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# The MICHIGAN GAMING Newsletter



## MICHIGAN GAMING CONTROL BOARD RELEASES DETROIT CASINO REVENUES FOR MAY, 2012

The Michigan Gaming Control Board (“MGCB” or “Board”) released the May, 2012 total adjusted revenue figures for the three Detroit casinos – MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino. Overall, revenue for the Detroit Market was down 1.4% in May, 2012 from the same reporting period last year. Specifically, revenue for MotorCity Casino and Greektown Casino was down by 4.7%, and 1.1%, respectively while revenue for MGM Grand Detroit Casino was up 1.0% during May, 2012 in comparison to the same month last year.

Month in 2012	Total Adjusted Revenue 2012		
	MGM Grand Detroit	MotorCity Casino	Greektown Casino
	Total Adjusted Revenue	Total Adjusted Revenue	Total Adjusted Revenue
January	\$47,869,082.24	\$36,708,630.10	\$29,607,452.04
February	\$53,443,696.53	\$42,922,456.88	\$32,560,470.47
March	\$57,181,553.70	\$43,543,183.32	\$34,602,503.13
April	\$52,125,745.86	\$39,350,932.55	\$31,868,439.41
May	\$51,719,743.97	\$36,964,111.37	\$29,720,467.91
<b>Total</b>	<b>\$262,339,822.31</b>	<b>\$199,489,314.22</b>	<b>\$158,359,332.96</b>

The market shares for MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino for the month of May, 2012 were 44%, 31% and 25%, respectively.

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.

Month in 2012	Total Adjusted Revenue 2012		
	All Detroit Casinos		
	Total Adjusted Gross Receipts	Total State Wagering Tax	Total Detroit Wagering Tax
January	\$114,185,164.38	\$9,248,998.32	\$12,446,182.92
February	\$128,926,623.88	\$10,443,056.60	\$14,053,002.00
March	\$135,327,240.15	\$10,961,506.45	\$14,750,669.18
April	\$123,345,117.82	\$9,990,954.54	\$13,444,617.84
May	\$118,404,323.25	\$9,590,750.18	\$12,906,071.23
<b>Total</b>	<b>\$620,188,469.48</b>	<b>\$50,235,266.03</b>	<b>\$67,600,543.17</b>

The figures released by the Michigan Gaming Control 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, service providers or vendors; and 4) other normal business expenses.

## **POKAGON BAND ANNOUNCES OPENING OF NEW CASINO, HARD ROCK CAFÉ**

On June 14, 2012, the Pokagon Band of Potawatomi Indians (Tribe) announced that the Pokagon Township Board had voted in favor of plans to build a second satellite casino in Dowagiac, Michigan. The consent of Pokagon Township is required by the state of Michigan in order for the Tribe to proceed with their plans to build Four Winds Dowagiac.

“Four Winds Dowagiac is the next step in the continued economic development of the Pokagon Band and will build upon the tremendous success of our locations in New Buffalo and Hartford, Michigan,” said Matt Wesaw, Chairman of the Pokagon Band of Potawatomi Indians. “100 new jobs will be created to support the casino and there will also be a significant number of people working during construction.”

Four Winds Dowagiac is scheduled to open in 2013 and will include 200 slot machines, four table games, and a 3,000 square foot multi-use space and restaurant. Its appearance will be similar to the Tribe’s existing casinos, the Four Winds Casinos in New Buffalo and Hartford, Michigan.

Additionally, Four Winds Casino announced that the Hard Rock Café at Four Winds New Buffalo will open on Wednesday, July 11, at 11:00 a.m.

“We are thrilled to bring Hard Rock Café, one of the world’s most iconic brands, to our guests at Four Winds New Buffalo,” said Mr. Wesaw.

The 12,000 square foot Hard Rock Café Four Winds will span two floors and include seating for over 275 guests. The restaurant will also feature a live music stage and rock ‘n’ roll memorabilia.

For more information, please visit [www.fourwindscasino.com](http://www.fourwindscasino.com)

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## SUMMER COMPLIANCE SERIES: INTRODUCTION TO CASINO COMPLIANCE

*In addition to its traditional coverage of developments in the state's gaming industry, The Michigan Gaming Newsletter is proud to announce its first annual Summer Compliance Series. From now until the end of August, The Michigan Gaming Newsletter will be publishing a regular column in order to provide readers with a basic understanding of Michigan gaming regulatory structures and considerations. The following is a general discussion of the state's compliance requirements and should not be considered legal advice.*

In addition to various business license requirements, those entities and individuals operating in the Michigan casino gaming industry must carefully monitor and comply with the provisions of the Michigan Gaming Control and Revenue Act ("Act"), the Michigan Gaming Control Board ("MGCB") Administrative Rules ("Rules"), as well as gaming control board staff Resolutions, policies, and procedures. In addition, those parties that have business relationships with the state's tribal casinos must go through similar licensing and suitability review processes with the Native American tribe that operates the gaming facility. These requirements are designed to ensure that unsuitable parties are excluded from operating and that the public is protected from unscrupulous business practices.

### Commercial Casino Compliance

In Michigan, those businesses that participate in gaming activities must first receive approval to do so by the MGCB. As a general matter, this includes, but is not limited to, individuals or entities that:

1. Operate casinos or gaming facilities,
2. Manufacture, distribute, or sell goods or services to a gaming facility,
3. Are employed by a casino or gaming facility,
4. Are employed by a manufacturer, distributor, or provider of goods or services to a gaming facility,

5. Invest in a casino,
6. Invest in a manufacturer, distributor, or provider of goods or services to a gaming facility,
7. Are required to access the casino gaming floor of a gaming facility to perform work duties (such as routine maintenance),
8. Are otherwise identified by the MGCB as requiring a license, certification, or suitability determination.

Those individuals or entities that require licensure, certification, or a suitability determination must first notify the MGCB of any intent to do business with one of the three Detroit casinos and file the appropriate application forms with the agency. The application processes for various industry members will be discussed in future *Michigan Gaming Newsletter* articles, however, the MGCB website provides a general guide to assist those who are entering the industry in identifying the appropriate licensing path, located at the following link: [MGCB Licensure Determination Flowchart](#).

Initial licensure or suitability determination, however, is only the beginning of an individual or entity's relationship with the MGCB. Depending on the level of participation in the industry, financial and operational reporting, audits, renewal filings, and periodic updates may be required to be filed on a regular basis in order to remain compliant with the license terms and conditions established in the Act, Rules, and MGCB policy. In addition, those individuals or entities that are under the jurisdiction of the MGCB must provide the agency with information on any material event that would change the information submitted in an initial application (such as the filing of a criminal lawsuit against the licensee). As such, a comprehensive compliance plan should be established once an individual or entity makes the decision to enter into the Michigan gaming market.

### Native American Casinos

In addition to those operating in the state's commercial gaming industry, those individuals or entities operating in the Native American gaming market in Michigan must comply with similar licensing, certification and suitability

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requirements. Here, however, each Native American tribe regulates its gaming properties independently with the majority having an independent gaming commission that operates similar to the MGCB.

Though each tribe operates independently, the licensing, certification, and suitability requirements are similar to those of the MGCB, including requirements for licensure of operators, suppliers, employees, and others with a relationship with the casino facility. However, each tribe has established its own set of rules and regulations regarding gaming activities, so it is important to research the specific Native American tribe that operates a gaming facility prior to entering into a business relationship with a Native American gaming facility. As with those seeking to do business with a commercial casino, a detailed compliance plan should also be established for those doing business with the state's Native American casino properties.

The above information is designed to provide a general overview of the Michigan gaming industry from a compliance perspective. Throughout the remainder of this summer, *The Michigan Gaming Newsletter* will be publishing additional compliance-themed articles that provide further information on compliance related issues and unique regulatory considerations. You can continue to monitor these articles by subscribing to *The Michigan Gaming Newsletter*, or by visiting the online publication at [www.michigangaming.com](http://www.michigangaming.com).

## **MOMENTUM BUILDS FOR SPORTS WAGERING EXPANSION**

Last November, the New Jersey electorate, by a margin of 64%-36%, voted to amend the state constitution to allow for sports wagering to be conducted at the state's casinos and horse racetracks if a law authorizing such wagering is passed by the legislature. Following this vote, the New Jersey legislature quickly enacted a bill authorizing such a sports wagering scheme, and this bill was signed into law by New Jersey Governor Chris Christie on January 17, 2012. Over the recent Memorial Day weekend, Gov. Christie remarked that the New Jersey Casino Control Commission would be drafting

regulations to implement sports wagering at the Atlantic City Casinos and the state's horse racetracks this fall.

New Jersey's plan, however, will likely face a stiff challenge, given a 1992 federal law entitled "The Professional and Amateur Sports Protection Act" ("PASPA"). PASPA prohibits sports wagering outside of the states of Nevada, Delaware, Oregon and Montana (all states that had some form of sports wagering or sports lottery scheme in place prior to 1992, though Nevada is the only state to offer large-scale, commercial sports wagering and its commercial casino industry holds a virtual monopoly on legalized sports wagering in the United States). Despite PASPA's prohibitions, however, Gov. Christie was quoted as saying that he welcomed legal action that would determine the constitutionality of the federal law, "[i]f somebody wants to stop us, they have to take action to try and stop us. That is going to be their burden to try and prevent it, and that's why we are doing it the way we are doing it. May we have to go through some litigation to get there? Probably, but I think we'll be successful."

If New Jersey proceeds with its stated plans to offer sports wagering, this will likely be met with a legal challenge filed by the federal government and/or the professional sports leagues, led by the National Football League, which has long-stated its opposition to the expansion of sports wagering and has lead legal efforts to defeat sports wagering expansion attempts in the past.

In addition to New Jersey's seeming direct challenge to the constitutionality of PASPA, two separate resolutions were introduced in Congress in January which seek to amend PASPA's prohibitions. House Resolution 3797 would amend PASPA to allow any state to establish a sports wagering scheme by applicable statute so long as that scheme was (a) enacted on or after January 1, 2012 and (b) is effective not later than January 1, 2016. Similarly, though more limited in scope, House Resolution 3809 would only allow a PASPA exemption for a sports wagering scheme approved by the New Jersey legislature that is operated "exclusively in the state of New Jersey." Both of these measures, however, were immediately referred through the House

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Committee on the Judiciary to the Subcommittee on Courts, Commercial and Administrative Law, where they have not moved since January 25, 2012.

Additional information on recent efforts to expand sports wagering and the expected legal challenges can be found in the article entitled, "Betting Games: Will Sports Wagering Expand in the United States?", which appeared in the May, 2012 edition of *Global Gaming Business*. A copy of this article can be found at the following link: <http://ggbmagazine.com/issue/vol-11-no-5-may-2012/article/betting-games>.

## ATTORNEY GENERAL TAKES FURTHER ACTION AGAINST INTERNET CAFES

On Friday, June 8, 2012, Michigan Attorney General Bill Schuette announced that his office's Alcohol and Gambling Enforcement Division has issued cease-and-desist letters in regards to nine Internet sweepstakes cafes. The cafes are accused of operating illegal gambling activities and were ordered to shut down immediately.

These letters reflect a state Attorney General-led campaign to find and eliminate illegal gambling operations throughout the state. The campaign is being run by the Attorney General's office, the Michigan State Police, and the Michigan Gaming Control Board. The targeted Internet sweepstakes cafes are businesses that allow people to purchase internet usage and that include chances to play certain games that can result in cash prizes. The Attorney General's office has taken the position that this style of activity violates the Michigan Gaming Control and Revenue Act and state-penal code. In accordance with similar cease-and-desist letters issued earlier this year by the Attorney General's office, Innovative Entertainment of Michigan agreed to shut down eight of its Internet cafes last month.

The June 8<sup>th</sup> cease-and-desist letters were sent to Internet cafes throughout the state that are alleged to have violated Michigan law. The locations that received the letters are:

1. Treasure Island (Lansing)
2. Spin City Internet Cafe (Lansing)
3. East Point Business Center & Internet Cafe (Flint)
4. West Point Business Center & Internet Cafe (Flint)
5. Players Club Pontiac Internet Café (Pontiac)
6. Players Club Internet Café (Warren)
7. Super Café Internet Café (Warren)
8. Treasure Island Internet Lounge (Clinton Twp.)
9. Treasure One Cyber Café (Roseville)

If any of these specific locations fail to stop their operations, the letters state that further action will be taken immediately, including closing the locations and seizing equipment through a civil lawsuit and/or criminal proceedings.

The Flint Business Center, one of the cafes that received a cease-and-desist letter earlier this year, has filed a request for preliminary injunction in the Genesee County Circuit Court to prevent the state from exercising the enforcement measures outlined in the cease-and-desist letters. The Flint Business Center puts forth the arguments that the games do not require any consideration because sweepstakes entries are offered for free with purchase or upon request, and, therefore, the activity is permitted under Michigan law. In addition, the Request for Preliminary Injunction argues that the company will suffer irreparable harm if the state seizes its property as contemplated in the cease-and-desist letters. A hearing on this motion has been scheduled for June 18, 2012.

## OHIO CASINO UPDATE

On June 11, 2012, Ohio Governor John Kasich signed into law House Bill 386 ("HB 386"), a wide-ranging measure which revises regulation and oversight of Ohio's commercial casinos, horse racetracks and lottery operations.

Among other things, HB 386 amends the state's original casino law to allow increased confidentiality protections for those applying for a gaming license in Ohio, details regulation of VLT

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outlets at race tracks, modifies revenue sharing considerations, and makes changes to the state's live horse racing dates process.

Gov. Kasich vetoed two sections of HB 386 related to racinos and the regulatory jurisdiction over state lottery fees. As such, VLT operators at tracks cannot refer to themselves as a "casino," and the Permanent Joint Committee on Gaming and Wagering, a legislative committee, will not be authorized to remove state Lottery Commission fees, as the Governor has taken the position that the committee does not have authority over the Lottery Commission.

A copy of the bill, as passed is located at the following link: [http://www.legislature.state.oh.us/BillText129/129\\_HB\\_386\\_EN\\_N.html](http://www.legislature.state.oh.us/BillText129/129_HB_386_EN_N.html)

Governor Kasich's veto statement is located at the following link, via the Columbus Dispatch: <http://www.dispatch.com/content/downloads/2012/06/VetoMessageAmSubHB386.pdf>

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