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# The \_\_\_\_\_ MICHIGAN GAMING \_\_\_\_\_ Newsletter



## **UNION REJECTS CAESARS WINDSOR TENTATIVE AGREEMENT**

This morning, a majority of the voting members of Unifor Local 444 rejected a tentative agreement that had been reached between the union leadership and Caesars Windsor. Yesterday morning, Unifor Local 444, the union representing workers at Caesars Windsor announced that a "tentative agreement has been reached". A vote to ratify the contract was held at 10:00 a.m. this morning at the WFCU Centre. The union membership rejected the contract with only 47.2% in favor. The union local's Facebook page indicates that "people must remain on the picket line and report to your regular shifts for picket duty."

"This is unfortunate," Caesars Entertainment Regional President Kevin Laforet told Detroit Television station WDIV. "We are incredibly disappointed in the outcome of today's vote, which was fully endorsed by both the Unifor National and Local 444 bargaining teams. The agreement is more than fair and sustainable. I personally want to apologize for the continued inconvenience this causes our customers. The long-term effect on our business goes well beyond revenue loss and is immeasurable."

Today marks the 43rd day of the strike by the approximately 2300 casino workers represented by the union, and the casino remains closed.

## **UNITED STATES SUPREME COURT DECLARES FEDERAL LAW ON SPORTS WAGERING UNCONSTITUTIONAL:**

### ***ATTENTION NOW TURNS TO THE STATES AND TRIBES***

On Monday, the United States Supreme Court issued an Opinion holding that the Professional and Amateur Sports Protection Act ("PASPA") is

unconstitutional. A complete copy of the decision is available at the following link:

[https://www.supremecourt.gov/opinions/17pdf/16-476\\_dbfi.pdf](https://www.supremecourt.gov/opinions/17pdf/16-476_dbfi.pdf).

The Court agreed with arguments made by the State of New Jersey that PASPA violated the anticommandeering principle of the United States Constitution's 10<sup>th</sup> Amendment (which reserves all legislative power not given to Congress to the states). PASPA prohibited states from authorizing sports betting, and the court held that this provision of the law "regulates state governments' regulation of their citizens. The Constitution gives Congress no such power."

With this landmark decision, the focus has now shifted to what comes next. Throughout the United States, numerous state legislatures and sovereign tribal governments have anticipated a possible invalidation of PASPA and have been working on legislation to address sports wagering. In Michigan, various bills dealing with sports wagering issues have been introduced and are pending before the Michigan legislature. The issue is also often interrelated with the issue of intrastate Internet wagering, which continues to also be a hot legislative topic. Michigan bills addressing these issues include the following:

- HB 4060, introduced on 1/18/17 by Rep. Robert Kosowski (D-16<sup>th</sup> District), seeking to allow licensed casinos to accept wagers on sporting events after a statewide referendum. HB 4060 was referred to the House Committee on Regulatory Reform on 1/18/17 which has not taken any action on the bill.
- HB 4261, introduced on 2/21/17 by Rep. Robert Kosowski (D-16<sup>th</sup> District), seeking to allow parlay betting at licensed casinos, through betting agents, and through the Michigan Lottery. HB 4261 was referred to the House Committee on Regulatory Reform on 2/21/17 which has not taken any action on the bill.
- HB 4529, introduced on 4/26/17 by Rep. Robert Kosowski (D-16<sup>th</sup> District), seeking to allow parlay betting at Lottery terminals after

a statewide referendum. HB 4529 was referred to the House Committee on Regulatory Reform on 4/26/17 which has not taken any action on the bill.

- HB 4926 & 4927, introduced by Rep. Brandt Iden on 9/12/17 (R-61<sup>st</sup> District), seeking to allow internet gambling, including permitting sports wagering if not a violation of federal law. HB 4926 & 4927 have been discussed in the House Committee on Regulatory Reform and are in the process of possibly being amended further after discussions with interested parties.
- SB 203, introduced by Sen. Mike Kowall (R-15<sup>th</sup> District), seeking to allow internet gambling, including permitting sports wagering if not a violation of federal or state law. SB 203 was passed out of the Senate Committee on Regulatory Reform. The Committee voted 7-1 to refer the bills to the Committee of the Whole on 3/9/17 and no additional action has been taken to date.

Notably, this week a spokesperson for the Michigan Gaming Control Board suggested that additional legislation might not be necessary in order for sports wagering to be offered at the Detroit casinos. "The Michigan Gaming Control and Revenue Act authorizes gambling games under a broad definition and does not specifically prohibit sports betting," said MGCB spokeswoman, Mary Kay Bean, to Cleveland.com.

In addition to the Detroit casinos, Michigan's Native American tribes are also looking carefully at offering sports wagering. The legislative efforts underway are seeking to address tribal and commercial gaming in a uniform way. Indian gaming is governed by the specific terms of each tribe's gaming compact with the state of Michigan, all of which vary in terms. Under the Indian Gaming and Regulatory Act of 1988 ("IGRA") states cannot impose a state tax against Indian tribes. Existing precedent allows for a revenue sharing arrangement between the tribes and the states to be entered into where the state provides a certain benefit (typically, in Michigan

compacts some form of geographic exclusivity) in return for some form of revenue sharing. Thus, the current legislative efforts are focused on finding a way for the various interests to be balanced and for commercial and tribal operations to be given a level playing field.

According to an [article in Legal Sports Report](#) on Tuesday of this week, Senator Orin Hatch suggested that he will be looking to introduce federal legislation to regulate sports wagering at the federal level.

American Gaming Association President Geoff Freeman suggested in a news release this week that the proper focus should now occur at a state and tribal level. He stated:

The Supreme Court's decision is a victory for millions of Americans who want to bet on sports in a safe and regulated manner. It's now possible for states and sovereign tribal nations to create a sports betting market that will protect consumers, preserve the integrity of the games, empower law enforcement to fight illegal gambling, and generate new revenue for states, tribes, sporting bodies, broadcasters and many others.

Now all attention turns to the states. Already 18 states have introduced legislation to legalize sports betting, with more states expected to follow. The AGA is working closely with the necessary stakeholders, including many of you, to ensure that new state policies include reasonable tax rates and sensible regulations.

## **MICHIGAN LEGISLATURE INTRODUCES FANTASY SPORTS BILL**

The House Regulatory Reform Committee held a hearing Wednesday May 17, 2018 regarding the newly introduced bills relating to fantasy sports,

HB 4742 and 4743. These bills are identical to SB 461 and 462 that were introduced in the Senate in June 2017. The Senate version of the fantasy sports bills were taken up at an October 19, 2017 Senate Regulatory Reform Committee. The Committee voted 7-0 to refer the bills to the Committee of the Whole and no additional action has been taken on the Senate bills. (See Michigan Gaming Newsletter, Vol. 23, Issue 33 – October 20, 2017).

HB 4742 amends the Michigan penal code to exclude fantasy sports from the definition of gambling, provided that the sponsor does not participate in the contest, the player performance is determinative of the outcome, and the prizes are made known at the time of entry. Furthermore, the contest cannot be determined by the single performance of an individual athlete in a single event. HB 4743 sets forth a new act regulating fantasy sports. It defines a "fantasy sports game" like the HB 4742 definition and requires all operators to be licensed. The license fee is \$5000 for the initial one-year term and \$1000 for each additional yearly renewal. It also requires operators to ensure its players are over 18 and it requires operators to provide responsible gaming features such as opt-out and help resources.

The bills sponsors, Representatives Jim Tedder (R -43<sup>rd</sup> District) and Andrew Miller R-59<sup>th</sup> District) presented the pair of bills. Both indicated that this was the first step and that they welcomed input and were open to making changes. The committee members had plenty of questions and appeared to be skeptical of the current bill status. Mr. Tedder and Mr. Miller were questioned about the amount of the licensing fees, how the skill involved in fantasy sports was fundamentally any different from the skill in games such as poker, and whether the administrator of a league who also participated in the league would be subject to prosecution under the bill. They were also asked why Department of Licensing and Regulatory Affairs was the proposed regulator instead of the Michigan Gaming Control Board ("MGCB"). A representative from the

MGCB was present at the hearing and acknowledged by Chairman Iden, but did not speak or take a position on the bills.

The bill sponsors were followed by Scott Ward, an attorney representing FanDuel and DraftKings. He indicated that there are 53 million fantasy sports participants in the United States and 1.6 million in Michigan. He noted that 19 states had passed legislation authorizing fantasy sports and that more bills are pending. Mr. Ward reiterated the fact that fantasy sports was a skill-based game in differentiating it from other online gambling. Committee members pressed him on how it was any different from other gambling (such as poker) where skill also played a part. Mr. Ward was also questioned how the legislation would result in any revenue for the state. He indicated that the participants would have to pay income taxes on winnings and that the companies that received licenses would have to pay income taxes. Mr. Ward noted that the bill does not provide for taxation of fantasy sports and indicated that if modified, his clients were not opposed to a moderate form of taxation.

## **NORTHVILLE DOWNS TO MOVE TWO MAY AND JUNE LIVE RACE DAYS UNDER ORDER FROM MICHIGAN GAMING CONTROL BOARD**

Per a [press release](#) dated May 17, Northville Downs will move two live racing days in May and June back to Saturdays from Thursdays under an order issued May 10 by Michigan Gaming Control Board Executive Director Richard Kalm. Post time will be noon on Saturday, May 19, and the Saturday, June 9, post time will be announced later.

“The Michigan Harness Horsemen’s Association and horse racing fans requested the change, and the MGCB supports the track’s request for the good of the industry,” said Kalm.

Earlier, the track had applied for and received permission to move racing to Thursdays, May 17 and June 7, during the weeks of the final Triple

Crown races, the Preakness and the Belmont Stakes.

Northville Downs will offer standardbred racing on Fridays and Saturdays through Sept. 22. Simulcast wagering is available throughout the year.