

Popular Name

AN AMENDMENT TO ALLOW THREE CASINOS TO OPERATE IN ARKANSAS, ONE EACH IN THE FOLLOWING COUNTIES: BOONE COUNTY, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC; MILLER COUNTY, OPERATED BY MILLER COUNTY GAMING, LLC; AND WASHINGTON COUNTY, OPERATED BY WASHINGTON COUNTY GAMING, LLC.

Ballot Title

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING THREE CASINOS TO OPERATE IN ARKANSAS, ONE IN BOONE COUNTY, ARKANSAS, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, ONE IN MILLER COUNTY, ARKANSAS, OPERATED BY MILLER COUNTY GAMING, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, AND ONE IN WASHINGTON COUNTY, ARKANSAS, OPERATED BY WASHINGTON COUNTY GAMING, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, ALL BEING SUBJECT TO THE LAWS ENACTED BY THE GENERAL ASSEMBLY IN ACCORD WITH THIS AMENDMENT AND REGULATIONS PROMULGATED BY THE ARKANSAS GAMING COMMISSION IN ACCORD WITH LAWS ENACTED BY THE GENERAL ASSEMBLY; DEFINING CASINO GAMING AND GAMING AS DEALING, OPERATING, CARRYING ON, CONDUCTING, MAINTAINING, OR EXPOSING FOR PLAY ANY GAME PLAYED WITH CARDS, DICE, EQUIPMENT, OR ANY MECHANICAL, ELECTROMECHANICAL, OR ELECTRONIC DEVICE OR MACHINE FOR MONEY, PROPERTY, CHECKS, CREDIT, OR ANY REPRESENTATIVE VALUE, AS WELL AS ACCEPTING WAGERS ON SPORTING EVENTS OR OTHER EVENTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY GAME, DEVICE, OR TYPE OF WAGERING PERMITTED AT A CASINO OPERATED WITHIN ANY ONE OR MORE OF THE STATES OF LOUISIANA, MISSISSIPPI, MISSOURI, NEVADA, OKLAHOMA, TENNESSEE OR TEXAS AS OF NOVEMBER 8, 2016, OR AS SUBSEQUENTLY PERMITTED THEREAFTER; CREATING THE ARKANSAS GAMING COMMISSION TO REGULATE THE CASINOS IN ACCORD WITH LAWS ENACTED BY THE GENERAL ASSEMBLY, WITH THE ARKANSAS GAMING COMMISSION COMPRISED OF 5 COMMISSIONERS, EACH APPOINTED BY THE GOVERNOR FOR STAGGERED 5-YEAR TERMS; PROVIDING FOR THE GENERAL ASSEMBLY TO APPROPRIATE MONIES TO OR FOR THE USE OF THE ARKANSAS GAMING COMMISSION; REQUIRING EACH CASINO TO PAY TO THE ARKANSAS STATE TREASURY AS GENERAL REVENUES A NET CASINO GAMING RECEIPTS TAX EQUAL TO EIGHTEEN PERCENT (18%) OF ITS ANNUAL NET CASINO GAMING RECEIPTS; REQUIRING EACH CASINO TO PAY TO THE COUNTY IN WHICH THE CASINO IS LOCATED A NET CASINO GAMING RECEIPTS TAX EQUAL TO ONE-HALF OF ONE PERCENT (0.5%) OF ITS ANNUAL NET CASINO GAMING RECEIPTS; REQUIRING EACH CASINO TO PAY TO THE CITY OR TOWN IN WHICH THE CASINO IS LOCATED A NET CASINO GAMING RECEIPTS TAX EQUAL TO ONE AND ONE-HALF ONE PERCENT (1.5%) OF ITS ANNUAL NET CASINO GAMING RECEIPTS; DEFINING ANNUAL NET CASINO GAMING RECEIPTS AS GROSS RECEIPTS FOR A 12

MONTH PERIOD FROM CASINO GAMING LESS AMOUNTS PAID OUT OR RESERVED AS WINNINGS TO CASINO PATRONS FOR THAT 12 MONTH PERIOD; SUBJECTING EACH CASINO TO THE SAME INCOME, PROPERTY, SALES, USE, EMPLOYMENT AND OTHER TAXATION AS ANY FOR-PROFIT BUSINESS LOCATED IN THE COUNTY AND CITY OR TOWN IN WHICH THE CASINO IS LOCATED, EXCEPT THAT THE ARKANSAS GROSS RECEIPTS ACT OF 1941 AND LOCAL GROSS RECEIPTS TAXES SHALL NOT APPLY TO CASINO GAMING RECEIPTS; ALLOWING A CASINO TO OPERATE ANY DAY FOR ANY PORTION OR ALL OF ANY DAY; ALLOWING THE SELLING OR COMPLIMENTARY SERVING OF ALCOHOLIC BEVERAGES IN CASINOS DURING ALL HOURS THE CASINO OPERATES BUT OTHERWISE SUBJECT TO ALL APPLICABLE ARKANSAS LAWS INVOLVING THE DISTRIBUTION AND SALE OF ALCOHOL; PERMITTING THE SHIPMENT INTO BOONE, MILLER AND WASHINGTON COUNTIES, ARKANSAS, OF GAMBLING DEVICES SHIPPED AND DELIVERED IN ACCORDANCE WITH APPLICABLE FEDERAL LAW (15 USC §§ 1171-1178 AND AMENDMENTS AND REPLACEMENTS THERETO); RENDERING THE PROVISIONS OF THIS AMENDMENT SEVERABLE; DECLARING INAPPLICABLE ALL CONSTITUTIONAL PROVISIONS AND LAWS TO THE EXTENT THEY CONFLICT WITH THIS AMENDMENT, BUT NOT OTHERWISE REPEALING, SUPERSEDING, AMENDING OR OTHERWISE AFFECTING AMENDMENT 84 (BINGO OR RAFFLES), AMENDMENT 87 (STATE LOTTERY) TO THE ARKANSAS CONSTITUTION OR ARKANSAS ACT 1151 OF 2005 (ELECTRONIC GAMES OF SKILL).

FULL TEXT

An Amendment to the Constitution of the State of Arkansas adopted by the people of the State of Arkansas:

Section 1. Authorizing Casinos and Casino Gaming.

Casinos and casino gaming are hereby authorized in the State of Arkansas as provided in this Amendment.

The Arkansas General Assembly shall from time to time enact laws, and appropriate monies to or for the use of the Arkansas Gaming Commission created under section 2 of this Amendment, to fulfill the purposes of this Amendment. Initial laws and appropriations enacted by the General Assembly pursuant hereto shall be in full force and effect no later than June 30, 2017.

A casino means a facility where casino gaming is conducted as authorized by this Amendment.

Casino gaming means to deal, operate, carry on, conduct, maintain, or expose for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as to accept wagers on sporting events or other events. The term casino gaming includes, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the states of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee or Texas as of November 8, 2016, or as subsequently permitted thereafter.

For purposes of this Amendment, gaming means the same thing as casino gaming.

Section 2. Commission Created — Members — Powers.

There is hereby created the Arkansas Gaming Commission. The regulation of the casinos authorized by this Amendment, and the administration of the laws pertaining thereto, are hereby vested in the Arkansas Gaming Commission. The Arkansas Gaming Commission shall from time to time adopt regulations to regulate casinos and casino gaming in Arkansas in accord with laws enacted by the General Assembly. Initial regulations adopted by the Arkansas Gaming Commission shall be in full force and effect no later than March 31, 2018. The Arkansas Gaming Commission shall be comprised of five Commissioners, all of whom shall be appointed by the Governor. The first Commissioners of the Arkansas Gaming Commission shall be appointed no later than July 31, 2017, by the Governor for terms of one, two, three, four, and five years, respectively. The terms of the persons so appointed shall be determined by lot.

Upon the expiration of the foregoing terms of said Commissioners, successors shall be appointed by the Governor for terms of five years. Any vacancy arising in the membership on the Arkansas Gaming Commission for any reason other than the expiration of the regular term for which the Commissioner was appointed shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such regular term.

The Governor shall have the power to remove any Commissioner for cause only, after notice and hearing before the Arkansas Gaming Commission. Such removal shall become effective only when approved in writing by a majority of the total number of the Commissioners, but without the right to vote by the Commissioner removed or by the successor Commissioner, which action shall be filed with the Secretary of State together with a complete record of the proceedings at the hearing. An appeal may be taken to the Pulaski County Circuit Court by the Governor or the Commissioner ordered removed, and the same shall be tried de novo on the record. An appeal may be taken from the Circuit Court to the Arkansas Supreme Court, which shall likewise be tried de novo.

Section 3. Authorized Locations and Licensees.

Casinos allowed under this Amendment shall be limited to no more than one casino in each of the following Arkansas counties and shall be operated by designated licensees as follows, with all licensees hereunder being subject to the laws enacted by the General Assembly in accord with this Amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly:

- a. Boone County, operated by Arkansas Gaming And Resorts, LLC, an Arkansas limited liability company, its successors or assigns;
- b. Miller County, operated by Miller County Gaming, LLC, an Arkansas limited liability company, its successors or assigns; and
- c. Washington County, operated by Washington County Gaming, LLC, an Arkansas limited liability company, its successors or assigns.

Section 4. Taxation.

Each casino shall pay an annual net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts to the Arkansas State Treasury as general revenues. Each casino shall pay an annual net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts to the county in which the casino is located. Each casino shall pay an annual net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts to the city or town in which the casino is located. Annual net casino gaming receipts are defined as gross receipts for a 12-month period from casino gaming, less amounts paid out or reserved as winnings to casino gaming patrons for that 12-month period. Amounts paid out or reserved as winnings to casino gaming patrons and the annual net casino gaming receipts taxes paid or reserved are deductible for purposes of calculating the casino's net income under the Income Tax Act of 1929 (Ark. Code Ann. §§ 26-51-101 et seq.) and any amendments or replacements thereto.

The tax imposed by Arkansas Gross Receipts Act of 1941 (Ark. Code Ann. §§ 26-52-101 et seq.), any amendments or replacements thereto, and any related local gross receipts taxes, shall not apply to casino gaming receipts, and no additional tax on casino gross receipts shall be imposed by the State or by counties, municipalities or other units of local government. Except for the exclusion in the previous sentence, each casino shall be subject to the same income, property, sales, use, employment or other taxation or assessments as any for-profit business located in the county and city or town in which the casino is located. No additional State or local taxes, fees, or assessments shall be imposed on the casinos except as authorized in this Amendment.

Section 5. Other Operational Provisions.

Casinos may operate any or all days of the year and for any or all portions of a 24-hour day.

Casinos shall be permitted to sell alcoholic beverages or provide complimentary servings of alcoholic beverages during all hours in which the casino is operating. Casinos shall be subject to all applicable Arkansas laws involving the distribution and sale of alcohol that do not conflict with the previous sentence.

Section 6. Legal Shipment of Gambling Devices into State.

All shipments of gambling devices, including slot machines, into any county of this State within which casino gaming is authorized, the registering, recording, and labeling of which have been duly performed by the manufacturer and/or dealer thereof in accordance with 15 U.S.C. §§ 1171-1178 and amendments and replacements thereto, shall be deemed legal shipments thereof into any such county of this State within which casino gaming is authorized.

Section 7. Severability.

If any provision of this Amendment, or the application of any such provision to any person or circumstance is held invalid, the validity of any other provision of this Amendment, or the application of such provision to other persons and circumstances, shall not be affected thereby, and to this end the provisions of this Amendment are declared to be severable.

Section 8. Inconsistent Provisions Inapplicable.

All provisions of the Constitution of this State and statutes of this State, including, but not limited to, laws forbidding the judicial enforcement of gambling debts and statutes declaring gambling to be crimes, to the extent inconsistent or in conflict with any provision of this Amendment are expressly declared null and void as to, and do not apply to, any activities allowed under this Amendment. However, this Amendment does not repeal, supersede, amend, or otherwise affect Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Act 1151 of 2005 (electronic games of skill) (Ark. Code Ann. §§ 23-113-101 et seq.).