

CHAPTER 1

GENERAL PROVISIONS

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§ 1. Short title

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

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

History

Derivation:

LA 30-89.

LA 01-94.

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

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

History

Derivation:

LA 30-89.

LA 09-90.

LA 01-94.

LA 29-03.

LA 20-06.

§ 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 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.

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

History

Derivation:

LA 30-89.

LA 01-94.

§ 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 prized 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 electromechanical 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

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

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.

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

History

Derivation:

LA 30-89.

LA 09-90.

LA 01-94.

Former 4 CNCA §§ 3, 42.

LA 29-03.

LA 20-06.

§ 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.

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

History

Derivation:

LA 01-94.

Former 4 CNCA § 35.

§ 6. Words and terms

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.

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

§ 7. Provisions as cumulative

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

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

History

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.

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

History

Derivation:

LA 01-94.

Former 4 CNCA §§ 7, 51.

§ 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.

LA 26-10, eff. September 13, 2010. Amended LA 10-11, eff. June 19, 2011; LA 07-14, eff. April 24, 2014; 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.

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

History

Derivation:

LA 30-89.

LA 09-90.

LA 01-94.

Former 4 CNCA §§ 8, 34.

§ 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.

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

History

Derivation:

LA 01-94.

Former 4 CNCA §§ 9, 53.

§§ 12 to 19. Reserved