

TITLE 21. GAMING

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United States Code Annotated

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

CHAPTER 1. GENERAL PROVISIONS

Section
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Historical and Statutory Notes

<p>NCA 01-183, § 15, provides:</p> <p>“Effective date. This Act shall be effective on February 1, 2002; provided that in the event that the National Gaming Indian Regulatory Commission disapproves any portion of this Act that is subject to said Commission’s approval authority, then said disapproval shall have no</p>	<p>effect on any other provision in this Act; provided further, that in the event that the National Indian Gaming Regulatory Commission disapproves this Act in its entirety, then this Act shall have no effect on any of the laws of the Muscogee (Creek) Nation expressly amended or repealed by this Act.”</p>
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§ 1-101. Findings

The National Council finds that:

A. Under the 1979 Constitution of the Muscogee (Creek) Nation, the National Council may legislate upon subjects to become laws of the Nation, including:

1. To promote the public health and safety, education and welfare that may contribute to the social, physical well being and economic advancement of citizens of the Muscogee (Creek) Nation. [Article VI, Section 7(a)].

2. To create authorities with attendant powers to achieve objectives allowed within the scope of this Constitution. [Article VI, Section 7(i)].

3. To exercise any power not specifically set forth in this Article which may at some future date be exercised by the Muscogee (Creek) Nation. [Article VI, Section 7(j)].

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B. The present needs of the Muscogee people include employment and training, health care, educational opportunities, nutrition, mental health, juvenile services, housing, planning and development, legal services, elders programs and social services which are not presently being met in sufficient quantity by United States government agencies.

C. The Muscogee (Creek) Nation desires to be self-sufficient in its internal affairs, as reliance upon federal resources has been adverse to the quality of life within this Tribe in both the recent and far past.

D. The regulation of public gaming within the Muscogee (Creek) Nation is in the interest of the Muscogee people and their health, and welfare, political self-determination and economic self-sufficiency.

E. Public gaming operations have been introduced to the Muscogee (Creek) Nation and it is of vital interest to the public health, safety and welfare of the Muscogee people that the Nation regulate public gaming in a manner commensurate with the interests of the Muscogee people.

F. The Muscogee (Creek) Nation needs to establish a base to generate revenues for essential governmental services and to achieve self-sufficiency in all its economic affairs, as reliance on outside resources can be adverse to the goal of economic independence of this sovereign Nation.

[NCA 92–162, § 101, approved Dec. 23, 1992; amended by NCA 01–183, § 101, eff. Feb. 1, 2002.]

Library References

Indians ☞334.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 1–102. Short title and codification

This Act¹ shall be known and may be cited as the Muscogee (Creek) Nation Public Gaming Code, and shall be codified as Title 21 of the Muscogee (Creek) Nation Code of Laws.

[NCA 92–162, § 102, approved Dec. 23, 1992; amended by NCA 01–183, § 102, eff. Feb. 1, 2002.]

¹ NCA 01–183.

Library References

Indians ☞334.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 1–103. Definitions

The following words and phrases when used in this title shall, for the purposes of this Title, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

A. “Bingo” means a game in which each player receives a bingo face and covers the squares according to the numbers, letters, or combinations of numbers and letters that have been announced by the caller or some other

designated source, such as a random number generator licensed by the Commissioner. The numbers and letters called are on an object selected at random either manually, electronically, or mechanically from a receptacle or device in which have been placed the objects bearing the numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the bingo face squares. The winner of each bingo game is the player who first properly covers a predetermined and announced pattern of squares upon the bingo face being used by the player.

B. "Bingo face" means a flat piece of paper, or facsimile thereof, which is marked off into any number of squares in any arrangement of rows, with each square being designated by number, letter or combination of numbers and letters which cannot be used after the game in which a player has used it is over.

C. "Commissioner" means the Muscogee (Creek) Nation Public Gaming Commissioner.

D. "Electronic, computer or other technologic aid" means a device such as a computer, telephone, cable, television, satellite or bingo blower and that when used:

1. Is not a game of chance but merely assists a player or the playing of a game;
2. Is readily distinguishable from the playing of a game of chance on an electronic or electromechanical facsimile; and
3. Is operated according to applicable federal communications law.

E. "Gain" means the direct realization of winnings.

F. "Gambling" means risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance or the operation of a gambling device, but does not include: bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries; bona fide business transactions which are valid under the law of contracts; and other acts or transactions now or hereafter expressly authorized by law.

G. "Gambling device" means any unlicensed device or mechanism by the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of a substantial element of chance; any unlicensed device or mechanism which when operated for a consideration does not return the same value or thing of value for the same consideration upon each operation thereof, any unlicensed device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and any unlicensed sub-assembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation.

H. "Gambling information" means a communication with respect to any wager made in the course of and any information intended to be used for unlicensed professional gambling. In the application of this definition the following shall be presumed to be intended for use in professional gambling: information as to wagers, betting odds or change in betting odds.

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I. "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place whether open or enclosed, used or intended to be used for unlicensed professional gambling. In the application of this definition, any place where an unlicensed gambling device is found shall be presumed to be intended to be used for professional gambling.

J. "Gambling record" means any record, receipt, ticket, certificate, token, slip, notation, computer, hard drive, computer diskette, computer back-up tape, CD or other recording device given, made, used or, intended to be used in connection with unlicensed professional gambling.

K. "Gaming" means games of chance or skill that are regulated by the Commissioner.

L. "Gaming vendor" means any person who manufactures, distributes, leases, repairs, rebuilds, modifies or programs:

1. Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss, including:

- a. An electronic gaming machine;
- b. A collection of two (2) or more of the following components:
 - i. an assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in an electronic gaming machine;
 - ii. a cabinet with electronic wiring and provisions for mounting a coin, token, card or currency acceptor;
 - iii. a storage medium containing the source language or executable code of a computer program that cannot be reasonably demonstrated to have any use other than in an electronic gaming machine;
 - iv. an assembled video display unit; or
 - v. an assembled mechanical or electromechanical display unit intended for use in gambling ; or
 - vi. assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in an electronic gaming machine.

- 2. Any item used to play a game including:
 - a. playing cards;
 - b. bingo balls;
 - c. bingo cards, bingo paper packs or paper pack components;
 - d. ball blowers;
 - e. chips;
 - f. cards, tokens or any other device or machine that stores or registers cash credit; or
 - g. a random number generator;
- 3. Links which connect to progressive gaming machines;
- 4. Equipment which affects the proper reporting of gross revenue;

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5. Computerized devices for weighing or counting money;
6. Computerized system for recordation of sales of gaming.

M. "Instant bingo or pull-tabs" means the activity where players purchase outwardly identical cards from a stack of cards (the "deal"). The deal includes a pre-determined number of winning and losing cards. The player opens the tab and finds out if the card is a winner. A player obtains a paper or electronic card or ticket that may be displayed for the player on a video monitor from a stack of similar cards or tickets. The player opens the paper or electronic pull-tab and examines the combinations to determine if they have a winning combination.

N. "Key employee" means a person who performs one or more of the following functions:

1. Bingo caller;
2. Counting (money) room personnel;
3. Chief of Security and security personnel;
4. Custodian of gaming supplies or cash;
5. Floor manager;
6. Pit boss;
7. Dealer;
8. Croupier;
9. Approver of credit;
10. Custodian of gaming devices, including persons with access to cash and accounting records within such devices;
11. Surveillance personnel;
12. Gaming Operations Authority Board members;
13. Any person who:
 - a. Receives over fifty thousand dollars (\$50,000.00) per year in cash compensation; or
 - b. Is one of the four most highly compensated persons in the gaming operations.

O. "License" means the permission, by authority of the Muscogee (Creek) Nation, to do an act that without permission would be illegal, and that is granted in writing by the Commissioner for consideration to a person to pursue some occupation or to carry on some business, subject to regulation under the jurisdiction of the Muscogee (Creek) Nation. A license is a privilege to go on the premises for a certain purpose but does not operate to confer on, vest in, or license any title, interest, or estate in Muscogee (Creek) Nation real property.

P. "Lottery" means any procedure for the disposal or distribution of property, including money, by chance where: (1) the players pay something of value for chances, represented or differentiated by numbers or by combinations of numbers or by some other designation, one or more of which chances are to be designated the winning ones; and (2) the winning chances are to be determined by a drawing held by the manager of the game, or by some other method based

upon the element of chance; and (3) the holders of the winning chances are to receive something of value; and (4), when played or operated once, destroys the value of the chance as the prizes are distributed.

Q. “Nation” means the Muscogee (Creek) Nation as established under the Muscogee (Creek) Constitution of 1979. Individual Tribal Towns and Chartered Communities of the Muscogee (Creek) Nation are considered component, inseparable subdivisions of the Muscogee (Creek) Nation and may only benefit from the rights and privileges from the Muscogee (Creek) Nation under this Title.

R. “Net revenues” means gross gaming revenues less all amounts paid out as, or paid for, prizes; and total gaming related expenses, excluding management fees.

S. “Off-track betting” means a form of wagering on the outcome of horse or dog races, whereby all bets made on a particular race are pooled in a pari-mutuel, combination or mutual field betting pool and then paid (less a standard management fee to cover local costs, pooling costs, track costs, and profits) to the winning tickets.

T. “Pari-mutuel racing” means the activity wherein participants bet a sum of money, in predetermined increments, to wager on which horses or dogs shall place first (or “win”), second (or “place”), or third (or “show”) in a race for a predetermined distance. If a horse or dog is determined to have properly won the first, second, or third place in the race, the participants who have bet upon that horse or dog are paid upon their wager according to formulas approved under the laws or regulations of the Muscogee (Creek) Nation. Players may also be paid upon a combination basis or upon a mutual field basis.

U. “Person” means a natural person, a partnership, an association of persons, a corporation, a firm, a limited liability company, a sole proprietorship, a trust, a joint venture, a consortium, a commercial entity, a Muscogee (Creek) Nation Tribal entity, a Muscogee (Creek) Nation Chartered Indian Community or an Indian Tribe.

V. “Primary management official” means:

1. The person having management responsibility for a management contract;
2. Any person who has authority:
 - a. to hire and fire employees or
 - b. to set up working policy for the gaming operations; or
3. The chief financial officer or other person(s), who has financial management responsibility including members of all boards or panels who have oversight responsibility for any Tribally licensed gaming operation.

W. “Professional gambling” means accepting or offering to accept for profit, money, credit, deposits or other things of value risked in unlicensed gambling, or any claim thereon or interest therein. Without limiting the generality of this definition, the following unlicensed activities shall be included: pool-selling and bookmaking; maintaining slot machines, one-ball machines or variants thereof; pinball machines which award anything other than an

immediate and unrecorded right of replay; roulette wheels; dice tables; money or merchandise pushcards, punch boards, jars or spindles in any place accessible to the public; conducting unlicensed lotteries, gift enterprises, policy or numbers games, or selling chances therein; conducting any unlicensed banking or percentage game played with cards, dice or counters, or accepting any fixed share of the stakes therein.

X. “Progressive game” means a game in which prizes are allowed to be carried over and increased from session to session.

Y. “Skill game” means a game where the player, through practice, can alter the outcome.

Z. “Unlicensed” means not holding a valid license issued by the Commissioner.

AA. “U-PIK-EM bingo game” means a game played wherein a player selects the numbers in a U-PIK-EM bingo game. The player and the game operator both receive the bingo face with the players selected as marked by the player. The player then covers the numbers as the caller or some other designated source, such as a random number generator licensed by the Commissioner, announces a number. The numbers called are on an object selected at random either manually, electronically, or mechanically from a receptacle or device in which have been placed the objects bearing the numbers. The winner of each U-PIK-EM bingo game is the player who first covers all the numbers appearing on his or her bingo face in accordance with the pattern as designated on the bingo face.

BB. “Valuable prize” means an object or service worth one hundred dollars (\$100.00) or more in fair market value.

CC. “Whoever” means a natural person, a partnership, an association of persons, a corporation, a firm, a limited liability company, a sole proprietorship, a trust, a joint venture, a consortium, a commercial entity, a Muscogee (Creek) Nation Tribal entity, a Muscogee (Creek) Nation Chartered Indian Community or an Indian Tribe.

[NCA 92-162, §§ 103, 303 subsec. A, 902, approved Dec. 23, 1992; amended by NCA 94-45, §§ 102, 103, approved Aug. 8, 1994; NCA 01-183, § 103, eff. Feb. 1, 2002.]

Code of Federal Regulations

Definitions, see 25 CFR 502.1 et seq.

§ 1-104. Interpretation of title

The provisions of this Title, being necessary for the welfare of the Nation and its inhabitants, shall be liberally construed to effect the purpose and object hereof. Article and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section hereof.

[NCA 92-162, §§ 104, 105, approved Dec. 23, 1992; amended by NCA 01-183, § 104, eff. Feb. 1, 2002.]

Title 21, § 1-104

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Library References

Indians ↻331.
Westlaw Topic No. 209.
C.J.S. Indians §§ 77, 193.

§ 1-105. Severability

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

[NCA 92-162, § 107, approved Dec. 23, 1992; amended by NCA 01-183, § 105, eff. Feb. 1, 2002.]

CHAPTER 2. PUBLIC GAMING COMMISSIONER

Section

- 2-101. Office of Public Gaming Commissioner established.
- 2-102. Appointment and term of office.
- 2-103. Outside employment and activities of Commissioner.
- 2-104. Removal from office.
- 2-105. Duties.
- 2-106. Authority of Commissioner.

§ 2-101. Office of Public Gaming Commissioner established

In order to provide for the orderly development, administration, and regulation of public gaming, there is established the Muscogee (Creek) Nation Public Gaming Commissioner.

[NCA 92-162, § 201, approved Dec. 23, 1992; amended by NCA 01-183, § 201, eff. Feb. 1, 2002.]

Library References

- Indians ⇄341.
- Westlaw Topic No. 209.
- C.J.S. Indians § 193.

§ 2-102. Appointment and term of office

A. The Principal Chief shall nominate a preferred citizen of the Muscogee (Creek) Nation or the best qualified individual to serve as the Commissioner, subject to confirmation by the National Council by duly adopted Tribal Resolution. The Commissioner's term will be for a period of not to exceed four (4) years to expire at the end of the term of office of the Principal Chief who made the appointment; provided that a Commissioner may serve more than one (1) term in office. The Commissioner shall be subject to a background investigation which shall contain the same information as required from gaming license applicants. The background investigation shall be completed by the Attorney General or a company selected by the Attorney General that performs background investigations. All costs associated with the background investigation shall be borne by the Office of Public Gaming. The findings shall be presented to National Council in executive session. The background investigation and findings shall be confidential and no copies of the investigation shall be retained. The original shall be kept in the Office of Public Gaming with the gaming license applications.

B. Severance clause. If any part or provision hereof shall be held void by Tribal or federal court, the decision of the Court so holding, shall not affect or impair any of the remaining provisions hereof.

[NCA 92-162, § 201, approved Dec. 23, 1992; amended by NCA 01-183, § 202, eff. Feb. 1, 2002; NCA 03-155, § 1, approved Nov. 3, 2003; NCA 04-035, § 8, eff. March 12, 2004; NCA 04-111, § 1, eff. Oct. 29, 2004.]

Cross References

Full citizenship, see Const. Art. III, § 4.

Library References

Indians ⇄334, 339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 2–103. Outside employment and activities of Commissioner

The Commissioner may not hold other Tribal positions except temporary duties assigned by Executive Order to be performed without increase in compensation. The Commissioner may not be employed outside of the Nation. The Commissioner shall post a bond with the Muscogee (Creek) Nation in the amount of one hundred thousand and no/100 dollars (\$100,000.00).

[NCA 92–162, § 202, approved Dec. 23, 1992; amended by NCA 01–183, § 203, eff. Feb. 1, 2002; NCA 03–155, § 2, approved Nov. 3, 2003.]

Library References

Indians ⇄334, 339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 2–104. Removal from office

The Commissioner may be removed from office prior to the end of any term for cause in accordance with Chapter 1 of Title 31 (Title 31, § 1–101 et seq.) of the Code of Laws of the Muscogee (Creek) Nation.

[NCA 92–162, § 201, approved Dec. 23, 1992; amended by NCA 01–183, § 204, eff. Feb. 1, 2002.]

Library References

Indians ⇄341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 2–105. Duties

The Commissioner shall be charged with the responsibility of administering and enforcing the provisions of this Title. It shall be the responsibility of the Commissioner to promulgate regulations necessary to administer provisions of this Title. These 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 necessary licenses.
2. Supervising the collection of all fees and taxes prescribed in this Title.
3. Processing all license applications.
4. Issuing licenses.
5. Determining applicable license fees.
6. Auditing all returns.
7. Reviewing all gaming operation contracts, records, documents, and anything else necessary and pertinent to the financial accountabilities of licensees or to the enforcement of any provision of this Title or Office of Public Gaming regulations.

8. Denying any application, limit, condition, suspending, or restricting any license or permit, making a finding of suitability or approval of the license or permit, or a finding of suitability or approval of or the imposition of a fine upon any person licensed or permitted for any cause deemed reasonable by the Commissioner.

9. Performing any other duties required in this Title or any amendments thereto or other duties that may hereafter be specified by the Commissioner.

10. Employing legal counsel with consent of the Muscogee (Creek) Nation under applicable laws.

11. Defending this Title in any court of law in consultation and with the concurrence of the Attorney General.

12. Acting as designee agent for service of process for any legal disputes that may arise at any of the Nation's gaming facilities.

[NCA 92-162, § 203, approved Dec. 23, 1992; amended by NCA 94-45, § 105, approved Aug. 8, 1994; NCA 01-183, § 205, eff. Feb. 1, 2002.]

Library References

Indians ⇄334, 339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 2-106. Authority of Commissioner

The Commissioner may exercise any proper power and authority necessary to perform the duties assigned by this Title. Regular and special meetings of the Commissioner may be held, at the discretion of the Commissioner, at such time and places as may be convenient and open to Tribal members, with notice posted in a public place at least twenty-four (24) hours prior to the meeting. The Commissioner may organize any functional divisions as may be necessary and from time to time alter such plan of organization as may be expedient. The Commissioner shall recommend the Office of Public Gaming budget for operations to the Controller of the Muscogee (Creek) Nation, and take any other steps necessary to fulfill duties and responsibilities under this Title. In adopting, amending, or repealing any Office of Public Gaming regulations, the Commissioner shall give prior notice of the proposed action to all licensees and other persons whom the Commissioner has reason to believe have a legitimate and bona fide interest in such proposed action.

[NCA 92-162, §§ 204, 206, 207, 208, approved Dec. 23, 1992; NCA 01-183, § 206, eff. Feb. 1, 2002.]

Library References

Indians ⇄334, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

CHAPTER 3. LICENSES AND PERMITS

Section

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- 3-102. Registration.
- 3-103. Classes and fees.
- 3-104. Exemptions.
- 3-105. Licensing requirements for Chartered Communities.
- 3-106. Time requirements for application for licenses.
- 3-107. License applications; notices.
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- 3-109. License eligibility determination.
- 3-110. Procedures for forwarding license applications and reports to the NIGC.
- 3-111. Granting a gaming license.
- 3-112. License suspension.
- 3-113. Display of license.
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- 3-115. Fees.
- 3-116. Non-transferability.
- 3-117. Licenses revocable.
- 3-118. Violations.
- 3-119. Review of contracts.
- 3-120. Review of lease.
- 3-121. Fingerprinting.

Code of Federal Regulations

Gaming licenses for key employees and primary management officials, see 25 CFR 558.1 et seq.

§ 3-101. License required

A. The following persons shall be required to have and display prominently an appropriate, valid and current public gaming license issued pursuant to the provisions of this Title:

1. Any person conducting gaming, pari-mutuel racing, off-track betting, or lottery on Muscogee (Creek) Nation property;
2. Any gaming vendor doing business with the Muscogee (Creek) Nation or one of its licensees;
3. All key employees and primary management officials;
4. All employees of a gaming facility;
5. Other persons who enter into a business relationship or contract with a gaming facility or its licensees and who are required by the Muscogee (Creek) Nation Office of Public Gaming regulations to obtain a license.

B. Any other forms of public gaming operations being conducted within the jurisdiction of the Muscogee (Creek) Nation without the lawful written approval of the Commissioner are prohibited.

[NCA 92-162, § 301, approved Dec. 23, 1992; amended by NCA 01-183, § 301, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.

Westlaw Topic No. 209.

C.J.S. Indians § 193.

§ 3-102. Registration

A. The following persons shall be required to register with the Office of Public Gaming by completing and submitting a registration form to the Office of Public Gaming prior to entering the property of a Muscogee (Creek) Nation gaming facility, subject to the exception in subsection C of this section:

1. All employees or independent contractors of persons required to be licensed with the Office of Public Gaming;
2. All persons making deliveries or picking up items at a gaming facility;
3. All persons who enter into a business relationship or contract with a gaming facility or its licensees and who are determined by the Muscogee (Creek) Nation Office of Public Gaming as not requiring a license;
4. All persons servicing or monitoring public utilities.

B. The Office of Public Gaming shall at a minimum make an updated list of registered persons available to the gaming facilities on every Friday of each week.

C. All persons required by subsection A to be registered with the Office of Public Gaming shall initially enter the public entrance of the gaming facility. The security officer shall verify with the Office of Public Gaming whether the person is registered and the person shall sign his or her name to a daily log kept with security personnel. Any person required to register who fails to do so, or any person who fails to sign the daily log upon entering the gaming facility, shall be banned from all Muscogee (Creek) Nation gaming facilities until further written notice from the Office of Public Gaming.

D. A person described in subsection A shall not be required to have submitted a registration form to the Office of Public Gaming prior to entry into a gaming facility if said person completes a registration form and submits it to the gaming facility and signs his or her name on the daily log pursuant to subsection C; provided that the gaming facility shall immediately transmit the registration form to the Office of Public Gaming.

[NCA 01-183, § 302, eff. Feb. 1, 2002.]

Library References

Indians ↻334, 339, 339.5.
 Westlaw Topic No. 209.
 C.J.S. Indians § 193.

§ 3-103. Classes and fees

Different classes of licenses shall be issued, and each have a separate fee and separate privileges. Each license shall be for a specific place. A licensee who desires to operate multiple locations shall obtain multiple licenses. A licensee shall operate and conduct only those activities authorized by the license obtained. The classes of licenses are listed below:

- A. Class "A". A Class A license may be issued to the Creek Nation Festival Committee, or the Creek Nation Rodeo Committee, at an annual rate of one

hundred dollars (\$100.00), for the revocable privilege of conducting bingo games for the remainder of the calendar year.

B. Class "C". A Class C license may be issued to any applying Muscogee (Creek) Indian Chartered Community at a monthly rate of ten dollars (\$10.00) for the revocable privilege of conducting of bingo games during the remainder of that calendar year.

C. Class "C-2". A Class C-2 license may be issued to Tribal entities, where the use of Tribal funds are involved, at an annual rate of twenty-five dollars (\$25.00) for the revocable privilege of conducting bingo games during the remainder of the calendar year.

D. Class "E-1". A Class E-1 license may be issued to any key employee or primary management official.

E. Class "E-2". A Class E-2 license may be issued to any employee of a gaming facility who is not a key employee.

F. Class "L". A Class L license may be issued to the Gaming Operations Authority Board, Division of the Lottery, to conduct a lottery and to permit agents to sell lottery tickets or shares for the remainder of the calendar year.

G. Class "O". A Class O license may be issued to the Gaming Operations Authority Board, Division of Off-Track Betting, to conduct off-track betting for the remainder of the calendar year.

H. Class "P". A Class P license may be issued to any person at an annual rate of one hundred thousand dollars (\$100,000.00), for the revocable privilege of conducting pari-mutuel racing or off-track betting.

I. Class "S". Satellite bingo is the activity wherein bingo games are electronically transmitted by the utilization of live or prerecorded pictures or data from predesignated satellites owned, leased or through use of agreement to authorized sending units, places or areas, at an annual rate of twelve hundred dollars (\$1,200) for the revocable privilege of transmitting, satellite bingo games into a specific location within the reservation. Class S licensees shall abide by this title and all rules and regulations promulgated by the Commissioner. Approval of leases or contracts for satellite bingo enterprises between the Muscogee Nation and any third party will be approved by law.

J. Class "T". A Class T license may be issued to the Gaming Operations Authority Board, at an annual rate of twelve hundred dollars (\$1,200.00) for the revocable privilege of conducting gaming in a specific location within the reservation of the Muscogee (Creek) Nation for the remainder of the calendar year.

K. Class "V". A Class V license may be issued to the Gaming Operations Authority Board, Division of Video Gaming, to conduct video games for the remainder of the calendar year.

L. Class "Z". A Class Z license may be issued to any gaming vendor who enters into a business relationship with any of the Nation's gaming facilities or licensees; conducts business within the political jurisdiction of the Nation; or to

any person who enters into a business relationship with any of the Nation's gaming facilities or its licensee.

[NCA 92-162, § 302, approved Dec. 23, 1992; amended by NCA 94-45, § 105, approved Aug. 8, 1994; NCA 99-121, § 102 subsec. A, approved Aug. 20, 1999; NCA 01-183, § 303, eff. Feb. 1, 2002.]

Library References

Indians ⇄334, 339, 339.5, 340.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-104. Exemptions

The following activities are not public gaming operations under the terms of this Title, and therefore do not require a license under this Title:

A. Class I gaming.

B. Charitable raffles. Selling chances on any item(s) and/or service(s) in order to raise funds for any church, ceremonial ground, or Chartered Community, or for other charitable purposes recognized in regulations issued by the Commissioner.

[NCA 92-162, § 303, approved Dec. 23, 1992; amended by NCA 01-183, § 304, eff. Feb. 1, 2002.]

Library References

Indians ⇄334.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-105. Licensing requirements for Chartered Communities

All Chartered Communities must have current and valid authorization to use Muscogee (Creek) Nation property in order to obtain a license to conduct gaming. Such authorization must comply with all Muscogee (Creek) Nation laws. For purposes of gaming license requirements, the Community Chairperson, Vice-Chairperson and Treasurer shall be deemed to be primary management officials. They shall not take an active role in management of the gaming facility. If the Commissioner determines that a Community Chairperson, Vice-Chairperson or Treasurer is not eligible for a gaming license, then the Community shall be precluded from operating any gaming facility so long as such person shall remain in office as a Community official.

[NCA 01-183, § 305, eff. Feb. 1, 2002.]

Library References

Indians ⇄335.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-106. Time requirements for application for licenses

A. All persons, except those seeking a class E-1 or E-2 license, who seek to engage in gaming activities within the Muscogee (Creek) Nation, must apply for a license at least thirty (30) days prior to the scheduled activities. Every licensee

intending to continue gaming activities within the Muscogee (Creek) Nation during the next following calendar year shall apply for renewal of the license at least thirty (30) days prior to the end of the previous license period.

B. Immediately upon application for employment in a gaming facility, the potential employer shall hand deliver to the Office of Public Gaming the necessary information to obtain a criminal background check of the potential employee along with the applicable fee for such background check. The gaming operation shall terminate employment of a person who is required to have a license pursuant to Title 21, § 3-101, if that person does not have a license within 90 days of the date of employment.

[NCA 92-162, §§ 304, 305, approved Dec. 23, 1992; amended by NCA 01-183, § 306, eff. Feb. 1, 2002.]

Library References

Indians ⇄334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-107. License applications; notices

A. The following notice shall be placed on the application form for license applicants before that form is filled out by an applicant:

“In compliance with the Privacy Act of 1974¹, 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 employed in a gaming operation. The information will be used by NIGC members and staff, who have need for the information in the performance of their official duties. The information may be disclosed 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 NIGC in connection with the hiring or firing of any employee, the issuance or revocation of a gaming license, or investigation 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 issue a gaming license to you. The disclosure of your social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.”

B. Existing gaming licensees shall be notified in writing that they shall either:

1. Complete a new application form that contains a Privacy Act notice; or
2. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

C. The following notices shall be placed on the application form for license applicants before that form is filled out by an applicant:

“A false statement on any part of your application may be grounds for not hiring you or for firing you after you begin work. Also, you may be punished by fine or imprisonment (USC Title 18, Sec. 1001).”

D. The Commissioner shall notify in writing existing gaming licensees that they shall either:

1. Complete a new application form that contains a notice regarding false statements; or
2. Sign a statement that contains the notice regarding false statements.

[NCA 92-162, § 1008 subsec. A, approved Dec. 23, 1992; amended by NCA 94-45, § 109, approved Aug. 8, 1994; NCA 01-183, § 307, eff. Feb. 1, 2002.]

¹ See 5 U.S.C.A. § 552a.

Library References

Indians ☞334, 339.
 Westlaw Topic No. 209.
 C.J.S. Indians § 193.

§ 3-108. License applications; background investigations

A. The Commissioner shall request from each gaming license applicant all of the following information:

1. Full name, other names used (oral or written), SSN(s), birth date, 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 listed addresses, and driver's license numbers;
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 this subsection;
4. Current business and residence telephone numbers;
5. A description of any existing and previous business relationships with Indian Tribes, including ownership interest 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 relating 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 change, the name and address of the court involved, and the 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;
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 paragraph 8 or 9 of this subsection, the criminal charge, the name and address of the court involved and the date and disposition;

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11. The name and address of any licensing or regulatory agency with which the person has filed an application or an occupational license or permit, whether or not such license or permit was granted;

12. A current photograph;

13. Any other information the Tribe deems relevant; and

14. Fingerprints consistent with procedures adopted by the Tribe.

B. The Commissioner shall conduct an investigation sufficient to make a determination of license eligibility pursuant to Title 21, § 3–109. In conducting a background investigation, the Commissioner or his agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

[NCA 92–162, § 1008 subsec. B, approved Dec. 23, 1992; amended by NCA 94–45, § 109, approved Aug. 8, 1994; NCA 01–183, § 308, eff. Feb. 1, 2002.]

Library References

Indians ⇄334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

Code of Federal Regulations

Background investigations for primary management officials and key employees, see 25 CFR 556.1 et seq.

§ 3–109. License eligibility determination

The Commissioner shall review an applicant's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a license applicant for employment in a gaming operation. If the Commissioner determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming, the Commissioner shall not issue a license to the applicant.

[NCA 92–162, § 1008, subsec. C, approved Dec. 23, 1992; amended by NCA 94–45, § 109, approved Aug. 8, 1994; NCA 01–183, § 309, eff. Feb. 1, 2002; NCA 03–155, § 3, approved Nov. 3, 2003, eff. Dec. 11, 2003; NCA 04–064, § 2, approved April 30, 2004, eff. Oct. 29, 2004.]

Library References

Indians ⇄334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3–110. Procedures for forwarding license applications and reports to the NIGC

A. When a gaming license applicant begins work at a gaming operation authorized by this law, the Commissioner shall forward to the NIGC a completed application for employment, conduct the background investigation and make the eligibility determination referred to in Title 21, § 3–109.

B. The Commissioner shall prepare and forward the NIGC an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The basis for those conclusions.

C. The Commissioner shall submit with the investigative report a copy of the Commissioner's eligibility determination.

D. If a license is not issued to an applicant, the Commissioner shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

E. The Commissioner shall retain license applications and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than 3 years from the date of termination of employment.

[NCA 92-162, § 1008, approved Dec. 23, 1992; amended by NCA 94-45, § 109, approved Aug. 8, 1994; NCA 01-183, § 310, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-111. Granting a gaming license

A. If within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribe that it has no objection to the issuance of a license to a gaming license applicant for whom the Tribe has provided an application and investigative report to the NIGC, the Commissioner may issue a license to such applicant.

B. The Commissioner shall respond to a request for additional information from the Chairman of the NIGC concerning a gaming license applicant who is the subject of a report. Such request shall suspend the thirty (30) day period under paragraph 1 of subsection G of this section until the Chairman of the NIGC receives the additional information.

C. If within the thirty (30) day period described above, the NIGC provides the Commissioner with a statement itemizing objections to the issuance of a license to a gaming license applicant for whom the Commissioner has provided an application and investigative report to the NIGC, the Commissioner shall reconsider the application, taking into account the objections itemized by the NIGC. The Commissioner shall make the final decision whether to issue a license to such applicant.

[NCA 92-162, § 1008 subsec. F, approved Dec. 23, 1992; amended by NCA 94-45, § 109, approved Aug. 8, 1994; NCA 01-183, § 311, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-112. License suspension

1. If after the issuance of a gaming license, the Commissioner receives from the NIGC reliable information indicating that a gaming license applicant is not eligible for a license, the Commissioner shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

2. The Commissioner shall notify the licensee of a time and a place for the hearing on the proposed revocation.

3. After a revocation hearing, the Commissioner shall decide to revoke or to reinstate a gaming license. The Commissioner shall notify the NIGC of the decision.

[NCA 92-162, § 1008 subsec. G, approved Dec. 23, 1992; amended by NCA 94-45, § 109, approved Aug. 8, 1994; NCA 01-183, § 312, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-113. Display of license

Every gaming facility shall display in a prominent place a current and valid license for that location.

[NCA 92-162, § 306, approved Dec. 23, 1992; amended by NCA 01-183, § 313, eff. Feb. 1, 2002.]

Library References

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

§ 3-114. Amendment of license

When a licensee changes location of gaming activities within the Muscogee (Creek) Nation, the Commissioner shall issue a corrected license for the balance of the current period reflecting the new address upon reasonable proof of change of address and without imposition of an additional license fee.

[NCA 92-162, § 307, approved Dec. 23, 1992; amended by NCA 01-183, § 314, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-115. Fees

Each application for an initial or renewal license shall be accompanied by payment of the license fee. The Commissioner's determination of the license fee

properly owed under this Title shall be final. This fee is imposed for the revocable privilege of being licensed to engage in public gaming activities within the Muscogee (Creek) Nation. All license fees shall be paid to the Treasury of the Muscogee (Creek) Nation.

[NCA 92-162, §§ 308, 310, approved Dec. 23, 1992; amended by NCA 01-183, § 315, eff. Feb. 1, 2002.]

Library References

Indians ☞340.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-116. Non-transferability

The license issued pursuant to the provisions of this Title is valid only for the person at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or for any other location without the written approval of the Commissioner.

[NCA 92-162, § 309, approved Dec. 23, 1992; amended by NCA 01-183, § 316, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-117. Licenses revocable

A license is a revocable privilege, and no holder thereof shall be deemed to have a part in any vested rights therein. The burden of proving qualifications to hold any license rests at all times in the licensee. The Commissioner is charged by law with the duty of continually observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or persons whose operations are conducted in an unsuitable or questionable manner.

[NCA 92-162, § 311, approved Dec. 23, 1992; amended by NCA 01-183, § 317, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3-118. Violations

Violations of any provisions of this Title or any of the Commissioner's regulations by a licensee, his agent or employee shall be deemed contrary to the public health, safety, morals, good order, and general welfare of the Muscogee (Creek) Nation and grounds for refusing to grant or renew a license; grounds for suspension or revocation of a license; grounds for the filing of criminal charges; or grounds for a civil action. Acceptance by a licensee of a license, its renewal, or condition imposed thereon, constitutes an agreement on the part of

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the licensee to be bound by all the regulations of the Commissioner and the provisions of this Code as they are now or may hereafter be amended or promulgated. It is the responsibility of the licensee to keep himself informed of the contents of all such regulations and provisions, and ignorance thereof will not excuse the violations.

[NCA 92–162, § 312, approved Dec. 23, 1992; amended by NCA 01–183, § 318, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339, 343.
Westlaw Topic No. 209.
C.J.S. Indians §§ 179 to 188, 193.

§ 3–119. Review of contracts

As a provision of licensing, no facility shall be operated pursuant to a management agreement or contract, and no facility shall operate gaming devices pursuant to a vendor agreement or contract, until said facility has acquired the review of the Gaming Commissioner for purposes of determining whether the said agreement or contract, or the gaming device which is the subject of the agreement or contract, complies with applicable law. All other leases, contracts or other agreements involving gaming activities shall be provided to the Gaming Commissioner for review.

[NCA 92–162, § 313, approved Dec. 23, 1992; amended by NCA 01–183, § 319, eff. Feb. 1, 2002.]

Library References

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

Code of Federal Regulations

Management contract provisions, see 25 CFR 531.1 et seq.

§ 3–120. Review of lease

No licensee shall conduct any activity authorized under this Title upon any premises, if the lease, license, contract, or any other agreement under which right to use said premises is not first fully disclosed to the Commissioner. A Chartered Indian Community must have a valid facility-use agreement with the Muscogee (Creek) Nation to conduct gaming at that location.

[NCA 01–183, § 320, eff. Feb. 1, 2002.]

Library References

Indians ☞334, 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 3–121. Fingerprinting

The Office of Public Gaming shall be designated as a law enforcement agency only for the purpose of taking fingerprints of gaming license applicants for

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purposes of completing required background investigations. All NIGC procedures for processing fingerprint cards shall be followed.

[NCA 92-162, § 314, as amended by NCA 94-45, § 106, approved Aug. 8, 1994; amended by NCA 01-183, § 321, eff. Feb. 1, 2002; NCA 04-097, § 1, eff. Aug. 16, 2004.]

Library References

Indians ☞334, 339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

CHAPTER 4. GAMING OPERATIONS AUTHORITY BOARD

Section

- 4-101. Policy.
- 4-102. Board composition.
- 4-103. General and specific authority, powers and responsibilities of the Board, and limitations thereon.

Table of Prior Statutes

Former Section	New Sections	Former Section	New Sections
4-101	4-101	4-113	none
4-102	4-106	4-114	4-104
4-103	4-103, 4-110	4-115	4-105
4-104	4-110	4-116	4-108, 4-112
4-105	none	4-117	4-112
4-106	4-104	4-118	4-108
4-107	4-108	4-119	4-112
4-108	4-109	4-120	none
4-109	4-112	4-121	4-108, 4-109, 4-110
4-110	4-104	4-122	4-113
4-111	4-111	4-123	4-114
4-112	4-104	4-124	4-115

§ 4-101. Policy

The Gaming Operations Authority Board is authorized to negotiate with persons who desire to enter into gaming ventures with the Creek Nation for locations both within and external to the present boundaries of the Creek Nation. Such ventures may include but not be limited to land acquisition, financing packages and management contracts. Any management contract or agreement related to land acquisition, financing packages and construction negotiated by the Board is subject to approval by Tribal Resolution of the National Council.

[NCA 91-102, § 103, approved Nov. 25, 1991; amended by NCA 01-183, § 401, eff. Feb. 1, 2002.]

Code of Federal Regulations

Management contract provisions, see 25 CFR 531.1 et seq.

§ 4-102. Board composition

A. Membership and appointment. The Gaming Operations Authority Board shall consist of five (5) members, two (2) of whom shall be nominated by the Principal Chief and confirmed by the National Council by Tribal Resolution and three (3) nominated and confirmed by the National Council by Tribal Resolution and who shall possess the following educational and professional qualifications: B.A. Degree in Business related courses; Certified Public Accountant (C.P.A.); Architectural Engineer and Juris Doctorate with a minimum of five (5) years work experience. All such appointments shall be for a period of two (2) years to commence on the date the confirnee received his or her gaming license, at the expiration of which the office shall be vacant without holdover.

B. License. All persons so confirmed shall, within thirty (30) days of confirmation, apply to the Nation's Office of Public Gaming for a license and undergo a background investigation as a primary management official. Any such Tribal Resolution confirming a nominee to serve as a member of the Board shall be conditional upon his or her applying and qualifying for an individual gaming license as a primary management official. No such person so confirmed shall take office or perform any duties as a member of the Gaming Operation Authority Board until granted a gaming license by the Commissioner.

C. Effect on rejected candidate. In the event that a motion to approve a Tribal Resolution appointing a Board member or confirming the Principal Chief's appointment of a Board Member fails upon vote of the National Council, such person shall not be eligible for appointment to the Board a period of one (1) year from the date of the said vote.

D. Ex-officio Member. There shall also be an ex-officio member on the Gaming Operations Authority Board who shall be a member of the Business and Governmental Committee of the National Council and selected by said Committee. The ex-officio member shall not be required to obtain a gaming license. The ex-officio member shall have no voting rights nor may he or she be counted for the purpose of establishing a quorum. The ex-officio member shall act only as liaison between the GOAB and the National Council.

E. Vacancies. In the event that the position of a Board member nominated by the Principal Chief becomes vacant, the Principal Chief shall make a new nomination, which shall be confirmed by the National Council by Tribal Resolution. In the event that a position of a board member nominated by the National Council becomes vacant, the National Council shall nominate and confirm a new appointment by Tribal Resolution.

F. Stipends/Mileage. Gaming Operations Authority Board Members, except the ex-officio National Council member, shall receive a stipend of \$200.00 for attendance at each duly called meeting of the Board or duly called meeting of the National Council, provided that to receive a stipend for attendance at a National Council meeting the Board's attendance must be requested either by the Speaker, Chairperson of the Business and Governmental Committee or the Principal Chief. In addition to a stipend, Board members shall receive mileage for attendance at meetings, conferences, and site visits to gaming facilities under the GOAB's jurisdiction, provided attendance is in furtherance of a valid function of the Board. All mileage reimbursement shall be at the Nation's current rate in accordance with the Nation's travel policies and procedures.

[NCA 98-04, § 103, veto overridden March 28, 1998; amended by NCA 00-59, § 103, approved May 2, 2000; NCA 01-183, § 402, eff. Feb. 1, 2002; NCA 02-117, § 1, approved July 30, 2002; NCA 03-067, §§ 1-2, eff. Aug. 29, 2003; NCA 04-114, § 2, eff. Oct. 29, 2004; NCA 05-051, § 1, eff. June 26, 2005, approved March 28, 2005; NCA 06-022, § 3, eff. June 15, 2006, approved March 3, 2006; NCA 06-188, § 1, eff. Dec. 5, 2006, approved Sept. 6, 2006; NCA 09-061, § 2, approved April 7, 2009.]

Historical and Statutory Notes

Effective date:
NCA 09-061, § 3, provides:

"The effective date of this amendment shall be on the date of approval by the National

Indian Gaming Commission; on the date the National Indian Gaming Commission determines that approval of the amendments are not necessary; or in the absence of issuance of approval or disapproval by the National Indian Gaming Commission, ninety days from the date of submission of this amendment to the Nation-

al Indian Gaming Commission, whichever date occurs first.”

Derivation:

NCA 89–84, § 102; amended by NCA 93–103, § 104.

Library References

Indians ⇄339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 4–103. General and specific authority, powers and responsibilities of the Board, and limitations thereon

A. General authority, powers and responsibilities.

1. As the governmental agency of the Muscogee (Creek) Nation charged with the responsibility of administering and managing the Nation’s gaming facilities and operations, the primary authority and responsibility of the Gaming Operations Authority Board shall be to establish the policies, procedures, standards and goals for the efficient and profitable management and operation of the Nation’s gaming facilities in compliance with applicable provisions of the Indian Gaming Regulatory Act ¹, other federal gaming laws applicable to Indian gaming, the rules and regulations of the National Indian Gaming Commission, the Nation’s gaming laws, and the rules and regulations of the Nation’s Office of Public Gaming.

2. In addition to the foregoing authority and responsibility, the Gaming Operations Authority Board shall have the authority, power and responsibility to oversee, direct and supervise the activities of the managers of the Nation’s gaming facilities, and to assure that, in carrying out their duties hereunder, said managers are implementing and adhering to the policies, procedures, standards and goals established by the Board.

B. Specific authority, powers and responsibilities.

1. The Gaming Operations Authority Board shall adopt, no later than one hundred eighty (180) days after the adoption of this Title, written rules, policies, procedures and/or standards for the efficient and profitable conduct, management and operation of the Nation’s gaming facilities, which rules, policies and procedures shall be consistent with all applicable federal and Tribal gaming laws, rules and regulations, and shall address, at a minimum, the following matters:

a. Codes of conduct for all managers, staff and employees of the Board and the Nation’s gaming facilities, in dealing with the gaming public as well as with all gaming managers, staff and employees;

b. Personnel policies and procedures to be followed in the hiring, supervision, management, promotion, disciplining and/or termination of staff and employees of the Board as well as gaming facility managers, staff and employees, including provisions for employment appeals and grievances filed by such managers, staff and employees;

c. Facilities maintenance, safety and security, subject to and in strict compliance with any security measure or standards required by the Office of Public Gaming;

d. Procurement policies and procedures to be used in contracting for and/or purchasing goods, services and gaming supplies, including without limitation rules prohibiting transactions and/or actions which would violate the Nation's laws regarding conflicts of interest;

e. Financial management, including accounting and reporting procedures and standards, controls over the use and safekeeping of cash and accounts, and preparation of any reports required by this Title, other applicable laws of the Muscogee (Creek) Nation, the Office of Public Gaming, the National Indian Gaming Commission and/or any applicable laws of the United States;

f. Such other subjects which the Board deems appropriate for the effective management and operation of the Nation's gaming facilities or which may be otherwise required by law.

2. Any rules, policies, procedures and standards adopted pursuant to this section shall be submitted to the Principal Chief, the National Council, and the Office of Public Gaming no later than one hundred eighty (180) days after the enactment of this Title and shall not become effective until the same are approved by duly adopted Tribal Resolution. The rules, policies, procedures and/or standards may be revised by the Board from time to time but all such revisions shall be submitted to the Principal Chief, National Council, and the Office of Public Gaming and shall not become effective until approved by duly adopted Tribal Resolution. Any rules, policies, procedures and standards of the Board currently in effect which are not otherwise inconsistent with the provisions of this Title shall remain in effect until such new rules, policies, procedures and standards are duly approved by Tribal Resolution.

3. The Gaming Operations Authority Board shall have the power to contract with any person, corporation, partnership or other business entity for goods, supplies and services necessary and/or appropriate for the efficient operation of the Nation's gaming facilities, and this power shall include the power to enter into routine equipment leases. Provided, however, any contract with a term of more than one (1) year shall not be valid unless approved by duly adopted Tribal Resolution. Provided further that the Board may delegate its power to contract for goods, supplies and services to the facility managers provided that any contract exceeding twenty-five thousand dollars (\$25,000) shall not be valid unless first approved by the Board; provided further that the Board may order, by way of written resolution, that such approval shall also be required for contracts of twenty-five thousand dollars (\$25,000) or less.

4. The Gaming Operations Authority Board shall be responsible for the protection, maintenance and proper disposition of all funds, accounts and other property that come under its authority or control or that are used and/or maintained in connection with and pursuant to its authority, powers and responsibilities hereunder. In this connection, the Board shall:

a. Provide narratives and financial reports to the National Council and the Principal Chief in accordance with the provisions of subsection F of this section;

- b. Establish an internal auditing systems of operations;
 - c. Record and maintain a copy of the minutes of all meetings of the Board, including meeting or portions of meetings conducted in executive session;
 - d. Promptly report any theft or misuse of funds or other property under the Board's control to the Lighthouse Police and the Attorney General of the Muscogee (Creek) Nation;
 - e. Whenever requested in writing by the Speaker of the National Council, appear before and answer to the National Council or any committee thereof so designated by the Speaker, in connection with any investigation into the use or disposition of funds, resources or property within the Board's control or into any other action or in actions of the Board;
 - f. Promptly respond to any lawful inquiry, order or directive of the Office of Public Gaming; and
 - g. Cooperate in any criminal or civil investigation being conducted by the Attorney General and Lighthouse Police, including the furnishing of documents, papers or other evidence relevant to such investigation in accordance with applicable law.
5. In addition to the foregoing authorities, powers and duties, the Board shall have the authority, power and responsibility to:
- a. Hire, supervise, direct, discipline and terminate the managers of the Nation's gaming facilities;
 - b. Hire, supervise, direct, discipline and terminate gaming administrative staff, directors, employees and other subordinate personnel of the Nation's gaming facilities, including without limitation financial managers, assistant facility managers and department heads; provided that the Gaming Operation Authority Board is authorized to provide financial compensation to managers, directors, and supervisors of the gaming operations as the Board determines market conditions demand, and such managers, directors, and supervisors are exempted from any salary or employee compensation restraints or caps that otherwise exist under the laws of the Muscogee (Creek) Nation;
 - c. Operate the Nation's gaming facilities so as to maximize the return on its investment therein, in accordance with the Nation's laws and all other applicable laws, rules, and regulations;
 - d. Plan and implement plans for the efficient and competitive operation of the Nation's gaming facilities and the marketing of its gaming services to the public;
 - e. Assure that the Nation's gaming facilities are managed and operated in accordance with the highest standards of integrity, honesty, and fair dealing;
 - f. Implement, and require all managers and other personnel to implement, the policies, procedures, rules and directives of the Gaming Operations Authority Board;
 - g. Report any theft or misuse of funds or property to the Attorney General and cooperate in any investigation into same by the Attorney General, the Lighthouse Police, and/or federal law enforcement agencies;

h. Delegate to gaming facility managers any of the authorities, powers and responsibilities set forth in subparagraphs (b) and (g) of this paragraph; provided, however, except as otherwise expressly provided herein, no manager or other gaming employee shall have the power or authority to enter into any contract, lease or other transaction, or engage in any other activity referred to in subparagraphs (a) to (l) of paragraph 1 of subsection C of this section, unless specifically authorized by the National Council pursuant to duly adopted Tribal Resolution.

6. The Gaming Operations Authority Board is further authorized to conduct gaming at the Nation's Travel Plazas in accordance with the Nation's gaming laws, the rules, regulations, and authorities of the Nation's Office of Public Gaming, the regulations of the National Indian Gaming Commission, the Indian Gaming Regulatory Act and/or other federal gaming laws applicable to Indian Gaming; provided, however, the Board shall first negotiate for the use of space within the Travel Plaza with the manager thereof. Any agreement for the use of such space shall be in writing and signed by the Chairperson of the Gaming Operations Authority Board and the Chairperson of the Tribal Trade and Commerce Authority, or other entity that has assumed management of the Nation's Travel Plazas. After execution, copies of same shall be furnished to the Principal Chief and to the Speaker of the National Council for distribution to its members. Additional gaming facilities may be opened by the Board only after the approval of new locations by duly enacted Tribal Resolution of the National Council.

C. Limitations on the Board's authority.

1. Without first obtaining approval by Tribal Resolution by the National Council, the Gaming Operations Authority Board shall have no power to:

a. Enter into contracts for the management of any game, gaming operation or any portion thereof licensed by and/or subject to the jurisdiction of the Muscogee (Creek) Nation;

b. Enter into contracts or agreements with a term exceeding one (1) year or which cannot be performed within one (1) year;

c. Enter into contracts for the construction of buildings or any other improvements to real property or buildings thereon exceeding fifty thousand dollars (\$50,000);

d. Enter into contracts with any other Indian Tribe, Indian Tribal gaming authority, commission or agency, or any unit of federal, state or local government, excepting contracts for the provision of water, sewer, electricity and other utilities;

e. Enter into leases, or agreements for the use, of real property or space within any of the Nation's gaming facilities;

f. Borrow money or make, accept, endorse or issue bonds, debentures, promissory notes, mortgages, or security agreements or any other instrument of indebtedness or guaranty;

g. Make private or public donations of money or property;

h. Sue or be sued in any Tribal, federal or state court;

- i. Hire or engage legal counsel;
- j. Waive the sovereign immunity of the Muscogee (Creek) Nation for any purpose whatsoever, or enter into any contract or agreement which contains any provision purporting to waive the Nation's sovereign immunity or which purports to subject the Nation to the jurisdiction of any Tribal, state or federal court;
- k. Enter into any contract which, by its terms, violates the Nation's gaming laws, the regulations of the Office of Public Gaming, the regulations of the National Indian Gaming Commission, the Indian Gaming Regulatory Act or other applicable federal laws.
 - 1. Have or attempt to exercise jurisdiction or control over any gaming activities conducted by Chartered Creek Communities.
 - 2. Any contract which by its terms violates any of the foregoing provisions of this subsection shall be null, void and unenforceable ab initio in its entirety.

D. Removal of Board members.

- 1. The members of the Gaming Operations Authority Board shall not be subject to removal from office at the will and pleasure of the Principal Chief or National Council, but may be removed from the Board only for any one or more of the following causes set forth in a written petition and proved by a preponderance of the evidence in the hearing provided for in paragraph 3 of this subsection:
 - a. dishonesty, gross misconduct or incompetence in office;
 - b. willful neglect of duty as evidenced by excessive absences from duly convened meetings of the Board;
 - c. conviction of a felony under federal, state, or Tribal law;
 - d. committing any act or engaging in any activity which would constitute a criminal offense involving dishonesty or moral turpitude under federal, Tribal or state law.;
 - e. directly or indirectly engaging in any activities or transactions constituting a conflict of interest under the laws of the Muscogee (Creek) Nation or any other applicable laws, rules, or regulations;
 - f. being employed by the Muscogee (Creek) Nation or by any other board or authority of the Muscogee (Creek) Nation or by the Creek Nation Foundation, Inc., or by a Chartered Indian Community;
 - g. willful failure to disclose material information or facts to the Office of Public Gaming in the Board member's application for the individual gaming license as required hereunder; or
 - h. revocation of the Board member's individual gaming license by the Office of Public Gaming in accordance with the Nation's laws and regulations on the licensing of gaming employees and officials.
- 2. A petition for removal hereunder may be filed by the Principal Chief or any Committee of the National Council with jurisdiction over the Board's affairs upon a majority vote for removal by such Committee.

3. Any Board member accused of any of the foregoing causes shall be given a copy of the petition charging him or her and afforded the right to respond to the charges and present witnesses and other evidence in his or her defense at a hearing convened by the National Council. The petition shall state the cause or causes for removal with sufficient particularity to put the accused Board member on notice of the nature of the charges against him or her. Both the petitioner and the Board member so accused shall have the right to be represented by an attorney at the hearing, provided that the Board member shall be responsible for paying his or her own attorney fees and other expenses in defending the petition. The petitioner shall be represented by the Attorney General or, upon the request of the petitioner, a special prosecutor appointed by the Attorney General. The National Council shall preside over the removal hearing and receive the evidence. Removal of the accused Board member shall require a majority vote of the National Council. The decision of the National Council shall be final and binding on the Muscogee (Creek) Nation and the Board member, and shall not be subject to judicial review.

E. Meetings of the Board; open meeting requirements.

1. Regular meetings of the Gaming Operations Authority Board shall occur bi-monthly at a designated place within the jurisdiction of the Muscogee (Creek) Nation. The date and time of such regular meetings shall be set by the Chairman, provided that proper notice is given according to the provisions herein. The Board shall adopt procedures not inconsistent with this subsection governing its meetings, which shall address, among other matters, the election of a Chairman and a Vice-Chairman of the Board.

2. The Chairman (or in his absence, the Vice-Chairman) shall give notice of the time and place of any regular monthly meeting of the Gaming Operations Authority Board in writing to each Board member, the Board's attorney, the Attorney General, the Principal Chief, the Speaker of the National Council, and the Office of Public Gaming, at least five (5) days before such meeting. Service of said notice may be effected by first class U.S. mail, facsimile or hand-delivery, and shall be effective on the date of delivery to the official entitled to such notice or to the office of said official's regular place of business in the case of hand-delivery or facsimile transmission; or, in the case of notice sent by U.S. mail, two (2) days after the notice, in a properly addressed envelope with sufficient postage thereon, is deposited in the U.S. mail. The date of the postmark on such envelope shall be conclusive evidence of its date of deposit in the U.S. mail. In addition, such notice of the regular monthly meeting shall be posted in each of the Nation's gaming facilities and at the Tribal Complex in Okmulgee, Oklahoma, at least three (3) days before such regular meeting.

3. Special meetings of the Gaming Operations Authority Board may be held when circumstances require such a meeting. Special meetings may be called by the Chairman, or by a majority of the Board. Notice of special meetings shall be in writing and served on each Board member, the Principal Chief, the Speaker of the National Council, and the Office of Public Gaming, at least forty-eight (48) hours before such meeting. Service of such notices shall be effected by hand-delivery or facsimile and shall be effective upon the date of delivery to the official entitled to such notice or to the office of said official's meeting shall

be posted in each gaming facility and at the Tribal Complex in Okmulgee, Oklahoma at least forty-eight (48) hours before such special meeting.

4. Emergency meetings may only be held in the most extraordinary circumstances. Emergency meetings may be called by giving telephone or facsimile notice to each member of the Board, the Principal Chief, the Speaker of the National Council, and the Office of Public Gaming, provided that no action in an emergency meeting shall have any valid or binding effect unless ratified at the next regular or special meeting of the Gaming Operations Authority Board.

5. All meetings of the Gaming Operations Authority Board shall require a majority of the Board members to be present to constitute a quorum and conduct business.

6. All meetings of the Gaming Operations Authority Board shall be public meetings and therefore open to the public, except for executive sessions. The Board may exclude any person from an executive session except the Board's attorney, Principal Chief, Second Chief, Speaker, Second Speaker, any National Council Representative, representative from the Attorney General's Office or the representative of the Office of Public Gaming. The Board may go into executive session only (1) to discuss personnel issues and matters of confidentiality that relate to one or more specific employees, or (2) to meet and consult with the Board's attorney on confidential legal matters. All other matters shall be discussed audibly to all persons in the room in open session. Executive sessions may only be held after they have been posted as an item on the agenda for the meeting in which the executive session is held. The general subject of the executive session must be described in the posted agenda, and no action by the Board may occur in executive session. It shall be unlawful for any person present in a meeting held in executive session to make public, or otherwise disclose or describe to any person not so present, any discussion or statements made during such executive session. Violation of any of the open meetings requirements of this subsection shall constitute a criminal offense punishable by up to six (6) months imprisonment and/or a five hundred dollar (\$500.00) fine. Persons who violate this subsection shall be subject to expulsion and banishment from the Nation's territory.

7. Notice of meetings of the Gaming Operations Authority Board, either regular or special, shall contain an agenda which describes each item of business to be conducted. The agenda may include a line item for new business which shall allow the Board to discuss any new Gaming Operations Authority Board business which has arisen since the time of the posting of the agenda.

8. Minutes of all meetings of the Gaming Operations Authority Board, other than meetings or portions thereof held in executive session, shall be kept by a recording secretary. In addition thereto, an audio recording of all meetings shall be made, except for that part of the meeting in executive session.

9. Any action taken by the Board during a meeting convened or held in violation of this subsection shall be null and void.

F. Reporting requirements of the Board.

1. The Gaming Operations Authority Board shall make written quarterly reports to the Principal Chief and National Council on the affairs of the Board and those matters they are responsible for. The Board shall also cause to be delivered to the Principal Chief and the Speaker of the National Council, monthly financial reports on all gaming revenues, expenses and expenditures of facilities and/or games subject to the Board's jurisdiction. The Board shall deliver special reports to the Principal Chief and National Council upon the request of either.

2. The Board shall be responsible for any and all reports required of them from the Office of Public Gaming of the Muscogee (Creek) Nation, the rules and regulations of the National Indian Gaming Commission and/or the Indian Gaming Regulatory Act.

[NCA 98-04, § 104, veto overridden March 28, 1998; amended by NCA 01-183, § 403, eff. Feb. 1, 2002; NCA 03-155, §§ 4-5, approved Nov. 3, 2003.]

¹ 25 U.S.C.A. § 2701 et seq.

Library References

Indians ☞339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

CHAPTER 5. RULES OF OPERATION AND GENERAL APPLICABILITY

Section

- 5-101. Records, returns and audits.
- 5-102. Licensee avoidance of payment of proceeds.
- 5-103. Production of records; hearings.
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- 5-105. Age limit for gaming.
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- 5-110. Price-fixing prohibited.
- 5-111. Licensee responsibility.
- 5-112. Safety and welfare.
- 5-113. Receipt required for income and prizes in gaming.
- 5-114. Inspection of premises.
- 5-115. Alcoholic beverages.
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- 5-119. Licensee shall keep a current copy of the Code and regulations.
- 5-120. No geographic restrictions on contracts.
- 5-121. Resident agent.
- 5-122. Progressive payout.
- 5-123. Employee list.
- 5-124. Dispute resolution procedures.
- 5-125. Receiving items of value.

Code of Federal Regulations

Minimum internal control standards, see 25 CFR 542.1 et seq.

§ 5-101. Records, returns and audits

It shall be the responsibility of the Commissioner to promulgate regulations establishing proper accounting procedures and methods of operation for all licensees of gaming facilities, including Chartered Indian Communities, so that all monies or things of value received and/or paid out may be properly monitored and accounted for. All licensees of gaming facilities shall be required to keep an approved accounting system, which shall comply with, but not be limited to all applicable provisions of this Title or regulations of the Commissioner. Said accounting system shall be in accordance with generally accepted accounting principles and shall reflect all business and financial transactions involved or connected in any manner with the operation and conducting of activities authorized by this Title.

[NCA 92-162, § 401, approved Dec. 23, 1992; amended by NCA 01-183, § 501, eff. Feb. 1, 2002.]

Library References

Indians ↻339, 340.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 5-102. Licensee avoidance of payment of proceeds

Any delay, maneuver or action of any kind, which in the opinion of the Commissioner, is effectuated by any licensee to unlawfully avoid paying the proceeds properly owing to the Muscogee (Creek) Nation shall constitute grounds for taking any disciplinary action deemed necessary by the Commissioner, including but not limited to fining, revoking, suspending, limiting, or refusing to renew the license of any licensee.

[NCA 92-162, § 403, approved Dec. 23, 1992; amended by NCA 01-183, § 502, eff. Feb. 1, 2002.]

Library References

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

§ 5-103. Production of records; hearings

No applicant, licensee, or employee thereof shall neglect or refuse to produce records or evidence under their control, or to give information upon proper and lawful demand by the Commissioner, or shall otherwise interfere with any proper and lawful efforts by the Commissioner to produce such information. The Commissioner may summon any licensee or a licensee's agents, employees, or suppliers to appear to testify with regard to the conduct of any licensee or the agents, employees, or suppliers of any licensee. All such testimony shall be given under oath and may embrace any matters, which the Commissioner may deem relevant to the discharge of his official duties. Any person so summoned to appear shall have the right to be represented by counsel. Any testimony so taken may be used by the Commissioner as evidence in any proceeding or matter before the Commissioner or the Tribal District Court or, which may later come before the Commissioner or the Tribal District Court. Failure to so appear and testify fully at the time and place designated, unless excused, shall constitute grounds for revocation or suspension of any license held by the person summoned, his principal, or employee, or the loss of the privilege to further supply any person licensed under this title.

[NCA 92-162, § 404, approved Dec. 23, 1992; amended by NCA 01-183, § 503, eff. Feb. 1, 2002.]

Library References

Indians ☞411, 413, 421.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 5-104. Dual employment

Unless prior written approval is obtained from the Commissioner, no person employed in the conduct of Public Gaming operating under one license shall be employed under any other license authorized to operate under this title.

[NCA 92-162, § 406, approved Dec. 23, 1992; amended by NCA 01-183, § 504, eff. Feb. 1, 2002.]

§ 5–105. Age limit for gaming

No person, who is under the age of eighteen (18), shall operate nor shall be allowed to participate in any manner in the operation of any gaming. No person(s) under the age of sixteen (16) shall be allowed on premises where gaming is being conducted. It shall be the responsibility of the licensee to enforce the provisions of this section.

[NCA 92–162, § 407, approved Dec. 23, 1992; amended by NCA 01–183, § 505, eff. Feb. 1, 2002.]

Library References

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

§ 5–106. Licensee shall not play

No licensee shall be allowed to play any games in any facility for which they are licensed. When a licensee plays games in another gaming facility, he or she shall not wear badges, uniforms, or apparel of any kind that refers to or bears logos or names of a gaming licensee. Special employee events shall be exempt from this law. Employees of a Muscogee (Creek) Nation Travel Plaza shall not play any games in a Muscogee (Creek) Nation Travel Plaza gaming facility where they are employed.

[NCA 92–162, § 408, approved Dec. 23, 1992; amended by NCA 01–183, § 506, eff. Feb. 1, 2002; NCA 03–155, § 6, approved Nov. 3, 2003, eff. Dec. 11, 2003; NCA 04–080, § 2, approved April 30, 2004, eff. July 29, 2004.]

Library References

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

§ 5–107. Prize awards

Every gaming prize awarded during the operation authorized shall be awarded only to the person(s) actually winning the prize and displaying the proper admission ticket.

[NCA 92–162, § 411, approved Dec. 23, 1992; amended by NCA 93–02, § 201, approved Jan. 7, 1993; NCA 01–183, § 507, eff. Feb. 1, 2002.]

Library References

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

§ 5–108. Operator control

In all cases the bingo operator must have and exercise complete control over that portion of the premises being used for bingo at all times said games are being played. The licensee or permit holder shall be held liable for any violation of this Title.

[NCA 92–162, § 415, approved Dec. 23, 1992; amended by NCA 98–61, § 103 subsec. B, approved June 29, 1998; NCA 01–183, § 508, eff. Feb. 1, 2002.]

Library References

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

§ 5-109. Location of games

Gaming shall be operated and conducted only on the appropriate licensed premises authorized under this Title.

[NCA 92-162, § 416, approved Dec. 23, 1992; amended by NCA 01-183, § 509, eff. Feb. 1, 2002.]

Library References

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

§ 5-110. Price-fixing prohibited

No manufacturer, distributor, or operator shall by agreement either express or otherwise with any other manufacturer, distributor, or operator fix the price at which any device, paraphernalia, machine, equipment, prize or any other items used in connection with any of the activities authorized under this Title shall be sold or which services in connection therewith shall be rendered. The price of these items in a competitive market place shall be established by each manufacturer, distributor, or operator for the products and services offered by each and shall not be established, directly or indirectly, in concert with another.

[NCA 92-162, § 417, approved Dec. 23, 1992; amended by NCA 01-183, § 510, eff. Feb. 1, 2002.]

Library References

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

§ 5-111. Licensee responsibility

Licensees must supervise and be directly responsible for all activities on their premises authorized by license under this Title, except as specifically outlined in Management Agreements approved by National Council Tribal Resolution and the Commissioner. Provided that a Tribal entity or the Gaming Operations Authority Board may contract with one of the Nation's wholly owned Tribal Travel Plazas for operation and supervision of the gaming operation within the particular Travel Plaza of the Nation, subject to the contract, and any amendments thereto being reviewed and approved by the Commissioner. Be it further provided, that any such Travel Plaza contract shall in no way relieve the licensee of any of its duties and responsibilities under the Nation's gaming laws and regulations.

[NCA 92-162, § 418, approved Dec. 23, 1992; amended by NCA 98-61, § 103 subsec. C, approved June 29, 1998; NCA 01-183, § 511, eff. Feb. 1, 2002.]

Library References

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

§ 5-112. Safety and welfare

It is the policy of the Commissioner and the Muscogee (Creek) Nation to require that all establishments, wherein gaming is conducted within the Nation, be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of the inhabitants of the Reservation. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee and willful and persistent use or toleration of unsuitable methods of operation will constitute grounds for license revocation or other disciplinary actions. All establishments, wherein gaming operations are to be conducted, must be certified as safe by the Commissioner prior to the issuance of a license. Any alterations or modifications must be approved by the Commissioner.

[NCA 92-162, § 419, approved Dec. 23, 1992; amended by NCA 01-183, § 512, eff. Feb. 1, 2002.]

Library References

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

§ 5-113. Receipt required for income and prizes in gaming

A. Receipts required. All income from games shall be receipted by the licensee at the time the income is received from each individual player, and all prizes shall be receipted for by the winner of each prize at the time the prize is distributed to each individual winner.

B. Income receipt forms. Income receipt forms shall be supplied by the licensee. They may be numbered tickets or numbered disposable cards or they may be based upon a cash register or accounting system if any identification number is on the receipt given to the customer, which is one of a series of such numbers and a corresponding number is recorded together with a record of the transaction being kept inside the cash register or accounting system.

C. Cash register receipt requirements.

1. In the event a cash register or accounting system is used, the following information shall appear upon the receipt given a customer and upon the record being kept inside the machine: the name of the licensee operating the activity; the date the transaction took place, the receipt number; the amount of money paid, or a description of other consideration paid for the opportunity to play. The information of these transactions shall be retained with the records of the licensee for a period not less than two (2) years.

2. Each person paying for the opportunity to participate in a game who does not receive a cash register or accounting system receipt shall be given a ticket or tickets, which shall be numbered. Each ticket issued shall represent a specific amount of money that has been paid to the licensee. The amount of

money represented by each ticket issued shall be clearly made known to all players prior to anyone paying to participate in the activity.

D. Disposable card requirements. No disposable card in any game played shall be a duplicate of any other card in that game. Each disposable card should represent a specific amount of money which has been paid to the licensee, which amount has been clearly disclosed to all players in advance of any player participating in the activity. Each disposable card shall be sold for the same price, as each other disposable card of the same class being used during any particular bingo game.

E. Recordation of cards played. All licensees shall record in their daily records the set number of each set or portion of a set, which has been used during each bingo game on each occasion prior to the beginning of each bingo game together with all serial numbers of the cards.

F. Receipts for prizes. Receipts for prizes shall contain the following information: The name of the licensee operating the activity; the date the transaction took place; the receipt number and the game number, the true name of the winner of the prize; a description of the prize won and any value of that prize, which has been represented to the player by the licensee.

G. Identification of prize winners. It shall be the responsibility of the licensee to see that the prize winners of twelve hundred dollars (\$1,200.00) or more are properly and accurately identified upon the receipt for the prize, and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall not pay out any prize of twelve hundred dollars (\$1,200.00) or more unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be upon the receipt for the prize. Prize receipts shall be retained by the licensee as part of its records for a period of not less than five (5) years.

[NCA 92-162, § 420, approved Dec. 23, 1992; amended by NCA 01-183, § 513, eff. Feb. 1, 2002.]

Library References

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

§ 5-114. Inspection of premises

A. Any premises licensed or any premises connected physically or otherwise with a licensed business, including vehicles used in connection therewith, shall at all times be open to inspection by the Commissioner. At any time during which a licensed gaming or related administrative activity is being conducted on a premises, the Commissioner or any authorized representative of the Commissioner may enter upon the premises without advance notice and:

1. Make an account of all monies on the premises and all monies received during the operation of the licensed activity located on the premises, inspect all receipts for prizes which have been awarded by the licensee;

2. Inspect any other records, accounts or other related information of the licensee, or of any member who directly participates in the management,

operation, or promotion of a licensed activity; or of any employee of the licensee; or of any operator of the licensed activity;

3. Inspect, including the dismantling of all pieces of equipment or parts thereof or devices of any nature, which are being used to conduct the licensed activity.

B. When the Commissioner finds cause to believe that there is a reasonable probability that the provisions of this Title or any regulations of the Commissioner have been or are being violated by the licensee or its employees or operators, the Commissioner may remove, for further inspection or investigation, any and all records, equipment, parts thereof, devices, or thing(s) of any nature located upon the premises related to the operation of the licensed activity or any other gambling activity. The Commissioner shall issue a receipt to the licensee listing each record, equipment or parts thereof, device, or thing(s) which has been removed from the premises. Each item removed shall be returned to the premises or the address of the licensee within ten (10) days, except Saturdays, Sundays, and days when Tribal offices are legally closed in as good condition as it was when it was removed. The Commissioner may retain the items for a longer time period if it is determined that the items are necessary for an ongoing investigation or evidence of possible violations of this Title or regulations of the Commissioner, or for possible forfeiture. The Commissioner shall notify the licensee of the reasons the property is to be held past the ten (10) days.

[NCA 92-162, § 422, approved Dec. 23, 1992; amended by NCA 01-183, § 514, eff. Feb. 1, 2002.]

Library References

Indians ☞339, 411.
 Searches and Seizures ☞79.
 Westlaw Topic Nos. 209, 349.

C.J.S. Indians §§ 151 to 179, 193.
 C.J.S. Searches and Seizures §§ 128 to 130,
 132 to 134.

§ 5-115. Alcoholic beverages

No beverage containing alcohol, including but not limited to beer or liquor, shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Title. Alcoholic beverages or beer may be sold or consumed on gaming facility premises provided that the location has been authorized to sell alcoholic beverages by the National Council by way of duly adopted Tribal Resolution and said location has been duly licensed by the Tax Commission in accordance with MCNCA Title 36, § 4-101 et seq.

[NCA 92-162, § 423, approved Dec. 23, 1992; amended by NCA 01-183, § 515, eff. Feb. 1, 2002; NCA 06-134, § 1, eff. Aug. 22, 2006.]

Library References

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

§ 5-116. Firearms

A. Security guards. No security guard shall be allowed to carry on gaming premises pistols, revolvers, rifles, shotguns, "B.B." guns, CO₂ guns, or any

other firearms or air gun capable of discharging dangerous projectiles or gases without prior written Commissioner approval. The Commissioner is authorized to issue written approval of the use of types of firearms specified by the Commissioner by only those security guards who have received the same minimum law enforcement training requirements that must be met by Lighthorse officers, including annual training requirements, background checks, drug tests and a medical examination, or those security guards who possess a current valid armed security guard license from the Muscogee (Creek) Nation or the State of Oklahoma Council on Law Enforcement Education and Training (CLEET) or who are off-duty law enforcement officers of the Muscogee (Creek) Nation, or off-duty officers of a city, county or state. The Chief of Gaming Security shall develop a use of force policy for armed security guards that shall be implemented by the licensees of gaming facilities prior to Commissioner approval to carry a firearm.

B. Law enforcement officers. Nothing herein shall be construed to prohibit the possession of firearms on the gaming premises by any on-duty law enforcement officer of the Muscogee (Creek) Nation, any on-duty law enforcement officer of Law Enforcement Services of the Bureau of Indian Affairs, or any on-duty law enforcement officer of a city, county or the State of Oklahoma.

C. Possession of firearms on gaming premises; criminal offense. Except as authorized in this section, no other person shall be allowed to carry on gaming premises pistols, revolvers, rifles, shotguns, "B.B." guns, CO₂ guns, or any other firearms or air gun capable of discharging dangerous projectiles or gases. Violation of this prohibition constitutes an offense punishable by incarceration for up to one (1) year in jail and up to five thousand dollars (\$5,000) in fines or both.

[NCA 92-162, § 424, approved Dec. 23, 1992; amended by NCA 01-183, § 516, eff. Feb. 1, 2002.]

Library References

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

§ 5-117. Credit

No licensee or any of its members or employees, or any operator conducting or in any way participating in conducting any activities authorized by this title or by the Commissioner's regulations, shall allow a person to play that activity on credit or shall grant a loan of any kind at any time to a person playing the activity.

[NCA 92-162, § 425, approved Dec. 23, 1992; amended by NCA 01-183, § 517, eff. Feb. 1, 2002.]

Library References

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

§ 5-118. Fraud by licensee

No licensee shall, directly or indirectly, in the course of such operation employ any device, scheme, or artifice to defraud; make any untrue statement of a fact, or omit to state a fact necessary in order to make a statement not misleading in consideration of the circumstances under which such statement was made; engage in any act, practice, or course of operation as would operate as a fraud of deceit upon any person.

[NCA 92-162, § 426, approved Dec. 23, 1992; amended by NCA 01-183, § 518, eff. Feb. 1, 2002.]

Library References

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

§ 5-119. Licensee shall keep a current copy of the Code and regulations

Each licensee shall obtain, maintain, and keep current a copy of the Public Gaming Code and all regulations of the Commissioner, which shall be located upon the premises used for the conduct of a licensed activity by a licensee during all times the activity is conducted. The regulations shall be produced by the licensee and shown to any person upon demand. The fact that the licensee may not have a current copy of each of the regulations of the Commissioner shall not in any way diminish the licensee's obligation to abide by these regulations.

[NCA 92-162, § 427, approved Dec. 23, 1992; amended by NCA 01-183, § 519, eff. Feb. 1, 2002.]

Library References

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

§ 5-120. No geographic restrictions on contracts

No manufacturer or distributor shall make or have an agreement or understanding with any licensee that either of them shall be restricted in the operation and carrying on of business to a specific geographic area or areas, and such a restriction shall not be a condition of any sales between manufacturer, distributor and any other licensee. Provided, that this shall not prevent a distributor or manufacturer from assigning sales territories among its bona fide representatives.

[NCA 92-162, § 429, approved Dec. 23, 1992; amended by NCA 01-183, § 520, eff. Feb. 1, 2002.]

Library References

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

§ 5-121. Resident agent

Any licensee who is not a Muscogee (Creek) Nation resident or resident corporation shall designate a natural person, who is a resident living in the Muscogee (Creek) Nation and who is eighteen (18) years of age or older, as a resident agent for the purpose of receipt and acceptance of service of process and other communication on behalf of the licensee. The name and business address where service of process and delivery of mail can be made, and home address of such designated resident agent shall be filed with the Commissioner. All licensee agents must be listed with the Commissioner.

[NCA 92-162, § 430, approved Dec. 23, 1992; amended by NCA 01-183, § 521, eff. Feb. 1, 2002.]

Library References

Indians ☞339, 510.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 5-122. Progressive payout

All licensees conducting games with a progressive payout feature will provide the Office of Public Gaming, for approval, the system for accumulation and account restrictions of funds so designated. The procedure and any amendments thereto must receive prior written approval of the Commissioner.

[NCA 92-162, § 432, approved Dec. 23, 1992; amended by NCA 01-183, § 522, eff. Feb. 1, 2002.]

Library References

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

§ 5-123. Employee list

All gaming facility employees must be listed with the Commissioner. Such lists are to be kept current.

[NCA 92-162, § 433, approved Dec. 23, 1992; amended by NCA 01-183, § 523, eff. Feb. 1, 2002.]

Library References

Indians ☞339.5.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 5-124. Dispute resolution procedures

Disputes between the gaming patrons and the Muscogee (Creek) Nation (or management contractor) should first be addressed by the licensee. In the event a satisfactory conclusion is not reached the Commissioner shall:

A. Respond to signed complaints. If additional information of the circumstances is needed, a request is to be made by the Commissioner in writing. Additional statements of individuals, who may be able to substantiate the claim or provide additional relevant data, shall be encouraged.

B. Request and review the written statements of the licensee and any employees or other persons, who may be able to provide relevant data of the circumstances that led to the dispute.

C. Request and review any records, documents, video or audio tapes, equipment, or any other information deemed to be relevant by the Commissioner as related to the dispute.

D. Make a decision of the correctness of the disputed action using facility policy and procedure, Muscogee (Creek) Nation law, office of Public Gaming Regulations and federal law as a guide.

E. Notify the licensee and the patron reporting the complaint of the Commissioner's decision in writing. All decisions of the Commissioner are final. [NCA 92-162, § 434, as amended by NCA 94-45, § 107, approved Aug. 8, 1994; amended by NCA 01-183, § 524, eff. Feb. 1, 2002.]

Library References

Indians ☞339, 411, 423.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 5-125. Receiving items of value

A. The Gaming Commissioner or Office of Public Gaming employee(s) shall not accept or receive anything of value, including without limitation airfare, travel accommodations, prizes, personal items, and apparel of any kind, from the Gaming Operations Authority Board, any member of the Gaming Operations Authority Board, anyone licensed and contracted with any Tribally operated gaming Casinos, or Chartered Indian Community Casinos, potential vendors who have made application for a gaming license, or any other person or company who is contracted to do business with the Muscogee (Creek) Nation as a whole. Vendors who are contracted to do business with a Muscogee (Creek) Nation Tribally operated gaming Casino or any Chartered Indian Community shall be expected to strictly adhere to the provisions set forth herein. Failure to be in compliance with this law will result in the vendor's license being revoked, and the vendor's contract(s) with Tribally operated or Chartered Indian Communities being cancelled. Be it further provided this provision shall not apply to promotional items that are given to the general public and have a value of twenty five dollars (\$25.00) or less. Violation of any of the activities prohibited in this subsection may be a criminal offense punishable in accordance with the Criminal Offenses Code.

B. However, the following activities shall be permitted and allowed. O.P.G. (Office of Public Gaming) licensed vendors may provide round trip transportation, lodging, meals, and entertainment to authorized individuals only as stated in this amendment. Members of the Gaming Operations Authority Board or its successor and General Managers or their designee of Tribally operated and Chartered Indian Community Casinos are eligible to participate. This activity is for the express purpose of viewing potential gaming equipment that may be placed in their establishment(s). The site where the equipment demonstration will be presented will constitute where vendor-sponsored round-trip travel is authorized. Vendors shall also be allowed to make monetary and prize

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donations to various employee functions (Summer Party, Christmas Party, etc.) that are held throughout the year. The General Managers of each Casino facility shall have the sole authority to make the necessary contacts on behalf of their establishments. Oversight responsibility shall be provided by the Office of Public Gaming and the Gaming Operations Authority Board or its successor. The General Managers shall also report to the Office of Public Gaming and the Gaming Operations Authority Board or its successor the monetary value of the prize(s) or monetary donation within sixty (60) days of receipt and what vendor was responsible for the donation. The Office of Public Gaming shall maintain a log in regard to all G.O.A.B. Board members or its successor/General Managers' travel, monetary donations, and prizes that are provided to casinos. The vendor(s) who are responsible for the contributions shall also be noted in the log. Violation of any of the activities that are permitted and allowed in this subsection may be a criminal offense punishable in accordance with the Criminal Offenses Code. The hosting facility for the Gaming Operations Authority Board meeting shall be allowed to serve meals at these meetings.

[Added by NCA 03-155, § 7, approved Nov. 3, 2003, eff. Dec. 11, 2003; amended by NCA 04-080, § 2, eff. July 29, 2004; NCA 06-023, eff. June 15, 2006, approved March 3, 2006.]

Library References

Indians ☞339, 341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

CHAPTER 6. SECURITY

Section

- 6-101. Findings.
- 6-102. Definitions.
- 6-103. Department of Gaming Security.
- 6-104. Chief of Gaming Security; qualifications, job specifications and compensation.
- 6-105. Chief of Gaming Security; duties.
- 6-106. Limitations and restrictions.
- 6-107. Expenditures and funding.
- 6-108. Lighthouse assistance in licensing standards.
- 6-109. Powers of Commissioner.
- 6-110. Travel Plaza security.

Historical and Statutory Notes

NCA 01-183, § 605, subsec. B, amending NCA 01-121, § 112, provides:

“The Gaming Operations Authority Board shall fill the position of Chief of Gaming Security no later than September 30, 2001.”

NCA 01-183, § 608, amending NCA 01-121, § 115, provides:

“Transfer of Security Personnel.

“As soon as practical after there has been employed a Chief of Gaming Security by the Gaming Operation Authority Board, any personnel employed as gaming security guards within the Lighthouse Administration shall be transferred to the Muscogee (Creek) Nation Gaming Operations Authority Security Department. All employees so transferred shall continue to be Muscogee (Creek) Nation employees so far as pay and accrued benefits are concerned and no such employee shall lose any benefits by reason of such transfer. The Gaming Operation Authority Board shall report to the National Council their recommendations as to the future status of security guards as employees of the Nation or of

the Gaming Operation Authority Board with the benefits thereof.”

NCA 01-183, § 609, subsecs. A and D, amending NCA 01-121, §§ 116 and 119, provide:

“A. Effective upon the hiring of a Chief of Gaming Security by the Gaming Operations Authority Board the unexpended funds appropriated under the Muscogee (Creek) Nation’s FY2001 comprehensive budget shall be transferred to Gaming Security Department of the Muscogee (Creek) Nation Gaming Operations Authority Board to be administered by the Office of the Controller of the Muscogee (Creek) Nation. The Controller is authorized to make the necessary changes to reflect the transfer and to report said changes to the National Council, Lighthouse Administration, and the Gaming Operation Authority Board.”

“D. The Gaming Operations Authority Board and the Chief of Gaming Security shall receive technical assistance from the Muscogee (Creek) Nation Office of Controller in all fiscal matters required to carry out the transfer of security out of Lighthouse Administration.”

§ 6-101. Findings

The National Council finds that:

A. Pursuant to this Title the Office of Public Gaming is empowered to issue licenses to all qualified personnel employed by the Nation’s licensee gaming facilities; and is qualified to regulate the security functions at gaming facilities. The Office of Public Gaming being a regulatory agency, must not be charged with management or supervision of security personnel.

B. Providing for security services is a function of the management of an enterprise and the true costs of providing security to the Nation’s gaming enterprises must be reflected in the financial statements of such enterprises.

C. In light of the foregoing, the National Council finds it necessary to assign the gaming security function to the Gaming Operations Authority Board. The reassignment must be the least disruptive to the gaming operations and to the security personnel previously employed by the Lighthouse Administration.

[NCA 01-121, § 1-101, approved July 10, 2001; amended by NCA 01-183, § 601, eff. Feb. 1, 2002.]

§ 6-102. Definitions

A. "Armed security guard" means a security guard authorized to carry a firearm.

B. "Investigator" means a person who is employed within the Department of Gaming Security or other gaming licensee facility for the purpose of observing gaming operations for irregular activities such as cheating or theft by either employees or patrons and conducting investigations into the operation of the business and reporting the results to his employer.

C. "Security guard" means an individual employed at a place of business to protect persons and property; to prevent trespass, theft, misappropriation, and wrongful concealment of merchandise, goods, money or other tangible items; and to prevent violence and infraction of rules.

D. "Security personnel" means all persons performing investigative or security guard functions within the Department of Gaming Security or for a gaming licensee facility.

[NCA 01-121, § 1-103, approved July 10, 2001; amended by NCA 01-183, § 602, eff. Feb. 1, 2002.]

§ 6-103. Department of Gaming Security

A Department of Gaming Security is hereby created within the Muscogee (Creek) Nation Gaming Operations Authority. The Department of Gaming Security shall provide all security services to each gaming establishment or hall under the management of the Gaming Operations Authority Board. The Chief of Gaming Security shall manage and supervise the Department of Gaming Security and shall report directly to the Gaming Operations Authority Board.

[NCA 01-121, § 110, approved July 10, 2001; amended by NCA 01-183, § 604, eff. Feb. 1, 2002.]

Library References

Indians ⇄341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 6-104. Chief of Gaming Security; qualifications, job specifications and compensation

The Gaming Operations Authority Board shall develop and approve the minimum qualifications and job specifications for the position of Chief of Gaming Security and determine the appropriate compensation and salary range for such position. The Board shall receive assistance in carrying out this duty from the Office of the Principal Chief and his personnel director.

[NCA 01-121, § 111, approved July 10, 2001; amended by NCA 01-183, § 605 subsec. A, eff. Feb. 1, 2002.]

Library References

Indians ⇄341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 6-105. Chief of Gaming Security; duties

The Chief of Gaming Security shall have the following duties, powers and authority:

A. To organize the security department and establish necessary and appropriate levels of supervisory authority and ranks within the department, subject to the approval of the Gaming Operations Authority Board;

B. To hire and fire security guards in accordance with the personnel policies and procedures of the Muscogee (Creek) Nation, subject to final review only by the Gaming Operations Authority Board;

C. To prescribe the uniforms to be worn by the security guards, subject to the approval of the Gaming Operations Authority Board;

D. To design and adopt a distinctive badge and insignia to be worn by security personnel, subject to the approval of the Gaming Operations Authority Board;

E. To develop posting orders relative to their respective halls after consultation with the manager of each gaming establishment or hall, subject to review and approval by the Commissioner. Posting orders shall specify whether a post requires an armed security guard, and, if so, written justification for having an armed security guard shall be provided to the Commissioner.

F. To provide sufficient security personnel as required by each Gaming establishment or hall, and provide an investigator when conditions warrant.

G. To adopt existing job descriptions and qualifications for security personnel and to revise the same from time to time, subject to the approval of the Gaming Operation Authority Board (GOAB).

H. To adopt the existing pay grade and salary structure for security personnel and to revise the same from time to time, subject to the approval of the Gaming Operations Authority Board.

I. To promulgate, subject to the approval of the Gaming Operations Authority Board and review by the Office of Public Gaming, policies, procedures and protocol for security personnel in public relations, contacts with patrons, and intervention or detention of any patron or employee.

J. To ensure that all security personnel have completed or will complete the minimum training requirements for licensing approved by the Office of Public Gaming.

[NCA 01-121, § 113, approved July 10, 2001; amended by NCA 01-183, § 606, eff. Feb. 1, 2002.]

Library References

Indians ↻341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 6-106. Limitations and restrictions

The following are limitations or restrictions on the powers and duties of the Chief of Gaming Security and activities within the Department of Gaming Security:

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A. The uniforms adopted shall be distinctively recognizable as security and not as Lighthouse or other police department.

B. The badges and uniforms shall have the words "Security," "Security Officer" or "Security Guard" in connection with the words "Muscogee (Creek) Nation Gaming Authority" in bold letters.

C. All vehicles used by security guards, or armed security guards in the performance of their duties shall bear the words Security or Guard, if marked, or both. No vehicle shall be equipped with a siren, a lamp with a siren, a lamp with a red or blue lens facing the front of the vehicle, nor an overhead light or lights with red or blue lenses.

D. No person shall be employed as a security guard, armed security guard or investigator who is not licensed or conditionally licensed as such by the Commissioner.

[NCA 01-121, § 114, approved July 10, 2001; amended by NCA 01-183, § 607, eff. Feb. 1, 2002.]

Library References

Indians ⇄341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 6-107. Expenditures and funding

A. The Chief of Gaming Security shall have authority to approve all expenditures authorized by appropriation acts for security and to recommend to the Gaming Operations Authority Board (GOAB) for their approval changes to the Security Department line items within the allowed limits in accordance with applicable appropriation acts. The Gaming Operations Authority Board shall have final authority for such changes.

B. Any shortfall in the fiscal year 2001 budget for gaming security shall be made up by an increased hourly billing rate to the gaming facilities. In fiscal year 2002 and thereafter, the Department of Gaming Security shall be funded entirely by the revenues of the gaming establishments served. Each gaming facility shall bear the costs for all direct and indirect costs for security services provided to it by the Department of Gaming. The Security Chief of Tribally-operated gaming facilities shall submit a line itemized budget for each Casino under his/her supervision to the Gaming Operations Authority Board (G.O.A.B.). The budget shall be comprehensive in nature and the Security Chief shall make his/her presence available for questioning regarding said budget. The Gaming Security budget will be presented to the G.O.A.B. board members for their perusal by the Security Chief thirty (30) days prior to their presentation of the G.O.A.B. budget for the coming fiscal year. The G.O.A.B. will evaluate the Gaming Security budget and reserve the right to amend it. The Security Chief shall strictly adhere to the final version of the Gaming Security budget, with no unauthorized expenditures allowed after final approval is adopted by the G.O.A.B. Any deviations, unapproved spending, or budget changes that are inconsistent with the G.O.A.B.'s approved version after the Gaming Security budget is final, will require that the Security Chief be held personally accountable. It will be mandatory that he/she appear before the

G.O.A.B. to explain his/her actions and be subject to possible disciplinary action. Any budget modifications or requests for additional funding by the Security Chief that are outside the approved Gaming Security budget must show cause and be justifiable in nature to receive the blessing and approval by the G.O.A.B.

[NCA 01–121, §§ 117,118, approved July 10, 2001; amended by NCA 01–183, § 609, eff. Feb. 1, 2002; NCA 04–080, § 3, eff. July 29, 2004.]

Library References

Indians ⇌341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 6–108. Lighthouse assistance in licensing standards

Lighthouse Administration may serve in an advisory capacity to the Commissioner in preparing minimum standards for licensing security guards and provide assistance to the Chief of Gaming Security in qualifying armed security guards on the firing range. Lighthouse Administration shall be reimbursed by the agency or department assisted for out-of-pocket expenses incurred.

[NCA 01–121, § 120 subsec. B, approved July 10, 2001; amended by NCA 01–183, § 610, eff. Feb. 1, 2002.]

Library References

Indians ⇌341.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 6–109. Powers of Commissioner

Licensees shall provide for their facility security, provided, that contracts are reviewed and security plans, or amendments thereto are approved by the Commissioner prior to implementation. In addition to the foregoing, the Commissioner shall have the following powers and duties regarding security guards and investigators employed to work in any licensee facility:

A. To promulgate rules and regulations for the applications for and issuance of licenses to security guards and investigators employed in a licensee facility in accordance with, but not limited to all requirements contained in this section.

B. To issue a regular license and identification card to each person authorized by him to be employed as security personnel in a licensed facility, upon satisfaction of all requirements for the issuance of a regular license.

C. To issue a temporary license to any person to be employed as a security guard or investigator who is duly licensed in another recognized jurisdiction, provided that an Oklahoma State Bureau of Investigation records check and a local records check reveal no felony convictions, criminal convictions involving moral turpitude, or any other disqualifying convictions as specified herein or prescribed by the Commissioner, pending completion of the criminal history and background check and verification of training and experience necessary for the issuance of a regular license. A temporary license holder shall not carry a

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firearm in the performance of his duties until he has been issued a regular license.

D. To issue a conditional license to a person employed as a trainee for a security guard, armed security guard, or investigator position, when such person has submitted a properly completed application, made under oath, subject to the following conditions:

1. A conditional license shall authorize such employee to perform the same functions that regular licensees perform, but subject to supervision of the holder of a regular license as the Commissioner may prescribe.

2. The holder of a conditional license shall complete the necessary training requirements within one hundred eighty (180) days from the effective date of the conditional license, after which the conditional license shall expire.

3. The holder of a conditional license as an armed security guard shall not carry a firearm in the performance of his duties until he has completed a course in firearms training, as prescribed by the Commissioner, and has been issued a regular license.

4. A conditional license may be renewed at the discretion of the Commissioner, if necessary to complete any training required for a regular license.

5. When the Commissioner finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of this section, the Commissioner shall issue such person a regular license.

E. To deny, suspend or revoke any license and identification card issued pursuant to this act based on, but not limited to, the following reasons:

1. Any erroneous or false statement in an application for license submitted pursuant to this Title;

2. A conviction for any offense involving any felony, any offense involving moral turpitude, any offense involving a minor as a victim, any offense involving the possession, use, distribution or sale of a controlled dangerous substance; or a plea of guilty or a plea of no contest to any of the same in any court of competent jurisdiction;

3. Use of beverages containing alcohol or being under the influence of such beverages or use of any while armed with a firearm, or while performing his or her duties as a security person;

4. Knowingly impersonating a law enforcement officer;

5. Failure to successfully complete any prescribed course of training as required by the Commissioner;

6. Willfully making any false report to his employer or to anyone as required by this Title; or

7. Disclosure of any information gained by him in his employment, except as his employer may direct or as he may be required by law to disclose.

F. The Commissioner shall require that the Muscogee (Creek) Nation Gaming Authority Security Department, each security agency, or licensee facility employing a security guard shall at all times keep the Office of Public Gaming

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and the Lighthouse Administration informed in writing of the name of each security guard, armed security guard or investigator who shall be on duty, the post and the hours of duty at such post.

[NCA 92-162, § 405, approved Dec. 23, 1992; amended by NCA 01-121, § 200, approved July 10, 2001; NCA 01-183, § 611, eff. Feb. 1, 2002.]

Cross References

Juvenile adjudication not to impose civil disability, see Title 6, § 1-404.

Library References

Indians ⇄412, 413.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 6-110. Travel Plaza security

A licensee operating within a Travel Plaza wholly-owned as an enterprise of the Muscogee (Creek) Nation may contract with the Travel Plaza for gaming facility security, allowing the security of the Nation's Travel Plaza to also serve as the security for the gaming operation licensee within the Travel Plaza, provided that such contracts, amendments thereto and security plans are reviewed and approved by the Commissioner.

[NCA 92-162, § 405, approved Dec. 23, 1992; amended by NCA 98-61, § 103 subsec. A, approved June 29, 1998; NCA 01-183, § 612, eff. Feb. 1, 2002.]

Library References

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

CHAPTER 7. LOTTERIES [RESERVED]

CHAPTER 8. OFF-TRACK AND PARI-MUTUEL BETTING

Section

- 8-101. Definitions.
- 8-102. Licenses required.
- 8-103. Wagering.
- 8-104. Admission charges.
- 8-105. Off-track and pari-mutuel wagering agreements.
- 8-106. Regulations governing off-track pari-mutuel wagering.
- 8-107. Sharing of revenue.
- 8-108. Place for conducting and public viewing of wagering.
- 8-109. Limitation on wager by agent; off-track wagering by agent prohibited.

§ 8-101. Definitions

As used in this chapter, unless the context otherwise requires:

A. "Off-track pari-mutuel system" means a computerized system, or component of such a system, that is used with regard to an interstate parimutuel pool to transmit information such as amounts wagered, odds and payoffs on races.

B. "Off-track pari-mutuel wagering" means any pari-mutuel system of wagering approved by the Muscogee (Creek) Nation for the acceptance of wagers on races or other sporting events which take place outside of this Nation.

C. "Operator of a system" means a person engaged in providing an off-track pari-mutuel system.

D. "Pari-mutuel system of wagering" means any system whereby wagers with respect to the outcome of a race or other sporting event are placed in a wagering pool conducted by a person licensed or otherwise permitted to do so under Muscogee (Creek) Nation law, and in which the participants are wagering with each other and not against that person. The term includes off-track pari-mutuel wagering.

[NCA 92-216, approved Dec. 23, 1992; amended by NCA 01-183, § 801, eff. Feb. 1, 2002.]

§ 8-102. Licenses required

A. A Class "P" license is required for any person who:

1. operates, conducts or maintains in this Nation, any form of wagering under the pari-mutuel system on any racing or sporting event; or
2. is an operator of a system.

B. Where any other Tribal license is required to conduct a racing or sporting event, that license must first be procured before the pari-mutuel system of wagering may be licensed in connection therewith.

C. Political jurisdictions may not enact a license-fee on horse racing and may not levy a tax on admission to races. This law vests exclusive control of the conduct of horse racing in the Commissioner and prohibits any political jurisdiction from enacting any license-fee on the conduct of such race meetings

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or on pari-mutuel wagering in connection therewith; and levy of tax on admission of patrons of a track is prohibited.

[NCA 92-216, approved Dec. 23, 1992; amended by NCA 01-183, § 802, eff. Feb. 1, 2002.]

Library References

Indians ☞337(1), 339.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 8-103. Wagering

Wagering must be conducted only by the licensee at the times determined by the Commissioner and only:

A. Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or

B. Within a licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering.

[NCA 92-216, approved Dec. 23, 1992; amended by NCA 01-183, § 803, eff. Feb. 1, 2002.]

Library References

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

§ 8-104. Admission charges

The Commissioner may set by regulation the admission charges to patrons for off-track or pari-mutuel betting.

[NCA 92-216, approved Dec. 23, 1992; amended by NCA 01-183, § 804, eff. Feb. 1, 2002.]

Library References

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

§ 8-105. Off-track and pari-mutuel wagering agreements

The Gaming Operations Authority Board may negotiate, subject to the approval of the Muscogee National Council, an agreement relating to off-track pari-mutuel wagering with:

A. A person who is licensed or otherwise permitted to operate a wagering pool in another state; and

B. A person who is licensed as an operator of a system.

[NCA 92-216, approved Dec. 23, 1992; amended by NCA 01-183, § 805, eff. Feb. 1, 2002.]

Library References

Indians ☞339, 341, 413. Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179, 193.

§ 8–106. Regulations governing off-track pari-mutuel wagering

The Commissioner, after consultation with the Gaming Operations Authority Board, may adopt regulations for:

A. The conduct by a licensee of off-track pari-mutuel wagering on a race or sporting event; and

B. The approval of the terms and conditions of any agreement between a licensee and an agency of the state in which the race or event takes place or a person licensed or approved by that state or Tribe to participate in the conduct of the race or event or the pari-mutuel system of wagering thereon.

[NCA 92–216, approved Dec. 23, 1992; amended by NCA 01–183, § 806, eff. Feb. 1, 2002.]

Library References

Indians ⇨339, 412.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179, 193.

§ 8–107. Sharing of revenue

No person or governmental agency from outside this Nation may receive any commission or otherwise share in the revenue from the conduct of off-track pari-mutuel wagering in this Nation without the approval of the Commissioner. The Commissioner may approve any such person or governmental agency after such investigation as the Commissioner deems proper.

[NCA 92–216, approved Dec. 23, 1992; amended by NCA 01–183, § 807, eff. Feb. 1, 2002.]

Library References

Indians ⇨340.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 8–108. Place for conducting and public viewing of wagering

A licensee conducting any form of pari-mutuel wagering provided for in this chapter shall provide a place or places in the meeting grounds or enclosure or the licensed gaming establishment which has been approved to conduct off-track pari-mutuel wagering:

A. At which the licensee may conduct, operate and supervise the wagering.

B. Where the progress of the betting and the odds paid may be open to public view.

[NCA 92–216, approved Dec. 23, 1992; amended by NCA 01–183, § 808, eff. Feb. 1, 2002.]

Library References

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

§ 8-109. Limitation on wager by agent; off-track wagering by agent prohibited

A pari-mutuel wager placed at the enclosure where the wagered race or event is conducted may be made by an agent if the principal is present on the premises. All off-track pari-mutuel wagering must be done by a principal.

[NCA 92-216, approved Dec. 23, 1992; amended by NCA 01-183, § 809, eff. Feb. 1, 2002.]

Library References

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

CHAPTER 9. RESERVED

CHAPTER 10. RESERVED

CHAPTER 11. ENFORCEMENT PROVISIONS

Section

- 11-101. Policy.
- 11-102. Participating in unlicensed gambling.
- 11-103. Possession of unlicensed gambling device.
- 11-104. Gambling premises.
- 11-105. Operating without a license.
- 11-106. Property subject to forfeiture.
- 11-107. Forfeiture proceedings.
- 11-108. Sanctions and Banishment.
- 11-109. Administrative enforcement proceedings.
- 11-110. Judicial review of Commissioner's decision.
- 11-111. Judicial action by Commissioner.
- 11-112. Service of notices and other documents.
- 11-113. Finality of Commissioner or court action.
- 11-114. Identity of informant.

United States Code Annotated

Gambling in Indian country, see 18 U.S.C.A. § 1166.
Theft by officers or employees of gaming establishments on Indian lands, see 18 U.S.C.A. § 1168.
Theft from gaming establishments on Indian lands, see 18 U.S.C.A. § 1167.

Code of Federal Regulations

Compliance and enforcement provisions, see 25 CFR 571.1 et seq.

§ 11-101. Policy

It is hereby declared to be the policy of the Muscogee (Creek) Nation, recognizing the close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from unlicensed gambling activities in this Nation; to restrain all person from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press; and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public and do not breach the peace. All the provisions of this Title shall be liberally construed to achieve these ends, and administered and enforced with a view to carrying out the above declaration of policy.

[NCA 92-162, § 901, approved Dec. 23, 1992; amended by NCA 01-183, § 1101, eff. Feb. 1, 2002.]

§ 11-102. Participating in unlicensed gambling

- A. It shall be a crime to:
 - 1. engage in, solicit, or induce another to engage in unlicensed gambling; or
 - 2. engage in or knowingly cause, aid, abet, or conspire with another to engage in unlicensed professional gambling.
- B. It shall be an affirmative defense for a natural person to participate in any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person

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is participating, directly or indirectly, in unlicensed professional gambling. This crime shall be punishable by incarceration for up to one (1) year in jail and up to five thousand dollars (\$5,000) in fines or both.

[NCA 01–183, § 1102, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 903.

Library References

Indians ⇄343, 620.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 188, 193.

§ 11–103. Possession of unlicensed gambling device

It shall be a crime to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair or transport any unlicensed gambling device, or offer or solicit any interest therein; whether through an agent, employee or otherwise. If a person is also in possession of an unlicensed gambling record, such person shall be presumed to be in knowing possession of the gambling device. This crime shall be punishable by incarceration for up to one (1) year in jail and up to five thousand dollars (\$5,000) in fines or both.

[NCA 01–183, § 1103, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 904.

Library References

Indians ⇄343, 620.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 188, 193.

§ 11–104. Gambling premises

A. It shall be a crime to own, lease, employ, operate, occupy, or otherwise knowingly maintain, aid, or permit an unlicensed gambling premise. This crime shall be punishable by incarceration for up to one (1) year in jail and up to five thousand dollars (\$5,000) in fines or both.

B. All unlicensed gambling premises are common nuisances and shall be subject to abatement by injunction or as otherwise provided by law. In any action brought under this subsection the plaintiff need not show damages and may, in the discretion of the court, be relieved of all requirements as to giving security.

C. When any property or premise is determined to be an unlicensed gambling premise, an owner, who does not have knowledge of the illegal use, shall have the right to terminate all interest of anyone holding the same under him.

D. When any property or premise for which one or more licenses, permits, or certificates issued by the Commissioner are in effect is determined by the District Court of the Muscogee (Creek) Nation to be a gambling premise all

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such licenses, permits, and certificates shall be void, and no license, permit, or certificate so cancelled shall be reissued for such property or premise for a period of six (6) months thereafter. Enforcement of this subsection shall be the duty of the Commissioner, the Muscogee (Creek) Nation Tax Commissioner, and any other taxing or licensing official of this Nation.

[NCA 01–183, § 1104, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 906.

Library References

Indians ⇄343.

Westlaw Topic No. 209.

C.J.S. Indians §§ 179 to 188, 193.

§ 11–105. Operating without a license

It shall be a crime to engage in gaming activities without the appropriate license, in violation of the terms imposed on the license, or in violation of this Title or Commissioner regulations. Each day of violation shall constitute a separate count or violation of this Title. This crime shall be punishable by incarceration for up to one (1) year in jail and up to five thousand dollars (\$5,000) in fines or both.

[NCA 01–183, § 1105, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 106.

Library References

Indians ⇄343, 620.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 188, 193.

§ 11–106. Property subject to forfeiture

The following property is subject to forfeiture by the Muscogee (Creek) Nation:

- A. All unlicensed gambling devices;
- B. All property, including money and other things of value, used in connection with professional gambling or maintaining a gambling premise;
- C. All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenance of improvement thereto, which is used, or intended to be used, in any manner or part in connection with unlicensed professional gambling; and
- D. Winnings received in violation of this Title.

[NCA 01–183, § 1106, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 904.

Library References

Forfeitures ◀3.

Westlaw Topic No. 180.

C.J.S. Forfeitures §§ 22 to 29.

§ 11–107. Forfeiture proceedings

A. The Commissioner or a Muscogee (Creek) Nation Lighthouse Officer may seize any item subject to forfeiture immediately upon detection.

B. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Office of the Attorney General of the Muscogee (Creek) Nation, subject only to the orders and decrees of the court. All seized property shall be held as evidence until the Attorney General files a notice of seizure and intended forfeiture with the District Court of the Muscogee (Creek) Nation or the property is released.

C. Notice shall be given to all owners of the seized property. Anyone contesting the forfeiture of the property shall answer the notice with a verified petition within forty-five (45) days after notice been received. If at the end of forty-five (45) days there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and shall order the property forfeited to the Muscogee (Creek) Nation, if such fact is proved. If a verified answer is filed, the forfeiture proceedings shall be set for hearing.

D. At a hearing in a proceeding against real property seized in accordance with this Code, the proof of the unlawful activity shall be satisfied by the Muscogee (Creek) Nation by a preponderance of the evidence. The claimant of any right, title, or interest in the property may prove his lien, mortgage or conditional sales contract to be a bona fide or innocent ownership interest and that his right, title, or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged. In the event of such proof, the court shall order the property released to the bona fide or innocent owner, lien holder, mortgage, or vendor if the amount due him is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the Muscogee (Creek) Nation and sold under judgment of the court, as on sale execution, in accordance with law.

E. All property forfeited shall be destroyed, sold at public auction, or utilized by the Office of Public Gaming. Bona fide liens against property so forfeited shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property. Forfeited monies and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the Muscogee (Creek) Nation and deposited in the Treasury of the Muscogee (Creek) Nation.

[NCA 01–183, § 1107, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92-162, § 904.

§ 11-108. Sanctions and Banishment

Any licensee who violates any of the provisions of this Title, Office of Public Gaming regulations, or conditions of their license shall be in violation of this Title and, in addition to any criminal liability, is subject to a civil fine not to exceed one thousand dollars (\$1,000) per violation. Each day of violation shall constitute a separate violation of this Title. Licensees who violate this Title or Office of Public Gaming regulations may have their licenses suspended, revoked, or limited. Establishments in violation of this Title or Office of Public Gaming regulations may be forcibly closed. Any such action shall be taken at the discretion of the commissioner.

A. Temporary banishment by General Manager or authorized security personnel.

The General Manager of any Muscogee (Creek) Nation gaming facility, including a gaming facility operated by a Chartered Indian Community or an authorized security personnel of such a facility, may issue a temporary banishment notice prohibiting a person from entering any Muscogee (Creek) Nation gaming facility for a period not to exceed thirty (30) days. Said notice of temporary banishment may be served on any person, including a terminated gaming facility employee, who: (i) the General Manager or authorized security personnel determines to be an immediate threat to the safety or economic welfare of the Nation's employees, patrons, or facilities, (ii) is observed to violate any provision of this Code or Office of Public Gaming regulation at that facility, (iii) is observed to violate Tribal, state, or federal law at that facility, or (iv) is known to have been judicially or administratively determined to have violated any Tribal, state or federal law while at any gaming facility, regardless of where located. A temporary banishment notice shall be served by providing a written notice stating the reason for the temporary banishment, the length of time of said temporary banishment and the person's right to a hearing before the Gaming Commissioner prior to the expiration of the temporary banishment order. The notice of temporary banishment shall be effective when delivered personally or by certified mail to the last known address of the subject of the temporary banishment notice. A copy of the notice of temporary banishment shall be delivered personally, by regular mail, electronic mail or by facsimile transmission to all Muscogee (Creek) Nation gaming facilities, including gaming facilities operated by Chartered Indian Communities and to the Gaming Commissioner within forty-eight (48) hours of issuance.

B. Gaming Commissioner authority.

The Gaming Commissioner is authorized to issue a final banishment order only after all conditions and requirements of subsection C of § 11-108 of this Title have been met, in either of the following circumstances:

1. The Gaming Commissioner is authorized to issue a final banishment order in appeal proceedings by the subject of a temporary banishment notice issued by the General Manager or security personnel of a gaming facility

pursuant to subsection A of this section after affording a hearing to the appealing party in accordance with subsection C of this section.

2. The Gaming Commissioner is also authorized to issue a final banishment order based on information obtained subsequent to delivery to the person a notice of temporary banishment stating the reason for temporary banishment, the length of time of said temporary banishment and the person's right to a hearing before the Gaming Commissioner prior to the expiration of the temporary banishment order; provided that a temporary banishment order issued by the Gaming Commissioner shall be effective immediately and shall be served personally or sent by certified mail to the last known address of the subject of the temporary banishment notice.

C. Final banishment order by the Gaming Commissioner.

The Gaming Commissioner may issue a final order banishing from the Nation's gaming facilities for a period not to exceed five (5) years to any person who the Commissioner determines: (i) is a potential threat to the safety or economic welfare of the Nation's employees, patrons or facilities, (ii) has violated any provision of this Code or Office of Public Gaming regulations, (iii) has violated Tribal, state or federal law while at any of the Nation's gaming facilities or (iv) has been judicially or administratively determined to have violated any Tribal, state or federal law while at any gaming facility, regardless of where located. The Gaming Commissioner may issue a final banishment order only after notice of hearing is served on the person stating that if the person fails to appear and show cause why a final banishment order should not be issued, then a final banishment order may be issued without right of judicial review. The Gaming Commissioner's final banishment order shall state specifically the reason for the banishment, the length of time of the banishment and the person's right, if any, to appeal the Gaming Commissioner's banishment order to the District Court in accordance with the procedural requirements of § 11–110 of this Code. The final banishment order shall be served personally or sent by certified mail to the last known address of the subject of the banishment order.

D. Enforcement of temporary banishment notice and final banishment order.

Temporary banishment notices may be enforced as criminal trespasses pursuant to the Nation's Criminal Code. Final banishment orders may be enforced by the Gaming Commissioner in accordance with any applicable provisions of this Code or as criminal trespasses pursuant to the Nation's Criminal Code.

[NCA 01–183, § 1108, eff. Feb. 1, 2002; amended by NCA 03–177, § 1, approved Dec. 29, 2003, eff. May 03, 2004.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 215.

§ 11–109. Administrative enforcement proceedings

A. Service of notice.

1. The Commissioner shall initiate enforcement proceedings for any violation of this Title or Office of Public Gaming regulations by serving on the person or the designated service agent of said person a Notice of Violation.

2. When the Commissioner denies a person a gaming license he shall serve that person with a Notice of Denial of Gaming License.

B. Contents of notice.

1. The Notice of Violation shall state with reasonable particularity the nature of the violation or violations, the section or sections of this Title or of the Office of Public Gaming Regulations that the respondent has violated, and the action which the respondent must take to remedy the violation(s). The notice shall also state that all such remedial action(s) must be completed within ten (10) days failing which, the Commissioner may take one or more of the actions described in subsection C of this section as appropriate to the nature of the violation. The notice shall also state that the period for taking any remedial action may be extended for good cause at the sole discretion of the Commissioner for up to sixty (60) additional days beyond the initial 10-day period, but no further extensions shall be allowed. The Notice of Violation shall also state that, in lieu of taking such remedial action, the respondent may serve on the Commissioner a written Notice of Protest and Request for Hearing to demonstrate why no violation has occurred and/or why the proposed remedial action is incorrect or unauthorized in whole or in part.

2. The Notice of Denial of Gaming License shall state with reasonable particularity the nature of the denial including any applicable section or sections of this Title or of the Office of Public Gaming Regulations. The Notice of Denial shall also state that the respondent may serve on the Commissioner a written Notice of Protest and Request for Hearing to demonstrate why the Commissioner's decision is incorrect or unauthorized in whole or in part.

C. Types of enforcement actions. The Notice of Violation required in subsection B of this section shall include a description of the actions which may be taken by the Commissioner and the respondent's potential liability for civil fines and criminal prosecution, as appropriate to the nature of the specific violation involved, including without limitation the penalties specified in Title 21, § 11-108 and any other penalties specified in this Title or the Criminal Offenses Code of the Muscogee (Creek) Nation.

D. Remedial action; Notice of Protest and Request for Hearing. Upon receipt of the Notice of Violation, the respondent shall take all remedial action described therein within the time allowed or, in lieu of taking such remedial action, shall serve upon the Commissioner the written Notice of Protest and Request for Hearing described in subsection B of this section.

E. Notice of Hearing on Proposed Enforcement and/or Penalties. In the event any respondent who has been served with a Notice of Violation fails to take all remedial action stated therein within the time allowed or to request a hearing as provided by subsection D of this section, the Commissioner shall serve such respondent or the respondent's service agent with a Notice of Hearing on Proposed Enforcement and/or Penalties. Said notice shall state the time and place of the hearing, the amounts of any proposed fines or other penalties, and/or describe any other enforcement action authorized hereunder, including without limitation, revocation or suspension of any license and the closure of the gaming facility. The notice shall also state that if the respondent fails to appear and show cause why the proposed enforcement action should

not be taken or the proposed fines and/or penalties assessed, then the respondent shall be conclusively deemed to have confessed to the violation(s) described in the Notice of Violation and that the proposed enforcement action and/or fines or penalties shall be taken and/or assessed against the respondent, without right of judicial review.

F. Hearing. The hearings authorized in this section shall be informal. The respondent shall be afforded the opportunity to explain and/or show cause to the Commissioner why no violation has occurred and/or why the proposed enforcement, fine or other penalty, or license denial is incorrect or unauthorized under this Title. The respondent may be represented by counsel and the Commissioner may request attendance by the Office of the Attorney General in an advisory capacity. The Commissioner may render his decision at the conclusion of the hearing or at any time thereafter. The Commissioner may, in his discretion, postpone his decision in order to further investigate the violation and/or formulate the appropriate enforcement action and/or fine or penalty.

G. Commissioner's decision. The Commissioner's order and decision rendered after the hearing shall be in writing and shall state, as appropriate, the following:

1. The nature of any violation(s) of this Title;
2. The sections of this Title violated by the respondent;
3. Whether any license acquired by the respondent shall be revoked suspended, limited, or denied and, if so, the date on which the revocation, suspension, limitation or denial shall be effective and the duration of any suspension or limitation so ordered;
4. The amount of any fine or penalty assessed;
5. Any other enforcement action, conditions or requirements which the Commissioner may impose consistent with this title; and
6. A statement that the respondent possesses appeal rights pursuant to Title 21, § 11–110 and that the respondent may seek review of the Commissioner's decision by filing a Petition for Review of the Commissioner's decision with the District Court of Muscogee (Creek) Nation within thirty (30) days of said decision, failing which the decision shall be final and not subject to judicial review.

[NCA 01–183, § 1109, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, §§ 209, 211.

Library References

Indians ☞ 416, 419, 422.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 11–110. Judicial review of Commissioner's decision

A. Petition for review. Any person found by the Commissioner to have violated any provision of this Title or Office of Public Gaming regulation after

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hearing may seek review of the Commissioner's decision by filing a Petition for Review of the Commissioner's decision with the District Court of the Muscogee (Creek) Nation within thirty (30) days of said decision, failing which the decision shall be final and not subject to judicial review. The Commissioner shall promptly file the full record of the proceeding, including the notice of appeal, with the Muscogee (Creek) Nation District Court.

B. Standard for review. In hearing the appeal, the Muscogee (Creek) Nation District Court shall give proper deference to the administrative expertise of the Commissioner. The Muscogee (Creek) Nation District Court shall not set aside, modify, or remand any determination by the Commissioner unless it finds that the determination is arbitrary and capricious, unsupported by substantial evidence or contrary to law.

C. Legal representation. The Petitioner may be represented by counsel in any proceeding or review by the District Court, and the Commissioner shall be represented by the Attorney General.

D. District Court decision. The Muscogee (Creek) Nation District Court shall issue a written decision on all appeals. In no event shall the Court be authorized to award or order the payment of damages or to fashion any remedy against the Commissioner. In the event that the District Court affirms the decision of the Commissioner or the Muscogee (Creek) Nation, the Court shall award costs and a reasonable attorney fee to the Office of Public Gaming with the provision that any part of the attorney fee collected shall be paid to the Controller for use by the Office of the Attorney General.

E. Appeal to Supreme Court. If the petitioner receives an adverse decision from the District Court, then the petitioner may appeal to the Muscogee (Creek) Nation Supreme Court within thirty (30) days after the District Court enters the decision. The appeal shall be limited to the record on appeal. The decision of the Muscogee (Creek) Nation Supreme Court shall be final.

[NCA 01–183, § 1110, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 214.

Library References

Indians ⇄430.

Westlaw Topic No. 209.

C.J.S. Indians §§ 151 to 179.

§ 11–111. Judicial action by Commissioner

The Commissioner is hereby authorized to commence an action to collect any fines owed pursuant to this Title, and may seek any civil remedies, including but not limited to garnishment, attachment, and execution, for the collection of any monies due to the Nation. Such action shall be commenced in the District Court of the Muscogee (Creek) Nation. Violation of orders of the Court shall be punishable by civil contempt, including fines and/or, in the event that the contemtor is an Indian, imprisonment. In the event the Court awards judgment in favor of the Commissioner, the Court shall award costs and a reason-

able attorney fee to the Office of Public Gaming with the provision that any part of the attorney fee collected shall be paid to the Controller for use by the Office of the Attorney General.

[NCA 01–183, § 1111, eff. Feb. 1, 2002.]

§ 11–112. Service of notices and other documents

Any notice or other document required to be served hereunder shall be hand-delivered to the person to be served or sent by certified mail to the office or place of business of said person to be served. In the case of service by mail, service shall be complete upon the date of receipt or refusal to accept delivery by certified mail.

[NCA 01–183, § 1112, eff. Feb. 1, 2002.]

§ 11–113. Finality of Commissioner or court action

Any final finding or determination of the Commissioner not timely appealed, any final and unappealed determination of the Muscogee (Creek) Nation District Court, and any final Muscogee (Creek) Nation Supreme Court decision in proceedings pursuant to appeal shall be final and binding in any other proceeding against or by the same person before the Commissioner or the District Court of the Muscogee (Creek) Nation.

[NCA 01–183, § 1113, eff. Feb. 1, 2002.]

Library References

Indians ↻427.
Westlaw Topic No. 209.
C.J.S. Indians §§ 151 to 179.

§ 11–114. Identity of informant

The Commissioner may refuse to reveal, at any court proceeding, the identity of any informant, if such revelation would subject the informant to bodily harm.

[NCA 01–183, § 1114, eff. Feb. 1, 2002.]

Historical and Statutory Notes

Derivation

NCA 92–162, § 205.

CHAPTER 12. REVENUES AND AUDITS

Section

- 12-101. Proprietary interest.
- 12-102. Use of net revenues.
- 12-103. Audits.
- 12-104. Conduct of operations.

§ 12-101. Proprietary interest

The Muscogee (Creek) Nation shall have the sole proprietary interest and responsibility for the conduct of any gaming operations.

[NCA 92-162, § 1004, approved Dec. 23, 1992; amended by NCA 94-45, § 108, approved Aug. 8, 1994; NCA 01-183, § 1201, eff. Feb. 1, 2002.]

Library References

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

§ 12-102. Use of net revenues

Net revenues from any Tribal gaming are not to be used for purposes other than (1) to fund Tribal government operations or programs; (2) to provide for the general welfare of the Muscogee (Creek) Nation and its citizens; (3) to promote Tribal economic development; (4) to donate to charitable organizations; or (5) to help fund operations of local government agencies.

[NCA 92-162, § 1005, approved Dec. 23, 1992; amended by NCA 01-183, § 1202, eff. Feb. 1, 2002.]

Library References

Indians ◊340.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

§ 12-103. Audits

Annual outside audits of gaming activities, which shall insofar as possible be encompassed within existing systems and procedures, shall be provided by the Controller of the Muscogee (Creek) Nation to the Chairman of the National Indian Gaming Commission in Washington, D.C., and all contracts for supplies, services or concessions for a contract amount in excess of twenty-five thousand dollars (\$25,000) annually (excluding contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits.

[NCA 92-162, § 1006, approved Dec. 23, 1992; amended by NCA 01-183, § 1203, eff. Feb. 1, 2002.]

§ 12-104. Conduct of operations

The Commissioner of Public Gaming, Speaker of the National Council, and members of the Gaming Operations Authority Board shall take every measure necessary to insure that the Muscogee (Creek) Nation has conducted its gaming

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activity in such a manner as to result in an effective and honest accounting of all revenues; and has resulted in a reputation for safe, fair and honest operation of the activity; and has been generally free of evidence of criminal or dishonest activity; and insure that the Muscogee (Creek) Nation has adopted and is implementing adequate systems for accounting for all revenues from gaming activities, for investigation, licensing and monitoring of all employees of the gaming activities, and for investigation, enforcement and prosecution of violations of Muscogee (Creek) Nation gaming laws and regulations, and has conducted the operations on a fiscally and economically sound basis.

[NCA 92–162, § 1010, approved Dec. 23, 1992; amended by NCA 01–183, § 1204, eff. Feb. 1, 2002.]

Library References

Indians ☞340.
Westlaw Topic No. 209.
C.J.S. Indians § 193.

CHAPTER 13. REPEALER

Section

13-101. Repealer.

§ 13-101. Repealer

A. NCA 82-33, as amended, NCA 84-04, as amended, NCA 85-74, and NCA 88-51, NCA 89-84, as amended, NCA 91-102 §§ 100-102, NCA 92-118, NCA 92-207, NCA 92-217 NCA 98-04 §§ 100-102, 105, NCA 98-61 §§ 100-102, 104, NCA 93-02 §§ 100-102, NCA 94-45 §§ 100-101, NCA 92-162 §§ 106, 110, 205, 209-214, 903-908, 1001-1003, 1007, 1009, 1101, 1102, NCA 91-102 §§ 100-102, and NCA 93-103, are hereby repealed. All other laws and resolutions or parts of laws and resolutions inconsistent with the provisions of this Title, and existing as of the effective date of this Act,¹ are hereby repealed.

B. Repeal by this Title of any law or resolution or any parts of law or resolution shall not have the effect of reviving any prior law or resolution theretofore repealed or suspended by such repealed Code, nor shall this repeal have the effect of nullifying any regulation of the Commissioner issued under previous laws which is authorized by this Title, nor shall this repeal have the effect of interrupting the term of the current Commissioner of Public Gaming, nor shall this repeal have the effect of interrupting any license issued by the Commissioner or any responsibilities thereunder.

[NCA 92-162, §§ 108, 109, approved Dec. 23, 1992; amended by NCA 01-183, § 1301, eff. Feb. 1, 2002.]

¹ Feb. 1, 2002.