

# SENATE BILL NO. 398

April 28, 2021, Introduced by Senators HERTEL, ANANICH and LAUWERS and referred to the Committee on Agriculture.

A bill to amend 1996 IL 1, entitled "Michigan Gaming Control and Revenue Act," by amending sections 9b and 12 (MCL 432.209b and 432.212), as amended by 2019 PA 158.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 9b. (1) Except as provided in section 12, a person ~~who~~  
2 **that** holds a casino license issued under this act shall not  
3 televise or allow any other person to televise simulcast horse  
4 races on the premises of the casino **unless the person that holds**  
5 **the casino license also holds a third-party facilitator license**

1 issued under section 8 of the horse racing law of 1995, 1995 PA  
2 279, MCL 431.308.

3 (2) As used in this section, "simulcast" means the live  
4 transmission of video and audio signals conveying a horse race held  
5 either in or outside of this state.

6 Sec. 12. (1) A wagering tax is imposed on the adjusted gross  
7 receipts received by a casino licensee from gaming authorized under  
8 this act at the rate of 18%. If a city exercises either of the  
9 options in subsection (4), the tax rate under this subsection is  
10 8.1% and must be deposited in the state school aid fund to provide  
11 additional funds for K-12 classroom education. If a city rescinds  
12 or is otherwise unable to exercise 1 of the options in subsection  
13 (4), the tax rate under this subsection is 18%. A tax rate of 18%  
14 imposed under this subsection covers any period for which the city  
15 does not or is unable to exercise 1 of the options in subsection  
16 (4).

17 (2) The state casino gaming fund is created in the department.  
18 The **department shall administer the** fund ~~shall be administered by~~  
19 ~~the department~~ in accordance with this act. Except as provided in  
20 sections 12a and 13, the taxes imposed under this section plus all  
21 other fees, fines, and charges imposed by this state under this act  
22 must be deposited into the state casino gaming fund. A casino  
23 licensee shall remit the wagering tax to the department daily by  
24 electronic wire transfer of funds. The department shall remit the  
25 city's portion of the wagering tax to the city daily by electronic  
26 wire transfer of funds as provided by this act.

27 (3) If the wagering tax imposed under subsection (1) is 18% of  
28 adjusted gross receipts, money in the state casino gaming fund that  
29 is not from a tax imposed under subsections (5) to (8) must be

1 allocated as follows:

2 (a) 55% to the city in which a casino is located for use in  
3 connection with the following:

4 (i) The hiring, training, and deployment of street patrol  
5 officers.

6 (ii) Neighborhood and downtown economic development programs  
7 designed to create local jobs.

8 (iii) Public safety programs such as emergency medical services,  
9 fire department programs, and street lighting.

10 (iv) Anti-gang and youth development programs.

11 (v) Other programs that are designed to contribute to the  
12 improvement of the quality of life in the city.

13 (vi) Relief to the taxpayers of the city from 1 or more taxes  
14 or fees imposed by the city.

15 (vii) The costs of capital improvements.

16 (viii) Road repairs and improvements.

17 (b) 45% to the state to be deposited in the state school aid  
18 fund established under section 11 of article IX of the state  
19 constitution of 1963 to provide additional funds for K-12 classroom  
20 education.

21 (4) A city in which a casino licensee is located may do 1 of  
22 the following:

23 (a) In the development agreement into which the city is  
24 entitled to enter, include a provision that requires the licensee  
25 located in the city to pay the city a payment equal to 9.9% of the  
26 adjusted gross receipts received by the casino licensee from gaming  
27 authorized under this act.

28 (b) By ordinance, levy, assess, and collect an excise tax upon  
29 licensees located in the city at a rate of 9.9% of the adjusted

1 gross receipts received by the casino licensee from gaming  
2 authorized under this act.

3 (5) Subject to subsections (6) to (8), a wagering tax in  
4 addition to the tax imposed in subsection (1) is imposed on the  
5 adjusted gross receipts received by a licensee from gaming  
6 authorized under this act at the rate of 6%. Money from the tax  
7 imposed under this subsection that has been deposited in the state  
8 casino gaming fund must be allocated 1/3 to the city in which the  
9 licensee's casino is located for use in connection with the  
10 purposes listed in subsection (3)(a), 7/12 to the general fund, and  
11 1/12 to the Michigan agriculture equine industry development fund.  
12 The city may collect its share of the tax under this subsection  
13 directly using 1 of the methods in subsection (4). For a period  
14 during which the licensee is paying the city's share of the tax  
15 under this subsection directly to the city under either of the  
16 methods in subsection (4), the payment to the state casino gaming  
17 fund under this subsection is 4% and must be allocated 7/8 to the  
18 general fund and 1/8 to the Michigan agriculture equine industry  
19 development fund.

20 (6) Subject to subsections (7) and (8), and unless an act of  
21 God, a war, a disaster, or an act of terrorism directly and  
22 substantially impacts the ability of a casino licensee to complete  
23 construction of its casino and casino enterprise, if a casino  
24 licensee is not fully operational by each of the following dates,  
25 the tax on the casino licensee under subsection (5) is as follows:

26 (a) July 1, 2009, 7%, allocated 1/2 to the general fund, 1/14  
27 to the Michigan agriculture equine industry development fund, and  
28 3/7 to the city in which the licensee's casino is located.

29 (b) July 1, 2010, 8%, allocated 7/16 to the general fund, 1/16

1 to the Michigan agriculture equine industry development fund, and  
2 1/2 to the city in which the licensee's casino is located.

3 (c) July 1, 2011, 9%, allocated 7/18 to the general fund, 1/18  
4 to the Michigan agriculture equine industry development fund, and  
5 5/9 to the city in which the licensee's casino is located.

6 (7) Subject to subsection (8), and irrespective of whether  
7 there has been an increase under subsection (6), after a casino  
8 licensee has been fully operational for 30 consecutive days, the  
9 casino licensee may apply to the board for certification under this  
10 subsection. If the board determines that a casino licensee that  
11 makes an application under this subsection has been fully  
12 operational and in compliance with its development agreement that  
13 is in existence on July 1, 2004 or a subsequent original  
14 development agreement, for at least 30 consecutive days, the board  
15 shall certify the casino licensee under this subsection, and the  
16 tax imposed on the casino licensee under subsection (5), as  
17 adjusted, if applicable, by subsection (6), shall be, retroactive  
18 to the first day of the 30 consecutive day period that the casino  
19 licensee was fully operational, reduced to 1% and must be allocated  
20 entirely to the city where the licensee operates its casino.

21 (8) If the McCauley-Traxler-Law-Bowman-McNeely lottery act,  
22 1972 PA 239, MCL 432.1 to 432.47, is amended to allow the operation  
23 of video lottery at horse racetracks in this state, and if video  
24 lottery is being conducted at horse racetracks in this state, the  
25 casino licensee is no longer obligated to pay the wagering tax  
26 under subsections (5) to (7).

27 (9) Notwithstanding section 9b, if the McCauley-Traxler-Law-  
28 Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47, is  
29 amended to allow the operation of video lottery at horse racetracks

1 in this state, and if video lottery is being conducted at horse  
2 racetracks in this state, a casino licensee may, after obtaining  
3 approval from the board, apply to the racing commissioner for  
4 authorization to simulcast horse races under the horse racing law  
5 of 1995, 1995 PA 279, MCL 431.301 to 431.336. A casino licensee  
6 that is authorized under this subsection shall comply with all  
7 applicable provisions of the horse racing law of 1995, 1995 PA 279,  
8 MCL 431.301 to 431.336, rules promulgated under that act, and the  
9 written permit to conduct simulcasting and any related order issued  
10 to the casino licensee by the racing commissioner. Simulcasting and  
11 wagering under this subsection are under the primary control of the  
12 racing commissioner, and the racing commissioner may revoke or  
13 suspend the authorization of or take other disciplinary action  
14 against the casino licensee for failing to comply with a law, rule,  
15 permit, or order as required by this subsection. However, the  
16 simulcasting and wagering under this subsection is part of the  
17 licensee's casino operation under this act and subject to the same  
18 control by the board as are other parts of the licensee's casino  
19 operation. The board may take disciplinary action under section 4a  
20 against a casino licensee for failure to comply with a law, rule,  
21 permit, or order as required by this subsection.

22 (10) A casino licensee is entitled to the same commission from  
23 money wagered on horse races simulcast by the licensee as a race  
24 meeting licensee is entitled to receive from wagering on simulcast  
25 horse races under the horse racing law of 1995, 1995 PA 279, MCL  
26 431.301 to 431.336. The same taxes, fees, and other deductions must  
27 be subtracted and paid from the licensee's commission as are  
28 subtracted and paid from a race meeting licensee's commission under  
29 the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

1           (11) Payments to a city under 1 of the methods in subsection  
2       (4) must be made in a manner, at those times, and subject to  
3       reporting requirements and penalties and interest for delinquent  
4       payment as may be provided for in the development agreement if the  
5       payment is required under a development agreement, or by ordinance  
6       if the payment is required for a tax levied by the city. Payments  
7       required under the method described in subsection (4)(a) may be in  
8       addition to any other payments that may be required in the  
9       development agreement for the conveyance of any interest in  
10      property, the purchase of services, or the reimbursement of  
11      expenses. Payments to a city under the method described in  
12      subsection (4) must be used by the city for the purposes listed in  
13      subsection (3)(a).

14           (12) Approval by the city of a development agreement or  
15      adoption of an ordinance approving either casino gaming or the levy  
16      of a local excise tax does not constitute the granting of a  
17      franchise or license by the city for purposes of any statutory,  
18      charter, or constitutional provision.

19           (13) The taxes imposed under this section and any tax imposed  
20      under section 13(2) must be administered by the department of  
21      treasury in accordance with 1941 PA 122, MCL 205.1 to 205.31, and  
22      this act. In case of conflict between the provisions of 1941 PA  
23      122, MCL 205.1 to 205.31, and this act, the provisions of this act  
24      prevail.

25           (14) Funds from this act must not be used to supplant existing  
26      state appropriations or local expenditures.

27           (15) If internet sports betting or other forms of internet  
28      gaming are authorized and regulated by other laws of this state,  
29      any taxes, payments, and fees relating to such internet wagers

1 received by a casino licensee and such internet gaming are subject  
2 to those other laws of this state.

3 (16) Except as otherwise provided in subsection (15), and in  
4 lieu of the taxes and fees that otherwise would be imposed under  
5 this act on sports betting, a wagering tax of 8.4% is imposed on  
6 the qualified adjusted gross receipts received by a casino licensee  
7 from any form of sports betting conducted under this act. Wagering  
8 taxes paid under this subsection must be allocated as provided in  
9 subsection (3). As used in this subsection:

10 (a) "Gross sports betting receipts" means the total of all  
11 sums, including, but not limited to, valid or invalid checks, valid  
12 or invalid credit or debit card deposits, valid or invalid ACH  
13 deposits, currency, coupons, free play or promotional credits,  
14 redeemable credits, vouchers, entry fees assessed for tournaments  
15 or other contests, or instruments of monetary value whether  
16 collected or uncollected, in each case actually wagered by a person  
17 authorized by law to participate in sports betting at or with a  
18 casino licensee on sports betting, less all of the following:

19 (i) Winnings.

20 (ii) Amounts returned to a person authorized by law to  
21 participate in sports betting due to a game, platform, or system  
22 malfunction or because the sports bet must be voided due to  
23 concerns regarding integrity of the wager or game.

24 (iii) Uncollectible markers or successfully disputed credit or  
25 debit card charges that were previously included in the computation  
26 of gross sports betting receipts.

27 (b) "Qualified adjusted gross receipts" means gross sports  
28 betting receipts minus the monetary value of free play provided to  
29 and wagered by persons authorized by law to participate in sports

1 betting as an incentive to place or as a result of their having  
2 placed sports betting wagers.

3 (17) Notwithstanding subsection (15), if a casino licensee  
4 provides a wagerer with a device to conduct internet gaming while  
5 at the casino, the taxes otherwise provided for under subsections  
6 (1) to (14), not to exceed 19%, are imposed on the adjusted gross  
7 receipts received by the casino licensee from the wagerer's  
8 internet gaming on the device. This subsection does not apply to  
9 sports betting.

10 (18) A casino licensee shall provide to the board a monthly  
11 report to include all of the following regarding its gaming  
12 operations under this act by game category, such as slots, poker  
13 and table games, and sports betting by sport:

14 (a) Total amount of wagers received.

15 (b) Winnings.

16 (c) Free play redeemed.

17 (d) Deductions.

18 (e) Adjusted gross receipts.

19 (19) The board shall provide the report under subsection (18)  
20 to the department and state budget office on request. In addition,  
21 the department and the state budget office may request additional  
22 information from the casino licensees that is directly related to,  
23 and for the purposes of verification of, the financial data  
24 provided under subsection (18) (a) and (b), which must be provided  
25 within 60 days after the request. All information provided under  
26 this section is confidential and proprietary and is exempt from  
27 disclosure under the freedom of information act, 1976 PA 442, MCL  
28 15.231 to 15.246.

29 (20) This section does not impair the contractual rights under

1 an existing development agreement between a city and a casino  
2 licensee.

3 (21) As used in this section:

4 (a) "Fully operational" means that a certificate of occupancy  
5 has been issued to the casino licensee for the operation of a hotel  
6 with not fewer than 400 guest rooms and, after issuance of the  
7 certificate of occupancy, the casino licensee's casino, casino  
8 enterprise, and 400-guest-room hotel have been opened and made  
9 available for public use at their permanent location and maintained  
10 in that status.

11 (b) "Michigan agriculture equine industry development fund"  
12 means the Michigan agriculture equine industry development fund  
13 created in section 20 of the horse racing law of 1995, 1995 PA 279,  
14 MCL 431.320.

15 Enacting section 1. This amendatory act does not take effect  
16 unless Senate Bill No. 396 of the 101st Legislature is enacted into  
17 law.