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



## **MICHIGAN GAMING LEGISLATION PACKAGE VETOED BY OUT-GOING GOVERNOR**

As [outlined in our December 21, 2018 newsletter](#), before adjourning for the year, the Michigan legislature passed an omnibus gaming legislation package addressing amendments to charitable gaming, authorization and regulation of internet gaming, authorization and regulation of fantasy sports, permitting third party advance deposit wagering companies to work with Michigan's racetracks to permit live and simulcast horse races over the internet, and amending the Michigan Gaming Control Act to modify and modernize supplier and occupational licensing procedures. As part of the deal worked out with the interested parties and legislators, the bills were tie-barred to each other and were presented as a package.

Unfortunately for gaming proponents, out-going Governor Rick Snyder vetoed the package of bills December 28, 2018 before his term ended at the end of the year. In a letter explaining his decision to veto the internet gaming legislation, Governor Snyder expressed concern that "we simply don't have the data to support this change at this time." He raised concerns that adopting the online gambling would negatively impact the revenue the state and the school aid funds are currently receiving from the Michigan Lottery's iLottery program. He also stated his concern that "revenues may be lost as gambling behavior shifts from on-premises, to online." Lastly, Governor Snyder expressed unease with the concept that permitting online gambling would make gambling "much easier to do..." and that it might reduce revenue that is used for "social service issues that are ordinarily attendant to increased gaming behavior."

The sponsor of the online gaming bill, Rep. Brandt Iden (R-61<sup>st</sup> District), responded by stating he's disappointed, noting that "anyone can gamble at any time" in Michigan. Before the vetoed legislation, Rep. Iden had indicated his desire to sponsor legislation in the new legislative session to clarify that sports wagering is legal in Michigan. It seems likely that he will also

spearhead a push to re-introduce much of the legislation passed by the House and Senate in 2018 and see if the new governor, Democrat Gretchen Whitmer, might have a more favorable view towards it.

With respect to the charitable gaming legislation, Mr. Snyder stated that the repeal of the administrative rules developed by the Michigan Gaming Control Board would result in a reversion to many of the problems he said plagued unregulated Millionaires Parties prior to his transfer in 2012 of regulation from the Michigan Lottery to the MGCB. He stated: "This legislation, if signed, would undermine the work the MGCB has done over the past six years and return millionaire parties to a underregulated market ripe with potential for fraud and abuse."

Governor Snyder didn't formally express any objections to the third party advance deposit wagering bill, merely noting in his letter accompanying the veto that the bill: "was tie-barred to House Bill 4926 [online gambling bill], which I previously vetoed." He also was somewhat vague in his disapproval of the fantasy sports bill, stating: "While I am sympathetic with the idea of regulating fantasy contests in a manner consistent with recent federal law changes, I understand that there are many important factors, some of which may be unknown at this time, to evaluate before proceeding with a substantial regulatory structure that has such a significant potential impact to Michigan citizens."

## **MICHIGAN CHARITABLE GAMING ASSOCIATION CRITICIZES SNYDER'S VETO**

The Michigan Charitable Gaming Association, a collection of groups who support fundraising for charitable organizations and advocacy and education of the general public and legislators on matters relating to charitable gaming, has voiced its disappointment and concern with former Governor Rick Snyder's veto of the charitable gaming bill. In a post to its [website](#), the MiCGA asserts that Governor Snyder's letter explaining

his rationale was "inaccurate". It states that one of the charitable gaming bills was sponsored by Senator Rick Jones, who is term-limited out of house. However, the other bill sponsor, Rep. Tom Barrett, has moved over to the Senate and has agreed to sponsor a new charitable gaming bill in the 2019-2020 legislative session. The MiCGA indicates that it is working with Senator Barrett in finding a House bill sponsor and that it is in the process of reaching out to new Governor Gretchen Whitmer to advocate for revisions to the current regulations. The MiCGA urged interested parties to contact it and to follow MiCGA on Facebook.

## **HORSEMEN'S GROUP CRITICIZES VETO OF ADW BILL AND QUESTIONS WHETHER NEW TRACK WILL OPEN**

The Michigan Horsemen Benevolent & Protective Association ("HBPA") wasted no time in reacting to Governor Snyder's veto of HB 4611, which would have allowed tracks to offer advanced deposit wagering in Michigan. In a press release issued on December 28th immediately after the veto, HBPA President George Kutlenios stated the following:

Today, Michigan Governor Rick Snyder vetoed HB 4611 as passed by the Michigan Senate last week by a vote of 35 to 3. Introduced by Rep. Dan Lauwers almost two years ago, this bill would have supported the horse racing industry in Michigan by modernizing the Horse Racing Act to support Advanced Deposit Wagering and support Michigan's second largest industry, Agriculture.

Over the past several years, the Michigan HBPA has worked with the administration and legislators on ways to promote and support the equine industry in Michigan. This bill was specific to the state's horse racing industry and would have helped modernize an industry that has been a part of Michigan's history since 1938.

Just this month, a Kentucky corporation purchased the vacant Sports Creek Race Track in Genesee County, outside of Flint. Renovations had already begun on the property and the Michigan Gaming Control Board had tentatively approved the application submitted by the track for thoroughbred racing in 2019. **It is unclear if the proposed track will proceed without the passage of the ADW bill.**

Michigan has a rich horse racing history and there are currently many horsemen and women across this state that own and care for thousands of horses. The industry has been unable to modernize due to constraints within the Horse Racing Act. Unfortunately, the law authorizing horse racing has been unable to keep pace with the advancement of technology. HB 4611 would have allowed for Advanced Deposit Wagering (ADW), that is currently allowed in nearly every state in the nation. ADW mirrors the current form of placing a wager on a horse race but simply would allow the wager to take place from a mobile device such as a phone.

Emphasis added. As previously reported in our [newsletter link](#), AmRace & Sports LLC has acquired the Sports Creek property and announced plans to bring thoroughbred racing back to the state of Michigan there. The HBPA press release stating that it is “unclear if the proposed track will proceed” suggests that the failure to get the legislation enacted could become a significant hurdle.

A [story](#) in MLive—The Flint Journal reported yesterday that the Michigan Gaming Control Board (“MGCB”) is on top of the issue, and “will ask the new owner of Sports Creek Raceway to attend a compliance conference this month in order to hear ‘an update on their progress and their plans.’”

In an interview with this newsletter, Nelson Clemmens, Director of AmRace & Sports LLC told us that his group has been very dedicated to the project and has been working around the clock to do their best to provide the MGCB staff all the information they need. “We are looking forward to our upcoming meeting with the MGCB. We have put considerable efforts, investment capital and professional resources into this initiative to make it a success, and appreciate the diligence and guidance that we have received from the MGCB”, he stated.

Hazel Park Raceway, which was the only thoroughbred track in Michigan, shut down in April of 2018.

## **GUN LAKE TRIBE DISTRIBUTES \$9 MILLION IN REVENUE SHARING PAYMENTS**

The Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians, commonly known as the Gun Lake Tribe, has distributed its revenue-sharing payments for the electronic gaming revenue covering the period from April 1 to September 30, 2018. The total payments were over \$9 million, with the largest share being paid to the State of Michigan’s Michigan Economic Development Corporation. The MEDC received \$5,221,249. In addition, Gun Lake distributed \$2,261,699 to the local revenue-sharing board and \$1,566,375 to the tribe’s economic development entity, overseen by Gun Lake Investments. Both the MEDC and the tribe’s economic development entity use the revenue-sharing payments to award grants to businesses that invest and create new jobs in Michigan and the Wayland Township area, respectively. Bob Peters, tribal chairman of the Gun Lake Tribe, stated: “This revenue-sharing distribution validates development decisions made by Tribal Council and casino management to study market demand and place value on guest experience”. Since its opening in 2011, the Gun Lake Tribe has made 16 distributions totaling over \$118 million to the state and local governments.

## **OHIO CASINO CONTROL SEEKS INPUT ON DRAFT FANTASY SPORTS REGULATIONS**

The Ohio Casino Control Commission released draft regulations regarding fantasy sports on January 2, 2019. The full text of the regulations can be found [here](#). The draft regulations set forth the process that applicants for a fantasy contest law license must follow, including a suitability and financial integrity review. The regulations contemplate a tiered application fee approach, ranging from a \$30,000 fee for the largest operators (those with at least 15,000 paying players) down to a \$5,000 fee for those operators with less than 5,000 paying players. The license will be in effect for three years.

The Commission is seeking comments from interested parties. Comments must be submitted to [fantasycontests@casinocontrol.ohio.gov](mailto:fantasycontests@casinocontrol.ohio.gov) no later than January 16, 2019. Any changes to the draft rules would then be made by staff and submitted to the Commission for approval. After initial Commission approval, the rules would be submitted to the Ohio Common Sense Initiative Office, which has the mandate of creating a regulatory framework that “promotes economic development, is transparent and responsive to regulated businesses, makes compliance as easy as possible, and provides predictability for businesses.” After CSI makes any changes or recommendations, the rules will be referred to Ohio’s Joint Committee on Agency Rule Review before being finalized.