

Act No. 327
Public Acts of 2020
Approved by the Governor
December 29, 2020
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December 29, 2020
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**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senators Hertel, Irwin, Geiss, Polehanki, Wojno, Ananich and Hollier

ENROLLED SENATE BILL No. 991

AN ACT to amend 2019 PA 152, entitled “An act to create the lawful internet gaming act; to require licensure for persons to offer internet gaming; to impose requirements for internet gaming; to provide for the powers and duties of the Michigan gaming control board and other state and local officers and entities; to impose fees; to impose tax and other payment obligations on the conduct of licensed internet gaming; to create the internet gaming fund; to prohibit certain acts in relation to internet gaming and to prescribe penalties for those violations; to require the promulgation of rules; and to provide remedies,” by amending sections 3, 5, 7, and 11 (MCL 432.303, 432.305, 432.307, and 432.311).

The People of the State of Michigan enact:

Sec. 3. As used in this act:

(a) “Adjusted gross receipts” means gross receipts less a deduction equal to the amount of free play provided and wagered by authorized participants as an incentive to place or as a result of placing internet wagers under this act. The deduction under this subdivision is limited as follows:

- (i) For years 1-3, a deduction not to exceed 10% of gross receipts.
- (ii) For year 4, a deduction not to exceed 6% of gross receipts.
- (iii) For year 5, a deduction not to exceed 4% of gross receipts.

(iv) For year 6 and each year thereafter, no deduction of free play is allowed. The January 1 following the year in which the internet gaming operator begins internet gaming operations is considered the beginning of the first year of internet gaming for the purposes of this subdivision. An internet gaming operator may deduct up to 10% of gross receipts during any period of internet gaming operations before January 1 of the first year of internet gaming operations.

(b) “Affiliate” means a person that, directly or indirectly, through 1 or more intermediaries, controls or is controlled by an internet gaming operator.

(c) “Applicant” means a person that applies for a license or for registration under this act. As used in section 8, applicant includes an affiliate, director, or managerial employee of the applicant that performs the function of principal executive officer, principal operations officer, or principal accounting officer, or a person who holds more than 5% ownership interest in the applicant. As used in this subdivision, affiliate does not include a partnership, a joint venture, a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership that has 5% or less ownership interest in the applicant and is not involved in the internet gaming operation.

(d) “Authorized participant” means an individual who has a valid internet wagering account with an internet gaming operator and is 21 years of age or older.

(e) “Board” means the Michigan gaming control board created under section 4 of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.204.

(f) “Casino” means a building or buildings in which gaming is lawfully conducted under the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226, or in which class III gaming is lawfully conducted by an Indian tribe in this state under a facility license issued in accordance with a tribal gaming ordinance approved by the chair of the National Indian Gaming Commission.

(g) “Class II gaming” means that term as defined in 25 USC 2703.

(h) “Class III gaming” means that term as defined in 25 USC 2703.

(i) “Compact” means a tribal-state compact governing the conduct of gaming activities that is negotiated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat 2467.

(j) “Fantasy contest” means that term as defined in section 2 of the fantasy contests consumer protection act, 2019 PA 157, MCL 432.502.

(k) “Fund” means the internet gaming fund created under section 16.

(l) “Gross receipts” means the total of all sums, including, but not limited to, valid or invalid checks, valid or invalid credit or debit card deposits, valid or invalid ACH deposits, currency, coupons, free play or promotional credits, redeemable credits, vouchers, entry fees assessed for tournaments or other contests, or instruments of monetary value whether collected or uncollected, in each case actually wagered by an authorized participant at or with an internet gaming operator on an internet game, less all of the following:

(i) Winnings.

(ii) Amounts returned to an authorized participant due to a game, platform, or system malfunction or because the internet wager must be voided due to concerns regarding integrity of the wager or game.

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

(m) “Indian lands” means that term as defined in 25 USC 2703.

(n) “Indian tribe” means that term as defined in 25 USC 2703 and any instrumentality, political subdivision, or other legal entity through which an Indian tribe operates its casino in this state.

(o) “Institutional investor” means a person that is any of the following:

(i) A retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees.

(ii) An employee benefit plan or pension fund that is subject to the employee retirement income security act of 1974, Public Law 93-406.

(iii) An investment company registered under the investment company act of 1940, 15 USC 80a-1 to 80a-64.

(iv) A collective investment trust organized by a bank under 12 CFR part 9.

(v) A closed end investment trust.

(vi) A chartered or licensed life insurance company or property and casualty insurance company.

(vii) A chartered or licensed financial institution.

(viii) An investment advisor registered under the investment advisers act of 1940, 15 USC 80b-1 to 80b-21.

(ix) Any other person that the board determines through rulemaking should be considered to be an institutional investor for reasons consistent with this act.

(p) “Internet” means the international computer network of interoperable packet-switched data networks, inclusive of such additional technological platforms as mobile, satellite, and other electronic distribution channels.

(q) “Internet game” means a game of skill or chance that is offered for play through the internet in which an individual wagers money or something of monetary value for the opportunity to win money or something of monetary value. Internet game includes gaming tournaments conducted via the internet in which individuals compete against one another in 1 or more of the games authorized by the board or in approved variations or composites as authorized by the board. Internet game does not include a social media internet game as that term is defined in section 310c of the Michigan penal code, 1931 PA 328, MCL 750.310c.

(r) “Internet gaming” means operating, conducting, or offering for play an internet game.

(s) “Internet gaming operator” means a person that is issued an internet gaming operator license from the board.

(t) “Internet gaming operator license” means a license issued by the board to a person to operate, conduct, or offer internet gaming.

(u) “Internet gaming platform” means an integrated system of hardware, software, applications, including mobile applications, and servers through which an internet gaming operator operates, conducts, or offers internet gaming.

(v) “Internet gaming platform provider” means an internet gaming supplier that contracts with an internet gaming operator to provide an internet gaming platform.

(w) “Internet gaming supplier” means a person that the board has identified under the rules promulgated by the board as requiring a license to provide internet gaming operators goods or services that directly affect wagering, play, and results of internet games offered under this act. Internet gaming supplier includes, but is not limited to, internet gaming platform providers.

(x) “Internet gaming supplier license” means a license issued by the board to an internet gaming supplier.

(y) “Internet wager” means money or something of monetary value risked on an internet game.

(z) “Internet wagering” means risking money or something of monetary value on an internet game.

(aa) “Internet wagering account” means an electronic ledger in which all of the following types of transactions relative to an authorized participant are recorded:

(i) Deposits and credits.

(ii) Withdrawals.

(iii) Internet wagers.

(iv) Monetary value of winnings.

(v) Service or other transaction-related charges authorized by the authorized participant, if any.

(vi) Adjustments to the account.

(bb) “Mobile application” means an application on a mobile phone or other device through which an individual is able to place an internet wager.

(cc) “Occupational license” means a license issued by the board to a person to perform an occupation that directly impacts the integrity of internet gaming and that the board has identified as requiring a license to perform the occupation.

(dd) “Person” means an individual, partnership, corporation, association, limited liability company, federally recognized Indian tribe, or other legal entity.

(ee) “Poker” means the traditional game of poker, and any derivative of the game of poker as approved by the board, in which 2 or more authorized participants play against each other and wager on the value of the cards in the authorized participants’ hands.

(ff) “Vendor” means a person that is not licensed under this act that supplies any goods or services to an internet gaming operator or internet gaming supplier.

(gg) “Winnings” means the total cash value of all property or sums including currency or instruments of monetary value paid to an authorized participant by an internet gaming operator as a direct result of a winning internet wager.

Sec. 5. (1) The board has the powers and duties specified in this act and all other powers necessary to enable it to fully and effectively execute this act to administer, regulate, and enforce the system of internet gaming established under this act.

(2) The board has jurisdiction over every person licensed by the board and may take enforcement action against a person that is not licensed by the board that offers internet gaming in this state.

(3) The board may enter into agreements with other jurisdictions, including Indian tribes, to facilitate, administer, and regulate multijurisdictional internet gaming for poker by internet gaming operators to the extent that entering into the agreement is consistent with state and federal laws and if the internet gaming under the agreement is conducted only in the United States.

Sec. 7. (1) The board shall condition the issuance, maintenance, and renewal of an internet gaming operator license to a person described in section 6(1)(b) on the person’s compliance with all of the following conditions:

(a) The person complies with this act, rules promulgated by the board, and minimum internal controls pertaining to all of the following:

(i) The types of and rules for playing internet games that internet gaming operators may offer under this act.

(ii) Technical standards, procedures, and requirements for the acceptance, by the person, of internet wagers initiated or otherwise made by individuals located in this state who are not physically present on the person’s Indian lands in this state at the time the internet wager is initiated or otherwise made.

(iii) Procedures and requirements for the acceptance of internet wagers for poker initiated or otherwise made by individuals located in other jurisdictions, if the board authorizes multijurisdictional internet gaming for poker as provided in this act.

(iv) The requirements set forth in section 11.

(b) The person adopts and maintains technical standards for internet gaming platforms, systems, and software that are consistent with the standards adopted by the board under section 10.

(c) The person maintains 1 or more mechanisms on the internet gaming platform that are designed to reasonably verify that an authorized participant is 21 years of age or older and that internet wagering is limited to transactions that are initiated and received or otherwise made by an authorized participant located in this state or, if the board authorizes multijurisdictional internet gaming for poker as provided in this act, another jurisdiction in the United States authorized by the multijurisdictional agreement.

(d) The person adopts and maintains responsible gaming measures consistent with those described in section 12.

(e) The person continues to maintain and operate in this state a casino offering class III gaming and the casino contains not less than 50% of the gaming positions that were in place on December 20, 2019.

(f) The person, within the time period described in section 14(3), makes payments, to be allocated as outlined in section 15a, based on a graduated percentage schedule on the adjusted gross receipts received each calendar year by the person from all internet gaming it conducts under this act as an internet gaming operator, as set forth below:

(i) For adjusted gross receipts less than \$4,000,000.00, 20%.

(ii) For adjusted gross receipts of \$4,000,000.00 or more but less than \$8,000,000.00, 22%.

(iii) For adjusted gross receipts of \$8,000,000.00 or more but less than \$10,000,000.00, 24%.

(iv) For adjusted gross receipts of \$10,000,000.00 or more but less than \$12,000,000.00, 26%.

(v) For adjusted gross receipts of \$12,000,000.00 or more, 28%.

(g) The person agrees to provide and timely provides, on written request of the board, books and records directly related to its internet gaming operations for the purpose of permitting the board to verify the calculation of the payments under subdivision (f).

(h) The person provides a waiver of sovereign immunity to the board for the sole and limited purpose of consenting to both of the following:

(i) The jurisdiction of the board to the extent necessary and for the limited purpose of providing a mechanism for the board to do all of the following:

(A) Issue, renew, and revoke the person's internet gaming license.

(B) Enforce the payment obligations set forth in this section and section 14.

(C) Regulate the person under and enforce sections 10(a), (b), (d) to (g), 11, 12(4) and (5), 13, 19, and 21.

(D) Inspect the person's internet gaming operation and records to verify that the person is conducting its internet gaming operation in conformity with this act.

(E) Assess fines or monetary penalties for violations referred to in sub-subparagraph (C).

(F) Enforce the payment of internet gaming license fees described in section 6(9).

(ii) The jurisdiction of the courts of this state, and expressly waiving the exhaustion of tribal remedies, with the circuit court for Ingham County having exclusive jurisdiction, and any courts to which appeals from that court may be taken, to permit this state to enforce administrative orders of the board, the person's obligation to make payments required under subdivision (f), and collection of any judgment. Any monetary award under this subparagraph is deemed limited recourse obligations of the person and does not impair any trust or restricted income or assets of the person.

(2) This state, acting through the governor, at the request of any Indian tribe, is authorized to negotiate and conclude and execute any amendments to an Indian tribe's compact necessary to effectuate internet gaming by the Indian tribe under this act and to ensure internet gaming conducted by the Indian tribe is in compliance with this act and any applicable federal laws. If the governor fails to enter into negotiations with the Indian tribe, or fails to negotiate in good faith with respect to the request, this state waives its sovereign immunity to permit the Indian tribe to initiate an action against the governor in his or her official capacity in either state court or in federal court and obtain those remedies as authorized in 25 USC 2710(d)(7).

(3) Notwithstanding anything in this act to the contrary, this act only regulates internet gaming as provided in this act and does not extend to the board, or any other agency of this state, any jurisdiction or regulatory authority over any aspect of any gaming operations of an Indian tribe described in section 4(4)(b) beyond those rights granted to this state under the compact with the Indian tribe.

Sec. 11. (1) An internet gaming operator shall provide, or shall require its internet gaming platform provider to provide, 1 or more mechanisms on the internet gaming platform that the internet gaming operator uses that are designed to reasonably verify that an authorized participant is 21 years of age or older and that internet wagering is limited to transactions that are initiated and received or otherwise made by an authorized participant located in this state or, if the board authorizes multijurisdictional internet gaming for poker as provided in this act, another jurisdiction in the United States authorized by the multijurisdictional agreement.

(2) An individual who wishes to place an internet wager under this act must satisfy the verification requirements under subsection (1) before the individual may establish an internet wagering account or make an internet wager on an internet game offered by the internet gaming operator.

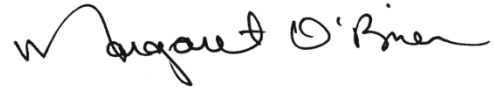
(3) An internet gaming operator shall include, or shall require its internet gaming platform provider to include, mechanisms on its internet gaming platform that are designed to detect and prevent the unauthorized use of internet wagering accounts and to detect and prevent fraud, money laundering, and collusion.

(4) An internet gaming operator, or its internet gaming platform provider, shall not knowingly authorize any of the following individuals to establish an internet wagering account or knowingly allow them to wager on internet games offered by the internet gaming operator, except if required and authorized by the board for testing purposes or to otherwise fulfill the purposes of this act:

(a) An individual who is less than 21 years old.

(b) An individual whose name appears in the board's responsible gaming database.

(5) An internet gaming operator shall display, or shall require its internet gaming platform provider to display, in a clear, conspicuous, and accessible manner, evidence of the internet gaming operator's internet gaming license issued under this act.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor