



2021 Michigan Gaming Control Board

TRIBAL GAMING

Annual Report to the Citizens of Michigan



Tribal Gaming Section Annual Report to the Citizens of Michigan

Calendar Year 2021



Michigan Gaming Control Board
101 East Hillsdale Street
Lansing, MI 48933

Submitted April 15, 2022

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN GAMING CONTROL BOARD
DETROIT

HENRY L. WILLIAMS JR.
EXECUTIVE DIRECTOR

April 15, 2022

To the Citizens of the Great State of Michigan:

On behalf of the Michigan Gaming Control Board (MGCB), I am pleased to submit to you the Tribal Gaming Annual Report for the period of January 1, 2021, through December 31, 2021. The following report includes a summary of significant activities and operations for this time period.

The Tribal Gaming Section of the Michigan Gaming Control Board continued its oversight efforts of the Tribal-State Class III Gaming Compacts through the conduct of inspections. The section faced several challenges in 2021, including the ongoing novel coronavirus (COVID-19) pandemic, but was able to recommence tribal gaming oversight inspections that were temporarily suspended in 2020. The Tribal Gaming Section conducted oversight inspections to the extent possible, while also assisting the agency with important projects impacting tribes in Michigan.

In fulfilling our duties and responsibilities, MGCB continues to receive invaluable assistance from the Michigan Attorney General's Office and the Governor's Legal Counsel. As always, we strive to increase positive communications with all tribes and encourage voluntary tribal compliance with the Compacts on a government-to-government basis.

Sincerely,

/S/

Henry L. Williams, Jr.
Executive Director



Michigan Gaming Control Board

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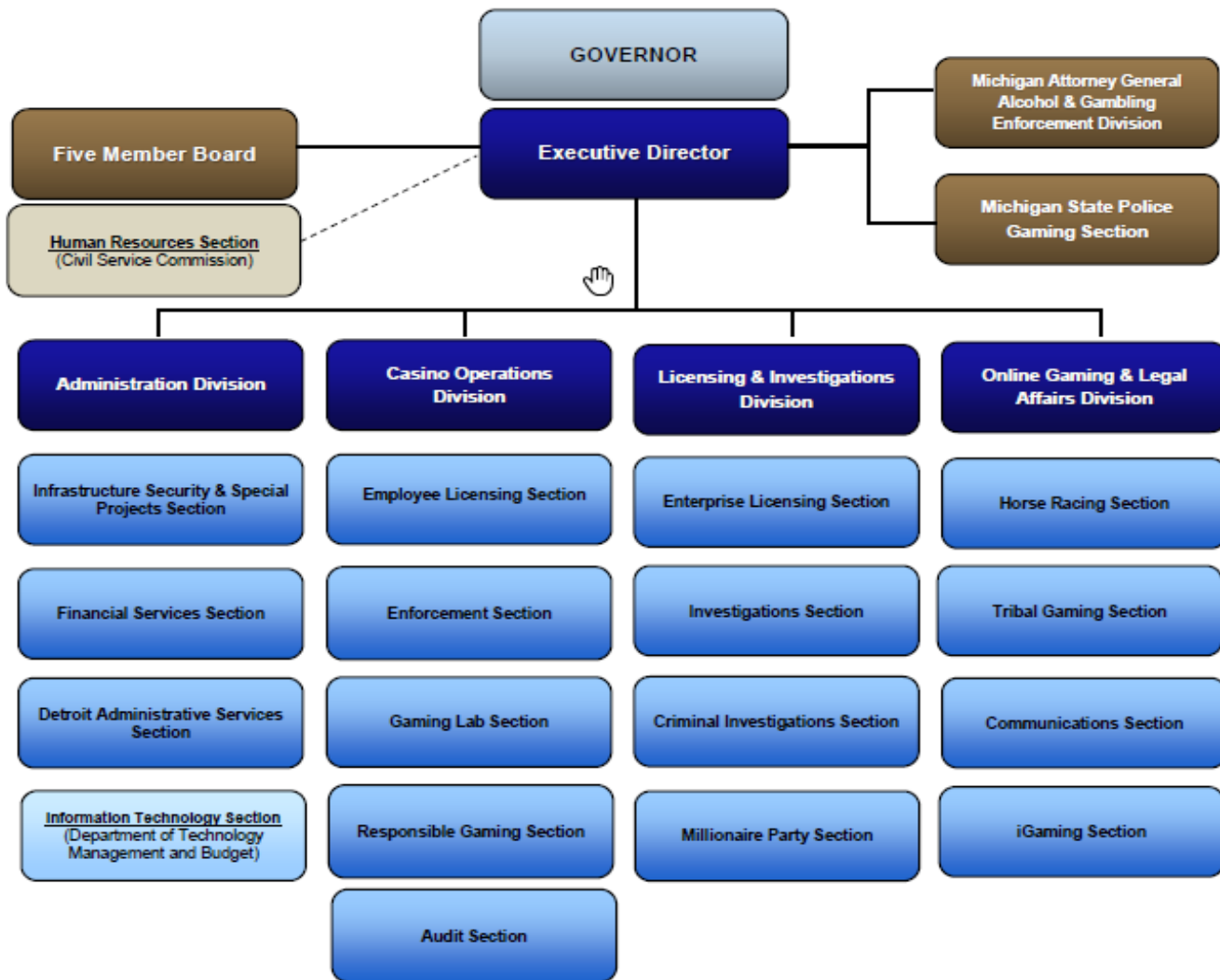


Michigan Gaming Control Board

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Michigan Gaming Control Board

Organizational Chart





Michigan Gaming Control Board

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Michigan Tribal Gaming Regulatory Framework

The federal government passed the Indian Gaming Regulatory Act of 1988 (IGRA), which authorizes federally recognized tribes to operate casino gaming on their tribal lands. Lawmakers believed IGRA would create economic development and self-sufficiency on tribal lands, meet tribal requests for authorized casino gaming, and ensure state governments would be involved in the oversight of Class III gaming operations. Under IGRA, Class III gaming activities are lawful on tribal lands only if such activities are conducted in conformance with a Tribal-State Class III Gaming Compact (Compact). Before a Compact becomes effective, IGRA requires the United States Department of the Interior to approve the Compact and publish its approval in the Federal Register.

The State of Michigan has entered into Compacts with 12 Native American tribes. The 12 Compacts have produced 24 Class III tribal casinos located throughout the State. *Please see the map of Michigan's Tribal Class III Casinos and table of Michigan Tribal Class III Casino Information on pages 7 and 8 of this report.*

Federally recognized tribes are individual sovereign nations. Under the Compacts, the regulation of tribal casino gaming is the responsibility of the tribes. Therefore, Michigan has no regulatory authority over Class III gaming conducted on tribal lands. Although the State of Michigan does not regulate tribal casino gaming, the State does have oversight authority over compliance with the provisions of the Compacts and related Consent Judgments.

The MGCB Executive Director holds the duty and authority to conduct oversight of the tribal gaming Compacts. It is MGCB's responsibility to conduct inspections of Class III gaming facilities and records pursuant to and in accordance with the provisions of the Compacts. This oversight authority includes conducting inspections of the tribal casinos' operations to determine the extent of their compliance with the Compacts and related Consent Judgments.

MGCB Board members have no oversight role or authority over the Tribal-State Compacts.

Michigan Tribal Gaming Year in Review

COVID-19 Impact on Tribal Casinos

During 2021, tribal casinos in Michigan generally were able to remain open, although many continued to implement health and safety measures to help reduce the spread of COVID-19. The Kings Club Casino operated by the Bay Mills Indian Community closed in 2020 due to the pandemic and has not yet reopened.

Internet Gaming, Sports Betting and Fantasy Contests

In December 2019, the State of Michigan enacted the Lawful Internet Gaming Act (LIGA), Lawful Sports Betting Act (LSBA) and Fantasy Contests Consumer Protection Act. The acts allow commercial gaming facilities and tribes operating Class III casinos in Michigan the option to conduct internet gaming, internet sports betting and fantasy contests. MGCB is tasked with licensing and regulating the new industries.

MGCB authorized three commercial casinos and 11 tribes to launch internet gaming and internet sports betting in 2021.



Michigan Tribal Gaming Year in Review (Continued)

Unless conducted exclusively on tribal lands, internet gaming and internet sports betting are subject to state law and are not considered tribal gaming operated pursuant to the Compacts and related Consent Judgments. Therefore, taxes and payments and MGCB operations related to these industries generally are excluded from this report. Internet gaming and internet sports betting activities conducted exclusively on tribal lands in accordance with the criteria set forth in LIGA and LSBA are subject to the Compacts and related Consent Judgments and MGCB's oversight authority.

In addition to internet sports betting, many tribes operate retail sportsbooks in their land-based casinos. MGCB has oversight authority over any provisions of the Compacts that apply to onsite tribal sports betting in Michigan.

Tribal Lands Eligible for Class III Gaming

The Little River Band of Ottawa Indians has been advocating since 2008 to open a gaming facility in Fruitport Township, near Muskegon, at the site of the former Great Lakes Downs horse racing track. In late 2020, the U.S. Bureau of Indian Affairs issued a secretarial determination under IGRA that, if concurred to by the governor, would make the property eligible for gaming. The initial deadline for a gubernatorial decision was December 16, 2021; however, Governor Gretchen Whitmer requested and was granted a six-month extension, advancing the deadline to June 16, 2022. A Compact amendment would be necessary before the Tribe could conduct Class III gaming at the Fruitport Township site.

Since 2014, the Sault Ste. Marie Tribe of Chippewa Indians has attempted to place land in Lansing and Huron Charter Township into trust with the intention of conducting gaming activities on the sites. The Department of Interior denied the Tribe's land-into-trust applications in 2017, prompting the Tribe to file a lawsuit against the Department. In March 2020, a United States District Court ruled that the Department overstepped its authority and misinterpreted the Michigan Indian Land Claims Settlement Act of 1997 in denying the Tribe's application for the Huron Charter Township site. The Tribe's claims regarding the Lansing site were deemed moot due to a pending reconveyance of the property and, therefore, were excluded from the ruling. The Department of Interior appealed the decision to the United States Court of Appeals, which ruled in February 2022 that the Department did not exceed its authority and was correct in its interpretation. The Court of Appeals reversed the lower court ruling and remanded the case for further proceedings. The Tribe has petitioned the Court of Appeals for a rehearing en banc.

Amendment to Hannahville 2017 Stipulation

The Hannahville Indian Community and State of Michigan entered into an Agreement and Stipulation for Entry of a Consent Judgment on March 14, 2017 (2017 Stipulation). In 2020, the Tribe began withholding revenue sharing payments owed to the State under the 2017 Stipulation due to a dispute regarding the meaning and applicability of certain terms. On December 2, 2021, the parties resolved the dispute and amended the 2017 Stipulation to modify provisions regarding revenue sharing payments and internet gaming. The State waived its right to any previously withheld payments and agreed to refund a payment made by the Tribe in 2019. The Tribe remitted its first payment to the State under the amended agreement in December 2021.



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Tribal Gaming Section Mission, Personnel, Source of Funding, and Total Expenditures

Located at the MGCB Lansing office, the Tribal Gaming Section is comprised of one manager and up to five audit staff. The section conducts inspections of tribal casinos to verify compliance with the Tribal-State Class III Gaming Compacts and related Consent Judgments. The Tribal Gaming Section reports to the Deputy Director of the Online Gaming and Legal Affairs Division of MGCB. *(Please see the Michigan Gaming Control Board Organization Chart on page 1.)*

The Compacts provide that the tribes shall make annual payments to the State to be applied toward the costs incurred in carrying out functions authorized by their terms. Some tribes, subject to certain exclusivity provisions, are required by the Compacts and related Consent Judgments to remit a percentage of their annual net win, as derived from all Class III electronic games of chance, to the Michigan Strategic Fund (MSF) or Michigan Economic Development Corporation (MEDC). The MEDC provides funding to the Tribal Gaming Section for oversight related to these payments.

All funds are placed into MGCB's Native American Casino Fund, which recorded expenditures and transfers of \$519,339 and \$12,192, respectively, during calendar year 2021.

Payments to Local and State Government

Under provisions of the Compacts and related Consent Judgments, all tribes are required to remit 2 percent of their respective net win to local units of state government or local revenue sharing boards. For reporting period 2021, tribes collectively remitted \$31.5 million to local units of state government and local revenue sharing boards in 2 percent payments. *(Please see the table on page 5 for 2 percent payments by tribe for 2021.)*

In addition, the Compacts and Consent Judgments require some tribes, based on exclusivity provisions, to remit payments to the MEDC or MSF. The percentage of net win paid to the MEDC or MSF ranges from 1 percent to 12 percent, depending on the exclusivity provision contained in the Compact or related Consent Judgment. For reporting period 2021, tribes remitted \$54.3 million in payments to the MEDC and MSF. *(Please see the table on page 5 for MEDC/MSF payments by tribe for 2021.)*



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Tribal Gaming Chart of Revenue Sharing Provisions

Tribe	Compact Year	Percentage of Net Win to Local Gov't	2021 Amount	Percentage of Net Win to MEDC/MSF	2021 Amount
Bay Mills Indian Community	1993	2%	\$ 340,688	0%	\$ -
Grand Traverse Band of Ottawa and Chippewa Indians	1993	2%	\$ 1,383,794	0%	\$ -
Hannahville Indian Community ⁽¹⁾	1993	2%	\$ 1,122,372	1%	\$ 314,167
Keweenaw Bay Indian Community	1993	2%	\$ 754,687	8%	\$ - ⁽²⁾
Lac Vieux Desert Band of Lake Superior Chippewa Indians	1993	2%	\$ 291,596	0%	\$ -
Saginaw Chippewa Indian Tribe	1993	2%	\$ 7,023,782	0%	\$ -
Sault Ste. Marie Tribe of Chippewa Indians	1993	2%	\$ 1,214,061	0%	\$ -
Little River Band of Ottawa Indians	1998	2%	\$ 1,463,331	6%	\$ 3,607,214
Little Traverse Bay Bands of Odawa Indians	1998	2%	\$ 1,150,137	6-10%	\$ - ⁽³⁾
Nottawaseppi Huron Band of the Potawatomi	1998	2%	\$ 6,397,613	4-8%	\$ 21,090,452 ⁽⁴⁾
Pokagon Band of Potawatomi Indians	1998	2%	\$ 6,120,250	6-8%	\$ 20,146,533
Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians	2007	2%	\$ 4,243,082	8-12%	\$ 9,107,705 ⁽⁵⁾
Total⁽⁶⁾			\$ 31,505,393		\$ 54,266,071

(1) The Hannahville Indian Community and State of Michigan entered into an Agreement and Stipulation for Entry of a Consent Judgment on March 14, 2017 (2017 Stipulation). The 2017 Stipulation required the Tribe to remit payments to MEDC/MSF with allocations to both Travel Michigan and the MSF. The Tribe began withholding payments owed to the MEDC/MSF in 2020 due to a dispute. On December 2, 2021, the dispute was resolved and the 2017 Stipulation was amended. Starting with the second semiannual period of 2021, the Tribe is no longer required to remit payments to Travel Michigan and agreed to reinstate payments to the MSF at a rate of 1% of net win. The state waived its right to payments withheld by the Tribe in 2020 and 2021. The MEDC/MSF amount presented above represents the Tribe's payment to MSF for the second semiannual period of 2021 under the amended stipulation.

The 2% amount presented above does not include payments made to an interest-bearing escrow account designated for Bark River-Harris School District that were previously required under the 2017 Stipulation. The 2021 amendment eliminated this separate payment obligation.

- (2) The Keweenaw Bay Indian Community ceased payments to the MEDC/MSF on December 20, 2019, due to the passage of the Lawful Internet Gaming Act.
- (3) The Little Traverse Bay Bands of Odawa Indians began withholding payments owed to the MEDC/MSF starting in the 2018 payment period.
- (4) The payment total includes amounts allocated to replenish the Michigan Native American Heritage Fund, as required by the 2016 amendment to the Tribal-State Compact between the Nottawaseppi Huron Band of the Potawatomi and the State of Michigan.
- (5) Pursuant to a partial settlement agreement between the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians and the State of Michigan, amounts due to the MEDC/MSF are to be disbursed as follows: (1) 50% to the MSF; (2) 15% to GLIMI, LLC ; and (3) 35% retained by the Tribe. The figure presented above includes only those amounts remitted to the MSF.
- (6) Totals are based on the tribes' payment periods. In addition, the totals may differ from those presented on the MGCB's website due to rounding.



Tribal Gaming Section Oversight Accomplishments

COVID-19 and Other Challenges Impacting the Tribal Gaming Section

In 2021, the State of Michigan and MGCB continued to implement safety protocols in response to the COVID-19 pandemic. With limited opportunities to conduct onsite fieldwork, the Tribal Gaming Section innovated by establishing a new process to conduct certain oversight inspections remotely.

In addition, the Tribal Gaming Section made substantial contributions to other critical projects impacting tribes in Michigan, including rulemaking and regulatory efforts related to internet gaming, internet sports betting and fantasy contests. MGCB maintained contact with tribes on these and other matters throughout the year.

The Tribal Gaming Section experienced a staffing shortage that further impacted its ability to conduct oversight inspections in 2021.

Net Win Inspections

MGCB's oversight authority includes performing financial inspections to ensure tribal net win totals are stated accurately and the related payments remitted properly to local units of state government or local revenue sharing boards and the Michigan Economic Development Corporation or Michigan Strategic Fund in accordance with the relevant Compacts and Consent Judgments.

Compliance Inspections

The Compacts contain several provisions that require compliance oversight. The Tribal Gaming Section performs inspections to ensure compliance with Compact provisions pertaining to authorized Class III games, regulation of Class III gaming, employee benefits, Bank Secrecy Act, providers of Class III gaming equipment and supplies, notice to patrons, and the sale of alcoholic beverages.

Tribal Gaming Oversight Accomplishments

In calendar year 2021, the Tribal Gaming Section accomplished the following with regard to tribal gaming oversight inspections:

- Established a process to complete certain net win inspections remotely.
- Formally commenced a remote net win inspection for one tribe covering four fiscal years. The inspection is substantially complete and a report is forthcoming.
- Performed planning procedures for several future oversight inspections.

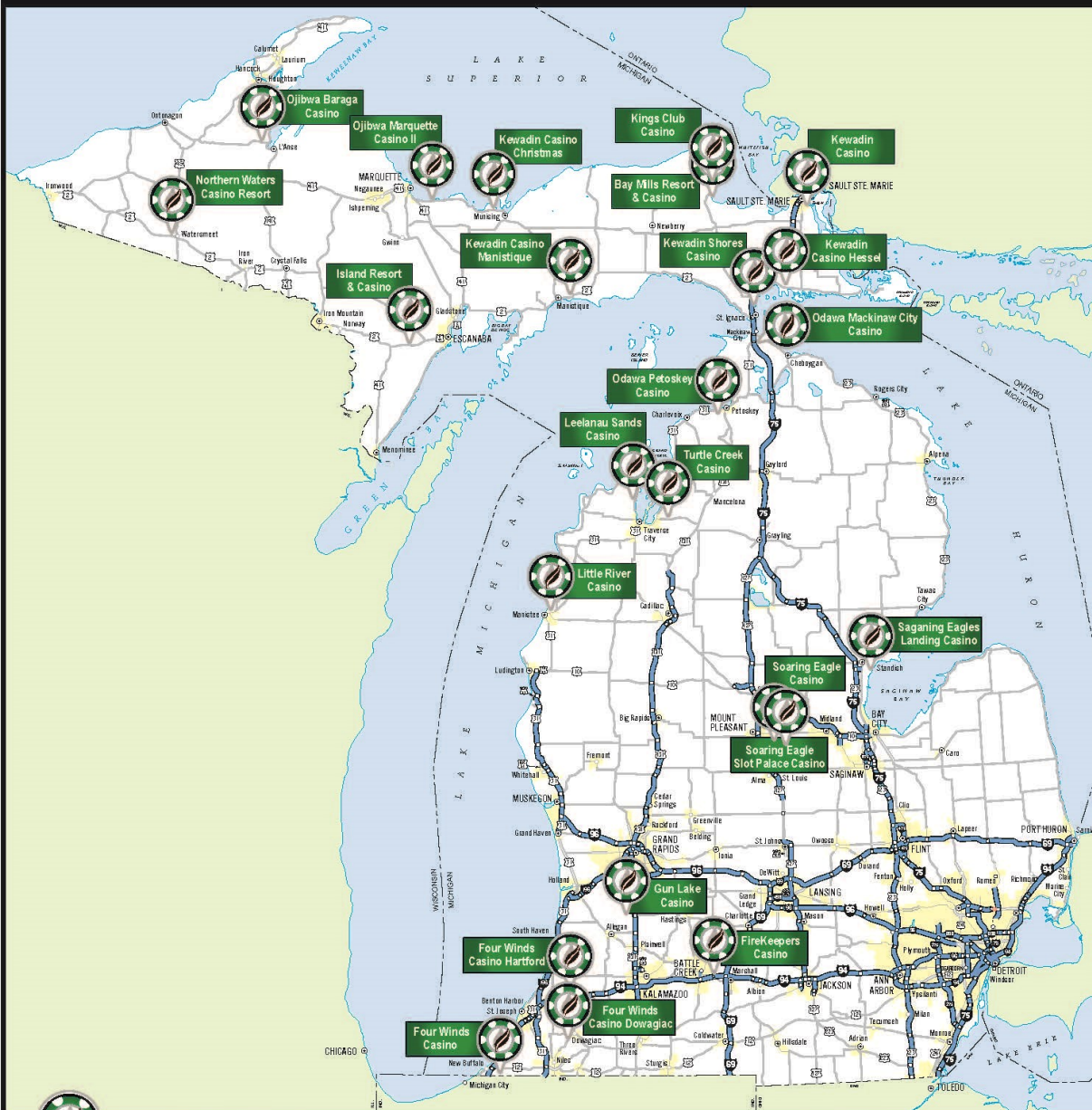
Additionally, the Tribal Gaming Section continued its efforts on one previous net win inspection and one previous compliance inspection. Those inspections are expected to be completed with final reports issued in 2022.



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MICHIGAN'S TRIBAL CLASS III CASINOS



TRIBAL CASINOS

Bay Mills Resort & Casino	Gun Lake Casino	Kewadin Casino Manistique	Northern Waters Casino Resort	Saganing Eagles Landing Casino
FireKeepers Casino	Island Resort and Casino	Kewadin Shores Casino	Odawa Mackinaw City Casino	Soaring Eagle Casino
Four Winds Casino	Kewadin Casino	Kings Club Casino	Odawa Petoskey Casino	Soaring Eagle Slot Palace Casino
Four Winds Casino Dowagiac	Kewadin Casino Christmas	Leelanau Sands Casino	Ojibwa Baraga Casino	Turtle Creek Casino
Four Winds Casino Hartford	Kewadin Casino Hessel	Little River Casino	Ojibwa Marquette Casino II	

Note: Kings Club Casino was closed throughout 2021.



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Michigan Tribal Class III Casino Information		
Locations	Tribal Casino	Approximate # of Class III Machines
2	Bay Mills Indian Community	
	Bay Mills Resort & Casino - Brimley, MI	700
	Kings Club Casino - Brimley, MI*	280
2	Grand Traverse Band of Ottawa and Chippewa Indians	
	Leelanau Sands Casino - Peshawbestown, MI	350
	Turtle Creek Casino - Williamsburg, MI	1,000
1	Hannahville Indian Community	
	Island Resort & Casino - Harris, MI	1,200
2	Keweenaw Bay Indian Community	
	Ojibwa Casino Resort - Baraga, MI	320
	Ojibwa Casino - Marquette, MI	500
1	Lac Vieux Desert Band of Lake Superior Chippewa Indians	
	Northern Waters Casino Resort - Watersmeet, MI	500
1	Little River Band of Ottawa Indians	
	Little River Casino Resort - Manistee, MI	1,100
2	Little Traverse Bay Bands of Odawa Indians	
	Odawa Casino Resort - Petoskey, MI	1,000
	Odawa Casino - Mackinaw City, MI	250
1	Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake)	
	Gun Lake Casino - Wayland, MI	2,500
1	Nottawaseppi Huron Band of the Potawatomi	
	FireKeepers Casino - Battle Creek, MI	2,900
3	Pokagon Band of Potawatomi Indians	
	Four Winds Casino Resort - New Buffalo, MI	2,200
	Four Winds Casino Hartford - Hartford, MI	450
	Four Winds Casino Dowagiac - Dowagiac, MI	350
3	Saginaw Chippewa Indian Tribe	
	Soaring Eagle Casino & Resort - Mount Pleasant, MI	3,500
	Soaring Eagle Slot Palace - Mount Pleasant, MI (included in Resort total above)	
	Saganing Eagles Landing Casino - Standish, MI	1,200
5	Sault Ste. Marie Tribe of Chippewa Indians	
	Kewadin Casino - Christmas, MI	250
	Kewadin Casino - Hessel, MI	150
	Kewadin Casino - Manistique, MI	250
	Kewadin Casino - Sault Ste. Marie, MI	800
	Kewadin Casino - St. Ignace, MI	700
24*	Total	22,450*

* Kings Club Casino was closed throughout 2021. Excluding Kings Club Casino, 23 tribal casinos operated approximately 22,170 Class III electronic gaming machines. This does not account for machines that may have been inactive due to COVID-19 social distancing protocols.