State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2813

Introduced by
Representative Pierce: Senator Borrelli

AN ACT

AMENDING TITLE 5, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 5-119; AMENDING SECTION 5-601.02, ARIZONA REVISED STATUTES;
AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; AMENDING
SECTIONS 13-3301, 13-3302, 13-3305 AND 42-5073, ARIZONA REVISED STATUTES;
RELATING TO AMUSEMENTS AND SPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 5, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 5-119, to read:

5-119. Historic racing; licensing; rules; definition

A. THE DEPARTMENT SHALL ADOPT RULES TO ALLOW HISTORIC RACING TO BE CONDUCTED AS REGULATED GAMBLING AT RACETRACK ENCLOSURES AND ADDITIONAL WAGERING FACILITIES.

B. THE SYSTEMS FOR WAGERING MAY BE BOTH MANUAL AND ELECTRONIC FORMS OF WAGERING. BOTH MANUAL AND ELECTRONIC FORMS OF WAGERING MUST BE ON A CLOSED-LOOP SYSTEM LOCATED WITHIN A RACETRACK ENCLOSURE OR ADDITIONAL WAGERING FACILITY.

C. THE RULES ADOPTED PURSUANT TO THIS SECTION SHALL INCLUDE LICENSE APPLICATION PROCEDURES AND LICENSE APPROVAL, ISSUANCE, RENEWAL AND REVOCAITION CRITERIA. THE DIRECTOR SHALL ESTABLISH FEES FOR THE APPLICATION, ISSUANCE AND RENEWAL OF HISTORIC RACING LICENSES.

D. "HISTORIC RACING" MEANS A FORM OF RACING THAT ESTABLISHES PARI-MUTUEL POOLS FROM WAGERS PLACED ON PREVIOUSLY CONDUCTED RACES AND THAT IS CONDUCTED BY A COMMERCIAL LIVE-RACING PERMITTEE OR ADDITIONAL WAGERING FACILITY.

Sec. 2. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section 5-601.02, Arizona Revised Statutes, is amended to read:

5-601.02. New standard form of tribal-state gaming compact; effects

A. Notwithstanding any other law, within 30 days after receipt of a timely written request by the governing body of an Indian tribe, the state, through the governor, shall enter into the new standard form of tribal-state gaming compact with the requesting Indian tribe by executing the new compact and forwarding it to the United States department of the interior for any required approval.

B. The state, through the governor, may only enter into a new compact with an Indian tribe with a pre-existing compact if the Indian tribe requests a new compact pursuant to subsection A during the first 30 days after the effective date of this section. The state, through the governor, shall serve a timely notice of nonrenewal of a pre-existing compact on any Indian tribe that does not request a new compact during the first 30 days after the effective date of this section. Any Indian tribe without a pre-existing compact on the effective date of this section may request a new compact at any time.

C. Notwithstanding any other law, an Indian tribe may conduct the following forms of gambling as regulated gambling, as defined in section 13-3301, if the gambling is conducted in accordance with the terms of a tribal-state gaming compact: gaming devices, keno, offtrack pari-mutuel wagering, pari-mutuel wagering on horse racing, pari-mutuel wagering on dog racing, blackjack, poker (including jackpot poker), and lottery.
D. The department of gaming shall administer and carry out its responsibilities under the procedures for the transfer and pooling of unused gaming device allocations described in section 3(d) of the new compact.

E. The state, through the governor, is authorized to negotiate and enter into amendments to new compacts that are consistent with this chapter and with the policies of the Indian gaming regulatory act.

F. At the request of any Indian tribe for which paragraph 6 of subsection I does not specify a possible additional devices allocation, the state, through the governor, shall negotiate with the Indian tribe for a possible additional devices allocation. This allocation shall not be less than the smallest or greater than the largest possible additional devices allocation provided to an Indian tribe with an equal number of devices in the current device allocation column set forth in the new compact. At the option of the Indian tribe, the possible additional devices allocation shall be included in either the Indian tribe's new compact or an amendment to such new compact.

G. The authority and obligations of the state, through the governor, to negotiate additional compact terms pursuant to subsections E and F are independent of and separate from the obligations of the state pursuant to subsection A, and shall not constitute grounds for any delay by the state in carrying out its obligations to execute and forward new compacts to the United States department of the interior as required in subsection A.

H. The Arizona benefits fund is established consisting of monies paid to the state by Indian tribes pursuant to section 12(c) of new compacts and interest earned on those monies. An Indian tribe with a new compact satisfies the requirements of subsection F of section 5-601. Tribal contributions paid to the state pursuant to a new compact shall be deposited in the Arizona benefits fund, not the permanent tribal-state compact fund pursuant to subsection G of section 5-601.

1. The department of gaming shall administer the Arizona benefits fund. The department of gaming shall make an annual report to the governor, the president of the senate, the speaker of the house of representatives and each Indian tribe with a new compact within 90 days after the end of the state's fiscal year. This report shall be separate from any other report of the department of gaming. The report shall include a statement of aggregate gross gaming revenue for all Indian tribes, aggregate revenues deposited in the Arizona benefits fund, including interest thereon, expenditures made from the Arizona benefits fund, and aggregate amounts contributed by all Indian tribes to cities, towns and counties pursuant to paragraph 4 of this subsection. The department of gaming shall provide a copy of this report to the secretary of state and the director of the Arizona state library, archives and public records.
2. Except for monies expended by the department of gaming as provided in subdivision (a) of paragraph 3 of this subsection, which shall be subject to appropriation, the Arizona benefits fund is not subject to appropriation, and expenditures from the fund are not subject to outside approval notwithstanding any statutory provision to the contrary. Monies paid to the state by Indian tribes pursuant to a new compact shall be deposited directly with the Arizona benefits fund. On notice from the department of gaming, the state treasurer shall invest and divest monies in the Arizona benefits fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. Monies in the Arizona benefits fund shall be expended only as provided in paragraph 3 of this subsection, and shall not revert to any other fund, including the state general fund. Monies in the Arizona benefits fund are exempt from the provisions of section 35-190 relating to the lapsing of appropriations.

3. Monies in the Arizona benefits fund, including all investment earnings, shall be allocated as follows:

(a)(i) Eight million dollars or nine percent, whichever is greater, shall be used for reimbursement of administrative and regulatory expenses, including expenses for development of and access to any online electronic game management systems and for law enforcement activities incurred by the department of gaming pursuant to this chapter. Any monies that are allocated pursuant to this subsection 3(a) that are not appropriated to the department of gaming shall be deposited in the instructional improvement fund established by section 15-979.

(ii) Two percent shall be used by the department of gaming to fund state and local programs for the prevention and treatment of, and education concerning, problem gambling.

(b) Of the monies in the Arizona benefits fund that are not allocated pursuant to subdivision (a):

(i) Fifty-six percent shall be deposited in the instructional improvement fund established by section 15-979 for use by school districts for classroom size reduction, teacher salary increases, dropout prevention programs, and instructional improvement programs.

(ii) Twenty-eight percent shall be deposited in the trauma and emergency services fund established by section 36-2903.07.

(iii) Eight percent shall be deposited in the Arizona wildlife conservation fund established by section 17-299.

(iv) Eight percent shall be deposited in the tourism fund account established by paragraph 4 of subsection A of section 41-2306 for statewide tourism promotion.

4. In addition to monies contributed to the Arizona benefits fund, twelve percent of tribal contributions pursuant to new compacts shall be contributed by Indian tribes to cities, towns and counties as defined in title 11, Arizona Revised Statutes, for government services that benefit
the general public, including public safety, mitigation of impacts of
gaming, and promotion of commerce and economic development.
(a) An Indian tribe may distribute such funds directly to cities,
towns and counties for these purposes. The amount of monies so
distributed by each Indian tribe shall be reported to the department of
gaming in the quarterly report required by the new compact.
(b) Any monies comprising the twelve percent not so distributed by
an Indian tribe shall be deposited in the Arizona commerce authority local
communities fund established by section 41-1505.12 for grants to cities,
towns and counties.
5. The deposit of monies required by subdivision (b) of paragraph 3
of this subsection shall be made on a quarterly basis, or more frequently
if practicable.
I. For the purposes of this section:
1. "Gaming devices" means gaming devices as defined in subdivision
(b)(i) of paragraph 6 of this subsection.
2. "Indian gaming regulatory act" means the Indian gaming
regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United States
Code sections 2701 through 2721 and 18 United States Code sections 1166
through 1168).
3. "Indian lands" means lands as defined in 25 United States Code
section 2703(4)(a) and (b), subject to the provisions of 25 United States
Code section 2719.
4. "Indian tribe" means:
(a) The Cocopah Indian tribe.
(b) The Fort Mojave Indian tribe.
(c) The Quechan tribe.
(d) The Tonto Apache tribe.
(e) The Yavapai-Apache nation.
(f) The Yavapai-Prescott Indian tribe.
(g) The Colorado River Indian tribes.
(h) The San Carlos Apache tribe.
(i) The White Mountain Apache tribe.
(j) The Ak-Chin Indian community.
(k) The Fort Mcdowell Yavapai nation.
(m) The Gila River Indian community.
(n) The Pascua Yaqui tribe.
(o) The Tohono O'odham nation.
(p) The Havasupai tribe.
(q) The Hualapai tribe.
(r) The Kaibab-Paiute tribe.
(s) The Hopi tribe.
(t) The Navajo nation.
(u) The San Juan Southern Paiute tribe.
(v) Any Indian tribe, as defined in 25 United States Code section 2703(5), with Indian lands in this state.

5. "Pre-existing compact" means an Indian tribe's tribal-state gaming compact and amendments thereto as approved by the United States department of the interior, and all appendices thereto, as of the effective date of this section.

6. "New standard form of tribal-state gaming compact" or "new compact" means:
   (a) For an Indian tribe without a pre-existing compact, a tribal-state gaming compact that contains the provisions of the most recent tribal-state gaming compact entered into by the state and an Indian tribe and approved by the United States secretary of the interior, and its appendices, prior to the effective date of this section, modified to include the provisions described in subdivision (b)(i) through (xi) of this paragraph.
   (b) For an Indian tribe with a pre-existing compact, a tribal-state gaming compact that contains the provisions of the Indian tribe's pre-existing compact, modified as follows, with any cross references in a pre-existing compact to be conformed accordingly:
      (i) The following definition shall replace the corresponding definition in section 2 of the pre-existing compact:
         "Gaming device" means a mechanical device, an electro-mechanical device or a device controlled by an electronic microprocessor or another manner, whether that device constitutes class II gaming or class III gaming, that allows a player or players to play games of chance, whether or not the outcome also is affected in some part by skill, and whether the device accepts coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-house accounting system credits or other similar forms of consideration and, through the application of chance, allows a player to become entitled to a prize, which may be collected through the dispensing of coins, tokens, bills, coupons, ticket vouchers, smart cards, electronic in-house accounting system credits or other similar forms of value. Gaming device does not include any of the following:
         (1) Those technological aids for bingo games that function only as electronic substitutes for bingo cards.
         (2) Devices that issue and validate paper lottery products and that are directly operated only by Arizona state lottery licensed retailers and their employees.
         (3) Devices that are operated directly by a lottery player and that dispense paper lottery tickets, if the devices do not identify winning or losing lottery tickets, display lottery winnings or disburse lottery winnings.
(4) Devices that are operated directly by a lottery player and that validate paper lottery tickets for a game that does not have a predetermined number of winning tickets, if:
   (a) The devices do not allow interactive gaming;
   (b) The devices do not allow a lottery player to play the lottery for immediate payment or reward;
   (c) The devices do not disburse lottery winnings; and
   (d) The devices are not video lottery terminals.

(ii) The following definitions shall be added to section 2 of the pre-existing compact:

"(mm) "Additional gaming devices" means the number of additional gaming devices allocated to the tribe in column (2) of the tribe's row in the table.

(nn) "Card game table" means a single table at which the tribe conducts the card game of poker or blackjack.

(oo) "Class II gaming device" means a gaming device which, if operated on Indian lands by an Indian tribe, would be class II gaming.

(pp) "Class III gaming device" means a gaming device which, if operated on Indian lands by an Indian tribe, would be class III gaming.

(qq) "Class III net win" means gross gaming revenue, which is the difference between gaming wins and losses, before deducting costs and expenses.

(rr) "CPI adjustment rate" shall mean the quotient obtained as follows: the CPI index for the sixtieth (60th) calendar month of the applicable five-year period for which the wager limitations are being adjusted shall be divided by the CPI index for the calendar month in which the effective date occurs. The CPI index for the numerator and the denominator shall have the same base year. If the CPI index is no longer published, or if the format of the CPI index has changed so that this calculation is no longer possible, then another substantially comparable index shall be substituted in the formula by agreement of the tribe and the state so that the economic effect of this calculation is preserved. If the parties cannot agree on the substitute index, the substitute index shall be determined by arbitration in accordance with section 15.

(ss) "CPI index" means the "United States city average (all urban consumers) - all items (1982-1984 = 100)" index of the consumer price index published by the bureau of labor statistics, United States department of labor.

(tt) "CPR" means the CPR institute for dispute resolution.

(uu) "Current gaming device allocation" means the number of class III gaming devices allocated to the tribe in column (1) of the tribe's row in the table as adjusted under section 3(c)(4).

(vv) "Effective date" means the day this compact goes into effect after all of the following events have occurred:
(1) It is executed on behalf of the state and the tribe;
(2) It is approved by the secretary of the interior;
(3) Notice of the secretary of the interior's approval is published in the federal register pursuant to the act; and
(4) Each Indian tribe with a gaming facility in Maricopa, Pima or Pinal counties has entered into a new compact as defined in A.R.S. section 5-601.02(I)(6), each of which has been approved by the secretary of the interior, and notice of the secretary of the interior's approval has been published in the federal register pursuant to the act, unless the governor of the state waives the requirements of this section 2(vv)(4).

"Forbearance agreement" means an agreement between the state and an Indian tribe in which the Indian tribe that is transferring some or all of its gaming device operating rights waives its rights to put such gaming device operating rights into play during the term of a transfer agreement.

"Gaming device operating right" means the authorization of an Indian tribe to operate class III gaming devices pursuant to the terms of a new compact as defined in A.R.S. section 5-601.02(I)(6).

"Maximum devices per gaming facility" means the total number of class III gaming devices that the tribe may operate within a single gaming facility.

"Multi-station device" means an electronic class III gaming device that incorporates more than one player station and contains one central processing unit which operates the game software, including a single random number generator that determines the outcome of all games at all player stations for that class III gaming device.

"Player activated lottery terminal" means an on-line computer system that is player activated, but that does not provide the player with interactive gaming, and that uses the terminal for dispensing purposes only, in which:

(1) The terminal algorithm is used for the random generation of numbers;
(2) The tickets dispensed by the terminal do not allow the player the means to play directly against the terminal;
(3) The player uses the dispensed ticket to participate in an off-site random drawing; and
(4) The player's ability to play against the terminal for immediate payment or reward is eliminated.

"Player station" means a terminal of a multi-station device through which the player plays an electronic game of chance simultaneously with other players at other player stations of that multi-station device, and which:

(1) Has no means to individually determine game outcome;
(2) Cannot be disconnected from the gaming device central processing unit that determines the game outcomes for all player stations without rendering that terminal inoperable; and

(3) Does not separately contain a random number generator or other means to individually determine the game outcome.

(ccc) "Population adjustment rate" means the quotient obtained as follows: the state population for the calendar year immediately preceding the calendar year in which the sixtieth (60th) calendar month of the applicable five-year period for which the applicable figure or amount is being adjusted occurs divided by the state population for the calendar year immediately preceding the calendar year in which the effective date occurs. If the state population is no longer published or calculated by the Arizona department of economic security, then another substantially comparable agency of the state shall be substituted by agreement of the tribe and the state so that the effect of this calculation is preserved. If the parties cannot agree on the substitute agency of the state to provide the state population, the substitute agency or person shall be determined by arbitration in accordance with section 15.

(ddd) "Previous gaming facility allocation" means the number of facilities allocated to the tribe in column (3) of the tribe's row in the table.

(eee) "Revised gaming facility allocation" means the number of facilities allocated to the tribe in column (4) of the tribe's row in the table or by section 3(c)(6).

(fff) "Rules" means the CPR rules for non-administered arbitration (2000 rev.).

(ggg) "State population" means the population of the state as determined using the most recent estimates published by the Arizona department of economic security.

(hhh) "Table" means the gaming device allocation table set out at section 3(c)(5).

(iii) "Transfer agreement" means a written agreement authorizing the transfer of gaming device operating rights between the tribe and another Indian tribe.

(jjj) "Transfer notice" means a written notice that the tribe must provide to the state gaming agency of its intent to acquire or transfer gaming device operating rights pursuant to a transfer agreement.

(kkk) "Wager" means:

(1) In the case of a gaming device, the sum of money placed into the gaming device in cash, or cash equivalent, by the player which will allow activation of the next random play of the gaming device.

(2) In the case of poker, the sum of money placed into the pot and onto the card game table by the player in cash, or cash equivalent, which entitles the player to an initial deal of cards, a subsequent deal of a card or cards, or which is required to be placed into the pot and onto the
card game table by the player entitling the player to continue in the
game.

(3) In the case of blackjack, the sum of money in cash, or cash
equivalent, placed onto the card game table by the player entitling the
player to an initial deal of cards and to all subsequent cards requested
by the player."

(iii) Section 3 of the pre-existing compact shall be replaced with
the following:
(a) Authorized class III gaming activities. Subject to the terms
and conditions of this compact, the tribe is authorized to operate the
following gaming activities: (1) class III gaming devices, (2) blackjack,
(3) jackpot poker, (4) keno, (5) lottery, (6) off-track pari-mutuel
wagering, (7) pari-mutuel wagering on horse racing, and (8) pari-mutuel
wagering on dog racing.
(b) Appendices governing gaming.
(1) Technical standards for gaming devices. The tribe may only
operate class III gaming devices, including multi-station devices, which
comply with the technical standards set forth in appendix A to this
compact. The tribal gaming office shall require each licensed and
certified manufacturer and distributor to verify under oath, on forms
provided by the tribal gaming office, that the class III gaming devices
manufactured or distributed by them for use or play at the gaming
facilities meet the requirements of this section 3(b)(1) and appendix A.
The tribal gaming office and the state gaming agency by mutual agreement
may require the testing of any class III gaming device to ensure
compliance with the requirements of this section 3(b)(1) and appendix A.
Any such testing shall be at the expense of the licensed manufacturer or
distributor.
(2) Operational standards for blackjack and jackpot poker. The
tribe shall conduct blackjack and jackpot poker in accordance with an
appendix, which shall consist of the minimum internal control standards of
the commission as set forth in 25 C.F.R. part 542 as published in 64 Fed.
Reg. 590 (Jan. 5, 1999) as may be amended from time to time, without
regard to the commission's authority to promulgate the standards, until an
appendix setting forth the operational standards, specifications,
regulations and any limitations governing such gaming activities is agreed
to by the tribe and the state.
(3) Additional appendices.
(a) Except as provided in sections 3(b)(1) and (2), the tribe may
not conduct any gaming activities authorized in this compact without a
mutually agreed-upon appendix setting forth the operational standards,
specifications, regulations and any limitations governing such gaming
activities. For purposes of this subsection, promotional activity
conducted as a lottery is a gaming activity for which an appendix shall be
required. Any disputes regarding the contents of such appendices shall be resolved in the manner set forth in section 15.

(b) The gaming facility operator shall conduct its gaming activities under an internal control system that implements the minimum internal control standards of the commission as set forth in 25 C.F.R. part 542 as published in 64 Fed. Reg. 590 (Jan. 5, 1999) as may be amended from time to time, without regard to the commission's authority to promulgate the standards.

c) The tribal gaming office and the state gaming agency may agree to amend appendices to this compact in order to continue efficient regulation and address future circumstances. A change in an appendix or the addition of a new appendix shall not be considered an amendment to this compact.

4) Security and surveillance requirements. The tribe shall comply with the security and surveillance requirements set forth in appendix C to this compact.

(a) If the gaming facility operator operates the surveillance system, the manager of the surveillance department may report to management of the gaming facility operator regarding administrative and daily matters, but must report to a person or persons independent of the management of the gaming facility operator (e.g., the gaming facility operator's management board or a committee thereof, the tribe's council or a committee thereof, or the tribe's chairperson, president, or governor) regarding matters of policy, purpose, responsibility, authority, and integrity of casino management.

(b) If the tribal gaming office operates the surveillance system, the manager of its surveillance department must report directly to the executive director of the tribal gaming office.

5) Online electronic game management system. Each gaming facility must have an online electronic game management system that meets the requirements of appendix A.

(a) If the tribe is Ak-Chin Indian community, Ft. McDowell Yavapai nation, Gila River Indian community, Pascua Yaqui tribe, Salt River Pima-Maricopa Indian community, or Tohono O'odham nation, then the gaming facility operator shall provide the state gaming agency with real time read-only electronic access to the online electronic game management system for each gaming facility of the tribe that is located within forty (40) miles of a municipality with a population of more than four hundred thousand (400,000), to provide the state gaming agency a more effective and efficient means of regulating gaming devices and tracking revenues.

1. The state gaming agency's real time read-only electronic access shall be limited to the following data maintained by the online electronic game management system, provided that the data is available in real-time and providing real-time access does not result in the loss of accumulation of data elements: coin in; coin out; drop (bills and coins); individual
bills denomination; vouchers; theoretical hold; variances; jackpots; machine fills; ticket in; ticket out; slot door opening; drop door opening; cash box opening; ticket in opening; ticket out opening; and no-communication. If providing this data in real-time would result in the loss of accumulation of data elements, the gaming facility operator must provide the state gaming agency with access to the data via end-of-day reports containing the required data.

2. The state gaming agency shall phase in the system to provide it with real time read-only access to the online electronic game management system over a three year period. The state gaming agency shall pay the cost of:

A. Constructing and maintaining a dedicated telecommunications connection between the gaming facility operator's server room and the state gaming agency's offices;

B. Obtaining, installing, and maintaining any hardware or software necessary to interface between the gaming facility operator's online electronic game management system and the dedicated telecommunications connection; and

C. Obtaining, installing, and maintaining any hardware or software required in the state gaming agency's offices.

3. The state gaming agency's dedicated telecommunications connection from its offices to each gaming facility must meet accepted industry standards for security sufficient to minimize the possibility of any third-party intercepting any data transmitted from the gaming facility operator's online electronic game management system over the connection. The state gaming agency's system security policy must meet accepted industry standards to assure that data received from the gaming facility operator's online electronic game management system will not be accessible to unauthorized persons or entities.

(b) The state gaming agency (and its officers, employees, and agents) are prohibited from:

1. Using any information obtained from the gaming facility operator's online electronic game management system for any purpose other than to carry out its duties under this compact; and

2. Disclosing any information obtained from the gaming facility operator's online electronic game management system to any person outside the state gaming agency, except as provided in section 7(b) and section 12(c).

(c) Number of gaming device operating rights and number of gaming facilities.

(1) Number of gaming devices. The tribe's gaming device operating rights are equal to the sum of its current gaming device allocation, plus any rights to operate additional gaming devices acquired by the tribe in accordance with and subject to the provisions of section 3(d). The tribe
may operate one class III gaming device for each of the tribe's gaming
device operating rights.

(2) Class II gaming devices. The tribe may operate up to forty
(40) class II gaming devices in a gaming facility without acquiring gaming
device operating rights under section 3(d), but such class II gaming
devices shall be counted against the tribe's number of additional gaming
devices. Each class II gaming device in excess of forty (40) that the
tribe operates within its Indian lands shall be counted against the
tribe's current gaming device allocation.

(3) Number of gaming facilities and maximum devices per gaming
facility. The tribe may operate gaming devices in the number of gaming
facilities in column (3) or (4) of the tribe's row in the table, whichever
is lower, but shall not operate more than its maximum devices per gaming
facility in any one gaming facility. The maximum devices per gaming
facility for the tribe is the sum of the tribe's current gaming device
allocation (including automatic periodic increases under section 3(c)(4)),
plus the tribe's additional gaming devices, except if the tribe is Salt
River Pima-Maricopa Indian community, Gila River Indian community, Pascua
Yaqui tribe, Tohono O'odham nation, or Navajo nation, then the maximum
devices per gaming facility is the same number as the maximum devices per
gaming facility for Ak-Chin Indian community and Ft. McDowell Yavapai
nation. If the tribe is the Tohono O'odham nation, and if the tribe
operates four (4) gaming facilities, then at least one of the four (4)
gaming facilities shall:

(i) Be at least fifty (50) miles from the existing gaming
facilities of the tribe in the Tucson metropolitan area as of the
effective date;

(ii) Have no more than six hundred forty-five (645) gaming devices;
and

(iii) Have no more than seventy-five (75) card game tables.

(4) Periodic increase. During the term of this compact, the
tribe's current gaming device allocation shall be automatically increased
(but not decreased), without the need to amend this compact on each
five-year anniversary of the effective date, to the number equal to the
current gaming device allocation specified in the table multiplied by the
population adjustment rate (with any fractions rounded up to the next
whole number).

(5) Gaming device allocation table.

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<td>Gila River Indian community</td>
<td>1400</td>
<td>1020</td>
<td>4</td>
</tr>
<tr>
<td>15</td>
<td>Pascua Yaqui tribe</td>
<td>900</td>
<td>670</td>
<td>3</td>
</tr>
<tr>
<td>16</td>
<td>Tohono O'odham nation</td>
<td>1400</td>
<td>1020</td>
<td>4</td>
</tr>
<tr>
<td>17</td>
<td>Subtotal</td>
<td>10,475</td>
<td>38</td>
<td>29</td>
</tr>
<tr>
<td>18</td>
<td>Non-gaming tribes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>(as of 5/1/02)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Havasupai tribe</td>
<td>475</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Hualapai tribe</td>
<td>475</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Kaibab Paiute tribe</td>
<td>475</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Hopi tribe</td>
<td>900</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Navajo nation</td>
<td>2400</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>San Juan Southern Paiute</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Tribe</td>
<td>475</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Subtotal</td>
<td>5,200</td>
<td>15</td>
<td>29</td>
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<tr>
<td>28</td>
<td>State total</td>
<td>15,675</td>
<td>53</td>
<td></td>
</tr>
</tbody>
</table>

(6) If the tribe is not listed on the table, the tribe's current device allocation shall be four hundred seventy-five (475) gaming devices and the tribe's revised gaming facility allocation shall be two (2) gaming facilities.

(7) Multi-station devices. No more than two and one-half percent (2.5%) of the gaming devices in a gaming facility (rounded off to the nearest whole number) may be multi-station devices.

(d) Transfer of gaming device operating rights.

(1) Transfer requirements. During the term of this compact, the tribe may enter into a transfer agreement with one or more Indian tribes to acquire gaming device operating rights up to the tribe's number of additional gaming devices or to transfer some or all the tribe's gaming device operating rights up to the tribe's current gaming device allocation, except that if the tribe is Navajo nation, then the tribe may transfer only up to 1400 gaming devices of its current gaming device allocation. The tribe's acquisition or transfer of gaming device operating rights is subject to the following conditions:
(a) Gaming compact. Each Indian tribe that is a party to a transfer agreement must have a valid and effective new compact as defined in A.R.S. section 5-601.02(I)(6) that contains a provision substantially similar to this section 3(d) permitting transfers of the Indian tribe's gaming device operating rights.

(b) Forbearance agreement. If the tribe enters into a transfer agreement to transfer some or all of its gaming device operating rights the tribe shall also execute a forbearance agreement with the state. The forbearance agreement shall include:

1. A waiver of all rights of the tribe to put into play or operate the number of gaming device operating rights transferred during the term of the transfer agreement;
2. An agreement by the tribe to reduce its gaming facility allocation during the term of the transfer agreement as follows:

<table>
<thead>
<tr>
<th>Number of transferred gaming device operating rights</th>
<th>Reductions in gaming facility allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 475</td>
<td>1</td>
</tr>
<tr>
<td>476 - 1020</td>
<td>2</td>
</tr>
<tr>
<td>1021 - 1400</td>
<td>3</td>
</tr>
</tbody>
</table>

(i) If the tribe's number under column (4) of the table is lower than the tribe's number under column (3), then the tribe shall be credited for the reduction, if the tribe enters into a transfer agreement.

(ii) The numbers in the column under number of transferred gaming device operating rights shall be increased on each five-year anniversary of the effective date by multiplying each such number, other than one (1), by the population adjustment rate.

(iii) Reductions in the gaming facility allocation will be based on the cumulative total number of gaming device operating rights transferred by the tribe under all transfer agreements that are in effect.

(iv) If the tribe is the Navajo nation, then the tribe's gaming facility allocation shall be two (2), even if the tribe transfers up to 1400 gaming device operating rights.

(c) Gaming facility not required. The tribe may transfer unused gaming device operating rights whether or not it has a gaming facility allocation.

(d) Current operation. The tribe must operate gaming devices at least equal to its current gaming device allocation before, or simultaneously with, the tribe acquiring the right to operate additional gaming devices by a transfer agreement. The tribe is not required to utilize any gaming device operating rights it acquires, or to utilize them prior to acquiring additional gaming device operating rights.

(e) Transfer of acquired gaming device operating rights prohibited. The tribe shall not at any time simultaneously acquire gaming device...
operating rights and transfer gaming device operating rights pursuant to transfer agreements.

(2) Transfer agreements. Transfers of gaming device operating rights may be made pursuant to a transfer agreement between two Indian tribes. A transfer agreement must include the following provisions:

(a) Number. The number of gaming device operating rights transferred and acquired.

(b) Term. The duration of the transfer agreement.

(c) Consideration. The consideration to be paid by the Indian tribe acquiring the gaming device operating rights to the Indian tribe transferring the gaming device operating rights and the method of payment.

(d) Dispute resolution. The dispute resolution and enforcement procedures, including a provision for the state to receive notice of any such proceeding.

(e) Notice. A procedure to provide quarterly notice to the state gaming agency of payments made and received, and to provide timely notice of disputes, revocation, amendment, and termination.

(3) Transfer notice. At least thirty (30) days prior to the execution of a transfer agreement, the tribe must send to the state gaming agency a transfer notice of its intent to acquire or transfer gaming device operating rights. The transfer notice shall include a copy of the proposed transfer agreement, the proposed forbearance agreement and a copy of the tribal resolution authorizing the acquisition or transfer.

(4) State gaming agency denial of transfer. The state gaming agency may deny a transfer as set forth in a transfer notice only if:

(i) The proposed transfer violates the conditions set forth in section 3(d)(1), or

(ii) The proposed transfer agreement does not contain the minimum requirements listed in section 3(d)(2). The state gaming agency's denial of a proposed transfer must be in writing, must include the specific reason(s) for the denial (including copies of all documentation relied upon by the state gaming agency to the extent allowed by state law), and must be received by the tribe within thirty (30) days of the state gaming agency's receipt of the transfer notice. If the tribe disputes the state gaming agency's denial of a proposed transfer, the tribe shall have the right to have such dispute resolved pursuant to section 15.

(5) Effective date of transfer. If the tribe does not receive a notice of denial of the transfer from the state gaming agency within the time period specified above, the proposed transfer agreement shall become effective on the later of the thirty-first (31st) day following the state gaming agency's receipt of the transfer notice or the date set forth in the transfer agreement.

(6) Use of brokers. The tribe shall not contract with any person to act as a broker in connection with a transfer agreement. No person shall be paid a percentage fee or a commission as a result of a transfer
agreement, nor shall any person receive a share of any financial interest in the transfer agreement or the proceeds generated by the transfer agreement. Any person acting as a broker in connection with a transfer agreement is providing gaming services.

(7) Revenue from transfer agreements. The tribe agrees that:

(i) All proceeds received by the tribe as a transferor under a transfer agreement are net revenues from tribal gaming as defined by the act and that such proceeds shall be used for the purposes permitted under the act; and

(ii) The tribe shall include the proceeds in an annual audit and shall make available to the state that portion of the audit addressing proceeds from transfer agreements.

(8) Agreed upon procedures report. The tribe agrees to provide to the state gaming agency, either separately or with the other party to the transfer agreement, an agreed upon procedures report from an independent certified public accountant. The procedures to be examined and reported upon are whether payments made under the transfer agreement were made in the proper amount, made at the proper time, and deposited in an account of the Indian tribe transferring gaming device operating rights.

(9) State payment. Proceeds received by the tribe as a transferor under a transfer agreement from the transfer of gaming device operating rights are not subject to any payment to the state under this compact or otherwise.

(10) Compact enforcement; effect on transfer agreements. If the tribe acquires gaming device operating rights under a transfer agreement, no dispute between the state and the other party to the transfer agreement shall affect the tribe's rights under the transfer agreement or the tribe's obligations to make the payments required under the transfer agreement. If the tribe transfers gaming device operating rights under a transfer agreement, no dispute between the state and the other party to the transfer agreement shall affect the tribe's rights under the transfer agreement or the obligations of the other party to the transfer agreement to make the payments required under the transfer agreement. These provisions shall not apply to a dispute among the state and both parties to a transfer agreement regarding the validity of a transfer agreement or to a dispute between the parties to a transfer agreement regarding a breach of the transfer agreement.

(11) Access to records regarding transfer agreement. The state gaming agency shall have access to all records of the tribe directly relating to transfer agreements and forbearance agreements under section 7(b).

(12) Transfer and acquisition of pooled gaming devices.

(a) The tribe is authorized to join with other Indian tribes to periodically establish a pool to collect gaming device operating rights from Indian tribes that desire to transfer gaming device operating rights
and transfer them to Indian tribes that desire to acquire gaming device operating rights. If the tribe is operating all of its current gaming device allocation and, after making reasonable efforts to do so, the tribe is not able to acquire additional gaming devices pursuant to an agreement described in section 3(d)(2), the tribe may acquire additional gaming devices up to the number specified in the table for the tribe from a transfer pool under procedures agreed to by Indian tribes participating in the transfer pool and the state.

(b) The tribe and the state are authorized to establish a pooling mechanism, under procedures agreed to by the tribe and the state, by which the rights to operate gaming devices that are not in operation may be acquired by an Indian tribe through an agreement with the state. If the tribe is operating all of its current gaming device allocation and, after making reasonable efforts to do so, the tribe is not able to acquire additional gaming devices pursuant to an agreement described in section 3(d)(2) or from any transfer pool established pursuant to section 3(d)(12)(a) within 90 days after the opening of a transfer pool established pursuant to section 3(d)(12)(a), the tribe may acquire additional gaming devices from the state up to the number specified in the table for the tribe at a price that is at least one hundred percent (100%) of the highest price paid to date for the transfer of at least one hundred (100) gaming device operating rights for a term of at least five (5) years. The monies paid by an Indian tribe to acquire additional gaming devices under an agreement pursuant to this section 3(d)(12)(b) shall benefit Indian tribes that have the right to operate gaming devices that are eligible to be transferred and are not in operation. The state shall provide Indian tribes that are eligible to enter into an agreement with the state pursuant to this section 3(d)(12)(b) the opportunity to participate in the pool pursuant to the procedures agreed to by the tribe and the state.

(c) Prior to agreeing to any procedures with any Indian tribe pursuant to sections 3(d)(12)(a) or (b), the state shall provide notice to the tribe of the proposed procedures.

(e) Number of card game tables.

(1) Number of card game tables; number of players per game. Subject to the terms and conditions of this compact, the tribe is authorized to operate up to seventy-five (75) card game tables within each gaming facility that is located more than forty (40) miles from any municipality with a population of more than four hundred thousand (400,000) persons; and up to one hundred (100) card game tables within each gaming facility that is located within forty (40) miles of a municipality with a population of more than four hundred thousand (400,000) persons. Each blackjack table shall be limited to no more than seven (7) available player positions plus the dealer. Each poker table shall be limited to no more than ten (10) available player positions plus
the dealer. The tribe agrees that it will not operate card games outside
of a gaming facility.

(2) Periodic increases in the number of card game tables. The
number of card game tables that the tribe is authorized to operate in each
gaming facility shall be automatically increased (but not decreased),
without the need to amend this compact on each five-year anniversary of
the effective date, to the number that is equal to the number of card game
tables the tribe is authorized to operate in each gaming facility set
forth in section 3(e)(1) multiplied by the applicable population
adjustment rate (with any fraction rounded up to the next whole number).

(f) Number of keno games. Subject to the terms and conditions of
this compact, the tribe is authorized to operate no more than two (2) keno
games per gaming facility.

(g) Inter-tribal parity provisions.

(1) Gaming devices. Except as provided in section 3(g)(5), if,
during the term of this compact:
   (a) An Indian tribe listed on the table is authorized or permitted
to operate in the state:
      1. More class III gaming devices than the total number of that
         Indian tribe's current gaming device allocation in column (1) of the
         table, plus the number of that Indian tribe's additional gaming devices in
         column (2) of the table; or
      2. More class III gaming devices than that Indian tribe's current
         gaming device allocation in column (1) of the table without acquiring
         gaming device operating rights pursuant to and in accordance with section
         3(d); or
      3. More class III gaming devices within a single gaming facility
         than that Indian tribe's maximum devices per gaming facility (as adjusted
         in accordance with section 3(c)(3)); or
   (b) Any Indian tribe not listed on the table is authorized or
      permitted after the effective date to operate in the state more than four
      hundred seventy-five (475) class III gaming devices, or more than five
      hundred twenty-three (523) additional gaming devices under terms other
      than section 3(d); then
      (c) The following remedies shall be available to the tribe to
         elect, as the tribe may determine in its sole discretion, from time to
time:
         1. The tribe shall automatically be entitled to a greater number of
            gaming device operating rights, without the need to amend this compact and
            without the need to acquire any gaming device operating rights under
            section 3(d). The greater number of gaming device operating rights is the
            product of a ratio (which is the total number of class III gaming devices
            the other Indian tribe is in fact authorized or permitted to operate
            following the occurrence of any of the events specified in subsections (a)
            or (b) of this section 3(g)(1) divided by the total number assigned to the
other Indian tribe under column (1) plus column (2) of the table) multiplied by the total number assigned to the tribe in column (1) plus column (2) of the table. If the tribe is not listed on the table, then the ratio described in the previous sentence is multiplied by the tribe's total number of gaming devices authorized in the compact; and

2. The tribe shall automatically be entitled to immediately reduce its obligations to make contributions to the state under section 12. Instead of the amounts payable under section 12(b), the tribe shall make quarterly contributions to the state equal to seventy-five hundredths of one percent (.75%) of its class III net win for the prior quarter. This remedy will not be available after any Indian tribe with a new compact as defined in A.R.S. section 5-601.02(I)(6) enters its final renewal period as described in section 23(b)(3).

(2) Contribution terms. If, during the term of this compact any other Indian tribe is authorized or permitted to operate gaming devices in the state and the terms of the other Indian tribe's obligation to make contributions to the state are more favorable to the other Indian tribe than the obligation of the tribe to make contributions to the state under the terms of section 12, then the tribe may elect to have section 12 automatically amended to conform to those more favorable terms.

(3) Additional class III gaming. Except as provided in section 3(g)(5), if during the term of this compact, any Indian tribe is authorized to operate:

(a) A form of class III gaming in the state that is not listed in section 3(a), then the tribe shall be entitled to operate the additional form of gaming that the other Indian tribe is authorized to operate, without the need to amend this compact.

(b) Blackjack on more card game tables per gaming facility than authorized under this compact, then the tribe shall be entitled to operate blackjack on the additional number of card game tables that the other Indian tribe is authorized to operate, without the need to amend this compact.

(4) Wager limits. Except as provided in section 3(g)(5), if, during the term of this compact, any Indian tribe is authorized or permitted to operate in the state any class III gaming devices or card game tables with higher wager limits than the wager limits specified in section 3, then the tribe is also authorized to operate its gaming devices and/or card game tables with the same higher wager limits, without the need to amend this compact.

(5) Exceptions. The provisions of section 3(g) shall not be triggered:

(a) By the automatic periodic increases in:

(i) The current gaming device allocation provided in section 3(c)(4), or the resulting increase in the maximum device per gaming facility;
(ii) The number of authorized card game tables provided in section 3(e)(2); or
(iii) The authorized wager limits for gaming devices or card game tables provided in section 3(m)(4);
(b) If the state enters into a compact with an Indian tribe listed as a non-gaming tribe on the table that provides a number of additional gaming devices that is no greater than the largest number of additional gaming devices shown on the table for another Indian tribe with the same current gaming device allocation as shown on the table for such non-gaming tribe; and
(c) By the provisions of a pre-existing compact as defined in A.R.S. section 5-601.02(I)(5).

(h) Additional gaming due to changes in state law with respect to persons other than Indian tribes.
(1) If, on or after May 1, 2002, state law changes or is interpreted in a final judgment of a court of competent jurisdiction or in a final order of a state administrative agency to permit either a person or entity other than an Indian tribe to operate gaming devices, any form of class III gaming (including video lottery terminals) that is not authorized under this compact, other than gambling that is lawful on May 1, 2002 pursuant to A.R.S. section 13-3302, or poker, other than poker that is lawful on May 1, 2002 pursuant to A.R.S. section 13-3302, then, upon the effective date of such state law, final judgment, or final order:
(a) The tribe shall be authorized under this compact to operate class III gaming devices without limitations on the number of gaming devices, the number of gaming facilities, or the maximum gaming devices per gaming facility, and without the need to amend this compact;
(b) The tribe shall be authorized under this compact to operate table games, without limitations on the number of card game tables, on wagers, or on the types of games, and without the need to amend this compact, subject to the provisions of 3(b)(3); and
(c) In addition to sections 3(h)(1)(a) and (b), the tribe's obligation under section 12 to make contributions to the state shall be immediately reduced. Instead of the amounts payable under section 12(b), the tribe shall make quarterly contributions to the state equal to seventy-five hundredths of one percent (.75%) of its class III net win for the prior quarter.
(2) The provisions of this section 3(h) shall not apply to casino nights operated by non-profit or charitable organizations pursuant to and qualified under A.R.S. section 13-3302(b), to social gambling as defined in A.R.S. section 13-3301(7), to any paper product lottery games, including ticket dispensing devices of the nature used prior to May 1, 2002, by the Arizona lottery, or to low-wager, non-banked recreational pools or similar activities operated by and on the premises of retailers.
licensed under title 4, Arizona Revised Statutes, as may be authorized by state law.

(i) Notice. Prior to the tribe obtaining rights under sections SECTION 3(g) or (h), either the tribe or the state must first give written notice to the other describing the facts which the tribe or the state contend either do or may satisfy the elements of sections SECTION 3(g) or (h). The receiving party shall serve a written response on the other party within thirty (30) days of receipt of the notice. If the parties do not agree on whether sections SECTION 3(g) or (h) have been triggered, the dispute may be submitted to dispute resolution under section 15 by either the tribe or the state.

(j) Location of gaming facility.

(1) All gaming facilities shall be located on the Indian lands of the tribe. All gaming facilities of the tribe shall be located not less than one and one-half (1 1/2) miles apart unless the configuration of the Indian lands of an Indian tribe makes this requirement impracticable. The tribe shall notify the state gaming agency of the physical location of any gaming facility a minimum of thirty (30) days prior to commencing gaming activities at such location. Gaming activity on lands acquired after the enactment of the act on October 17, 1988 shall be authorized only in accordance with 25 U.S.C. § 2719.

(2) Notice to surrounding communities. The tribe shall notify surrounding communities regarding new or substantial modifications to gaming facilities and shall develop procedures for consultation with surrounding communities regarding new or substantial modifications to gaming facilities.

(k) Financial services in gaming facilities. The tribe shall enact a tribal ordinance establishing responsible restrictions on the provision of financial services at gaming facilities. At a minimum, the ordinance shall prohibit:

(1) Locating an automatic teller machine (“ATM”) adjacent to, or in close proximity to, any gaming device;

(2) Locating in a gaming facility an ATM that accepts electronic benefit transfer cards issued pursuant to a state or federal program that is intended to provide for needy families or individuals;

(3) Accepting checks or other non-cash items issued pursuant to a state or federal program that is intended to provide for needy families or individuals; and

(4) The gaming facility operator from extending credit to any patron of a gaming facility for gaming activities.

(l) Forms of payment for wagers. All payment for wagers made for gaming activities conducted by the tribe on its Indian lands, including the purchase of tokens for use in wagering, shall be made by cash, cash equivalent, credit card or personal check. Automatic teller machines (ATMs) may be installed at a gaming facility.
(m) Wager limitations.

(1) For gaming devices. The maximum wager authorized for any single play of a gaming device is twenty five dollars ($25.00).

(2) For blackjack. The maximum wager authorized for any single initial wager on a hand of blackjack by each individual player shall be (a) five hundred dollars ($500.00) at up to ten (10) card game tables per gaming facility, and (b) two hundred and fifty dollars ($250.00) for all other card game tables in a gaming facility. The foregoing maximum wager limits shall apply to each subsequent wager that an individual player shall be entitled to make on the same hand as the result of "splits" and/or "doubling down" during the play of such hand.

(3) For poker. The wager limits for a hand of poker shall be (a) $75.00/$150.00 at up to ten (10) card game tables per gaming facility, and (b) $20.00/$40.00 for all other card game tables in a gaming facility.

(4) Periodic increases in wager limitations. During the term of this compact, the wager limitations set forth in this section (m) shall each be automatically increased (but not decreased) without the need to amend this compact on each five-year anniversary of the effective date to an amount equal to the wager limitations specified in sections (m)(1), (2) and (3) multiplied by the CPI adjustment rate (with all amounts rounded up to the next whole dollar). The tribe will notify the state gaming agency of such wager limitation adjustments as soon as reasonably possible after the CPI adjustment rate has been determined.

(n) Hours of operation. The tribe may establish by ordinance or regulation the permissible hours and days of operation of gaming activities; provided, however, that with respect to the sale of liquor the tribe shall comply with all applicable state liquor laws at all gaming facilities.

(o) Ownership of gaming facilities and gaming activities. The tribe shall have the sole proprietary interest in the gaming facilities and gaming activities. This provision shall not be construed to prevent the tribe from granting security interests or other financial accommodations to secured parties, lenders, or others, or to prevent the tribe from entering into leases or financing arrangements.

(p) Prohibited activities. Any class III gaming not specifically authorized in this section 3 is prohibited. Except as provided herein, nothing in this compact is intended to prohibit otherwise lawful and authorized class II gaming upon the tribe's Indian lands or within the gaming facilities.

(q) Operation as part of a network. Gaming devices authorized pursuant to this compact may be operated to offer an aggregate prize or prizes as part of a network, including a network:

(1) With the gaming devices of other Indian tribes located within the state that have entered into tribal-state gaming compacts with the state, or
(2) Beyond the state pursuant to a mutually-agreed appendix containing technical standards for wide area networks.

(r) Prohibition on firearms. The possession of firearms by any person within a gaming facility shall be strictly prohibited. This prohibition shall not apply to certified law enforcement officers authorized to be on the premises as well as any private security service retained to provide security at a gaming facility, or armored car services.

(s) Financing. Any third-party financing extended or guaranteed for the gaming operation and gaming facilities shall be disclosed to the state gaming agency, and any person extending such financing shall be required to be licensed by the tribe and annually certified by the state gaming agency, unless said person is an agency of the United States or a lending institution licensed and regulated by the state or the United States.

(t) Record-keeping. The gaming facility operator or the tribal gaming office, whichever conducts surveillance, shall maintain the following logs as written or computerized records which shall be available for inspection by the state gaming agency in accordance with section 7(b): a surveillance log recording all material surveillance activities in the monitoring room of the gaming facilities; and a security log recording all unusual occurrences investigated by the tribal gaming office. The gaming facility operator or the tribal gaming office, whichever conducts surveillance, shall retain video recordings made in accordance with appendix C for at least seven (7) days from the date of original recording.

(u) Barred persons. The tribal gaming office shall establish a list of persons barred from the gaming facilities because their criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the gaming activities of the tribe. The tribal gaming office shall employ its best efforts to exclude persons on such list from entry into its gaming facilities. To the extent not previously provided, the tribal gaming office shall send a copy of its list on a monthly basis to the state gaming agency, along with detailed information regarding why the person has been barred and, to the extent available, the barred person's photograph, driver's license information, and/or fingerprints, to the extent these items are in the possession of the tribal gaming office. The state gaming agency will establish a list which will contain the names, and to the extent available, photographs of, and other relevant information regarding, persons whose reputations, conduct, or criminal history is such that their presence within a gaming facility may pose a threat to the public health, safety, or welfare. Such persons will be barred from all tribal gaming facilities within the state. The tribe agrees that the state gaming
agency may disseminate this list, which shall contain detailed information about why each person is barred, to all other tribal gaming offices.

(v) Problem gambling.

(1) Signage. At all public entrances and exits of each gaming facility, the gaming facility operator shall post signs stating that help is available if a person has a problem with gambling and, at a minimum, provide the statewide toll free crisis hotline telephone number established by the Arizona state lottery commission.

(2) Self-exclusion. The state gaming agency and the tribe shall comply with the following provisions:

(a) The state gaming agency shall establish a list of persons who, by acknowledging in a manner to be established by the state gaming agency that they are problem gamblers, voluntarily seek to exclude themselves from gaming facilities. The state gaming agency shall establish procedures for the placement on and removal from the list of self-excluded persons. No person other than the person seeking voluntary self-exclusion shall be allowed to include any person's name on the self-exclusion list of the state gaming agency.

(b) The tribe shall establish procedures for advising persons who inquire about self-exclusion about the state gaming agency's procedures.

(c) The state gaming agency shall compile identifying information concerning self-excluded persons. Such information shall contain, at a minimum, the full name and any aliases of the person, a photograph of the person, the social security or driver's license number of the person, and the mailing address of the person.

(d) The state gaming agency shall, on a monthly basis, provide the compiled information to the tribal gaming office. The tribe shall treat the information received from the state gaming agency under this section as confidential and such information shall not be disclosed except to other tribal gaming offices for inclusion on their lists, or to appropriate law enforcement agencies if needed in the conduct of an official investigation or unless ordered by a court of competent jurisdiction.

(e) The tribal gaming office shall add the self-excluded persons from the list provided by the state gaming agency to their own list of self-excluded persons.

(f) The tribal gaming office shall require the gaming facility operator to remove all self-excluded persons from all mailing lists and to revoke any slot or player's cards. The tribal gaming office shall require the gaming facility operator to take reasonable steps to ensure that cage personnel check a person's identification against the state gaming agency's list of self-excluded persons before allowing the person to cash a check or complete a credit card cash advance transaction.

(g) The tribal gaming office shall require the gaming facility operator to take reasonable steps to identify self-excluded persons who
may be in a gaming facility and, once identified, promptly escort the
self-excluded person from the gaming facility.

(h) The tribal gaming office shall prohibit the gaming facility
operator from paying any hand-paid jackpot to a person who is on the
tribal or state gaming agency self-exclusion list. Any jackpot won by a
person on the self-exclusion list shall be donated by the gaming facility
operator to an Arizona-based non-profit charitable organization.

(i) Neither the tribe, the gaming facility operator, the tribal
gaming office, nor any employee thereof shall be liable to any
self-excluded person or to any other party in any proceeding and neither
the tribe, the gaming facility operator, nor the tribal gaming office
shall be deemed to have waived its sovereign immunity with respect to any
person for any harm, monetary or otherwise, which may arise as a result
of:

1. The failure of the gaming facility operator or the tribal gaming
office to withhold or restore gaming privileges from or to a self-excluded
person; or

2. Otherwise permitting a self-excluded person to engage in gaming
activity in a gaming facility while on the list of self-excluded persons.

(j) Neither the tribe, the gaming facility operator, the tribal
gaming office, nor any employee thereof shall be liable to any
self-excluded person or to any other party in any proceeding, and neither
the tribe, the gaming facility operator, nor the tribal gaming office
shall be deemed to have waived its sovereign immunity with respect to any
person for any harm, monetary or otherwise, which may arise as a result of
disclosure or publication in any manner, other than a willfully unlawful
disclosure or publication, of the identity of any self-excluded person or
persons.

(k) Notwithstanding any other provision of this compact, the state
gaming agency's list of self-excluded persons shall not be open to public
inspection.

(w) Restriction on minors.

(1) Until May 31, 2003, no person under 18 years of age shall be
permitted to place any wager, directly or indirectly, in any gaming
activity.

(2) Prior to May 31, 2003, the tribe shall enact, as tribal law, a
requirement that beginning June 1, 2003, no person under 21 years of age
shall be permitted to place any wager, directly or indirectly, in any
gaming activity.

(3) If, during the term of the compact, the state amends its law to
permit wagering by persons under 21 years of age in any gaming activity by
a person or entity other than an Indian tribe, the tribe may amend tribal
law to reduce the lawful gaming age under this compact to correspond to
the lawful gaming age under state law.
(4) No person under 18 years of age shall be employed as a gaming employee. No person under 21 years of age shall be employed in the service of alcoholic beverages at any gaming facility, unless such employment would be otherwise permitted under state law.

(x) Advertising.

(1) Right to advertise. The state and the tribe recognize the tribe's constitutional right to engage in advertising of lawful gaming activities and nothing in this compact shall be deemed to abrogate or diminish that right.

(2) Prohibition on advertising directed to minors. The gaming facility operator shall not advertise or market gaming activities in a manner that specifically appeals to minors.

(3) Advertising guidelines. Within thirty days after the effective date, the gaming facility operator shall adopt guidelines for the advertising and marketing of gaming activities that are no less stringent than those contained in the American gaming association's general advertising guidelines.

(4) Content of advertising. In recognition of the tribe's constitutional right to advertise gaming activities, the specific content of advertising and marketing materials shall not be subject to the provisions of section 15 of this compact.

(y) Internet gaming. The tribe shall not be permitted to conduct gaming on the internet unless persons other than Indian tribes within the state or the state are authorized by state law to conduct gaming on the internet.

(z) Lottery products. The tribe will not offer paper lottery products in competition with the Arizona lottery's pick or powerball games.

(aa) Annual statement. The tribe shall submit to the state gaming agency either an annual statement of compliance with the act regarding the use of net gaming revenues or a copy of its current gaming ordinance requiring that net gaming revenues be used according to the act."

(iv) The following provisions shall replace the corresponding provisions in section 4 of the pre-existing compact:

"(b) Gaming employees. Every gaming employee shall be licensed by the tribal gaming office and every employee of the tribal gaming office shall be licensed by the tribe. Any gaming employee or tribal gaming office employee that is not an enrolled tribal member shall also be certified by the state gaming agency prior to commencement of employment, and annually thereafter, subject to the temporary certification provided in section 5(n). Enrolled tribal members are not required to be certified by the state as a condition of employment. Gaming employees that hold the following positions are also not required to be certified by the state, so long as they do not have unescorted access to secure areas such as gaming device storage and repair areas, count rooms, vaults, cages, change
booths, change banks/cabinets, security offices and surveillance rooms, revenue accounting offices, and rooms containing information systems that monitor or control gaming activities (or, as may be agreed to by the state gaming agency and the tribal gaming office in a separate agreement delineating the secure areas in the tribe's gaming facilities):

(1) Food and beverage service personnel such as chefs, cooks, waiters, waitresses, bus persons, dishwashers, food and beverage cashiers, and hosts;
(2) Gift shop managers, assistant managers, cashiers, and clerks;
(3) Greeters;
(4) Landscapers, gardeners, and groundskeepers;
(5) Maintenance, cleaning, and janitorial personnel;
(6) Stewards and valets;
(7) Wardrobe personnel;
(8) Warehouse personnel; and
(9) Hotel personnel.

(d) Manufacturers and suppliers of gaming devices and gaming services. Each manufacturer and distributor of gaming devices, and each person providing gaming services, within or without the gaming facility, shall be licensed by the tribal gaming office and shall be certified by the state gaming agency prior to the sale or lease of any gaming devices or gaming services. The tribe shall provide to the state gaming agency a list of the names and addresses of all vendors providing gaming services on a periodic basis at the time of the meetings required pursuant to section 6(h) of this compact. Utilities which are the sole available source of any particular service to a gaming facility are not required to be certified. A vendor licensed and regulated by another governmental agency may submit a supplement to the application on file with the other agency. The state gaming agency may waive the requirement that a vendor be certified if it determines that certifying the vendor is not necessary to protect the public interest.

(v) The following provision shall replace the corresponding provisions in section 5 of the pre-existing compact:

"(p) State administrative process; certifications. Any applicant for state certification agrees by making such application to be subject to state jurisdiction to the extent necessary to determine the applicant's qualification to hold such certification, including all necessary administrative procedures, hearings and appeals pursuant to the administrative procedures act, title 41, chapter 6, Arizona Revised Statutes and the administrative rules of the state gaming agency.

(q) Administrative process; licenses.

(1) Any person applying for licensure by the tribal gaming office acknowledges that by making such application, the state gaming agency, as set forth herein, may be heard concerning the applicant's qualifications to hold such license. If the state recommends revocation, suspension, or
denial of a license, and the tribal gaming office revokes, suspends, or
denies the license based on the state gaming agency's recommendation, the
person may appeal that action to the tribe, to the extent any such right
exists.

(2) If the tribal gaming office takes any action with respect to a
license despite a state recommendation to the contrary, the tribal gaming
office shall afford the state an opportunity for a hearing before an
appropriate tribal forum to contest the tribal gaming office licensing
decision. The decision of the tribal forum shall be final, except as
provided in section 5(q)(4).

(3) The tribal gaming office shall afford the state gaming agency
the opportunity to be heard in an appropriate tribal forum on its
recommendation to suspend or revoke the license of any person in the same
manner as if the state gaming agency had recommended denial of the license
in the first instance.

(4) Independent tribunal review of tribal forum.

(a) Tribunal appointment and process. If the tribal forum upholds
a decision not to follow a gaming employee license recommendation, the
state gaming agency may appeal to an independent three member tribunal by
providing written notice to the tribal gaming office within ten (10) days
after receiving the tribal forum's decision. Within twenty (20) days
thereafter, the CPR or a similar dispute resolution service acceptable to
the parties (the "dispute resolution service"), shall select the tribunal
members, except that upon agreement by the parties, in lieu of selection
by the dispute resolution service, each party may select a tribunal
member, and the two members shall select a third member. If, within five
(5) days after their appointment, the tribunal members appointed by the
parties have not agreed upon a third tribunal member, the dispute
resolution service shall select the third member. All tribunal members,
whether appointed by the dispute resolution service or the parties, shall
be (a) impartial, (b) licensed by and in good standing with a state bar
association, and (c) independent from the state, the state gaming agency,
the tribe, and the tribal gaming office. The tribunal shall hold a hearing
and issue its decision within ninety (90) days after the state gaming
agency delivers its written notice of appeal to the tribal gaming office.

(b) Tribunal authority. The tribunal's sole authority shall be to
review the decision of the tribal forum and determine whether the decision
is supported by substantial evidence based on the record as a whole. The
tribunal's hearing shall be conducted in a fair and impartial manner. The
hearing shall be held on the administrative record presented to the tribal
forum. The tribunal's decision shall be final and not subject to further
appeal or to section 15 dispute resolution procedures. If the tribunal
determines the employee should not be licensed, the tribal gaming office
shall promptly revoke the disputed license. The cost of the tribunal and
the hearing shall be borne equally between the state and the tribe."
(vi) The following provision shall be added to section 7 of the pre-existing compact:

"(g) Compact compliance review. The state gaming agency is authorized to conduct an annual, comprehensive compact compliance review of the gaming operation, gaming facilities, and the gaming activities of the gaming facility operator to monitor compliance with this compact, any amendments or appendices to this compact, and other agreements relating to this compact."

(vii) Section 12 of the pre-existing compact shall be replaced with the following:

Section 12. Payment of regulatory costs; tribal contributions

(a) Payment of regulatory costs. The tribe agrees to pay the state the necessary costs incurred by the state as a result of the state's performance of its rights or duties under the terms of this compact. The tribe's contributions under this section 12 shall satisfy the agreement to pay those costs.

(b) Tribal contributions. In consideration for the substantial exclusivity covenants by the state in section 3(h), the tribe shall contribute for the benefit of the public a percentage of the tribe's class III net win for each fiscal year of the gaming facility operator as follows:

(1) One percent (1%) of the first twenty-five million dollars ($25,000,000.00);

(2) Three percent (3%) of the next fifty million dollars ($50,000,000.00);

(3) Six percent (6%) of the next twenty-five million dollars ($25,000,000.00); and

(4) Eight percent (8%) of class III net win in excess of one hundred million dollars ($100,000,000.00).

(c) Arizona benefits fund. The tribe shall make eighty-eight percent (88%) of its total annual contribution under section 12(b) to the Arizona benefits fund established by A.R.S. 5-601.02(H). The state agrees that the Arizona benefits fund shall be used for the purpose of administering the contributions made by the tribe to the state in accordance with the provisions of section 12(b). All contributions to the state from the tribe pursuant to this section 12(c), and all contributions to the state from other Indian tribes that have entered into tribal-state gaming compacts with the state that contain similar provisions, shall be deposited in the Arizona benefits fund administered by the state gaming agency. The state agrees to invest all monies in the Arizona benefits fund in accordance with A.R.S. section 35-313; monies earned from such investment may only be credited to the Arizona benefits fund. The state agrees that contributions paid to the state by the tribe under this section 12(c) shall only be distributed as provided in A.R.S. section 5-601.02, as adopted by the people of the state at the November 5, 2002
election, and the state shall not impose any tax, fee, charge, or other
assessment upon the tribe's gaming operations.

(d) Distributions by tribe to cities, towns and counties. The
tribe shall make twelve percent (12%) of its total annual contribution
under section 12(b) in either or both of the following forms:
(1) Distributions to cities, towns or counties for government
services that benefit the general public, including public safety,
mitigation of impacts of gaming, or promotion of commerce and economic
development;
(2) Deposits to the Arizona commerce authority local communities
fund established by A.R.S. section 41-1505.12.

(e) Contribution schedule.
(1) Tribal contributions pursuant to section 12(b) shall be paid
quarterly to the state gaming agency, other than the amounts distributed
or deposited to benefit cities, towns and counties under section 12(d).
The contributions shall be calculated based on the tribe's class III net
win for each quarter of the gaming facility operator's fiscal year.
Contributions shall be made no later than twenty-five (25) days after the
last day of each fiscal quarter.
(2) At the time each quarterly contribution is made, the tribe
shall submit to the state gaming agency a report indicating the class III
net win by gaming activity for the quarter, and the amounts paid under
sections 12(c) and (d).
(3) The tribe's first quarterly contribution will be calculated
based on the tribe's class III net win for the first full fiscal quarter
after the effective date.
(4) Following the state gaming agency's receipt of the annual audit
pursuant to section 11(c), any overpayment of monies by the tribe pursuant
to this section shall be credited to the tribe's next quarterly
contribution. Any underpayment of monies shall be paid by the tribe within
thirty (30) days of the state gaming agency's receipt of the annual audit.

(f) Reduction of tribal contributions. In the event that tribal
contributions are reduced pursuant to sections SECTION 3(g) or (h), the
tribe shall make the reduced contributions under the terms of this section
12, and these monies shall be used in the manner set forth in A.R.S.
section 5-601.02(H)(3)(a) as adopted by the people of the state at the
November 5, 2002 election."

(viii) The following provisions shall replace the corresponding
provisions, or be added to the provisions, as the case may be, in section
13 of the pre-existing compact:
"(b) Emergency service accessibility. The tribe shall require the
gaming facility operator to make provisions for adequate emergency
accessibility and service. Mutual aid and emergency response service
agreements will be entered as needed with entities from the surrounding
communities.
(e) Law enforcement. The tribe shall implement a written law enforcement services plan that provides a comprehensive and effective means to address criminal and undesirable activity at the gaming facilities. This plan shall provide that sufficient law enforcement resources are available twenty-four hours a day seven days per week to protect the public health, safety, and welfare at the gaming facilities. The tribe and the state shall investigate violations of state gambling statutes and other criminal activities at the gaming facilities. To accommodate investigations and intelligence sharing, the tribe will provide that a police officer holding current Arizona police officer standards and training (POST) certification is employed by the gaming facility operator, tribal gaming office, or tribal police department, and assigned to handle gaming-related matters when they arise. Intelligence liaisons will be established at the tribal police department or tribal gaming office and also at the state gaming agency. There will be federal, tribal, and state cooperation in task force investigations. The state gaming agency's intelligence unit will gather, coordinate, centralize, and disseminate accurate and current intelligence information pertaining to criminal and undesirable activity that may threaten patrons, employees, or assets of the gaming industry. The state and the tribe will coordinate the use of resources, authority, and personnel of the state and the tribe for the shared goal of preventing and prosecuting criminal or undesirable activity by players, employees, or businesses in connection with tribal gaming facilities. Violations of state criminal gambling statutes on tribal lands may be prosecuted as federal crimes in federal court."

(ix) Section 15 of the pre-existing compact shall be replaced with the following:

"Section 15. Dispute resolution

(a) Notice/negotiation. If either the tribe or the state believes the other has failed to comply with the requirements set forth in this compact, or if a dispute arises as to the proper interpretation of those requirements, then either party may serve a written notice on the other identifying the specific provision or provisions of the compact in dispute and specifying in detail the factual bases for any alleged non-compliance and/or the interpretation of the provision of the compact proposed by the party providing notice. Within ten (10) days following delivery of the written notice of dispute, the executive director of the tribal gaming office and the director of the state gaming agency shall meet in an effort to voluntarily resolve the compliance or interpretation dispute through negotiation. If those negotiations fail to resolve the dispute, the executive director of the tribal gaming office, the director of the state gaming agency, and representatives designated by the governor of Arizona and the chairman of the tribe shall meet in a further effort to voluntarily resolve the dispute through further negotiation."
(b) Mediation. If the tribe and the state are unable to resolve by negotiation any dispute regarding compliance with the requirements of the compact, or the proper interpretation of those requirements, within thirty (30) days after delivery of the written notice of dispute, the tribe and the state shall, upon the request of either party, endeavor to settle the dispute in an amicable manner by non-binding mediation administered by the CPR under its mediation procedures dated April 1, 1998 (unless otherwise agreed to by the parties), and the procedures set forth below. Although the parties shall be required to participate in the mediation process if requested, a request for mediation shall not preclude either party from pursuing any other available remedy.

(1) Selection of mediator. If the parties agree upon a mediator, that person shall serve as the mediator. If the parties are unable to agree on a mediator within ten (10) days of a request for mediation, then the CPR (i) shall select an attorney from the CPR panel of distinguished neutrals to be the mediator or (ii) if requested by the parties, shall select the mediator from a list of potential mediators approved by the parties.

(2) Conduct of mediation. The mediator shall control the procedural aspects of the mediation and shall be guided by the mediation procedures promulgated by the CPR.

(3) Costs of mediation. The costs of mediation shall be borne equally by the parties, with one-half (1/2) of the expenses charged to the tribe and one-half (1/2) of the expenses charged to the state.

(c) Arbitration. If the tribe and the state fail to resolve such a dispute regarding compliance with the requirements of the compact or the proper interpretation of those requirements through negotiation or mediation under sections 15(a) or (b) within thirty (30) days after delivery of the written notice of dispute, upon a demand by either party, the dispute shall be settled through binding arbitration at a neutral location and, unless otherwise agreed to by the parties, the arbitration shall be conducted in accordance with the rules, as modified by the following:

(1) Demand for arbitration. No earlier than thirty (30) days after the delivery of the notice required under section 15(a), either party may serve on the other a written demand for arbitration of the dispute, in accordance with CPR rule 3. The demand shall contain a statement setting forth the nature of the dispute and the remedy sought. The other party shall file a notice of defense and any counterclaim within twenty (20) days, in accordance with CPR rule 3. Failure to provide a notice of defense shall not delay the arbitration. In the absence of a notice of defense, all claims set forth in the demand shall be deemed denied.

(2) Arbitrators. Unless the parties agree in writing to the appointment of a single arbitrator, the arbitration shall be conducted before a panel of three (3) arbitrators. In the absence of an agreement
to a single arbitrator, within twenty (20) days of the defending party's receipt of the demand, each party shall select an arbitrator. As soon as possible thereafter, but in no event more than forty (40) days following delivery of the demand, the party-appointed arbitrators shall discuss and select a third (3rd) arbitrator from the panel of distinguished neutrals, who shall chair the tribunal. Alternatively, if the parties have agreed upon a list of arbitrators acceptable to both parties, the CPR shall select the third (3rd) arbitrator from that list. Unless the parties agree otherwise, at least one (1) of the arbitrators on the tribunal shall be an attorney or retired judge knowledgeable about the act, federal Indian law, and jurisdiction within Indian country. If the parties do not appoint an arbitrator with those qualifications, the party-appointed arbitrators or the CPR shall do so. Once the tribunal is impaneled, there shall be no ex parte contact with the arbitrators, except for contacts with the office of the tribunal chair regarding scheduling or other purely administrative matters that do not deal with substantive matters or the merits of the issues.

(3) Selection of arbitrator(s) by the CPR. If a party fails to appoint an arbitrator, or if the party-appointed arbitrators have failed to appoint a third (3rd) arbitrator within the time period provided in section 15(c)(2), either party may request appointment of the arbitrator by the CPR. The request shall be made in writing and served on the other party. CPR shall fill any vacancies on the tribunal within ten (10) days of a request in accordance with CPR rule 6.

(4) Neutrality of the arbitrators. All arbitrators shall be independent and impartial. Upon selection, each arbitrator shall promptly disclose in writing to the tribunal and the parties any circumstances that might cause doubt regarding the arbitrator's independence or impartiality. Such circumstances may include, but shall not be limited to, bias, interest in the result of the arbitration, and past or present relations with a party or its counsel. Following such disclosure, any arbitrator may be challenged in accordance with CPR rule 7.

(5) Cost of arbitration. The costs of arbitration shall be borne equally by the parties, with one-half (1/2) of the expenses charged to the tribe and one-half (1/2) of the expenses charged to the state.

(6) Preliminary conference/hearing. The tribunal shall hold an initial pre-hearing conference no later than thirty (30) days following the selection of the members of the tribunal and shall permit discovery and make other applicable decisions in accordance with CPR rules 9 through 12. Unless the parties agree otherwise, or unless the tribunal determines that compelling circumstances exist which demand otherwise, the arbitration shall be completed within one hundred and eighty (180) days of the initial pre-hearing conference.

(7) Discovery.
(a) Documents. Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party, promptly provide the other with copies of documents relevant to the issues raised by any claim or counterclaim or on which the producing party may rely in support of or in opposition to any claim or defense. Except as permitted by the tribunal, all written discovery shall be completed within ninety (90) days following the initial pre-hearing conference. Any dispute regarding discovery, or the relevance or scope thereof, shall be determined by the tribunal, whose determination shall be conclusive.

(b) Depositions. Consistent with the expedited nature of arbitration and unless the parties agree otherwise, a party, upon providing written notice to the other party, shall have the right to take the depositions of up to five (5) witnesses, each of which shall last no longer than one (1) day. Unless the parties agree otherwise, additional depositions shall be scheduled only with the permission of the tribunal and for good cause shown. A party’s need to take the deposition of a witness who is not expected to be available for an arbitration hearing shall be deemed to be good cause. Except as permitted by the tribunal, all depositions shall be concluded within one hundred and twenty (120) days following the initial pre-hearing conference. All objections that might be raised to deposition testimony shall be reserved for the arbitration hearing, except for objections based on privilege, proprietary or confidential information, and objections to form or foundation that could be cured if raised at the deposition.

(8) Injunctive relief in aid of arbitration. The tribe or the state may seek in a court of competent jurisdiction (a) provisional or ancillary remedies, including preliminary injunctive relief, pending the outcome of an arbitration proceeding, or (b) permanent injunctive relief to enforce an arbitration award.

(9) Arbitration hearing.

(a) Notice/transcript. Unless the parties agree otherwise, the tribunal shall provide the parties with at least sixty (60) days notice of the date of the arbitration hearing. Unless the parties agree otherwise, there shall be a stenographic record made of the hearing, with the cost to be shared by the tribe and the state. The transcript shall be the official record of the proceeding.

(b) Last, best offer format. The arbitrators shall conduct each arbitration proceeding using the "last, best offer" format, unless any party to an arbitration proceeding opts out of the "last, best offer" arbitration format in the manner set forth in section 15(c)(9)(c).

1. No later than forty (40) days before the arbitration hearing (or forty (40) days before the date the dispute is to be submitted to the tribunal for decision if oral hearings have been waived), each party shall submit to the other party or parties to the arbitration a preliminary
last, best offer for those issues that will be decided using the last, best offer format.

2. No later than twenty (20) days before the arbitration hearing (or twenty (20) days before the date the dispute is to be submitted to the tribunal for decision if oral hearings have been waived), each party shall submit to the tribunal and the other party or parties to the arbitration its pre-hearing last, best offer for those issues that will be decided using the last, best offer format.

3. No later than ten (10) days after the conclusion of the arbitration hearing (or ten (10) days before the date the dispute is to be submitted to the tribunal for decision if oral hearings have been waived), each party shall submit to the tribunal and the other party or parties to the arbitration its final last, best offer for those issues that will be decided using the last, best offer format.

4. Except as otherwise provided in this section 15(c)(9)(b)(4), for each issue to be decided using the last, best offer format, the tribunal shall, for its decision on the issue, adopt one of the last, best offers submitted under section 15(c)(9)(b)(3) and no other remedy (excepting only remedies in aid of the tribunal's decision). If the tribunal expressly determines that a last, best offer submitted by a party with respect to an issue or issues is not consistent with or does not comply with the act and/or the compact, as they may be amended and as they are interpreted by courts of competent jurisdiction, then the tribunal shall reject that last, best offer and shall not consider it in rendering its decision. If the tribunal expressly determines that all the last, best offers submitted by the parties with respect to an issue or issues are not consistent with and/or do not comply with the act and/or the compact, as they may be amended and as they are interpreted by courts of competent jurisdiction, then the tribunal shall reject all the last, best offers and shall decide the related issue or issues as if the parties had elected to have the issue or those issues decided without using the "last, best offer" format. In addition, the tribunal shall have no authority to award money damages against either party, regardless of whether a last, best offer proposes an award of damages.

(c) Opting out of last, best offer format. Unless the parties agree otherwise, a party desiring to opt out of the "last, best offer" arbitration format shall serve a written notice of its election no later than fifty (50) days before the arbitration hearing (or fifty (50) days before the date the dispute is to be submitted to the tribunal for decision if oral hearings have been waived). The notice shall:

1. Identify with specificity the issue or issues that the arbitrators will decide without using the "last, best offer" arbitration format, or

2. State that the arbitrators will not use the "last, best offer" arbitration format.
(10) Decision of the tribunal. The decision of the tribunal shall be in writing, setting forth detailed findings of fact and conclusions of law and a statement regarding the reasons for the disposition of each claim. If the tribunal determines that a last, best offer is not consistent with or does not comply with the act and/or the compact, the decision of the tribunal shall set forth detailed findings of fact and conclusions of law and a statement regarding the reasons for the tribunal’s determination. The written decision of the tribunal shall be made promptly and, unless otherwise agreed to by the parties, no later than forty (40) days from the date of the closing of the hearing or, if oral hearings have been waived, no later than forty (40) days from the date the dispute is submitted to the tribunal for decision. The tribunal may take additional time to render its decision if the tribunal determines that compelling circumstances require additional time. The tribunal may issue awards in accordance with CPR rule 13, to the extent that rule is consistent with section 15(c). The decision of the majority of the arbitrators shall be final, binding, and non-appealable, except for a challenge to a decision on the grounds set forth in 9 U.S.C. § 10. The failure to comply with a judgment upon the award of the arbitrators shall be a breach of this compact.

(11) Governing law/jurisdiction. Title 9 of the United States Code (the United States arbitration act) and the rules shall govern the interpretation and enforcement of section 15(c), but nothing in section 15(c) shall be interpreted as a waiver of the state's tenth amendment or eleventh amendment immunity or as a waiver of the tribe's sovereign immunity. The tribunal shall resolve the disputes submitted for arbitration in accordance with, and every decision of the tribunal must comply and be consistent with, the act and the compact, as they may be amended and as they are interpreted by courts of competent jurisdiction. The tribunal shall have no authority to award money damages against either party.

(12) Judicial confirmation. Judgment upon any award rendered by the tribunal may be entered in any court having competent jurisdiction.

(d) Injunctive relief. The parties acknowledge that, although negotiation followed by mediation and arbitration are the preferred methods of dispute resolution, compact section 15 shall not impair any rights to seek in any court of competent jurisdiction injunctive relief pursuant to 25 U.S.C. § 2710(d)(7)(a)(ii), or a judgment upon an award rendered by an arbitration tribunal in accordance with sections 15(c)(10) and 15(c)(11). In an action brought by the tribe against the state, one court of competent jurisdiction is the Arizona superior court. In an action brought by the state against the tribe, one court of competent jurisdiction is the United States district court for the district of Arizona. Nothing in this compact is intended to prevent either party from seeking relief in some other court of competent jurisdiction, or to
constitute an acknowledgement that the state courts have jurisdiction over
the tribe or the tribal courts have jurisdiction over the state."

(x) Section 17 of the pre-existing compact shall be replaced with
the following:

"Section 17. Amendments

(a) Proposed compact amendments. To continue to ensure the fair
and honest operation of Indian gaming, no later than one hundred eighty
(180) days after the effective date, the state or the tribe may propose
amendments to enhance the following regulatory provisions of this compact:

(1) The process for tribal judicial review of disputes regarding
the nonpayment of alleged winnings to patrons;
(2) Compliance with United States public health service
requirements regarding food and beverage handling;
(3) Compliance with building codes and fire safety standards in the
construction of new gaming facilities and significant modifications to
existing gaming facilities;
(4) The availability of adequate police, fire and emergency medical
services to serve each gaming facility;
(5) Remedies for violations of this compact, the gaming ordinance,
federal law, or state rules for certification holders;
(6) Liability insurance for gaming facilities and procedures for
the disposition of tort claims that arise from personal injuries or
property damage suffered at gaming facilities by patrons of the gaming
facilities;
(7) Standards for background investigations, licensing and
certification of gaming employees by the tribe or the state gaming agency,
or both;
(8) Standards for background investigations, licensing, and
certification by the tribe or the state gaming agency, or both, of persons
or entities that provide gaming goods or services on a significant basis;
(9) Reports and audits of revenue from gaming activities to allow
tracking and confirmation of such revenue;
(10) Minimum internal control standards, technical standards,
testing procedures, and inspection procedures for class III gaming devices
and the online electronic game management systems to which they are
linked;
(11) Minimum internal control standards, operational standards,
specifications, and regulations for other gaming activities permitted
under this compact, including rules for game play and dealing procedures
for blackjack and poker; and
(12) Surveillance requirements.

(b) Negotiations/mediation. Within ninety (90) days of receipt by
the tribe or the state of proposed amendments described in section 17(a),
the tribe and the state shall enter into good faith negotiations regarding
the proposed amendments. If good faith negotiations fail to result in a
mutually-agreed upon amendment to this compact regarding any of the issues
listed in section 17(a), the parties shall participate in good faith in a
mediation conducted in accordance with the provisions of section 15(b) in
an effort to resolve their differences. The remaining provisions of
section 15 shall not apply to sections 17(a) or (b). Within thirty (30)
days after the conclusion of a mediation, the parties shall conclude
negotiations and document any amendments consistent with section 17(c).
(c) Effect. Any amendment to this compact shall be in writing and
signed by both parties. The terms and conditions of this compact shall
remain in effect until amended, modified, or terminated."

(xi) Section 23 of the pre-existing compact shall be replaced with
the following:

"Section 23. Effective date and duration
(a) Replacement of other gaming compacts. On the effective date,
this compact shall replace and supersede any other tribal-state gaming
compact between the state and the tribe. The tribe and the state shall
execute an acknowledgement of the effective date.
(b) Duration.
(1) The initial term of this compact shall commence on the
effective date. The initial term of this compact shall be the remainder
of the term under section 23(b)(1) of the tribe's pre-existing compact as
defined in A.R.S. section 5-601.02(1)(5), if any, provided that such
pre-existing compact was in effect on May 1, 2002, plus ten (10) years.
(2) This compact shall thereafter be extended for a renewal term of
ten (10) years, unless the state or the tribe notifies the other in
writing, not less than one hundred eighty (180) days prior to the
expiration of the initial term, that it does not intend to renew the
compact because of substantial non-compliance.
(3) This compact shall thereafter be extended for an additional
renewal term of three (3) years in order to provide the parties with an
opportunity to negotiate new or amended compact terms, unless the state or
the tribe notifies the other in writing, not less than one hundred eighty
(180) days prior to the expiration of the renewal term, that it does not
intend to renew the compact because of substantial non-compliance.
(4) For purposes of this section 23, substantial non-compliance
means the willful failure or refusal to reasonably comply with the
material terms of a final, non-appealable court order, or a final,
non-appealable award of an arbitrator or arbitrators under section 15.
Substantial non-compliance does not include technical inadvertence or
non-material variations or omissions in compliance with any such award or
judgment. If either party contends that the other is in substantial
non-compliance, the party so contending shall provide immediate written
notice to the other, including the specific reason(s) for the contention
and copies of all documentation relied upon to the extent allowed by law.
(5) A dispute over whether the state or the tribe has engaged in substantial non-compliance shall be resolved under section 15. The compact shall remain in effect until the dispute has been resolved by a final, non-appealable decision under section 15. In any section 15 proceeding to determine substantial non-compliance, the burden of proof shall be on the party alleging substantial non-compliance.

(6) The tribe may operate class III gaming only while this compact, or any extension thereof, is in effect. Prior to the end of the final renewal term of this compact, the state and the tribe shall negotiate under 25 U.S.C. section 2710(d)(3)(a), or other applicable federal law, for a successor compact or other similar agreement.”

Sec. 3. Title 5, Arizona Revised Statutes, is amended by adding chapter 10, to read:

CHAPTER 10
SPORTS BETTING

ARTICLE 1. GENERAL PROVISIONS

5-1201. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:


2. "DEPARTMENT" MEANS THE DEPARTMENT OF GAMING.

3. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

4. "SPORTS BETTING" MEANS THE PLACEMENT OF A WAGER ON THE OUTCOME OF A SPORTING EVENT WHERE A WINNING OUTCOME IS BASED ON THE SCORE, POINT TOTAL, POINT SPREAD OR PERFORMANCE OF A TEAM IN A TEAM SPORT OR ON THE SCORE, POINT TOTAL, POINT SPREAD OR PERFORMANCE OF AN INDIVIDUAL ATHLETE IN A NON-TEAM SPORT AND THE OCCURRENCE OR NONOCCURRENCE OF ANY PARTICULAR EVENT WITHIN SUCH A SPORTING EVENT.

5-1202. Sports betting; locations; rules

A. THE DEPARTMENT SHALL ADOPT RULES TO ALLOW SPORTS BETTING TO BE CONDUCTED AS REGULATED GAMBLING AT PARI-MUTUEL RACETRACK ENCLOSURES, ADDITIONAL WAGERING FACILITIES AND CASINOS.

B. THE SYSTEMS FOR BETTING MAY BE BOTH MANUAL AND ELECTRONIC FORMS OF BETTING. BOTH MANUAL AND ELECTRONIC FORMS OF BETTING MUST BE ON A CLOSED-LOOP SYSTEM LOCATED WITHIN EITHER A PARI-MUTUEL RACETRACK ENCLOSURE, ADDITIONAL WAGERING FACILITY OR CASINO.

C. THE RULES ADOPTED PURSUANT TO THIS SECTION SHALL INCLUDE LICENSE APPLICATION PROCEDURES AND LICENSE APPROVAL, ISSUANCE, RENEWAL AND REVOCATION CRITERIA. THE DIRECTOR SHALL ESTABLISH FEES FOR THE APPLICATION, ISSUANCE AND RENEWAL OF SPORTS BETTING LICENSES.

5-1203. Department of gaming; sports betting licensing; rules

A. TO ENSURE HONESTY AND INTEGRITY IN THE GAMBLING ACTIVITY, THE DEPARTMENT SHALL REGULATE SPORTS BETTING UNDER THIS CHAPTER IN A MANNER THAT IS CONSISTENT WITH THE REGULATION OF TRIBAL GAMING PURSUANT TO SECTION 5-602. AN INDIAN TRIBE MAY OPERATE SPORTS BETTING THROUGH A
TRIBAL GAMING OPERATOR THAT IS WHOLLY OWNED BY THE INDIAN TRIBE. THE TRIBAL GAMING OPERATOR IS SUBJECT TO LICENSURE.

B. THE DEPARTMENT MAY ADOPT RULES TO CARRY OUT THE PURPOSES OF THIS SECTION.

C. FOR THE PURPOSES OF LICENSURE, THE OWNER, PARTNER, SHAREHOLDERS OR BENEFICIARIES OF THE TRIBAL GAMING OPERATOR DO NOT INCLUDE THE MEMBERS OR GOVERNMENT OFFICIALS OF AN INDIAN TRIBE.

5-1204. Sports betting revenue; racing purse enhancement fund; definition

A. FOR THE PRIVILEGE OF HOLDING A LICENSE TO OPERATE SPORTS BETTING UNDER THIS ARTICLE, THE DEPARTMENT SHALL IMPOSE AND COLLECT ______ PERCENT OF THE LICENSEE'S ADJUSTED GROSS SPORTS BETTING RECEIPTS FROM THE SPORTS BETTING OPERATION. THE ACCRUAL METHOD OF ACCOUNTING SHALL BE USED FOR PURPOSES OF CALCULATING THE AMOUNT OWED BY THE LICENSEE.

B. THE RACING PURSE ENHANCEMENT FUND IS ESTABLISHED CONSISTING OF THIS STATE'S SHARE OF REVENUES COLLECTED PURSUANT TO SUBSECTION A OF THIS SECTION FROM SPORTS BETTING CONDUCTED PURSUANT TO THIS CHAPTER. THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY Appropriated. Monies in the fund shall be allocated as follows:

1. The department shall deposit ___ percent, pursuant to sections 35-146 and 35-147, in the state general fund.

2. The department shall transfer ___ percent of fund monies on a monthly basis to a recognized organization representing horsemen in this state to be held in trust for racing purses.

C. FOR THE PURPOSES OF THIS SECTION, "ADJUSTED GROSS SPORTS BETTING RECEIPTS" MEANS RECEIPTS FROM SPORTS BETTING, LESS WINNINGS PAID TO BETTORS IN THE SPORTS BETTING.

Sec. 4. Section 13-3301, Arizona Revised Statutes, is amended to read:

13-3301. Definitions

In this chapter, unless the context otherwise requires:

1. "Amusement gambling" means gambling involving a device, game or contest which THAT is played for entertainment if all of the following apply:

   (a) The player or players actively participate in the game or contest or with the device.

   (b) The outcome is not in the control to any material degree of any person other than the player or players.

   (c) The prizes are not offered as a lure to separate the player or players from their money.

   (d) Any of the following:

      (i) No benefit is given to the player or players other than an immediate and unrecorded right to replay, which is not exchangeable for value.
(ii) The gambling is an athletic event and no person other than the player or players derives a profit or chance of a profit from the money paid to gamble by the player or players.

(iii) The gambling is an intellectual contest or event, the money paid to gamble is part of an established purchase price for a product, no increment has been added to the price in connection with the gambling event and no drawing or lottery is held to determine the winner or winners.

(iv) Skill and not chance is clearly the predominant factor in the game and the odds of winning the game based upon chance cannot be altered, provided the game complies with any licensing or regulatory requirements by the jurisdiction in which it is operated, no benefit for a single win is given to the player or players other than a merchandise prize which has a wholesale fair market value of less than ten dollars or coupons which are redeemable only at the place of play and only for a merchandise prize which has a fair market value of less than ten dollars and, regardless of the number of wins, no aggregate of coupons may be redeemed for a merchandise prize with a wholesale fair market value of greater than five hundred fifty dollars.

2. "Conducted as a business" means gambling that is engaged in with the object of gain, benefit or advantage, either direct or indirect, realized or unrealized, but not incidental to a bona fide social relationship.

3. "Crane game" means an amusement machine which is operated by player controlled buttons, control sticks or other means, or a combination of the buttons or controls, which is activated by coin insertion into the machine and where the player attempts to successfully retrieve prizes with a mechanical or electromechanical claw or device by positioning the claw or device over a prize.

4. "Gambling" or "gamble" means one act of risking or giving something of value for the opportunity to obtain a benefit from a game or contest of chance or skill or a future contingent event but does not include bona fide business transactions which are valid under the law of contracts including contracts for the purchase or sale at a future date of securities or commodities, contracts of indemnity or guarantee and life, health or accident insurance.

5. "HISTORIC RACING" MEANS A FORM OF RACING THAT ESTABLISHES PARI-MUTUEL POOLS FROM WAGERS PlACED ON PREVIOUSLY CONDUCTED RACES AND THAT IS CONDUCTED BY A COMMERCIAL LIVE-RACING PERMITTEE OR ADDITIONAL WAGERING FACILITY.

6. "Player" means a natural person who participates in gambling.
6. 7. “Regulated gambling” means either:
   (a) Gambling conducted in accordance with a tribal-state gaming compact or otherwise in accordance with the requirements of the Indian gaming regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United States Code sections 2701 through 2721 and 18 United States Code sections 1166 through 1168); or
   (b) Gambling to which all of the following apply:
      (i) It is operated and controlled in accordance with a statute, rule or order of this state or of the United States.
      (ii) All federal, state or local taxes, fees and charges in lieu of taxes have been paid by the authorized person or entity on any activity arising out of or in connection with the gambling.
      (iii) If conducted by an organization which is exempt from taxation of income under section 501 of the internal revenue code, the organization's records are open to public inspection.
      (iv) Beginning on June 1, 2003, None of the players is under twenty-one years of age.

7. 8. “Social gambling” means gambling that is not conducted as a business and that involves players who compete on equal terms with each other in a gamble if all of the following apply:
   (a) No player receives, or becomes entitled to receive, any benefit, directly or indirectly, other than the player’s winnings from the gamble.
   (b) No other person receives or becomes entitled to receive any benefit, directly or indirectly, from the gambling activity, including benefits of proprietorship, management or unequal advantage or odds in a series of gambles.
   (c) Until June 1, 2003, none of the players is below the age of majority. Beginning on June 1, 2003, None of the players is under twenty-one years of age.
   (d) Players “compete on equal terms with each other in a gamble” when no player enjoys an advantage over any other player in the gamble under the conditions or rules of the game or contest.

9. “SPORTS BETTING” MEANS THE PLACEMENT OF A WAGER ON THE OUTCOME OF A SPORTING EVENT WHERE A WINNING OUTCOME IS BASED ON THE SCORE, POINT TOTAL, POINT SPREAD OR PERFORMANCE OF A TEAM IN A TEAM SPORT OR ON THE SCORE, POINT TOTAL, POINT SPREAD OR PERFORMANCE OF AN INDIVIDUAL ATHLETE IN A NON-TEAM SPORT AND THE OCCURRENCE OR NONOCCURRENCE OF ANY PARTICULAR EVENT WITH SUCH A SPORTING EVENT.

Sec. 5. Section 13-3302, Arizona Revised Statutes, is amended to read:

13-3302. Exclusions
A. The following conduct is not unlawful under this chapter:
   1. Amusement gambling.
   2. Social gambling.
3. Regulated gambling, **INCLUDING SPORTS BETTING THAT IS CONDUCTED PURSUANT TO TITLE 5, CHAPTER 10 AND HISTORIC RACING THAT IS CONDUCTED PURSUANT TO SECTION 5-119**, if the gambling is conducted in accordance with the statutes, rules or orders governing the gambling.

4. Gambling that is conducted at state, county or district fairs and that complies with section 13-3301, paragraph 1, subdivision (d).

B. An organization that has qualified for an exemption from taxation of income under section 501 of the internal revenue code may conduct a raffle that is subject to the following restrictions:

1. The nonprofit organization shall maintain this status and member, director, officer, employee or agent of the nonprofit organization may NOT receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. The nonprofit organization has been in existence continuously in this state for a five-year period immediately before conducting the raffle.

   3. A person except FOR a bona fide local member of the sponsoring organization may NOT participate directly or indirectly in the management, sales or operation of the raffle.

3. Paragraph 1 or 3 of this subsection does not prohibit:

   a. A licensed general hospital, a licensed special hospital or a foundation established to support cardiovascular medical research that is exempt from taxation of income under section 501(c)(3) of the internal revenue code from contracting with an outside agent who participates in the management, sales or operation of the raffle if the proceeds of the raffle are used to fund medical research, graduate medical education or indigent care and the raffles are conducted no more than three times per calendar year. The maximum fee for an outside agent shall not exceed fifteen percent of the net proceeds of the raffle.

   b. An entity that is exempt from taxation of income under section 501(c)(3) of the internal revenue code and that has at least a twenty-year history of providing comprehensive services to prevent child abuse and to provide services and advocacy for victims of child abuse from contracting with an outside agent who participates in the management, sales or operation of the raffle if the proceeds of the raffle are used to provide comprehensive services to prevent child abuse and to provide services and advocacy for victims of child abuse and the raffles are conducted no more than three times per calendar year. The maximum fee for an outside agent shall not exceed fifteen percent of the net proceeds of the raffle.

C. A state, county or local historical society designated by this state or a county, city or town to conduct a raffle may conduct the raffle subject to the following conditions:

1. A member, director, officer, employee or agent of the historical society may not receive any direct or indirect pecuniary benefit other
than being able to participate in the raffle on a basis equal to all other participants.

2. The historical society must have been in existence continuously in this state for a five-year period immediately before conducting the raffle.

3. A person, except for a bona fide local member of the sponsoring historical society, may not participate directly or indirectly in the management, sales or operation of the raffle.

D. A nonprofit organization that is a booster club, a civic club or a political club or political organization that is formally affiliated with and recognized by a political party in this state may conduct a raffle that is subject to the following restrictions:

1. A member, director, officer, employee or agent of the club or organization may not receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

2. A person, except for a bona fide local member of the sponsoring club or organization, may not participate directly or indirectly in the management, sales or operation of the raffle.

3. The maximum annual benefit that the club or organization receives for all raffles is ten thousand dollars $10,000.

4. The club or organization is organized and operated exclusively for pleasure, recreation or other nonprofit purposes and no part of the club's or organization's net earnings inures to the personal benefit of any member, director, officer, employee or agent of the club or organization.

Sec. 6. Section 13-3305, Arizona Revised Statutes, is amended to read:

13-3305. Betting and wagering; classification
A. Subject to the exceptions contained in section SECTIONS 5-112 AND 5-119 AND TITLE 5, CHAPTER 10, no person may engage for a fee, property, salary or reward in the business of accepting, recording or registering any bet, purported bet, wager or purported wager or engage for a fee, property, salary or reward in the business of selling wagering pools or purported wagering pools with respect to the result or purported result of any race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever.

B. Subject to the exceptions prescribed in sections 5-112 and 5-119 and title 5, chapter 10, a person shall not directly or indirectly knowingly accept for a fee, property, salary or reward anything of value from another to be transmitted or delivered for wagering or betting on the results of a race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever conducted within or without this state or anything of value as
reimbursement for the prior making of such a wager or bet on behalf of another person.

C. A person who violates this section is guilty of a class 1 misdemeanor.

Sec. 7. Section 42-5073, Arizona Revised Statutes, is amended to read:

42-5073. Amusement classification
A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, SPORTS BETTING THAT IS CONDUCTED OUTSIDE A RACETRACK ENCLOSURE, ADDITIONAL WAGERING FACILITY OR TRIBAL CASINO, billiard or pool parlors, bowling alleys, public dances, dance halls, boxing and wrestling matches, skating rinks, tennis courts, except as provided in subsection B of this section, video games, pinball machines or sports events or any other business charging admission or user fees for exhibition, amusement or entertainment, including the operation or sponsorship of events by a tourism and sports authority under title 5, chapter 8. For the purposes of this section, admission or user fees include, but are not limited to, any revenues derived from any form of contractual agreement for rights to or use of premium or special seating facilities or arrangements. The amusement classification does not include:

1. Activities or projects of bona fide religious or educational institutions.

2. Private or group instructional activities. For the purposes of this paragraph, "private or group instructional activities" includes, but is not limited to, performing arts, martial arts, gymnastics and aerobic instruction.

3. The operation or sponsorship of events by the Arizona exposition and state fair board or county fair commissions.

4. A musical, dramatic or dance group or a botanical garden, museum or zoo that is qualified as a nonprofit charitable organization under section 501(c)(3) of the United States internal revenue code if no part of its net income inures to the benefit of any private shareholder or individual.

5. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major
league baseball association or professional golfing association, or its
owners, officers, employees or agents, unless the organization conducted
or operated exhibition events in this state before January 1, 2018 that
were exempt from taxation under this section.

6. Operating or sponsoring rodeos that feature primarily farm and
ranch animals in this state and that are sponsored, conducted or operated
by a nonprofit organization that is exempt from taxation under section
501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
revenue code if no part of the organization's net earnings inures to the
benefit of any private shareholder or individual.

7. Sales of admissions to intercollegiate football contests if the
contests are both:
(a) Operated by a nonprofit organization that is exempt from
taxation under section 501(c)(3) of the internal revenue code and no part
of the organization's net earnings inures to the benefit of any private
shareholder or individual.
(b) Not held in a multipurpose facility that is owned or operated
by the tourism and sports authority pursuant to title 5, chapter 8.

8. Activities and events of, or fees and assessments received by, a
homeowners organization from persons who are members of the organization
or accompanied guests of members. For the purposes of this paragraph,
"homeowners organization" means a mandatory membership organization
comprised of owners of residential property within a specified residential
real estate subdivision development or similar area and established to own
property for the benefit of its members where both of the following apply:
(a) No part of the organization's net earnings inures to the
benefit of any private shareholder or individual.
(b) The primary purpose of the organization is to provide for the
acquisition, construction, management, maintenance or care of organization
property.

9. Activities and events of, or fees received by, a nonprofit
organization that is exempt from taxation under section 501(c)(6) of the
internal revenue code if the organization produces, organizes or promotes
cultural or civic related festivals or events and no part of the
organization's net earnings inures to the benefit of any private
shareholder or individual.

10. Arranging an amusement activity as a service to a person's
customers if that person is not otherwise engaged in the business of
operating or conducting an amusement personally or through others. This
exception does not apply to businesses that operate or conduct amusements
pursuant to customer orders and send the billings and receive the payments
associated with that activity, including when the amusement is performed
by third-party independent contractors. For the purposes of this
paragraph, "arranging" includes billing for or collecting amusement
charges from a person’s customers on behalf of the persons providing the
amusement.

B. The tax base for the amusement classification is the gross
proceeds of sales or gross income derived from the business, except that
the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from
memberships, including initiation fees, that provide for the right to use
a health or fitness establishment or a private recreational establishment,
or any portion of an establishment, including tennis and other racquet
courts at that establishment, for participatory purposes for twenty-eight
days or more and fees charged for use of the health or fitness
establishment or private recreational establishment by bona fide
accompanied guests of members, except that this paragraph does not include
additional fees, other than initiation fees, charged by a health or
fitness establishment or a private recreational establishment for purposes
other than memberships that provide for the right to use a health or
fitness establishment or private recreational establishment, or any
portion of an establishment, for participatory purposes for twenty-eight
days or more and accompanied guest use fees.

2. Amounts that are exempt under section 5-111, subsection G.

3. The gross proceeds of sales or gross income derived from
memberships, including initiation fees, that provide for the right to use
a transient lodging recreational establishment, including golf courses
and tennis and other racquet courts at that establishment, for
participatory purposes for twenty-eight days or more, except that this
paragraph does not include additional fees, other than initiation fees,
that are charged by a transient lodging recreational establishment for
purposes other than memberships and that provide for the right to use a
transient lodging recreational establishment or any portion of the
establishment for participatory purposes for twenty-eight days or more.

4. The gross proceeds of sales or gross income derived from sales
to persons engaged in the business of transient lodging classified under
section 42-5070, if all of the following apply:

(a) The persons who are engaged in the transient lodging business
sell the amusement to another person for consideration.

(b) The consideration received by the transient lodging business is
equal to or greater than the amount to be deducted under this subsection.

(c) The transient lodging business has provided an exemption
certificate to the person engaging in business under this section.

5. The gross proceeds of sales or gross income derived from:

(a) Business activity that is properly included in any other
business classification under this article and that is taxable to the
person engaged in that classification, but the gross proceeds of sales or
gross income to be deducted shall not exceed the consideration paid to the
person conducting the activity.
(b) Business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5062, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(c) Business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

6. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that either:
   (a) Until March 1, 2017, consist of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.
   (b) Are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

7. All of the amounts received by an Indian tribe from the gross amount of monies received for the conduct of sports betting, and all amounts held by an Indian tribe for payment of winnings to sports betting patrons, which are exempt from this chapter. Amounts subject to this chapter or amounts that are subject to any municipal tax code, or both, shall not result in a combined state, county and city tax liability that exceeds six and seventy-five one hundredths percent of adjusted gross receipts. The tribal gaming operator shall pay and be responsible for payments of the tribal gaming operator's tax liability under this paragraph. For the purposes of this paragraph, the owner, partner, shareholders or beneficiaries of the tribal gaming operator do not include the members or government officials of an Indian tribe. For the purposes of this paragraph, for a business that is operating sports betting pursuant to title 5, chapter 10, "gross income" and "gross proceeds of sales" means the receipts remaining after deducting the monies paid for winnings from gross receipts.

C. For the purposes of subsection B of this section:
   1. "Health or fitness establishment" means a facility whose primary purpose is to provide facilities, equipment, instruction or education to promote the health and fitness of its members and at least eighty percent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees that provide for the right to use the facility, or any portion of the facility, under the terms of
the membership agreement for participatory purposes for twenty-eight days or more.

2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty percent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees that provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty-eight days or more.

3. "Transient lodging recreational establishment" means a facility whose primary purpose is to provide facilities for transient lodging, that is subject to taxation under this chapter and that also provides recreational facilities, such as tennis, golf and swimming, for members for a period of twenty-eight days or more.

D. Until December 31, 1988, the revenues from hayrides and other animal-drawn amusement rides, from horseback riding and riding instruction and from recreational tours using motor vehicles designed to operate on and off public highways are exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from hayrides and other animal-drawn amusement rides, from horseback riding and from recreational tours using motor vehicles designed to operate on and off public highways are subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the taxes will be returned to the customer.

E. If a person is engaged in the business of offering both exhibition, amusement or entertainment and private or group instructional activities, the person's books shall be kept to show separately the gross income from exhibition, amusement or entertainment and the gross income from instructional activities. If the books do not provide this separate accounting, the tax is imposed on the person's total gross income from the business.

F. The department shall separately account for revenues collected under the amusement classification for the purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the amusement classification from sales of admissions to:

1. Events that are held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8, including intercollegiate football contests that are operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code.
2. Professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

Sec. 8. Exemption from rulemaking
For the purposes of this act, the department of gaming is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

Sec. 9. Requirements for enactment; three-fourths vote
Pursuant to article IV, part 1, section 1, Constitution of Arizona, section 5-601.02, Arizona Revised Statutes, as amended by this act, is effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.