

HOUSE BILL No. 5212

September 15, 2007, Introduced by Reps. Tobocman, Sak, Condino, Coulouris, Johnson, Melton, Donigan and Constan and referred to the Committee on Regulatory Reform.

A bill to amend the Initiated Law of 1996, entitled "Michigan gaming control and revenue act," by amending sections 2 and 8b (MCL 432.202 and 432.208b), section 2 as amended and section 8b as added by 1997 PA 69.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Adjusted gross receipts" means the gross receipts less
3 winnings paid to wagerers.

4 (b) "Affiliate" means a person who, directly or indirectly,
5 through 1 or more intermediaries, controls, is controlled by, or is
6 under common control with; is in a partnership or joint venture
7 relationship with; or is a co-shareholder of a corporation, a co-
8 member of a limited liability company, or co-partner in a limited
9 liability partnership with a person who holds or applies for a
10 casino license under this act.

1 (c) "Affiliated company" means any form of business
2 organization ~~which~~ **THAT** controls, is controlled by or is under
3 common control with; is in a partnership or joint venture
4 relationship with; or is a co-shareholder of a corporation, a co-
5 member of a limited liability company, or co-partner in a limited
6 liability partnership with a person who holds or applies for a
7 casino license under this act.

8 (d) "Agent" means any person who is employed by any agency of
9 the state, other than the board, the **DEPARTMENT OF** state police, or
10 **THE DEPARTMENT OF** attorney general, who is assigned to perform
11 full-time services on behalf of or for the benefit of the board
12 regardless of the title or position held by that person.

13 (e) "Applicant" means any person who applies for a license or
14 for registration under this act. ~~The term applicant~~ **AS USED** in
15 sections 4a(1)(a), ~~5(1), 5(2) TO (4), 5(3), 5(4), 6(3) TO (5) AND~~
16 ~~(9), 6(4), 6(5), 6(9), AND 7a(4), 7a(5), and 7a(11)~~ shall include
17 **(5), AND (11), APPLICANT INCLUDES** an affiliate, affiliated company,
18 officer, director, or managerial employee of the applicant or a
19 person who holds greater than 1% direct or indirect interest in the
20 applicant. As used in this subdivision, "affiliate" and "affiliated
21 company" do not include a partnership, a joint venture
22 relationship, a co-shareholder of a corporation, a co-member of a
23 limited liability company, or a co-partner in a limited liability
24 partnership that has less than 1% direct interest in the applicant
25 and is not involved in the casino or casino enterprise application
26 as defined in rules promulgated by the board.

27 (f) "Board" means the Michigan gaming control board.

1 (g) "Casino" means a building in which gaming is conducted.

2 (h) "Casino enterprise" means the buildings, facilities, or
3 rooms functionally or physically connected to a casino, including
4 but not limited to any bar, restaurant, hotel, cocktail lounge,
5 retail establishment, or arena or any other facility located in a
6 city under the control of a casino licensee or affiliated company.

7 (i) "Certified development agreement" means a development
8 agreement that has been certified by a city and submitted to the
9 Michigan gaming control board.

10 (j) "Chairperson" means the chairperson of the board.

11 (k) "Cheat" means to alter the selection of criteria ~~which~~
12 **THAT** determine the result of a gambling game or the amount or
13 frequency of payment in a gambling game, in violation of this act
14 or rules promulgated under this act.

15 (l) "City" means a local unit of government other than a county
16 ~~which~~ **THAT** meets all of the following criteria:

17 (i) Has a population of at least 800,000 at the time a license
18 is issued.

19 (ii) Is located within 100 miles of any other state or country
20 in which gaming was permitted on December 5, 1996.

21 (iii) Had a majority of voters who expressed approval of casino
22 gaming in the city.

23 (m) "Company" means a sole proprietorship, corporation,
24 partnership, limited liability partnership, limited liability
25 company, trust, association, joint stock company, joint venture,
26 tribal corporation, or other form of business organization.

27 (n) "Compensation" means any money, thing of value, or

1 financial benefit conferred on or received by a person in return
2 for services rendered, or to be rendered, whether by that person or
3 another.

4 (o) "Conflict of interest" means a situation in which the
5 private interest of a member, employee, or agent of the board may
6 influence the judgment of the member, employee, or agent in the
7 performance of his or her public duty under this act. A conflict of
8 interest includes, but is not limited to, the following:

9 (i) Any conduct that would lead a reasonable person, knowing
10 all of the circumstances, to conclude that the member, employee, or
11 agent of the board is biased against or in favor of an applicant.

12 (ii) Acceptance of any form of compensation other than from the
13 board for any services rendered as part of the official duties of
14 the member, employee, or agent for the board.

15 (iii) Participation in any business being transacted with or
16 before the board in which the member, employee, or agent of the
17 board or his or her parent, spouse, or child has a financial
18 interest.

19 (iv) Use of the position, title, or any related authority of
20 the member, employee, or agent of the board in a manner designed
21 for personal gain or benefit.

22 (v) Demonstration, through work or other action in the
23 performance of the official duties of the member, employee, or
24 agent of the board, of any preferential attitude or treatment of
25 any person.

26 (p) "Control" means having a greater than 15% direct or
27 indirect pecuniary interest in the casino gaming operation with

1 respect to which the license is sought.

2 (q) "Department" means the department of treasury.

3 (r) "Development agreement" means a written agreement between
4 a city and a person naming the person as the designated developer
5 of a casino in the city and covering certain subjects including,
6 but not limited to ~~+~~approval by the city of the location of the
7 casino; certification by the city that the applicant has sufficient
8 financial resources to construct and open the casino ~~which~~**THAT** it
9 proposes to develop; zoning and site plan requirements; utility
10 connection fees; infrastructure improvements; requirements to
11 utilize local businesses and small businesses as suppliers;
12 employment issues; compulsive gambling programs; insurance
13 requirements; conceptual design approval; reimbursement for
14 predevelopment and infrastructure costs, traffic engineering, and
15 other transportation costs; plans for completion of destination
16 attractions either within or outside the casino facility; and
17 ancillary development rights.

18 (s) "Disciplinary action" ~~is~~**MEANS** an action by the board
19 suspending or revoking a license ~~+~~**OR** fining, excluding,
20 reprimanding, or otherwise penalizing a person for violating this
21 act or rules promulgated by the board.

22 (t) "Ex parte communication" means any communication, direct
23 or indirect, regarding a licensing application, disciplinary
24 action, or a contested case under this act other than communication
25 that takes place during a meeting or hearing conducted under this
26 act.

27 (u) "Financial interest" or "financially interested" means any

1 interest in investments, awarding of contracts, grants, loans,
2 purchases, leases, sales, or similar matters under consideration or
3 consummated by the board. A member, employee, or agent of the board
4 ~~will be~~ **IS** considered to have a financial interest in a matter
5 under consideration if any of the following circumstances exist:

6 (i) He or she owns 1% or more of any class of outstanding
7 securities that are issued by a party to the matter under
8 consideration or consummated by the board.

9 (ii) He or she is employed by or is an independent contractor
10 for a party to the matter under consideration or consummated by the
11 board.

12 (v) "Gambling game" means any game played with cards, dice,
13 equipment, or a machine, including any mechanical,
14 electromechanical, or electronic device, ~~which shall include~~
15 **INCLUDING** computers and cashless wagering systems, for money,
16 credit, or any representative of value, including, but not limited
17 to, faro, monte, roulette, keno, bingo, fan tan, twenty one,
18 blackjack, seven and a half, klondike, craps, poker, chuck a luck,
19 Chinese chuck a luck (dai shu), wheel of fortune, chemin de fer,
20 baccarat, pai gow, beat the banker, panguingui, slot machine, any
21 banking or percentage game, or any other game or device approved by
22 the board. ~~but~~ **GAMBLING GAME** does not include games played with
23 cards in private homes or residences in which no person makes money
24 for operating the game, except as a player.

25 (w) "Gambling operation" means the conduct of authorized
26 gambling games in a casino.

27 (x) "Gaming" means to deal, operate, carry on, conduct,

1 maintain, or expose or offer for play any gambling game or gambling
2 operation.

3 (Y) "GAMING EMPLOYEE" MEANS AN INDIVIDUAL CONNECTED DIRECTLY
4 WITH THE OPERATION OF GAMING. GAMING EMPLOYEE INCLUDES ALL OF THE
5 FOLLOWING:

6 (i) AN INDIVIDUAL WHO PERFORMS ACCOUNTING OR INTERNAL AUDITING
7 SERVICES IF THE INDIVIDUAL IS DIRECTLY INVOLVED IN KEEPING OR
8 EXAMINING RECORDS ASSOCIATED WITH REVENUE FROM GAMING.

9 (ii) A BOXMAN.

10 (iii) A CASHIER.

11 (iv) A CHANGE WORKER.

12 (v) A COUNTING ROOM WORKER.

13 (vi) A DEALER.

14 (vii) A FLOORMAN.

15 (viii) A HOST OR OTHER INDIVIDUAL EMPOWERED TO EXTEND CREDIT OR
16 COMPLIMENTARY SERVICES.

17 (ix) A KENO RUNNER.

18 (x) A KENO WRITER.

19 (xi) A MACHINE MECHANIC.

20 (xii) AN ODDS MAKER OR LINE SETTER.

21 (xiii) A SECURITY WORKER.

22 (xiv) A SHIFT OR PIT BOSS.

23 (xv) A SHILL.

24 (xvi) A SUPERVISOR OR MANAGER.

25 (xvii) A TICKET WRITER.

26 (Z) ~~(y)~~ "Gross receipts" means the total of all sums including
27 valid or invalid checks, currency, tokens, coupons, vouchers, or

1 instruments of monetary value whether collected or uncollected,
2 received by a casino licensee from gaming, including all entry fees
3 assessed for tournaments or other contests, less a deduction for
4 uncollectible gaming receivables not to exceed the uncollectible
5 amounts owed as a result of wagers placed at or through a gambling
6 game or 4% of the total gross receipts, whichever is less. The
7 licensee shall not receive the deduction unless the licensee
8 provides written proof to the state treasurer of the uncollected
9 gaming receivables and ~~had~~ complied with all rules promulgated by
10 the board regarding the issuance of credit and the collection of
11 amounts due under a credit extension.

12 (AA) ~~(z)~~ "Institutional investor" means any retirement fund
13 administered by a public agency for the exclusive benefit of
14 federal, state, or local public employees, an employee benefit
15 plan, or pension fund that is subject to the employee retirement
16 income security act of 1974, ~~as amended~~ **29 USC 1001 TO 1461**, an
17 investment company registered under the investment company act of
18 1940, ~~title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-~~
19 ~~3 and 80a-4~~ **15 USC 80A-1** to 80a-64, a collective investment trust
20 organized by a bank under part 9 of the rules of the comptroller of
21 the currency, a closed end investment trust, a chartered or
22 licensed life insurance company or property and casualty insurance
23 company, a chartered or licensed financial institution, an
24 investment advisor registered under the investment advisers act of
25 1940, ~~title II of chapter 686, 54 Stat. 847, 15 U.S.C.~~ **USC 80b-1** to
26 80b-21, or any other person as the board may determine for reasons
27 consistent with this act.

1 **(BB)** ~~(aa)~~—"Investigative hearing" means any hearing conducted
 2 by the board or its authorized representative to investigate and
 3 gather information or evidence regarding pending license
 4 applications, applicants, licensees, or alleged or apparent
 5 violations of this act or rules promulgated by the board.

6 **(CC)** ~~(bb)~~—"Junket enterprise" means any person other than a
 7 casino licensee or applicant who employs or otherwise engages in
 8 the procurement or referral of persons who may participate in a
 9 junket to a casino licensed under this act or casino enterprise
 10 whether or not those activities occur ~~within the~~ **IN THIS** state.

11 **(DD)** ~~(cc)~~—"Managerial employee" means a person who by virtue
 12 of the level of ~~their~~ **HIS OR HER** remuneration or otherwise holds a
 13 management, supervisory, or policy making position with any
 14 licensee under this act, **A** vendor, or the board.

15 **(EE)** ~~(dd)~~—"Member" means a board member appointed to the
 16 ~~Michigan gaming control board~~ under this act.

17 **(FF)** ~~(ee)~~—"Occupational license" means a license issued by the
 18 board to a person to **ACT AS A GAMING EMPLOYEE OR TO** perform an
 19 occupation ~~in a casino or casino enterprise which~~ **THAT** the board
 20 has identified as ~~requiring a license to engage in casino gaming in~~
 21 ~~Michigan~~ **HAVING THE POWER TO EXERCISE A SIGNIFICANT INFLUENCE OVER**
 22 **THE OPERATION OF GAMING UNDER THIS ACT.**

23 **(GG)** ~~(ff)~~—"Person" means an individual, corporation, limited
 24 liability company, association, partnership, limited liability
 25 partnership, trust, entity, or other legal entity.

26 **(HH)** ~~(gg)~~—"Supplier" means a person who the board has
 27 identified under rules promulgated by the board as requiring a

1 license to provide casino licensees or casino enterprises with
2 goods or services regarding the realty, construction, maintenance,
3 or business of a proposed or existing casino, casino enterprise, or
4 related facility on a regular or continuing basis, including, but
5 not limited to, junket enterprises, security businesses,
6 manufacturers, distributors, persons who service gaming devices or
7 equipment, garbage haulers, maintenance companies, food purveyors,
8 and construction companies.

9 (II) ~~(hh)~~-"Vendor" means a person who is not licensed under
10 this act who supplies any goods or services to a casino licensee or
11 supplier licensee.

12 (JJ) ~~(ii)~~-"Wagerer" means a person who plays a gambling game
13 authorized under this act.

14 (KK) ~~(jj)~~-"Winnings" means the total cash value of all
15 property or sums including currency, tokens, or instruments of
16 monetary value paid to wagerers as a direct result of wagers placed
17 at or through a gambling game.

18 Sec. 8b. Subject to the laws of this state, prior to hiring a
19 ~~prospective employee~~ **PERSON REQUIRED TO HOLD AN OCCUPATIONAL**
20 **LICENSE**, the holder of a casino license shall conduct a background
21 check of the ~~prospective employee~~ **PERSON** to determine whether the
22 ~~prospective employee~~ **PERSON** has had any criminal convictions or has
23 any pending criminal charges at the time he or she submits an
24 application for employment.