

SENATE BILL No. 64

January 31, 1989, Introduced by Senator VAUGHN and referred to the Committee on Regulatory Affairs.

A bill to license and regulate the conducting of jai alai in this state; to legalize and permit the pari-mutuel system of wagering on the results of jai alai; to provide for the disposition of revenue derived from wagering on the results of jai alai; to prescribe certain powers and duties of certain state officers and agencies; to prohibit certain conduct; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "state jai alai law".

3 Sec. 3. For the purposes of this act, the words and phrases
4 defined in sections 5 to 9 have the meanings ascribed to them in
5 those sections.

1 Sec. 5. (1) "Breakage" means the odd cents deducted in all
2 the calculations to arrive at the payoff price in wagering on jai
3 alai.

4 (2) "Commissioner" means the racing commissioner appointed
5 under section 3 of the racing law of 1980, Act No. 327 of the
6 Public Acts of 1980, being section 431.63 of the Michigan
7 Compiled Laws.

8 (3) "Exhibition" means the whole period of time, whether
9 consecutive or nonconsecutive dates, during which a licensee con-
10 ducts jai alai games or matches and wagering.

11 (4) "Exhibition license" means a license to conduct an
12 exhibition.

13 Sec. 7. (1) "Fronton" means a building or enclosure in
14 which jai alai is played for public exhibition, and includes the
15 area in which pari-mutuel wagering is conducted.

16 (2) "Jai alai" means the ball game of Basque origin played
17 on a 3-walled court and also known as pelota.

18 (3) "Licensee" means an individual, partnership, associa-
19 tion, corporation, or other person licensed under this act to
20 conduct an exhibition on which wagering is conducted.

21 Sec. 9. (1) "Minor" means an individual who is less than 18
22 years of age.

23 (2) "Municipality" means a city, village, or township.

24 (3) "Occupational license" means a license issued to a
25 person participating in or having to do with pari-mutuel jai alai
26 under section 29.

1 (4) "Wagering" means wagering on the results of jai alai,
2 and includes win, place, show, and such exotic wagering as, but
3 not limited to, perfecta, trifecta, quinela, daily double, double
4 quinela, and pick 6.

5 Sec. 11. The commissioner has the powers and duties pre-
6 scribed in this act and shall administer this act as to licens-
7 ing, enforcement, and regulation. The commissioner has those
8 additional powers necessary and proper to implement and enforce
9 this act and to maintain jurisdiction over the conduct of each
10 meeting within this state where jai alai is permitted for a
11 stake, purse, or reward.

12 Sec. 13. (1) The commissioner shall promulgate rules pursu-
13 ant to the administrative procedures act of 1969, Act No. 306 of
14 the Public Acts of 1969, being sections 24.201 to 24.328 of the
15 Michigan Compiled Laws, under which jai alai shall be conducted
16 within this state. The rules promulgated under this section
17 shall accomplish all of the following:

18 (a) Govern, restrict, or regulate a uniform system of wager-
19 ing on jai alai, to be used at each fronton in this state.

20 (b) Promote the safety, security, growth, and integrity of
21 all jai alai conducted within this state.

22 (c) License and regulate each person participating in, or
23 having to do with, jai alai within this state.

24 (2) Each licensee shall provide security at all times during
25 the conduct of an exhibition so as to reasonably insure the
26 safety of all persons and players on the fronton grounds, and to
27 protect and preserve the integrity of jai alai and pari-mutuel

1 wagering. Upon a determination by the commissioner that
2 additional security is necessary to insure the safety and integ-
3 rity of jai alai, supplemental security shall be provided by the
4 commissioner at each exhibition in areas where occupational
5 licenses are required for admittance.

6 (3) The commissioner may assess a penalty, including a fine
7 of not more than \$5,000.00 for each violation of this act or a
8 rule promulgated under this act committed by a licensee. A fine
9 assessed by the commissioner under this section which exceeds
10 \$500.00, or the suspension of a license, may be appealed to the
11 commissioner. The appeal shall be heard by a hearings officer
12 within 30 days of the date on which the appeal is made and shall
13 be subject to the contested case provisions of Act No. 306 of the
14 Public Acts of 1969.

15 (4) All proposed extensions, additions, or improvements to
16 the buildings, improvements, or frontons upon property owned or
17 leased by a person licensed under this act shall be subject to
18 the approval of the commissioner. The commissioner may compel
19 the production of books, memoranda, electronically retrievable
20 data, or documents showing the receipts and disbursements of any
21 licensee under this act that relate to jai alai. The commis-
22 sioner at any time may, for a violation of this act or violation
23 of a rule under this act, require the removal of any employee or
24 official involved in or having to do with jai alai. The commis-
25 sioner may visit, investigate, and place auditors and other per-
26 sons as the commissioner considers necessary in the offices,
27 frontons, or places of business of a licensee under this act to

1 insure compliance with this act and the rules promulgated under
2 this act. The commissioner may summon witnesses and administer
3 oaths or affirmations, if necessary for the effective discharge
4 of duties under this act. A person failing to appear before the
5 commissioner at the time and place specified, without just cause,
6 in answer to a summons, or refusing to testify, or testifying
7 falsely, is guilty of a misdemeanor, punishable by a fine of not
8 more than \$5,000.00, or imprisonment for not more than 6 months,
9 or both.

10 Sec. 15. The commissioner may issue the following general
11 classes of licenses:

12 (a) Occupational licenses issued to individuals who qualify
13 as jai alai participants, exhibition operators, or employees
14 involved in or having to do with jai alai.

15 (b) Exhibition licenses issued annually specifying dates on
16 which jai alai may be conducted, to a person, corporation, firm,
17 partnership, association, or other legal entity proposing to con-
18 duct the exhibition. In addition to all other requirements for
19 an exhibition license, an exhibition license shall only be issued
20 for a fronton that is located in a municipality having a popula-
21 tion of more than 750,000, as determined by the latest federal
22 decennial census.

23 Sec. 17. (1) An exhibition license application shall be in
24 writing on a form supplied by the commissioner, shall demonstrate
25 to the commissioner satisfactory financial responsibility, shall
26 show the location of the fronton or of the proposed fronton at
27 which jai alai will be conducted, and shall be accompanied by

1 substantially detailed plans and specifications of the fronton or
2 proposed fronton. The application shall give the name and
3 address of the applicant, and, if a corporation, shall state the
4 place of its incorporation, and shall give any other information
5 required by the rules promulgated under this act or by the
6 commissioner. An application for an exhibition license first
7 shall be filed with the mayor of the municipality in which the
8 jai alai would be conducted. The mayor shall forward to the com-
9 missioner 1 or more applications that the mayor recommends be
10 considered for the exhibition license for that municipality.

11 (2) Upon the filing of the application with the commissioner
12 and payment of a \$1,000.00 nonrefundable application fee, the
13 commissioner shall investigate the applicant and the fronton or
14 proposed fronton as the commissioner considers necessary. If the
15 applicant and the fronton satisfy the requirements of this act
16 and the rules promulgated under this act, the commissioner shall
17 grant a license for the exhibition, designating in the license
18 the municipality of the holder of the license. If the fronton or
19 proposed fronton does not comply with this act and the rules
20 promulgated under this act, the commissioner shall deny the
21 license but shall grant a license upon compliance with the
22 requirements imposed by the commissioner.

23 (3) After a license is issued under this section, the com-
24 missioner may revoke a license if the holder of the license will-
25 fully violates this act or the rules promulgated under this act.
26 The action of the commissioner in revoking a license may be
27 reviewed by the circuit court for the county in which the fronton

1 is located. The decision of the circuit court is appealable to
2 the court of appeals.

3 (4) The applicant for the license shall also pay the license
4 fees provided in this act or in any rule promulgated under this
5 act.

6 Sec. 19. (1) In a city area, not more than 1 fronton shall
7 be licensed. As used in this act, "city area" means a city
8 having a population of 750,000 or more, and includes the counties
9 wholly or partly within a distance of 30 miles of the city limits
10 of the city.

11 (2) The commissioner shall not issue more than 1 fronton
12 license to a person, corporation, firm, partnership, association,
13 or other legal entity. Controlling ownership and interlocking
14 directorates among the holders of fronton licenses are
15 prohibited.

16 Sec. 21. (1) An exhibition license expires on December 31
17 of the year in which it was issued.

18 (2) An exhibition license may be renewed annually by appli-
19 cation submitted to the commissioner. The renewal application
20 shall be in a form as prescribed by the commissioner, and shall
21 require verification of the applicant's compliance with this act
22 and the rules promulgated under this act, and any other informa-
23 tion reasonably required by the commissioner.

24 Sec. 23. (1) The commissioner shall not issue or renew an
25 exhibition license to a legal entity organized for a charitable
26 purpose or organized for the purpose of distributing its profits
27 or income to charitable organizations.

1 (2) The commissioner shall not issue or renew an exhibition
2 license unless he or she has determined that the jai alai to be
3 conducted by the applicant will be conducted in connection with
4 pari-mutuel wagering, and that the applicant will meet the
5 requirements of this act and the rules promulgated under this
6 act.

7 (3) If, after the issuance or renewal of an exhibition
8 license, the commissioner determines that the holder of an exhi-
9 bition license does not meet, or will be unable to meet the
10 requirements of the license, the commissioner may impose a fine
11 or revoke the license. In making the required determination and
12 before revoking an exhibition license, the commissioner shall
13 consider whether, by reason of any cause beyond the control of
14 the licensee, jai alai cannot be conducted on a date licensed.

15 (4) An action of the commissioner pursuant to subsection (3)
16 shall become effective only after 10 days' written notice to the
17 holder of the license and may include either of the following:

18 (a) Imposition of a fine on the licensee.

19 (b) Revocation of the license for the remainder of the
20 period during which the license was granted.

21 (5) An action of the commissioner may be appealed pursuant
22 to the administrative procedures act of 1969, Act No. 306 of the
23 Public Acts of 1969, being sections 24.201 to 24.328 of the
24 Michigan Compiled Laws. The denial of an exhibition license may
25 be reviewed by the circuit court, and that decision is appealable
26 to the court of appeals.

1 Sec. 25. (1) Before March 31 of each year, each holder of
2 an exhibition license shall file with the commissioner a
3 certified full statement of receipts from all sources during the
4 previous calendar year and of expenses and disbursements, item-
5 ized in a manner and on a standardized form as directed by the
6 state treasurer, showing the net revenue from all sources derived
7 by the holder of the exhibition license. The certified financial
8 statements shall be considered public records and shall be made
9 available to any member of the legislature and open for public
10 inspection. The certified financial statements submitted shall
11 be prepared by a certified public accountant in accordance with
12 generally accepted auditing standards as promulgated by the
13 American institute of certified public accountants. The working
14 papers and other records pertaining to preparation of the finan-
15 cial statements may be reviewed by the state treasurer.

16 (2) On the first day other than Sunday after each day's jai
17 alai, each holder of an exhibition license shall remit to the
18 state treasurer, or deliver to the representative of the commis-
19 sioner, or directly deposit into an approved financial deposito-
20 ry, the money due the state at the close of the day's jai alai,
21 with a detailed statement of that money as required by this act
22 and the rules promulgated under this act.

23 Sec. 27. A person shall not hold or conduct, or assist,
24 aid, or abet in holding or conducting, an exhibition within the
25 state where jai alai is permitted for a stake, purse, or reward,
26 and at which pari-mutuel wagering is used, unless the person and

1 the fronton on which the jai alai is conducted is licensed under
2 this act.

3 Sec. 29. (1) Each person participating in or having to do
4 with pari-mutuel jai alai may be licensed by the commissioner
5 under rules promulgated under this act. The commissioner shall
6 not issue an occupational license to a person who was convicted
7 of a felony related to the person's ability and likelihood to
8 serve the public in a fair, honest, and open manner within 6
9 years immediately preceding application for the occupational
10 license. The commissioner shall not issue an occupational
11 license to a person who was convicted of a misdemeanor related to
12 the person's ability and likelihood to serve the public in a
13 fair, honest, and open manner within 2 years immediately preced-
14 ing application for the occupational license.

15 (2) The commissioner may demand, in addition to other infor-
16 mation he or she considers necessary and proper, fingerprints of
17 occupational license applicants, and as appropriate, proof of
18 compliance with the worker's disability compensation act of 1969,
19 Act No. 317 of the Public Acts of 1969, being sections 418.101 to
20 418.941 of the Michigan Compiled Laws.

21 (3) In addition to the requirements of subsection (2), an
22 applicant for an occupational license shall consent upon applica-
23 tion and for the duration of the occupational license, if issued,
24 to all of the following:

25 (a) Personal inspections, inspections of the applicant's
26 personal property, and inspections of premises and property

1 related to his or her participation in an exhibition by persons
2 authorized by the commissioner.

3 (b) If the applicant is applying for any license for an
4 occupation that involves contact with or access to the fronton or
5 fronton area, the applicant shall agree as a condition of licen-
6 sure to submit for the duration of the license period to a
7 breathalyzer test, urine test, or other noninvasive fluid test to
8 detect the presence of alcohol or a controlled substance as
9 defined in section 7104 of the public health code, Act No. 368 of
10 the Public Acts of 1978, being section 333.7104 of the Michigan
11 Compiled Laws, if directed to do so by the commissioner or his or
12 her representative. If the results of a test show that a person
13 has more than .05% of alcohol in his or her blood, or has present
14 in his or her body a controlled substance, the person shall not
15 be permitted to continue in his or her duties on that match day
16 and until he or she can produce, at his or her own expense, a
17 negative test result, and the person shall be subject to action
18 as provided in subsection (4). This subsection does not apply to
19 a controlled substance obtained directly from, or pursuant to a
20 valid prescription from, a licensed health care professional.
21 The commissioner shall suspend for not less than 1 year the
22 license of a person who for the third time in a period of not
23 more than 6 consecutive years is relieved of his or her duties
24 for the reasons prescribed in this subdivision.

25 (4) Upon the filing of a written complaint, under oath, with
26 the office of the commissioner, or upon the commissioner's
27 written motion regarding the actions or omissions of a person

1 issued an occupational license, the commissioner may suspend the
2 occupational license of the person for a period of not more than
3 90 days pending a hearing and the commissioner's final determina-
4 tion regarding the acts or omissions complained of in the written
5 complaint. The commissioner shall set the date, time, and place
6 for the hearing within 14 business days after the occupational
7 license is suspended and notify the holder of an occupational
8 license of the date, time, and place of the hearing not less than
9 5 days before the date of the hearing. In the conduct of the
10 hearing, the commissioner is not bound by technical rules of evi-
11 dence, but all evidence offered before the commissioner shall be
12 reduced to writing. That evidence together with the exhibits and
13 the commissioner's findings shall be permanently preserved and
14 shall constitute the record in the case. The commissioner shall
15 make a written final order setting forth the reasons for his or
16 her action, and a copy of the final order shall be served on the
17 holder of the occupational license. The commissioner's action in
18 revoking or suspending a license is reviewable by the circuit
19 court for the county in which the alleged act or failure to act
20 took place. If the commissioner's order is predicated upon a
21 written complaint alleging a series of acts, the review by the
22 circuit court may be in the county in which any of the alleged
23 acts or failure to act took place.

24 (5) Upon a refusal by the commissioner to issue an occupa-
25 tional license, a court shall not issue a writ of mandamus
26 directed to the commissioner until a hearing is held and findings

1 are issued on the basis of the hearing as provided by law and
2 court rule.

3 (6) Each occupational licensee shall pay a license fee of
4 not less than \$10.00 nor more than \$100.00 as determined by the
5 commissioner.

6 Sec. 31. (1) A holder of an exhibition license may provide
7 a place in the fronton area at which the licensee may conduct and
8 supervise the pari-mutuel system of wagering by patrons on jai
9 alai. The pari-mutuel system of wagering upon jai alai within
10 the fronton area shall not be held or construed to be unlawful.
11 If the pari-mutuel system of wagering is used at an exhibition, a
12 totalisator, or other device which is approved by the commis-
13 sioner for its clarity and accuracy, shall be used. The odds
14 display of the totalisator or other device shall be placed in
15 full view of the patrons.

16 (2) Of the total amount wagered, 19% shall be divided as
17 follows:

18 (a) 12% to the licensee.

19 (b) 4% to the municipality in which the exhibition takes
20 place.

21 (c) 2% to the state.

22 (d) 1% withheld for the capital improvement fund described
23 in section 33.

24 (3) Net wager pools may be accumulated and carried forward
25 from performance to performance in order to create a
26 super-jackpot.

1 (4) All sums accumulated as a result of breakage shall be
2 equally divided between the municipality and the licensee.

3 (5) Any federal taxes shall be paid by the licensee from out
4 of its 12% share of the total amount wagered.

5 (6) Any sums held by any licensee for payment of outstanding
6 pari-mutuel tickets not claimed by the person or persons entitled
7 to them within a period of 1 year following the last day of the
8 calendar year during which the ticket was purchased shall be
9 divided equally between the licensee and the municipality.

10 (7) The amounts to be distributed under this section shall
11 be distributed quarterly. All payments made to the state shall
12 be credited to the general fund of the state.

13 (8) Any act or transaction relative to wagering permitted by
14 this act shall only occur or be permitted to occur within the
15 fronton. A person shall not participate in or be a party to any
16 act or transaction relative to the placing of a wager or carrying
17 a wager for placement outside of a fronton. A person shall not
18 provide messenger service for the placing of a bet for another
19 person who is not a patron.

20 Sec. 33. Each licensee shall establish a capital improve-
21 ment fund, maintained as a separate bank account. The capital
22 improvement fund shall be used exclusively to do all of the
23 following:

24 (a) Fund capital improvements, including the purchase or
25 construction of new facilities and permanent improvements to
26 existing facilities used to conduct exhibitions. Amounts paid or
27 incurred for repairs or maintenance of property, interest

1 expenses, or lease payments do not qualify as capital
2 improvements.

3 (b) Reduce debt used to fund capital improvements.

4 (c) Pay state and federal income taxes attributable to the
5 capital improvement fund.

6 Sec. 35. (1) The auditing of pari-mutuel operations at each
7 exhibition shall be performed by a private auditing firm
8 appointed by the state treasurer and approved by the
9 commissioner. The expense of pari-mutuel audits shall be paid by
10 the state as a part of the state treasurer's budget. The scope
11 and frequency of the pari-mutuel audits, and the audit reporting
12 required of an exhibition licensee, shall be established in spec-
13 ifications prepared by the state treasurer and approved by the
14 commissioner.

15 (2) The auditors representing the state shall have free and
16 full access to the space or enclosure where the pari-mutuel
17 system of wagering is conducted, to the calculating room where
18 the pay-off prices are calculated, to the rooms and enclosures
19 where the totalisator equipment is operated, and to the money
20 rooms and cashier terminals, and shall be responsible for the
21 accuracy of the calculations on which are based the pay-off
22 prices to the public and amount of the exhibition licensee's com-
23 missioner, state tax and breakage, and for the amounts withheld
24 by the holder of the exhibition license for payment of uncashed
25 tickets. The auditors at all times shall have full and free
26 access to all pari-mutuel records and all aspects, areas, and
27 functions of the totalisator system, including but not limited

1 to, all hardware, software, input and output data, documents, and
2 files. The auditors may audit internally and externally any or
3 all parts and elements of the totalisator system whether on or
4 off the site of the fronton. If the records are maintained in a
5 machine-readable form, such as computer tapes or disks, copies
6 shall be made available to the auditors on request. The audi-
7 tors, in addition to their regular reports, shall promptly report
8 to the commissioner, the state treasurer, and the holder of the
9 exhibition license of any irregularities or discrepancies which
10 they may encounter during their auditing.

11 (3) In addition to auditing the pari-mutuel operations, the
12 auditors shall include in their final reports the daily
13 attendance figures as supplied by the holder of the exhibition
14 license.

15 Sec. 37. (1) A person licensed under this act shall not
16 knowingly permit the dissemination of information about jai alai
17 matches or games that might be of benefit to the operator of an
18 illegal handbook or other illegal gambling enterprise, including
19 the changes in odds which may take place during the period of
20 wagering in advance of each match or game.

21 (2) This section does not prevent the accredited representa-
22 tives of newspapers, sports publications, newspaper press serv-
23 ices, and radio and television networks and stations from
24 promptly reporting from the fronton the results of games or
25 matches, pay-off prices on winning tickets, claims, and other
26 information concerning the conducting of jai alai.

1 Sec. 39. At least 85% of all employees, other than players,
2 of a holder of an exhibition license shall have been residents or
3 registered voters of this state for at least 2 years at the time
4 of their employment. Annually, all employees shall furnish affi-
5 davits of compliance with this section to their employer.

6 Sec. 41. A person shall not participate in jai alai involv-
7 ing wagering of any kind except as permitted under this act.

8 Sec. 43. A political subdivision of this state shall not
9 assess nor collect an excise or license tax or fee from a person
10 licensed under this act based upon an activity performed under
11 this act.

12 Sec. 45. (1) A person who willfully aids, assists, or
13 abets the violation of this act or the rules promulgated under
14 this act is guilty of a misdemeanor, punishable by a fine of not
15 more than \$10,000.00, or by imprisonment for not more than 1
16 year, or both.

17 (2) For the purpose of this section, each day of jai alai
18 conducted in violation of this act constitutes a separate and
19 distinct offense.

20 Sec. 47. (1) A person shall not have in his or her posses-
21 sion within the fronton a controlled substance as defined in sec-
22 tion 7104 of the public health code, Act No. 368 of the Public
23 Acts of 1978, being section 333.7104 of the Michigan Compiled
24 Laws, or a hypodermic needle or other instrument that can be used
25 to administer a controlled substance, unless the controlled sub-
26 stance was obtained directly from, or pursuant to a prescription
27 from, a licensed physician, and the person notifies the

1 commissioner or his or her designee that the person possesses the
2 controlled substance or instrument. A person who violates this
3 subsection, or who aids or abets another in violating this sub-
4 section, is guilty of a misdemeanor, punishable by a fine of not
5 more than \$10,000.00, or by imprisonment for not more than 1
6 year, or both.

7 (2) In addition to the penalties prescribed in subsection
8 (1), a person who is a licensee under this act and who does any
9 of the acts described in subsection (1) shall have his or her
10 license suspended by the commissioner for a period of not less
11 than 5 years after being convicted.

12 Sec. 49. A person influencing or attempting to influence
13 the result of a game or match, by offer of money, thing of value,
14 future benefit, favor, preferment; by any form of pressure or
15 threat; or by seeking or having an agreement, understanding, or
16 conniving with any occupational licensee or other person associ-
17 ated with the conducting of jai alai; or in any other manner, is
18 guilty of a felony, punishable by a fine of not more than
19 \$10,000.00, or by imprisonment for not more than 5 years, or
20 both.

21 Sec. 51. A person who has information regarding a viola-
22 tion or attempted violation of section 49 shall report that
23 information to the commissioner or an agent of the commissioner.
24 A person who violates this section is guilty of a misdemeanor,
25 punishable by a fine of not more than \$10,000.00, or imprisonment
26 for not more than 1 year, or both.

1 Sec. 53. In addition to the penalties provided in sections
2 45, 47, 49, and 51, the holder of a license who violates section
3 45, 47, 49, or 51 shall be subject to penalties prescribed by the
4 commissioner which may include the suspension or revocation of
5 the person's license.

6 Sec. 55. This act shall not take effect unless all of the
7 following bills of the 85th Legislature are enacted into law:

8 (a) Senate Bill No. ____ or House Bill No. ____ (request
9 no. 00971'89).

10 (b) Senate Bill No. ____ or House Bill No. ____ (request
11 no. 00700'89).

12 (c) Senate Bill No. ____ or House Bill No. ____ (request
13 no. 00701'89).