

MARCH 2015 CROW TRIBAL LEGISLATURE

SPECIAL SESSION

BILL NO. CLB 15-02

INTRODUCED BY DARRIN OLD COYOTE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH

A BILL FOR AN ACT ENTITLED:

“AN ACT TO AMEND THE CROW BOARD OF HORSE RACING ACT”

WHEREAS, pursuant to Article V, Section 2(a) of the 2001 Crow Tribal Constitution, the Crow Tribal Legislature (hereinafter, the “Legislature”) is vested with the power and duty to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with the 2001 Crow Constitution and federal laws; and

WHEREAS, on January 13, 2015, the Chairman of the Crow Tribe submitted the Crow Board of Horse Racing Act to the National Indian Gaming Commission (NIGC); and

WHEREAS, on March 9, 2015, the Chairman of the Crow Tribe withdrew the Crow Board of Horse Racing Act from the NIGC’s review and approval process after learning the NIGC was going to disapprove the Act; and

WHEREAS, the Crow Tribal Gaming Ordinance does not address horse racing; and

WHEREAS, substantial revisions to the Crow Board of Horse Racing Act is required before it can be resubmitted to NIGC for approval;

**NOW, THEREFORE, BE IT RESOLVED BY THE CROW TRIBAL
LEGISLATURE AND THE CROW TRIBAL EXECUTIVE BRANCH:**

Section 1. *AMENDMENT.* This bill entitled “An Act to Amend the Crow Board of Horse Racing Act,” attached hereto, shall replace CLB 14-01.

Section 2. *EFFECTIVE DATE.* This Act shall be submitted to the Chairman of the NIGC within fifteen (15) days after the Legislative Branch has passed it and the Chairman of the Executive Branch has approved it. It shall be effective immediately upon the approval by the Chairman of the NIGC.

CROW BOARD OF HORSE RACING ACT, *AMENDED 2015*

Section 1. GENERAL PROVISIONS

- A. The Crow Tribe retains the sole proprietary interest in, and responsibility for the conduct of any tribal Class II or Class III gaming activities, and this Act does not preclude the Crow Tribe from entering into a lawful management contract pursuant to 25 U.S.C. § 2711. Further, the Crow Tribe shall ensure that gaming facilities will be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.
- B. Class III gaming licenses with regard to key employees or primary management and tribal facilities shall be issued by the Tribal Gaming Commission in a manner consistent with the Tribal Gaming Ordinance. Further, the Tribal Gaming Commission shall issue licenses for each separate facility where horse racing is conducted.
- C. Horse racing activities shall be operated and managed by the Apsaalooke Casino Enterprises, Inc.
- D. Racing that would qualify as a bush meet or Class I racing under the Indian Gaming Regulatory Act is not governed by this Act.

Section 2. AUTHORITY OF THE BOARD

The Crow Board of Horse Racing shall act as the regulatory authority for sanctioned horse racing conducted within the exterior boundaries of the Crow Indian Reservation with the following responsibilities:

- A. Promulgate rules for the operation of sanctioned horse racing on the Crow Indian Reservation consistent with the “Class III Gaming Compact Between the Crow Tribe and State of Montana, 6th Amendment” and in the same manner as rules are promulgated by the Board.
- B. The Board shall meet at least monthly and keep detailed records of meetings including the business transacted at the meetings.
- C. Submit monthly financial reports, and other reports required by law, to the Tribal Chairman of the Executive Branch and to the Chairman of the Gaming & Tribal Business Enterprises Committee of the Legislative Branch.
- D. Conduct an annual independent audit as required by law and report its findings to the National Indian Gaming Commission, Tribal Chairman of the Executive Branch, and the Chairman of the Gaming & Tribal Business Enterprises Committee of the Legislative Branch. The audit shall include all gaming-related contracts resulting in the purchases of supplies, services, or concessions amounting to more than twenty-five thousand dollars (\$25,000.00) in any year (except contracts for professional legal or accounting services.) For reporting to both Crow Tribal Branches, the audit shall include all tribal financial activity occurring under the Horse Racing Board that is not required to be reported to the NIGC, including contracts in amounts under twenty-five thousand dollars (\$25,000.00).

- E. Regulate horse racing conducted within the exterior boundaries of the Crow Indian Reservation to ensure it is being operated pursuant to the rules and regulations it adopts.
- F. Hire staff as needed in order to fulfill its regulatory functions.
- G. Withhold percentages from wagers to be deposited in the Board's agency fund account for the exclusive use as live race purses. Other percentages may be withheld for purposes for the good of the horseracing industry as approved by a duly adopted tribal budget, provided that all net gaming revenues, as defined in the Tribal Gaming Ordinance, shall be subject to Section 6 of such Ordinance.
- H. Assess new forms of horse racing activities, including pari-mutuel and simulcast racing, for their potential impact on existing programs on the Crow reservation such as the Indian Relay and rodeo.
- I. Consider the economic and safety impact of horse racing activities on the Crow Indian Reservation on the horse racing and breeding industry in general.

Records of the Board kept for reporting requirements are public records subject to public inspection.

Section 3. DIRECTOR

The Crow Board of Horse Racing operates under the purview of the Director, who shall:

- A. Be a member of the Crow Tribe.
- B. Meet the minimum qualifications and abide by standards of the Crow Board of Horse Racing.
- C. Be appointed and subject to removal by the Tribal Chairman.
- D. Direct and supervise the budgeting, record keeping, reporting, and related administrative and clerical functions of the Board, subject to Board approval.
- E. Draft the Board's budgetary requests.
- F. Hire and employ staff for the Board.
- G. Assist the Board in drafting and distributing required notices, rules, or orders adopted, amended, or repealed by the Board.
- H. Perform all other duties as directed by the Board.
- I. The Director shall be assigned office space within the Executive Branch.

Section 4. BOARD MEMBERSHIP

- A. Establishment, composition, appointment and qualifications
 - 1. The Crow Board of Horse Racing shall be comprised of six (6) Board members, one of whom shall be designated as the Board Chairman. The Board may elect to designate a Vice-Chairman to serve in the absence of the Chairman. There shall be one Board member from each of the six (6) legislative districts, who shall each be nominated by the Tribal Chairman with the advice and consent of the Legislature. Such advice and consent shall include a concurrence from a majority of the legislators

- from each district before a nominee is submitted to the Legislature for final approval through a majority vote.
2. Upon the effective date of the Act, Legislative Resolution No. 14-09 is valid as to the initial Board members. Upon the event any Board member seat becomes vacant, the Tribal Chairman shall have thirty (30) days to submit a nomination to the Legislative Branch in accordance with paragraph 1 of this section. Upon submission of a nomination, the Legislature shall make a decision within fifteen (15) days. In the event the nominee is denied, the Chairman shall submit another name within fifteen (15) days of the decision. Failure of the Chairman to make a nomination within the time prescribed herein, or failure of the Legislative Branch to either confirm or deny the nomination within the time prescribed herein, shall vest the authority in the Crow Board of Horse Racing to make a selection by a majority vote of a quorum of the Board.
 3. The Chairman of the Crow Board of Horse Racing shall be nominated by the Tribal Chairman and confirmed by a two-thirds (2/3) vote of the Legislature. Upon the effective date of this Ordinance or upon the event the position of the Board Chairman becomes vacant, the appointment process shall be the same as that for Board members.
 4. No nominee of the Crow Board of Horse Racing shall exercise any authority under this Act until duly confirmed under this Act.
 5. All Crow Board of Horse Racing members shall be members of the Crow Tribal General Council and must be registered to vote in the districts they represent at the time of their confirmation.
 6. Shall not hold elected office with the Crow Tribe while serving under this Act.
 7. Board members must be licensed by the Tribal Gaming Commission in a manner consistent with the Tribal Gaming Ordinance.
 8. All members of the Board including the Director shall demonstrate knowledge and familiarity with the following:
 - a. The Horse Racing Industry, generally;
 - b. This Act;
 - c. Class III gaming laws on the Crow Indian Reservation;
 - d. Administrative law and procedure;
 - e. Structure of the Crow Tribal government and the 2001 Crow Tribal Constitution.
 9. Membership in the Crow Board of Horse Racing shall not constitute full-time employment with the Crow Tribe.

B. Terms

Appointments shall be for a period of four (4) years. The terms shall be staggered which shall result in appointments every two years and provide for the continuity of the Board. The Chairman of the Board and all Board members may be re-appointed for successive terms under the same process as the initial appointment.

C. Removal

1. All members of the Crow Board of Horse Racing may be removed for good cause by a majority of the Crow Tribal Legislature upon referral by a majority vote of a quorum of the remaining Board members, or in accordance with the process set in Article VIII, Section 3 of the 2001 Crow Constitution. Good cause shall exist when any conditions occur, or is discovered, which would exclude a person from appointment or demonstrate an unwillingness to comply with the requirements of this Act, including but not limited to the conflicts of interest, or Horse Racing regulatory law.
2. Good cause removal shall be reviewable in Crow Tribal Court. Such judicial review shall consider all facts with a clear error standard and shall uphold the Crow Board of Horse Racing decision unless such decision is found to be arbitrary, capricious, an abuse of authority, or otherwise unlawful.

Section 5. RULEMAKING

The Crow Board of Horse Racing shall adopt rules and regulations that provide for the following overall purposes:

- A. Uniform regulatory climate that ensures the neutrality and validity of every race;
- B. Health, safety, and welfare of race personnel and livestock;
- C. Fairness and integrity of the pari-mutuel wagering system;
- D. Be at least as restrictive as applicable provisions of the Administrative Rules of Montana adopted by the State Board of Horse Racing.

The Board shall adopt rules to govern race meets. These rules shall be adopted by the Board within six (6) months of the effective date of this Act, and shall include the following:

- A. Defining terms necessary to implement the Act
- B. Financial reporting and audit requirements
- C. Prevention of corrupt practices
- D. Other duties of the Director
- E. Other duties of the Board members
- F. Functions of the presiding steward, racing secretary, and other racing officials
- G. Conflict of interest provisions for all horse racing officials

- H. Prohibition on immediate relatives of horse racing officials engaging in Crow Board of Horse Racing Act sanctioned events
- I. Prescribing horse racing licenses of all personnel who have anything to do with the substantive operation of horse racing
- J. Establishment of dates for race meets
- K. Establishment of horse breeding and racing standards on the Crow Indian Reservation
- L. Establishing veterinary practices and standards observed in connection with race meets
- M. Establishing standards for trainers to protect the safety and health of horses and mules, regardless of any third-party involvement
- N. Establishing standards for the issuance and revocation of horse racing licenses for individuals that have previously been suspended by the Board or another horse racing jurisdiction
- O. Setting horse racing license fees sufficient to recover the cost of issuing a license
- P. Coordination with the Crow Tribal Gaming Commission and the Apsaalooke Casino Enterprise to ensure the implementation of this Act is in conformity with all Class III gaming laws and regulations of the Crow Indian Reservation

Rules and Regulations adopted by the Board which are necessary and proper for the operation of horse racing under this Act shall be submitted and ratified through a joint action resolution of the Crow Tribe Legislative and Executive Branch, after a thirty (30) day public comment period.

Section 6. RACE MEETS

- A. A person applying for a license to hold a race meet under this Act shall file an application with the Board. The Board will then set the time, place, and the terms of the license.
- B. Participants are required to have paid an annual fee and possess a current horse racing license issued by the Board before engaging in any race meet sanctioned by the Board. Fees shall be paid to the Board and used only for administrative purposes.
- C. Participants holding a horse racing license under this Act shall comply with this Act and the rules and regulations of the Board.
- D. A horse racing license shall not be issued to a participant who failed to pay any fees or taxes required by Crow tribal law.
- E. Applications to hold race meets shall be submitted to the Board, and the Board shall act on the application within thirty (30) days of receipt. The Board is the sole judge of whether a race meet may be licensed.
- F. Before granting a horse racing license, the Board shall require that any independent racing association conducting race meets satisfy the requirements of the rules and regulations adopted by the Board.
- G. A horse racing license held by a participant who violates this Act or the Board's rules and regulations is subject to cancellation or revocation by the Board.

Section 7. PENALTIES AND JUDICIAL REVIEW

- A. A person holding a race meet, or an owner, trainer, jockey, or groom participating in a race meet, without first being licensed under this Act, or a person violating this Act, shall be prosecuted under applicable law.
- B. The Board, or upon the Board's authorization, the board of stewards of a race meet at which they officiate, may exclude from race courses, any person that the Board considers detrimental to the best interest of horse racing as defined by the rules of the Board.
- C. Upon Board authorization, through an act of a board of stewards of a race meet, the Board may suspend or revoke any horse racing license issued by the Board and assess a fine, not to exceed one-thousand dollars (\$1,000.00), against a licensee who violates any of the provisions of this Act or any rule, regulations or order of the Board. In addition to the suspension or revocation and fine, the Board may forbid application for re-licensure for up to two (2) years. Fines collected under this subsection shall be deposited in the Board's agency fund account for the exclusive use for live horse race purses or for other such purposes for the good of the horseracing industry as defined by the rules of the Board. Provided that, all net gaming revenues, as defined in the Tribal Gaming Ordinance, shall be subject to provisions of Section 6 of such Ordinance.
- D. The Board shall promulgate rules establishing hearing procedures for individuals against whom action is taken or proposed under this Act. The rules may include provisions for the following:
 - 1. Summary imposition of penalty by the stewards of race meets, including a fine and license suspension, subject to review by the Board;
 - 2. Stay of a summary imposition of penalty by either the Board or the Board of stewards;
 - 3. Retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;
 - 4. Assessment of penalty and interest on the late payment of fines, which shall be paid before licenses are reinstated;
- E. The Crow Tribal Court has exclusive jurisdiction for judicial review of cases arising under this Act.
- F. The Director and Board members shall remove themselves from any hearing due to conflict of interest for all cases in which their interest is at stake.

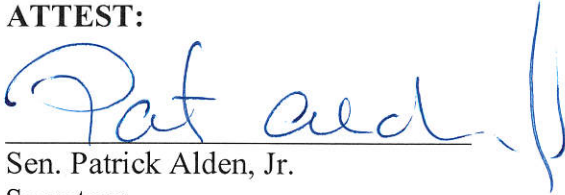
CERTIFICATION

I hereby certify that this Bill for an Act entitled "**AN ACT TO AMEND THE CROW BOARD OF HORSE RACING ACT**" was duly approved by the Crow Tribal Legislature with a vote of 16 in favor, 0 opposed, and 0 abstained, and that a quorum was present on this 25th day of March, 2015.



Sen. R. Knute Old Crow, Sr.
Speaker of the House
Crow Tribal Legislature

ATTEST:



Sen. Patrick Alden, Jr.
Secretary
Crow Tribal Legislature

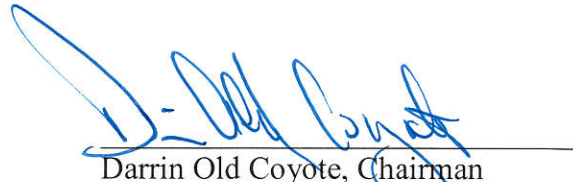


EXECUTIVE ACTION

I hereby

X **APPROVE**
 VETO

This Bill for an Act entitled "**AN ACT TO AMEND THE CROW BOARD OF HORSE RACING ACT**" pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this 27 day of March, 2015.



Darrin Old Coyote, Chairman
Crow Tribal Executive Branch

**A BILL FOR AN ACT ENTITLED:
"AN ACT TO AMEND THE CROW BOARD OF HORSE RACING ACT"**

Bill or Resolution: CLB15-02 **Introduced by:** Chairman Darrin Old Coyote **Date of Vote:** 3/25/2015
Number

<u>Representative:</u>	Yes	No	Abstained
G. Three Irons	_____	_____	_____
B. Rogers	<u> X </u>	_____	_____
C. J. Stewart	<u> X </u>	_____	_____
P. Hill	<u> X </u>	_____	_____
E. Birdinground	<u> X </u>	_____	_____
A. Coyote-Runs, Sr.	<u> X </u>	_____	_____
V. Nomee	<u> X </u>	_____	_____
T. Gros Ventre	<u> X </u>	_____	_____
V. Crooked Arm	<u> X </u>	_____	_____
P. Spotted Horse, Sr.	_____	_____	_____
L. DeCrane	<u> X </u>	_____	_____
C. Goes Ahead	<u> X </u>	_____	_____
B. Hugs	<u> X </u>	_____	_____
G. Real Bird, Jr.	<u> X </u>	_____	_____
B. Good Luck	<u> X </u>	_____	_____
G. Stewart	<u> X </u>	_____	_____
P. Alden, Jr. <i>Secretary of the House</i>	<u> X </u>	_____	_____
R. Old Crow, Sr. <i>Speaker of the House</i>	<u> X </u>	_____	_____
Totals:	<u> 16 </u>	_____	_____

Result of Vote:

Passed

Not Passed

Tabled

Veto-Override


Senator R. Knute Old Crow, Sr.
Speaker of the House

Date


Senator Pat Alden, Jr.
Secretary of the House

Date