to the provisions of this Act. Any form of public gaming operations conducted within the jurisdiction of the Cherokee Nation without the lawful written approval of the Cherokee Nation gaming committee are prohibited. Furthermore, it shall be unlawful for any person to conduct gaming activities within the boundaries of the Cherokee Nation which are not under license by and for the benefit of the Cherokee Nation or which mislead the general public in believing the gaming operation is owned or under control and operated by the Cherokee Nation of Oklahoma. The committee shall have the right to enjoin and restrain illegal activities.

Section 3-2 Classes and fees.

There shall be three (3) different classes of gaming, each characterized by its separate requirements and fees. These classes are created in compliance with the Indian Gaming Regulation Act, Public Law 100-497, October 17, 1988.

Section 3-3 Class 1 gaming.

No license requirement. Section 3-4 Class 2 gaming.

Only a wholly owned Cherokee Nation tribal enterprise or its designated and approved agent or employee may apply for and receive a Class 2 gaming license. Also, gaming must be conducted in facilities of the Cherokee Nation. A separate license must be issued by the committee for each place, facility or location on Tribal lands at which Class 2 gaming is conducted. The Cherokee Nation will have the sole proprietary interest and responsibility for the conduct of any gaming activity under a Class 2 license and all net revenues from any said gaming are to be used for tribal purposes including:

- (i) to fund tribal government operations or programs;
- (ii) to provide for the general welfare of the Cherokee Tribe and its members;
- (iii) to promote tribal economic development;

The Cherokee Nation will cause annual audits of all gaming activity under a Class 2 license to be conducted within the existing independent tribal audit system and will provide all audit information to the National Indian Gaming Commission. The management and operation of any Class 2 gaming facility shall be subject to all applicable provisions of the Indian Gaming Regulatory Act. An annual fee of \$2,500.00 will be charged for any Class 2 gaming license.

Section 3-5 Class 3 gaming.

Class 3 gaming is hereby authorized to be conducted only by an enterprise which is owned solely by the Cherokee Nation and may be issued to its designated and approved agents and employees. The Cherokee Nation will have the sole proprietary interest and responsibility for the conduct of any Class 3 gaming activity and the net revenues from any Class 3 gaming are to be used for no purposes other than:

- (i) to fund tribal government operations or programs;
- (ii) to provide for the general welfare of the Cherokee

Tribe and its members;

Subchapter 4

Rules-of Operation and General Accountability

Section 4-1 Records, Returns and Audits

It shall be the responsibility of the Cherokee Nation Gaming Committee to promulgate regulations establishing proper accounting procedures and methods of operations for all licensees of Class 2 and Class 3 gaming activities so that all monies or things of value received and paid out may be properly monitored and accounted for. All licensees under this Act shall be required to keep an approved accounting system which shall comply with, but not be limited to, all applicable provisions of this Act or regulations of the committee. Said accounting system shall reflect all business and financial transactions involved or connected in any manner with the operation and conducting of activities authorized by this Act. The committee shall have the right to subpoena records or to secure a court order to seize records for property not surrendered.

No applicant, license or employee thereof shall neglect or refuse to produce records or evidence or to give information upon proper and lawful demand by the director or committee, or shall otherwise interfere or attempt to interfere, with any proper and lawful efforts by the director or the committee to produce such information. The committee may conduct such hearings as deemed necessary to insure compliance with the provisions of this Act and accountability for all monies received and spent. Failure to comply with the provisions of this Act shall constitute grounds for complaint with the National Indian Gaming commission and summary suspension or revocation of any license or management contract.

Section 4-2 Rules of the game

It shall be the responsibility of the Cherokee Nation Gaming committee to promulgate regulations establishing the particular rules of any given Class 2 or Class 3 gaming in order that said gaming will be conducted with fairness and uniformity.

Section 4-3 Age limit for all gaming

No person who is under the age of 18 shall operate or be allowed to participate in any manner in the operation of any Class 2 or Class 3 gaming activities. It shall be the responsibility of any manager or licensed agent of the Cherokee Nation to insure compliance with this age limit requirement.

Section 4-4 Inherent sovereignty of the Cherokee Nation of Oklahoma.

With the passage of this legislative act notwithstanding any other law or ordinance, this ordinance does not limit the inherent sovereignty of the Cherokee Nation of Oklahoma.

Passed by the Cherokee Nation Tribal Council on this 8th day of April, 1989.

John A. Ketcher, President Cherokee Nation Council

Approved and signed by the Principal Chief this 8th day of April, 1989.

Wilma P. Mankiller, Principal Chief Cherokee Nation of Oklahoma

ATTEST: Gary D. Chapman, Secretary/Treasurer Cherokee Nation of Oklahoma