

TRIBAL ONLINE GAMING ACT OF 2012

SECTION-BY-SECTION

SEC. 1 – Short Title; Table of Contents

- The Short title of this Act shall be the “Tribal Online Gaming Act of 2012.”

SEC. 2 – Findings

- This section finds that there is uncertainty about the laws of the United States concerning internet gaming such that federal legislation is necessary for government regulation and licensing of internet gaming conducted in the United States;
- That Indian gaming currently comprises 40 percent of all gaming conducted in the United States; and
- That any federalization of online gaming must provide positive economic benefits for Indian tribes since such a program would create thousands of jobs within the United States.

SEC. 3 – Definitions

- This section sets out the definitions to be used in this Act, including:
 - Indian Tribe - The term “Indian tribe” has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a));
 - Office - The term “Office” means the Office of Tribal Online Gaming established under section 5;
 - Secretary - The term “Secretary” means the Secretary of Commerce; and
 - Tribal Online Gaming - The term “tribal online gaming” means Online poker conducted by an Indian tribe in accordance with this Act.

SEC. 4 – Declaration of Policy

- This section sets out the policy of the Tribal Online Gaming Act of 2012, which is:
 - To allow Indian Tribes to carry out online gaming as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;
 - To provide for the regulation of tribal online gaming;
 - To establish federal standards for tribal online gaming; and
 - To promote and encourage online gaming as a means of generating tribal revenue and providing essential government services.

SEC. 5 – Tribal Online Gaming Oversight

- This section states that the Secretary of Commerce shall oversee and regulate tribal online gaming;
- The Secretary shall set up the Office of Tribal Online Gaming to assist with the oversight and regulation of tribal online gaming;
- The Secretary will appoint a Director of the Office of Tribal Online Gaming; and
- The Secretary may delegate to the Director any authority the Secretary is granted in this Act.

SEC. 6 – Tribal Online Gaming Licenses

- This section allows the Secretary to issue a tribal online gaming license to an Indian tribe, a consortium of tribes, or a consortium of tribe(s) and non-tribal entities;
- Sets out who shall be eligible for a tribal online gaming license:
 - A tribe shall be eligible to apply for a tribal online gaming license, unless the tribes chooses to opt-out of participation in tribal online gaming
- Tribes issued a license shall only:
 - Accept a bet or wager from a person located in the United States;
 - Offer play in a game or tournament to a person located in the United States.
- Tribes may form a consortium consisting of two or more Indian tribes, or an Indian tribe(s) and non-tribal parties;
- The Secretary shall conduct background investigations on those participating in tribal online gaming and relevant associates and/or tribal partners and significant vendors;
- Safeguards must be implemented to ensure that participants are:
 - Not less than 21 years of age;
 - Physically located in a jurisdiction that has not prohibited bets or wagers;
 - Physically located within the United States; and
 - Other listed safeguards.
- Sets out the penalties that the Secretary may impose should a licensee violate the terms of the Act.

SEC. 7 – Tribal Online Gaming Ordinances

- This section sets out how an Indian tribe may be licensed to carry out tribal online gaming activities or to qualify as a tribal qualified body:
 - The Indian Tribe must adopt a Tribal Online Gaming Ordinance that meets the requirements of:
 - This Act;
 - Any regulations promulgated by the Secretary;
 - Any other federal online gaming law.
 - The Tribal Online Gaming Ordinance is approved by the Secretary;
 - The uses of net revenue under this section are limited to tribal governmental functions such as:
 - To fund tribal government operations or programs;
 - To provide for the general welfare of the Indian tribe and the members of the Indian tribe;
 - To promote tribal economic development;
 - To provide amounts to charitable organizations; and
 - To provide amounts to local governmental agencies for operations.
 - The Secretary shall have 90 days after the submission of the tribal online gaming ordinance to approve or deny the ordinance;
 - If the Secretary does not approve/deny the ordinance within the 90-day timeframe, the ordinance shall be deemed approved provided the ordinance is consistent with this Act.

SEC. 8 – Disciplinary Actions

- This section sets out the disciplinary actions that may be taken should a licensee or tribal qualified body fail to comply with this Act or any regulations promulgated by the Secretary:
 - Only the Secretary or an Indian Tribe who grants a licensee may initiate disciplinary action;
 - The section sets out the required notice, penalties, temporary closure, and appeals processes for any violations of this Act.

SEC. 9 – Qualifying Tribal Regulatory Bodies

- This section sets out the requirements for the Tribal Governing Regulatory Bodies:
 - The tribal qualified body has the authority to:
 - Review and issue licenses and engage in all other regulatory and enforcement functions;
 - Any federally recognized tribe may apply to be a tribal qualified body, provided:
 - The tribe is in good standing with the National Indian Gaming Commission; and
 - The tribe has regulated a tribal gaming facility for at least two years from enactment of this Act.
 - The Secretary shall publish regulations to determine the documentation necessary for tribes, and other entities, to be considered a qualifying body.

SEC. 10 – Service Providers

- This section requires licensees to notify the Secretary or the Indian Tribe that issued a license of all persons that are not significant vendors, but who provide services to the licensee to carry out tribal online gaming, and
- Sets out the suitability requirements of service providers.

SEC. 11 – Memorandums of Agreement

- This section requires the Secretary to enter into Memorandums of Agreement with the National Indian Gaming Commission, the Department of Justice, and any other federal entity, to avoid duplication of information at the federal level.

SEC. 12 – Tribal-State Compacts

- This section states that nothing in this Act shall alter, diminish, or impact the rights and obligations in existing tribal-state compacts approved pursuant to the Indian Gaming Regulatory Act, or require that such compacts be renegotiated.

SEC. 13 – Effect on Other Laws

- This section states that this Act shall not affect any other federal laws that impact Indian tribes;
- Should federal legislation be enacted which expands the types of online gaming to be offered, tribes shall automatically retain the same rights as states to offer such games.

SEC. 14 – Applicant Fees

- This section sets out the fees that may be assessed to applicants to be licensees or tribal qualified bodies under this Act.

SEC. 15 – Taxation

- This section states that tribal online gaming revenues shall not be taxed since the uses of net revenue are to be restricted to providing governmental services to tribal members and the local community.

SEC. 16 – Revenue Sharing

- This section requires that a percentage of gross gaming revenues be deposited into an escrow account at the Department of Treasury and allocated annually to any tribal governments who are not participating in online gaming for use for the governmental purposes set out in this Act.

SEC. 17 – Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program Requirements

- This section requires participants to promulgate regulations for the development of programs intended to address compulsive gaming, to ensure responsible gaming, and to establish minimum requirements for each license issued by the tribal qualifying body.