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# The MICHIGAN GAMING Newsletter



## MICHIGAN GAMING CONTROL BOARD RELEASES DETROIT CASINO REVENUES FOR SEPTEMBER 2015

The Michigan Gaming Control Board (“MGCB” or “Board”) released the September, 2015 total adjusted revenue figures for the three Detroit casinos—MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino. Overall, the revenue for the Detroit market was up 4.3% compared to the same reporting period last year. Year-to-date aggregate revenue for the three Detroit casinos was up by 3.5 percent through September compared to the first nine months of 2014.

Month in 2015	Total Adjusted Revenue 2015		
	MGM Grand Detroit	MotorCity Casino	Greektown Casino
	Total Adjusted Revenue	Total Adjusted Revenue	Total Adjusted Revenue
January	\$46,227,016.63	\$38,061,452.27	\$26,733,375.86
February	\$47,523,251.14	\$39,023,483.79	\$27,875,609.34
March	\$49,824,133.92	\$43,432,911.12	\$30,646,861.38
April	\$51,849,138.07	\$40,532,401.92	\$28,167,335.92
May	\$51,747,439.96	\$39,825,609.22	\$28,242,004.16
June	\$47,328,471.77	\$37,006,364.49	\$25,595,355.54
July	\$48,731,187.77	\$38,735,882.74	\$27,306,479.48
August	\$43,554,725.44	\$37,075,822.19	\$26,823,834.55
September	\$45,237,115.01	\$35,736,055.07	\$26,582,832.25
<b>Total</b>	<b>\$432,022,479.71</b>	<b>\$349,429,982.81</b>	<b>\$247,973,688.48</b>

Month in 2015	Total Adjusted Revenue and Taxes 2015		
	All Detroit Casinos		
	Total Adjusted Gross Receipts	Total State Wagering Tax	Total Detroit Wagering Tax
January	\$111,021,844.76	\$8,992,769.43	\$12,101,381.08
February	\$114,422,344.27	\$9,268,209.89	\$12,472,035.53
March	\$123,903,906.42	\$10,036,216.42	\$13,505,525.80
April	\$120,548,875.91	\$9,764,458.95	\$13,139,827.47
May	\$119,815,053.34	\$9,705,019.32	\$13,059,840.81
June	\$109,930,191.80	\$8,904,345.54	\$11,982,390.91
July	\$114,773,549.99	\$9,296,657.55	\$12,510,316.95
August	\$107,454,382.18	\$8,703,804.96	\$11,712,527.66
September	\$107,556,002.33	\$8,712,036.19	\$11,508,492.25
<b>Total</b>	<b>\$1,029,426,151.00</b>	<b>\$83,383,518.23</b>	<b>\$112,207,450.46</b>

Specifically, revenue for MGM Grand Detroit, MotorCity Casino, was up by 4.6% and 7.5%, respectively while revenue for Greektown Casino was down .01%, during September, 2015 when compared to the same month last year.

All three casinos are subject to a wagering tax of 19%, with 10.9% of this levy to go to the City of Detroit and 8.1% to be paid to the State of Michigan.

The market shares for MGM Grand Detroit, MotorCity Casino, and Greektown Casino for August 2015 were 42%, 33%, and 25%, respectively.

The figures released by the Board are the gross receipts less winnings paid to wagerers. The figures do not include: 1) any fees or other relevant city, state or federal taxes; 2) wages and benefits paid to casino employees; 3) payments to suppliers, services providers or vendors; and 4) other normal business expenses.

## MGCB NOTICE OF PUBLIC MEETING

Next Wednesday, October 21, 2015, the Michigan Gaming Control Board (“MGCB”) will hold a public meeting to allow 2016 Race Meet License Applicants and other interested persons an opportunity to provide information to the MGCB Executive Director regarding the pending 2016 Race Meet License applications and the eligibility and fitness of the respective applicants for licensure under the requirements under the Horse Racing Law of 1995.

The meeting will begin at 1:00 p.m. and will be held at the MGCB offices located at Cadillac Place in Detroit's New Center Area near the John Lodge Freeway (M-10), between Second Avenue and Cass

Avenue. The Fisher Building and the Albert Kahn Building are nearby landmarks.

For more information regarding the MGCB, please visit their website at [www.michigan.gov/mgcb](http://www.michigan.gov/mgcb).

## **MACKINAW CITY VOTES AGAINST CLASS III CASINO**

On Thursday, October 15, 2015, the Mackinaw City Village Council voted down a request, 4-3, from the Little Traverse Bay Bands of Odawa Indians' ("Tribe") regarding its proposal to build a Class III casino development in the city limits.

In September of 2003, the Mackinaw City Village Council voted against a similar development by a 6-1 margin. Since then, there have been a number of public hearings and regarding a tribal casino development, including an April 2013 hearing in Mackinaw City regarding a proposed 550 slot machine development in Emmet County.

The Tribe currently operates the Odawa Casino Resort in Petoskey. Under the Tribe's Tribal-State Gaming Compact, the Tribe may build a second facility on land holdings in Emmet or Charlevoix Counties. The second facility, however, must first receive the approval of the local unit of government affected by the development.

## **HOUSE REGULATORY REFORM STANDING COMMITTEE HOLDS MEETING ON MICHIGAN SPORTS GAMBLING LEGISLATION**

On Wednesday, October 14, 2015, the Michigan House Regulatory Reform Standing Committee heard testimony regarding two bills that seek to amend the Michigan Gaming Control & Revenue Act ("Gaming Act") to allow sports wagering at Michigan's casinos and horse racing tracks as well as authorize simulcast wagering at Michigan's casinos. Although the legislation, if passed, would authorize the wagering activity under the Gaming Act.

[House Bill 4669](#) would amend the Gaming Act to

authorize commercial casinos to accept wagers on sporting events, as well as direct the Michigan Gaming Control Board ("MGCB") to promulgate rules governing the activity. Notably, the bill indicates that, if passed, the legislation would be subject to both a statewide and local vote requirement before becoming effective.

[House Bill 4670](#) also seeks to amend the Gaming Act to allow the Detroit casinos to offer simulcast wagering on horse races. The MGCB would also be directed to promulgate rules for such wagering activity. As with HB 4669, this legislation also indicates that both a statewide and local vote would need to grant approval before the legislation is effective.

Both bills were introduced by Representative Robert Kosowski (D-Westland) on June 2, 2015 and have been with the Committee on Regulatory Reform since their introduction. Rep. Kosowski noted that the authorization of sports and simulcast wagering was introduced as a way to raise funding for Michigan roads and Michigan's horse racing industry.

In addition, Joe Asher, CEO of William Hill U.S., and Dan Shapiro, Director of Business Development at William Hill, also offered testimony in support of the legislation. Mr. Asher estimated, based upon figures in Washoe County, Nevada (Reno), that Michigan could generate up to \$5B in annual handle with \$300M in additional gaming revenue for the state. It was not clear how the tax monies would be used, and the bills do not speak to this.

Notably, on October 14, New Jersey vacated an August 25 decision by the US District for the Third Circuit, which upheld a lower court ruling that found that a 2014 attempt to deregulate sports wagering in New Jersey violates federal law. This previous ruling follows multiple attempts by New Jersey officials to authorize sports wagering in order to provide additional gaming options in Atlantic City. Committee Chairman Rep. Ray Franz, (R-Onekama) noted that Michigan would let New Jersey 'foot the legal bill' regarding an analysis of sports wagering authorization under federal law. Please see the following story entitled "3rd Circuit Grants Rehearing in New Jersey Sports Wagering Litigation" for additional details

on the case.

According to Rep. Kosowski, a legal analysis has not been performed by the Michigan legislature regarding potential issues in introducing these types of wagering options including violations of the federal Professional and Amateur Sports Protection Act, or violation of the state's tribal gaming compacts.

As noted by Committee Chairman Ray Franz, other organizations and businesses in support of the legislation include the Michigan Horseman's Benevolent Protection Association, MGM, Michigan Equine Partnership, Great Lakes International, Michigan Harness Horsemen's Association.

### **3RD CIRCUIT GRANTS REHEARING IN NEW JERSEY SPORTS WAGERING LITIGATION**

On October 14, 2015, the U.S. Third Circuit Court of Appeals issued an order granting the State of New Jersey's request for a rehearing in litigation surrounding the state's attempts to permit sports wagering in certain locations throughout the state.

The rehearing is the latest development for New Jersey's efforts to allow sports wagering which began in 2011 when voters approved a constitutional amendment allowing the legislature to pass sports wagering laws. Despite the Professional and Amateur Sports Protection Act ("PASPA"), a federal law banning sports wagering in nearly all states, the New Jersey legislature passed the Sports Wagering Act in 2012 that permitted and regulated sports wagering in the state's casinos and horse tracks. The law was quickly challenged by the major U.S. sports leagues and a federal court ruled that the New Jersey law was preempted by PASPA. However, the court's opinion noted that it may be possible to deregulate sports wagering, as PASPA only prevents a state government from authorizing the activity.

In response to the ruling, New Jersey deregulated sports wagering, but limited the deregulation in casinos and horse tracks for persons over 21, in addition to making stipulations that wagers could

not involve college sporting events held in the state or involving a New Jersey school. When challenged in the current litigation, the Third Circuit ruled that such a tailored deregulation amounted to an authorization under PASPA and, therefore, the law was preempted by PASPA.

Both cases were heard by a panel of judges from the Third Circuit. New Jersey argued in its Petition for Rehearing that "the two opinions are irreconcilable and must be re-examined by the full court to ensure uniformity of [the Third Circuit's] decisions." Wednesday's approval of the petition will now permit an en banc review with the entire Third Circuit bench.

The Court has set an October 28, 2015 deadline for the parties to resubmit a series of briefs provided to the Court in January and February for further review by the Court. At this, time, the Court has not set a specific date for the rehearing, noting that it will be scheduled at the convenience of the Court.

For a more detailed history of the New Jersey litigation, please see Volume 21, Issue 28 of *The Michigan Gaming Newsletter*, here: <http://www.michigangaming.com/publications/newsletter-archive/142-newsletters/volume-21/issue-28/549-third-circuit-affirms-ruling-on-new-jersey-sports-wagering>

### **NEVADA PROVIDES NOTICE ON DAILY FANTASY SPORTS**

On October 15, 2015, A.G. Burnett, Chairman of the Nevada Gaming Control Board, issued a Notice to Licensees ("Notice") stating that the operation of daily fantasy sports ("DFS") requires a sports book license in Nevada.

The Notice states that "because DFS involves wagering on the collective performance of individuals participating in sporting events, under current law, regulation and approvals, in order to lawfully expose DFS for play within the State of Nevada, a person must possess a license to operate a sports pool issued by the Nevada Gaming Commission. Further, a licensed operator who offers DFS must comply with all laws and

regulations that apply to licensed sports pools.”

The Notice follows reports that the FBI and Justice Department are investigating daily fantasy sports operators, and that the New York Attorney General’s office has requested internal data and information from operators.

Currently, fantasy sports operators argue that their product is not gambling by largely relying upon language in the Unlawful Internet Gaming Enforcement Act, which carves out fantasy sports from its scope. In addition, fantasy operators claim that the contests are games of skill and, therefore, not gambling.

In a statement regarding the Notice, AGA President and CEO Geoff Freeman stated that “[t]he casino industry has repeatedly called for greater legal clarity on daily fantasy sports. We appreciate that the Nevada Gaming Control Board has provided that clarity as well as a roadmap for DFS companies and casinos to provide popular fantasy sports within Nevada borders. We will continue to seek additional clarity in other jurisdictions, as eliminating ambiguity is in the best interests of all parties, including consumers.”

The full text of the Notice is available at: <http://gaming.nv.gov/modules/showdocument.aspx?documentid=10481>