

Act No. 306
Public Acts of 2004
Approved by the Governor
August 17, 2004
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August 17, 2004
EFFECTIVE DATE: September 1, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Brown and Julian

ENROLLED HOUSE BILL No. 4612

AN ACT to amend the Initiated Law of 1996, entitled "An act to provide for the licensing, regulation, and control of casino gaming operations, manufacturers and distributors of gaming devices and gaming related equipment and supplies, and persons who participate in gaming; to provide the distribution of revenue for public education, public safety and economic development; authorizing limited casino operations within the state of Michigan; to vest authority for the licensing, regulation, and control of casino gaming in the Michigan gaming control board; to restrict certain political contributions; to establish a code of ethics for certain persons involved in gaming; to create certain funds; to impose and authorize certain taxes and fees; to impose penalties; to authorize conservators under certain circumstances; and to make an appropriation," by amending section 12 (MCL 432.212), as amended by 1997 PA 69.

The People of the State of Michigan enact:

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

(2) The state casino gaming fund is created in the department of treasury. The fund shall be administered by the department in accordance with this act. Except as provided in sections 12a and 13, the taxes imposed under this section plus all other fees, fines, and charges imposed by the state shall be deposited into the state casino gaming fund. The wagering tax is to be remitted daily by the holder of a casino license to the department of treasury by electronic wire transfer of funds. The state shall remit the city's portion of the wagering tax to the city daily by electronic wire transfer of funds as provided by this act.

(3) If the state imposes a wagering tax under subsection (1) equal to 18% of adjusted gross receipts, money in the state casino gaming fund that is not from a tax imposed under subsections (5) to (8) shall be allocated as follows:

- (a) 55% to the city in which a casino is located for use in connection with the following:
 - (i) The hiring, training, and deployment of street patrol officers.
 - (ii) Neighborhood and downtown economic development programs designed to create local jobs.
 - (iii) Public safety programs such as emergency medical services, fire department programs, and street lighting.
 - (iv) Anti-gang and youth development programs.
 - (v) Other programs that are designed to contribute to the improvement of the quality of life in the city.
 - (vi) Relief to the taxpayers of the city from 1 or more taxes or fees imposed by the city.

(vii) The costs of capital improvements.

(viii) Road repairs and improvements.

(b) 45% to the state to be deposited in the state school aid fund to provide additional funds for K-12 classroom education.

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

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

(b) By ordinance, levy, assess, and collect an excise tax upon licensees located in the city at a rate of 9.9% of the adjusted gross receipts received by the licensee from gaming authorized under this act.

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

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

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

(b) July 1, 2010, 8%, allocated 7/16 to the general fund, 1/16 to the Michigan agriculture equine industry development fund, and 1/2 to the city in which the licensee's casino is located.

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

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

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

(9) Notwithstanding section 9b, if the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47, is amended to allow the operation of video lottery at horse racetracks in this state, and if video lottery is being conducted at horse racetracks in this state, a casino licensee may, after obtaining approval from the board, apply to the racing commissioner for authorization to simulcast horse races under the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336. A casino licensee that is authorized under this subsection shall display and allow wagering on simulcast horse races only at the licensee's casino and shall comply with all applicable provisions of the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336, rules promulgated under that act, and the written permit to conduct simulcasting and any related order issued to the licensee by the racing commissioner. Simulcasting and wagering under this subsection are under the primary control of the racing commissioner, and the racing commissioner may revoke or suspend the authorization of or take other disciplinary action against the licensee for failing to comply with a law, rule, permit, or order as required by this subsection. However, the simulcasting and wagering under this subsection is part of the licensee's casino operation under this act and subject to the same control by the board as are other parts of the licensee's casino operation. The board may take disciplinary action under section 4a against a casino licensee for failure to comply with a law, rule, permit, or order as required by this subsection.

(10) A casino licensee is entitled to the same commission from money wagered on horse races simulcast by the licensee as a race meeting licensee is entitled to receive from wagering on simulcast horse races under the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336. The same taxes, fees, and other deductions shall be subtracted and

paid from the licensee's commission as are subtracted and paid from a race meeting licensee's commission under the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

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

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

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

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

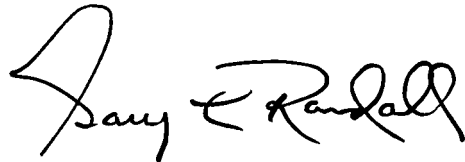
(15) As used in this section:

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

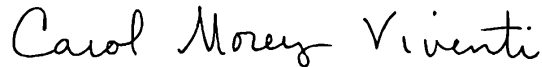
(b) "Michigan agriculture equine industry development fund" means the Michigan agriculture equine industry development fund created in section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320.

Enacting section 1. This amendatory act takes effect September 1, 2004.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor