

Title XXVII - Licensing and Regulation of Bingo and other Games of Chance

Chapter 1. Findings

Sec. 101. The Tribal Executive Board finds

Chapter 2. Definitions

Sec. 201. Class I gaming.

Sec. 202. Class II gaming.

Sec. 203. Class III gaming

Sec. 204. Traditional forms of Indian gaming.

Sec. 205. Social games for prizes of minimal value.

Sec. 206. Tribal subdivision.

Sec. 207. Net revenues.

Sec. 208. Primary management official.

Sec. 209. Bingo machine

Sec. 210. Draw poker machine

Sec. 211. Keno machine

Sec. 212. Simulcast racing

Sec. 213. Lottery games

Sec. 214. Key employee

Chapter 3. Class I Gaming

Sec. 301. Regulation of Class I gaming.

Chapter 4. Licensing Class II and Class III Gaming

Sec. 401. Regulation of Class II and Class III gaming.

Sec. 402. Repealed.

Sec. 403. Status as a tribal subdivision.

Sec. 404. Licenses for Class II gaming activities.

Sec. 405. License fees and duration of license.

Sec. 406. Hearing on application for a license.

Sec. 407. Conditions of the tribal license.

Sec. 408. Assignment or transfer.

Sec. 409. Denial, cancellation and suspension.

Sec. 410. Uses of net revenues of gaming activities.

Sec. 411. Annual outside audit.

Sec. 412. Reports to the Tribes.

Sec. 413. Licensing for Key Employees and Primary Management Officials.

Sec. 414. Raffles.

Sec. 415. Criminal penalties.

Sec. 416. Protection of the Environment and Public Health and Safety

Chapter 5. Class III Gaming

Sec. 501. Permitted Class III games

Sec. 502. Conditions of Class III games

Sec. 503. Special conditions on simulcast racing

Sec. 503A. Special conditions on lottery games

Sec. 504. Special conditions for bingo, draw Poker and Keno machines

Sec. 505. Management contracts

Sec. 506. Criminal penalties

Chapter 6. Self-Regulation of Gaming Activities

Sec. 601. Petition for certification of self-regulation

Sec. 602. Waiver of tribal requirements based on certification of self-regulation

Chapter 7. National Indian Gaming Commission

Sec. 701. Authority of the Commission

Sec. 702. Failure to cooperate with the Commission

Sec. 703. Commission regulations and guidelines superseding this

Chapter 1. Findings

Sec. 101. The Tribal Executive Board finds:

(a) That operation of bingo and other games of chance by the Tribes and tribal subdivisions is valid means of promoting tribal economic development and the health and welfare of tribal members;

(b) That, under the principles established by the United States Supreme Court in *California v. Cabazon Band of Mission Indians*, 94 L. Ed. 2d (1987), Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by Federal law and is conducted within a state, such as Montana, which does not criminally prohibit the activity;

(c) That the United States Congress has recently enacted Public Law 100-497, the Indian Gaming Regulatory Act, providing for certain federal regulation of Indian gaming;

(d) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust lands on the Reservation and to the protection of the interests of the Tribes and their members.

Chapter 2. Definitions

Sec. 201. Class I gaming.

"Class I gaming" means:

(a) Social games played solely for prizes of minimal value;

(b) Traditional forms of Indian gaming and bingo (as defined in Section 202)

engaged in as a part of, or for the promotion of tribal ceremonies, celebrations, or powwows, provided that total gross receipts from such gaming, including bingo, do not exceed fifty thousand dollars (\$50,000.00) in any year for any single ceremony, celebration or powwow.

Sec. 202. Class II gaming.

The term "Class II gaming" means:

(a) Bingo. The game of chance which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects, similarly numbered or designed, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.

Electronic computer or technological aids--such as computer-generated number sequences--

can be used in connection with Class II bingo, so long as all players are playing against each other to achieve the same sequences. Computerized or "video" bingo, in which players play against the machine rather than against each other, are Class III games, subject to Chapter V of this Title.

Class II gaming shall not include bingo included as Class I gaming in Section 201.

(b) Other games of chance. Games similar to bingo, including, if played at the same location as bingo, pull-tabs, lotto, punch boards, tip jars, and "instant bingo", in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance.

Sec. 203. Class III gaming.

All forms of gaming that are not Class I or Class II gaming, including:

(a) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind, including "video bingo".

(b) All banking card games; that is, card games played against the house, including baccarat, chemin de fer, and blackjack.

(c) All simulcast racing.

(d) Lottery games.

(e) Live Keno and Live Poker.

(AMENDED AS PER RESOLUTION NO. 790-92-4, DATED 04/27/92). (AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 204. Traditional forms of Indian gaming.

(a) Gaming activities such as "stick" or "bone" games played as part of tribal ceremonies, celebrations, or powwows.

(b) Games such as rodeos or horse races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or powwows. This does not include games operated prior to a ceremony, celebration, or powwow for the purpose of raising funds for the ceremony, celebration, or powwow; these are considered Class II games unless they meet the definition set forth in Section 205, below.

Sec. 205. Social games for prizes of minimal value.

Games in which the total value of prizes awarded during the calendar year does not exceed two thousand, five hundred dollars (\$2,500.00).

Sec. 206. Tribal Subdivision.

(a) The community organization of each Reservation community.

(b) Nonprofit entities organized to raise funds and operate programs to promote the health and welfare of the tribal members and/or to organize and operate ceremonies, celebrations, and powwows.

(c) Tribal school boards.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 207. Net revenues.

Gross revenues of gaming activity less amounts paid out as, or paid for, prizes and total operating expense, excluding management fees.

Sec. 208. Primary management official.

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority;
 - (1) To hire and fire employees; or
 - (2) To set up working policy for the gaming operation; or
- (c) The chief financial officer or other person who has financial management responsibility.

(AMENDED AS PER RESOLUTION NO. 176-93-12, DATED 12/13/93).

Sec. 209 Bingo machine.

An electronic video gambling machine that, upon insertion of cash, is available to play bingo. The machine utilizes a video display and microprocessor(s) in which, by chance, the player may receive credits that may be redeemed for cash. The term does not include a slot machine.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 210 Draw poker machine.

An electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker. The machine utilizes a video display and microprocessor(s) in which, by the skill of the player, by chance, or both, the player may receive credits that may be redeemed for cash. The term does not include a slot machine.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 211. Keno machine.

An electronic video gambling machine that, upon insertion of cash, is available to play keno. The machine utilizes a video display and microprocessor(s) in which, by chance, the player may receive credits that may be redeemed for cash. The term does not include a slot machine.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 212. Simulcast racing.

A live broadcast of an actual horse-race at the time it is run, including races of local or national prominence.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93)

Sec. 213. Lottery games.

The term "lottery games" means any procedure, including any on-line or other procedure using a machine or electronic device, by which one or more prizes are randomly distributed among persons who have paid for a chance to win a prize but does not include any game in which a player competes against or plays with any other person.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 214. Key employee.

- (a) A person who performs one or more of the following functions:
 - (1) Bingo caller;
 - (2) Counting room supervisor;
 - (3) Chief of security;
 - (4) Custodian of gaming supplies of cash;
 - (5) Floor manager;
 - (6) Pit boss;
 - (7) Dealer;

- (8) Croupier;
 - (9) Approver of credit; or
 - (10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
- (b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or
- (c) If not otherwise included, the four most highly compensated persons in the gaming operation.

(AMENDED AS PER RESOLUTION NO. 176-93-12, DATED 12/13/93).

Chapter 3. Class I Gaming

Sec. 301. Regulation of Class I gaming.

This Title does not apply to class I gaming as defined in Chapter 2, except as provided in this Section. The Tribes reserve the right to inspect the premises where the Class I game is held and to obtain and review financial information concerning the game in order to determine whether it meets the definition of a Class I game. In addition, Class I games may be subject to other tribal ordinance and regulations designed to protect the health and welfare of tribal members.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Chapter 4. Licensing Class II and Class III Gaming

Sec. 401. Regulation of Class II and Class III Gaming.

(a) All Class II and Class III gaming operated by the Tribes, Indian organizations, or individual Indians within the Fort Peck Reservation shall be conducted according to the provisions of this Title.

(b) All individually owned video gambling machines shall meet the requirements of the Tribal- State Gambling Compact and Appendix A to that Compact.

(c) The Tribes shall not license any individually owned Class III gaming operations except for those electronic video games permitted under the Tribal-State Compact.

(AMENDED AS PER RESOLUTION NO. 690-98-8, DATED 08/06/98).

Sec. 402 Ownership of Class II games.

(REPEALED AS PER RESOLUTION NO. 690-98-8, DATED 08/06/98).

Sec. 403. Status as a tribal subdivision.

Each entity seeking designation as a tribal subdivision for the purpose of this Title shall file an application with the Tribal Executive Board. The Board shall prepare forms for this purpose. The application shall provide information on the nature and purpose of the entity and the programs it operates, and shall demonstrate that the uses to which it puts its funds conform to Section 409. This requirement is waived for the community organization of each reservation community; these organizations shall be designated as tribal subdivisions effective on enactment of this Title by the Board. The decision of the Board on any application shall be final.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 404. Licenses for Class II gaming activities.

The Tribes shall issue a license for each place, facility, or location where Class II and Class III gaming is conducted. For each location licensed, an application must be filed that provides the following information:

(a) A description of the premises in which the game is to be held, and proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license;

(b) Agreement by the applicant to accept and abide by all applicable provisions of this Title and all conditions of the tribal license;

(c) Satisfactory proof that notice of the application has been posted in a prominent, noticeable place in the Tribal Office and on the premises where the game is to be held for at least thirty (30) days prior to consideration by the Board, and published at least twice in a local newspaper serving the Reservation. The notice shall state the date, time and place when the application shall be considered by the Tribal Executive Board pursuant to Section 406.

(d) Each licensee under this section agrees to pay on a quarterly basis sixty percent (60%) of the net revenues from the operation to the Tribes.

(e) Each licensee under this section agrees to pay any assessment levied by the National Indian Gaming Commission.

(f) Each licensee under this section operating Class III operations shall suspend operations between the hours of 2:00 a.m. to 8:00 a.m.

(g) The prize limit for individually owned video gambling devices shall be \$800.00.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93). (AMENDED AS PER RESOLUTION NO. 690-98-8, DATED 08/06/98).

Sec. 405. License fees and duration of license.

Each application shall be accompanied by a fee of fifty dollars (\$50.00). The license shall expire on December 31st of the calendar year in which it is issued.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 406. Hearing on application for a license.

All applications for a license shall be considered by the Tribal State Agreements Oversight Commission in open session at which the applicant, his/her attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. The proceedings of the Commission shall be transcribed. After the hearing, the Commission shall make a written recommendation to the Tribal Executive Board whether to grant or deny the application. The recommendation, the transcript of the proceedings and all documentary evidence shall be submitted to the Tribal Executive Board. The Tribal Executive Board shall consider the record made in the proceedings before the Commission, all evidence and the recommendation of the Commission, and shall then make a final determination of whether to grant or deny the application. In the event that the applicant is a member of the Commission or the Board, or a member of the immediate family of the Commission or of the Board, such member shall not vote on the application or otherwise participate in the consideration of it. The decision of the Tribal Executive Board shall be final.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93). (AMENDED AS PER RESOLUTION No. 2660-93-5, DATED 05/24/93).

Sec. 407. Conditions of the tribal license.

Any tribal license issued under this Title shall be subject to such reasonable conditions as the Board shall fix, including, but not limited to the following:

(a) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises. The premises shall be in full compliance with Title XIV, Health and Sanitation, of the Comprehensive Code of Justice;

(b) The licensed premises shall be subject to patrol by the tribal and BIA police force, for the purpose of enforcing tribal law, and the licensee shall cooperate at all times with such police and law officers;

(c) The licensed premises shall be open to inspection by duly authorized tribal officials and officials of the National Indian Gaming Commission at all times during the regular business hours;

(d) The premises covered by the tribal license shall be closed during polling hours on tribal election days, and on special days of observance, as designated by the Board;

(e) There shall be no discrimination in the operations under the tribal license by reason of race, color or creed, provided, however, that a licensee may give a preference in employment to Indians;

(f) No person who is under the age of eighteen (18) shall participate nor shall be allowed to participate in any manner in the operation of any game. No person who is under the age of eighteen (18) shall play any Class II or Class III game. It shall be the responsibility of the licensee and those persons physically operating the games to determine that no unauthorized person is allowed to play in or participate in any manner in the operation of any bingo game;

(g) All licensees shall impose a uniform charge on all players for the bingo cards to be used in each bingo game. The rate to be charged players for cards shall be fixed by each licensee and posted conspicuously on the premises. No person shall be allowed to play in a game without first paying this uniform charge, with the exception that free games may be awarded as prizes. Each person paying for the opportunity to participate in a bingo game shall be given a bingo card which shall be numbered. Each card issued shall represent a specific amount of money which has been paid to the licensee. The amount of prize money represented by each card issued shall be clearly made known to all players prior to anyone paying to participate in the activity;

(h) Bingo cards shall be sold and paid for, only in advance for use in a specified game or games. All sales of bingo cards shall take place upon the premises and upon the occasion that the bingo games for which the card is being sold are conducted. No cards may be sold on credit or as a gift or loan of any kind whatever;

(i) No licensee shall allow a person who manages or receives any compensation, directly or indirectly, for the operation of any game conducted by the operator to play in a bingo game or game of chance while on duty;

(j) Each numbered ball, or other device, used in a bingo game for the selection of numbers to be called in play shall be the same weight as each of the other balls or devices used for the purpose in that game. Immediately following the calling of each number in a bingo game, the caller shall turn the portion of the ball or other device used to determine which number and letter to the participants in the game so that participants may know that the proper number has been called out. Nothing in this Section shall prohibit the use of electronic, computer or other technological aids in games of bingo or other games of chance provided that such aids are used properly and fairly;

(k) 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;

(l) No firearms, air guns which are capable of discharging dangerous projectiles, including but not limited to B.B.'s or CO2 guns, rifles, shotguns, pistols, or revolvers; shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this ordinance;

(m) No person involved in the operation of any activity authorized by this ordinance 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 or deceit upon any person;

(n) Each licensee shall display its license in a conspicuous location in the gaming establishment.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93). (AMENDED AS PER RESOLUTION NO. 690-98-8, DATED 08/06/98).

Sec. 408. Assignment or transfer.

No license issued under the ordinance shall be assigned or transferred.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 409. Denial, cancellation and suspension.

(a) The licensee must have, and exercise complete control over the premises being used for bingo or other games of chance at all times said games are being played. The licensee and his/her employees shall be legally responsible for any violation of the Title. Any license issued hereunder may be canceled by the Tribal Executive Board for the breach of any of the provisions of this ordinance or of the tribal license. A hearing on a proposed cancellation shall be held before the Tribal-State Agreements Oversight Commission after ten (10) days notice of the claimed breach to the licensee. Such notice shall be issued by the Tribal Executive Board. If the Tribes are the licensee, notice shall be served on the manager of the tribal operation. A licensee may be suspended by the Tribal Executive Board during the ten (10) day period by a three quarters (3/4) vote of the Board at a meeting at which a quorum is present. The time and place of the hearing shall be posted in the tribal office, and if time permits, in a local newspaper serving the Reservation. The hearing shall be held by the Commission in open session at which the licensee, his/her attorney and any person with an interest in the proceeding shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the breach charged. The proceedings of the Commission shall be transcribed. After the hearing, the Commission shall make a written recommendation to the Tribal Executive Board on whether to cancel the license. The recommendation, the transcript of the proceedings, and all documentary evidence shall be submitted to the Tribal Executive Board, which shall make the decision on the cancellation. The decision of the Board shall be final.

(AMENDED AS PER RESOLUTION NO. 2660-93-5, DATED 05/24/93).

(b) The Tribe shall not grant a license to any individual person or non-tribal entity that would not be eligible to receive a license under the Indian Gaming Regulatory Act.

(AMENDED AS PER RESOLUTION NO. 690-98-8, DATED 08/06/98).

Sec. 410. Uses of net revenues of gaming activities.

Net revenues of the gaming activity must be used for the following purposes:

- (a) To fund tribal government operations or programs;
- (b) To provide for the general welfare of the Indian tribe and its members, including to fund programs operated by a tribal subdivision that contribute to the general welfare;
- (c) To promote tribal economic development;
- (d) To donate to charitable organizations; or
- (e) To help fund operations of local government agencies, including tribal subdivisions.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 411. Annual outside audit.

Each licensee, including the Tribes, shall arrange for an annual outside audit of the operation for presentation to the National Indian Gaming Commission. The audit shall examine the uses of the net revenues and all contracts for amounts in excess of twenty-five thousand dollars (\$25,000.00) annually (except contracts for legal or accounting services). The tribal subdivisions shall provide their audit reports to the Tribes for review at least thirty (30) days before they are due at the Commission, and the Tribes shall forward all audit reports to the Commission.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 412. Reports to the Tribes.

Each licensee shall submit to the Tribal Executive Board, on a quarterly basis, a financial report for the previous quarter's operations. Such reports shall be signed, under oath, by an official or representative of the licensee, who in the case of a tribal operation shall be the operation's manager. The reports shall document:

- (a) Monthly attendance at scheduled gaming events;
- (b) Gross receipts for each month;
- (c) Names of each employee and the salary or other compensation paid to each;
- (d) All expenses in the operation of the games, specifying all payments to vendors and contractors;
- (e) The amount paid in prizes each month;
- (f) All bank deposits made from proceeds of the bingo games, including any interest received on such deposits;
- (g) All bank withdrawals, and the purpose of each;
- (h) All expenditures of net proceeds including the amount, person or organization paid, date, and purpose of such expenditures.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 413. Licenses for Key Employees and Primary Management Officials.

- (a) Application forms.

(1) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant: In compliance with the Privacy Act of 1974, the following information is provided:

Solicitation of the information on this form is authorized by 25 U.S.C. 2701

et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position. The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN May result in errors in processing your application.

(2) The Tribal-State Agreements Oversight Commission shall notify existing key employees and primary management officials in writing that they shall either:

- (i) Complete a new application form that contains a Privacy Act notice; or
- (ii) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(3) The following notice shall be placed on the application form for a key employee or a primary official 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. (U.S. Code, title 18, section 1001.)

(4) The Tribal-State Agreements Oversight Commission shall notify existing key employees and primary management official in writing that they shall either:

- (i) Complete a new application form that contains a notice regarding false statements; or

- (ii) Sign a statement that contains the notice regarding false statements.

(b) Background investigations.

(1) The Tribal-State Agreement Oversight Commission shall request from each primary management official and from each key employee all of the following information:

- (i) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (ii) Currently and for the previous 5 years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license numbers;
- (iii) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period or residence listed under paragraph (b)(1)(ii) of this section;
- (iv) Current business and residence telephone numbers;
- (v) A description of any existing and previous business relationships with Indian Tribes, including ownership interest in those businesses;
- (vi) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (vii) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not

such license or permit was granted;

(viii) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(ix) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(x) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (b)(1)(vii) or (b)(1)(ix) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

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

(xii) A current photograph;

(xiii) Any other information the Tribes deem relevant; and

(xiv) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2(h).

(2) The Tribal-State Agreement Oversight Commission shall conduct an investigation sufficient to make a determination under subsection (c) below. In conducting a background investigation, the Oversight Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(c) The Tribal Executive Board shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Executive Board determines that employment in a gaming operation. If the Executive Board 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 suitable, unfair or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management official position. No one who has been convicted of a felony in any tribal, state or federal court shall be eligible for employment as a primary management official or key employee.

(d) Procedures for forwarding applications and reports for key employees and primary management officials to the National Indian Gaming Commission.

(1) When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Tribal-State Agreements Oversight Commission shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in subsection (c) of this section.

(2) The Tribal-State Agreements Oversight Commission shall forward the report referred to in subsection (e) of this section to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.

(3) The gaming operation shall not employ as a key employee or primary

management official a person who does not have a license after 90 days.

(e) Report to the National Indian Gaming Commission.

(1) Pursuant to the procedures set out in subsection (d) of this section, the Tribal-State Agreements Oversight Commission shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- (i) Steps taken in conducting a background investigation;
- (ii) Results obtained;
- (iii) Conclusions reached; and
- (iv) The bases for those conclusions.

(2) The Tribal-State Agreement Oversight Committee shall submit, with the report, a copy of the eligibility determination made under subsection (c) of this section.

(3) If a license is not issued to an applicant, the Tribal-State Agreements Oversight commission:

- (i) Shall notify the National Indian Gaming Commission; and
- (ii) May forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

(4) With respect to key employees and primary management officials, the Tribal-State Agreements Oversight Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

(f) Granting a gaming license.

(1) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribes that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the tribe has provided an application and investigative report to the National Indian Gaming Commission, the Executive Board may issue a license to such applicant.

(2) The Tribal-State Agreements Oversight Commission shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph (f)(1) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

(3) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribes with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribes have provided an application and investigative report to the National Indian Gaming Commission, the Executive Board shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Executive Board shall make the final decision whether to issue a license to such applicant.

(g) License suspension.

(1) If, after the issuance of a gaming license, the Tribes receive from the National Indian Gaming Commission reliable information indicating that a key employee or primary

management official is not eligible for employment under subsection (c) above, the Executive Board shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.

(2) The Tribal-State Agreements Oversight Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

(3) After a revocation hearing, the Tribal-State Agreements Oversight Commission shall recommend to the Executive Board to revoke or to reinstate a gaming license. The Executive Board shall decide whether to revoke or reinstate a gaming license and notify the National Indian Gaming Commission of its decision.

(h) Each license shall be effective for a period of one (1) year. Prior to expiration of the license, the licensee shall update the information produced during the original investigation, and if the individual still meets the applicable standards, the Executive Board shall renew the license for another year. Notice of any such renewals shall be forwarded to the National Indian Gaming commission by the Tribal-State Agreements Oversight Commission.

(AMENDED AS PER RESOLUTION NO. 690-98-8, DATED 08/06/98).

Sec. 414. Raffles.

Nothing in this Title shall be construed to prohibit any raffle or like activity conducted by a religious, charitable or other non-profit organization as permitted by Section 415 (b) (3) of Title VII of the Code of Justice, or to require such organization to obtain a license to operate such a raffle.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 415. Criminal penalties.

Operations of a Class II gaming activity without a license shall constitute a Class A misdemeanor. Violation of any other provision of Chapter IV of this Title shall constitute a Class B misdemeanor.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 416. Protection of the Environment and Public Health and Safety.

Class II gaming facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety.

(AMENDED AS PER RESOLUTION NO. 176-93-12, DATED 12/13/93).

Chapter 5. Class III Gaming

Sec. 501. Permitted Class III games.

The Tribes may conduct the following Class III games:

- (a) bingo machines;
- (b) draw poker machines;
- (c) keno machines;
- (d) simulcast racing;
- (e) lottery games;
- (f) live keno; and
- (g) live Poker.

(AMENDED AS PER RESOLUTION NO. 2163-93-2, DATED 02/08/93).

Sec. 502. Conditions of Class III games.

All Class III games shall comply with all the requirements established for Class II games in Chapter IV of this ordinance except for Sections 407 (d), (f), (g), (h) and (j) and in addition with the following conditions:

(A) Prizes shall be in tangible personal property, free games, credits or cash.

(B) A person who is not physically present on the premises where the game is actually conducted shall not be allowed to participate in the game.

(C) The consideration paid for the chance to play shall be strictly cash. Every participant must present the money with which he intends to play the game at the time the game is played. No check, credit card, note, IOU, or other evidence of indebtedness shall be offered or accepted as part of the price of participation in such game or as payment of a debt incurred therein.

(D) No person who is under the age of eighteen (18) years shall participate nor shall be allowed to participate in any manner in the operation of any Class III game. No person who is under the age of eighteen (18) years shall play in any Class III game. It shall be the responsibility of the licensee of any Class III game and those persons physically operating the games to determine that no unauthorized person is allowed to play in or participate in any manner in the operation of any bingo game.

(AMENDED AS PER RESOLUTION NO. 2660-93-5, DATED 05/24/93).

Sec. 503. Special conditions on simulcast racing.

All simulcast racing operated by the Tribes shall be with a network approved to operate within Montana.

Sec. 503A. Special conditions on lottery games.

Lottery games may be conducted on the Fort Peck Reservation under the following conditions:

(1) Such games are authorized by the Montana Lottery and subject to the provisions of Section 23-7-101 through 23-7-412, MCA, or;

(2) Such games are conducted and operated by the Tribes in a manner which provides security at least as stringent as the Montana Lottery.

Sec. 504. Special conditions for bingo, draw Poker and Keno machines.

All bingo, draw poker, and Keno machines shall also comply with the following conditions:

(a) No prize may exceed the value of one thousand dollars (\$1,000.00) XX-17 for each individual award.

(b) No license shall make available for play more than twenty (20) machines in any single premises, except that tribal organization facilities shall not make available for play more than one hundred (100) machines in any single premise.

(c) The expected payback value of one credit played shall be at least eighty percent (80%) of the value of a credit.

(d) Each video gambling machine model or modification must:

(1) Be inspected for approval and licensure. Any machine sold or operated may be inspected. Any approval granted to a person is not transferable. Immediate access must be allowed to each machine. Keys to allow access to a machine for purposes of inspection may be provided or must be immediately available on the premises. Machines for which a substantial modification of a series of minor modifications whose total result is substantial must meet all of the

specific law or rule requirements in effect at the time of submission. Only those machines which are owned or operated and to which applied are required to meet those specifications in effect at time of submission. A determination that a modification is substantial may be contested;

(2) Be operated by the players in the manner specified by this ordinance;

(3) Not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game. The machine may not have any functions or parameters adjustable by and through any separate video display or input codes except for the adjustment of features that are wholly cosmetic or other operational parameters as approved. This is to include devices known as "knockoff switches";

(4) Offer only bingo, draw poker and Keno as defined in this ordinance and operate in the following manner:

(i) in the case of draw poker, after the initial cards have been dealt, the player may be allowed to raise his/her wager but the player may not exceed the overall statutory bet limit;

(ii) the game must display the combinations for which credits will be awarded and the number of credits awarded for each combination;

(iii) one credit may not exceed twenty five cents (\$.25) in value;

(iv) the machine must have three (3) locks: one in the area containing the logic board and software for the game; one to the logic board itself; and the other to the area housing the cash, except that a separate cash compartment shall not be required for coins necessary to pay prizes in a machine which pays prizes through a drop hopper. EPROMS contained on the logic board must be readily accessible from the front of the machine.

(v)(A) the machines may have two (2) mechanisms that accept coins, hereinafter referred to as "mechanism 1" and "mechanism 2". These mechanisms must have devices referred to as "lockouts" which prohibit the machine from accepting coins during periods when the machine is inoperable;

(v)(B) the machine may have a machine manufacturer mechanism that accepts cash in the form of bills that do not exceed five dollars (\$5.00);

(vi) in the case of poker, each machine must use a color display with image of cards that closely resemble the standard poker playing cards;

(vii) the machine must be capable of printing a ticket voucher for all credits owed the player at the completion of each game, or machines utilizing coin drop hoppers are permitted provided they are monitored by a game transaction management/ reporting system of the type described in a paragraph A d (xi) which has been approved by the State of Montana. A valid ticket must contain the following:

(A) The name of the licensed establishment;

(B) The name of the city, town, or county in which the licensed establishment is located;

(C) The machine serial number or other unique identification number for the machine;

(D) The time of day in hours and minutes in a twenty four (24) hour format;

(E) The current date;

- (F) The program name and revision;
- (G) The value of the prize in numbers;
- (H) The value of the prize in words;
- (I) The sequential ticket number of the ticket voucher;

(viii) the printing mechanism must be located in a locked area of the machine to insure the safekeeping of the audit copy. The logic board shall be mounted within the logic area so it is not visible upon opening the logic area door. The printing mechanism must have a paper sensing device that upon sensing a "low paper" condition will allow the machine to finish printing the ticket and prevent further play. The machine must recognize a printer power loss occurrence and cease play until power has been restored to the printer and the machine is capable of producing a valid ticket;

(ix) the machine must have non-resettable mechanical meters housed in a readily accessible locked machine area. The mechanical meters must be manufactured in such a way as to prevent access to the internal parts without destroying the meter. Meters must be hardwired (no quick connects will be allowed in the meter wiring system). A validating identification sticker attached to the mechanical meters to verify the meters are assigned to a specific licensed machine may be required. The meters must keep a permanent record of:

(A) Total credits accepted by the coin acceptor mechanism(s), and bill acceptor (if applicable);

(B) Total credits played;

(C) Total credits won;

(D) Total credits paid;

(x) the machine must contain electronic metering, using meters that record and display the following on the video screen:

(A) Total credits in mechanism(s) 1 and 2 (if applicable);

(B) Total credits through the bill acceptor (if applicable);

(C) Total credits, total credits played, total credits won and total credits paid;

(D) Total games played and total games won; and

(E) Any other metering required by this ordinance.

(xi) the machine must issue by activation of an external key switch, an accounting ticket containing a performance synopsis of the machine and progressive accounting data is applicable. The printing of all totals from the electronic meters shall occur automatically each time access occurs to either the logic compartment or any compartment where cash is collected. Whenever electronic meters are reset, each machine must produce a full accounting ticket both before and after each resetting. The tickets must contain: .

(A) If a machine is attached to and communicates electronically with a game transaction management/ reporting system, it is not required to have a ticket printer. However, the game transaction management/ reporting system must each day collect from the machine the following information:

(1) the name of the licensed establishment;

(2) the name of the city, town, or county in which the licensed establishment is located;

(3) the serial number of other unique

identification number for the machine;

twenty four (24) hour format;

(4) the time of day, in hours and minutes in a

(5) the current date;

(6) the program name and revision number; and

(7) the electronic meter readings or dollar

amounts of electronic meters.

(B) If a machine is not attached to a game transaction management/reporting system, the machine must issue by activation of an external key switch, an accounting ticket containing a performance synopsis of the machine and progressive accounting data if applicable. The printing of all totals from the electronic meters shall occur automatically each time access occurs to either the logic compartment or any compartment where cash is collected.

Whenever electronic meters are reset, each machine must produce a full accounting ticket both before and after each resetting. The tickets must contain the information required in subsections (1) (d) (xi) (A) (1) through (7) of this Section.

(xii) the machine and any peripheral electronic device must have an identification tag permanently affixed to the machine by the manufacturer. The tag must be on the righthand side, upper left corner of the machine or peripheral electronic device or in another approved location and must include the following information:

(A) Manufacturer;

(B) Serial number;

(C) Model;

(D) Date of manufacture; and

(xiii) the face of the machine must be clearly labeled so as to inform the public that no person under the age of eighteen (18) years is allowed to play;

(xiv) no machine may offer for play more than one play table per program;

(xv) each machine and peripheral electronic device must pass a static test; and electrical current to the machine and a backup power supply capable of maintaining for a thirty (30) day period the accuracy of all electronic meters, date, and time during power fluctuations and loss. The battery must be in a state of charge during normal operation of the machine. Manufacturers incorporating either the use of E2 proms or a lithium battery for memory retention will be considered to meet this requirement.

(E) Any and all modifications made to an approved gambling machine must be submitted for approval prior to installation.

(F) Authorization to operate a machine may be suspended or revoked or approval of a machine may be revoked at any time if it is determined that a machine or machine component does not comply with a tribal ordinance or terms of a tribal-state compact governing video gambling machines in effect at the time of approval.

(G) A video gambling machine must include the following hardware specifications:

(1) All electrical and mechanical parts and design principles shall follow acceptable industrial codes and standards in both design and manufacture.

(2) A video gambling machine shall be designed

to ensure that the player will not be subjected to any physical, electrical or mechanical hazards.

(H) Each video gambling machine must meet the following software specifications:

- (1) The random number selection process shall conform to an acceptable random order of occurrence and uniformity of distribution;
- (2) The field of numbers must be mixed after each game by using a random number generator;
- (3) After the field of numbers has been mixed and before the start of the game the field of numbers is to be frozen with all numbers used for play taken in order from the top of the frozen field;
- (4) Any variable data, e.g., location name, shall not reside on EPROMS that contain game programs;
- (5) Must payback or award credits at a minimum rate of eighty percent (80%);
- (6) The game program must not interfere in any way with expected random play;
- (7) All electronic meters must be eight (8) digits in length; and
- (8) For any game played, the pay table for that game must be prominently displayed and understandable to the player.

(I) a machine may have a personality program that includes but is not limited to the following:

- (1) pay table (limited to one per program);
- (2) graphics;
- (3) deal;
- (4) optional features to include but not be limited to:
 - (i) raise;
 - (ii) auto-bet;
 - (iii) hold and discard;
- (5) personality program number.

(J) Each video draw poker machine must meet the following specifications for approval. In order to be approved the machine must:

- (1) use a deck of cards consisting of fifty two (52) standard playing cards; up to two (2) jokers may also be used;
 - (2) deal the initial cards from the top of the frozen field;
 - (3) replace discarded cards with remaining cards in the frozen field starting with the sixth (6th) card and drawing any additional cards in the order of that frozen field;
 - (4) meter for each breakdown in the pay table;
- and
- (5) display the winning hands and the number of credits awarded for that hand.

(K) Each video Keno machine must meet the following specifications for approval. In order to be approved the machine must:

(1) display a fixed playing field of numbers from 1-80;

(2) only accept a bet on a minimum of two (2) spots and a maximum of ten (10) spots per game;

(3) display the balls picked;

(4) conform to standard rules of Keno; and

(5) display the total number of player spots picked at the end of each game, display the number of balls drawn that matched the players' picks (this may be shown as 3 out of 8, 8 out of 10, etc.) and display any credits awarded for these combinations.

(L) Each video machine must meet the following specifications for approval. In order to be approved the machine must:

(1) utilize a field of numbers from 1 to 75;

(2) provide a card or cards that contain twenty four (24) numbered spaces per card and one free spot. No cards may be identical;

(3) generate cards by utilizing a random number generator;

(4) meter each breakdown in the pay table;

(5) conform to standard rules of bingo;

(6) produce a bingo during each game;

(7) display the number of balls picked and the credits awarded for the number of balls drawn in order to obtain a bingo;

(8) allow the player the choice of cards on which to play. All winning cards must be available for display on the screen, including any that may be played by the machine in any game; and

(9) designate the winning arrangement of numbers prior to commencing play.

Sec. 505. Management contracts.

An individual Indian may operate Class III gaming on the Reservation only pursuant to a management contract with the Tribes in conformance with the IGRA.

Sec. 506. Criminal penalties.

Operations of a Class III gaming activity without a license shall constitute a felony. Violation of any other provision of Chapter V of this Title shall constitute a Class A misdemeanor.

Chapter 6. Self-Regulation of Gaming Activities

Sec. 601. Petition for certification of self-regulation.

Under Public Law 100-497, the Tribes and any tribal subdivision that operates a licensed gaming activity pursuant to this Title, and has operated the gaming activity for at least three (3) years, including at least one (1) year after October 17, 1988, is eligible to petition the National Indian Gaming Commission for a certificate of self-regulation. Such a certificate exempts the Tribes or tribal subdivision from certain regulatory requirements under Public Law 100-497. When the

Tribes or any tribal subdivision meets the requirements for duration of the gaming activity set forth above, it shall review the standards set forth in Section 11 of Public Law 100-497 and determine whether it wishes to file a petition for self-regulation would be appropriate.

Sec. 602. Waiver of tribal requirements based on certificate of self-regulation.

If any licensee under this Title is granted a certificate of self-regulation by the Commission, the requirements of Section 411 of this Title shall be waived as to that licensee. All other requirements shall continue in full force and effect. If the certificate of self-regulation is revoked, the requirements of Section 411 shall be reinstated.

(THIS TITLE ADOPTED AS PER RESOLUTION NO.'S 1729-88-12, DATED 12/12/88, and 2084B- 89-3, DATED 03/13/89.)

Chapter 7. National Indian Gaming Commission

Sec. 701. Authority of the Commission.

Public Law 100-497 creates the National Indian Gaming Commission and grants the Commission and its chairman certain regulatory authority over Indian gaming activities, including the authority to:

- (a) Monitor Class II gaming activities;
- (b) Inspect and examine all premises located on Indian lands on which Class II gaming is conducted:
- (c) Conduct or cause to be conducted such background investigations as may be necessary;
- (d) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records pertaining to the gaming activity;
- (e) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of Public Law 100-497, including regulations for the assessment and collection of civil fines against Indian gaming activities as authorized by Section 14 of Public Law 100-497;
- (f) Establish the fees to be paid by Indian gaming activities in order to fund the Commission's operations.

Sec. 702. Failure to cooperate with the Commission.

All licensees under this Title shall cooperate fully with all lawful regulations, guidelines, and orders of the Commission. Failure to do so shall constitute a Class A misdemeanor and shall also constitute grounds for revocation of the tribal license.

Sec. 703. Commission regulations and guidelines superseding this Title.

Any regulations and guidelines adopted by the Commission that are inconsistent with any provisions of this Title shall supersede that provision, unless the Commission grants a waiver. In such a case, the Board shall promptly amend this Title so that it conforms to the Commission's regulations and guidelines.