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



## **SPORTS WAGERING TO LAUNCH AT DETROIT CASINOS ON MARCH 11**

In a March 6, 2020, press release issued by the Michigan Gaming Control Board (MGCB), it announced that the three Detroit casinos expect to launch brick-and-mortar sports wagering at 1 PM on March 11, pending final authorization from the MGCB. The MGCB is expected to give final approval after presentations by the casinos at its public meeting on March 10. Preliminary requirements have been met to launch the next day.

“With just 11 weeks to prepare, MGCB staff worked hard to make the launch of onsite sports betting at the Detroit casinos possible by March Madness,” said MGCB Executive Director Rick Kalm. “The casinos and their suppliers helped us by their timely efforts to share information we needed to authorize the gaming. This new gaming opportunity has been highly anticipated, and we hope citizens will enjoy it and see benefits from additional revenue to both the state of Michigan and the city of Detroit.”

The MGCB has issued provisional licenses to casino suppliers who provide sports betting kiosks and information for the casinos' sports betting operations. The MGCB will continue to issue full licenses to suppliers in the coming months. In addition, the MGCB is working to develop administrative rules for online sports wagering, casino gaming, and fantasy sports. It is anticipated that the rules will be finalized by early 2021. Online and mobile sports wagering and iGaming can begin once the rules are finalized and at least one license is issued to both a Detroit casino and a Michigan tribe.

The MGCB does not regulate the retail (brick-and-mortar) sports wagering of Michigan's tribal casinos, and the tribes will launch sports betting individually. An information page about sports wagering and iGaming can be accessed [here](#).

## AGA LAUNCHES RESPONSIBLE SPORTS BETTING AD CAMPAIGN

This week, the American Gaming Association (AGA) unveiled its responsible gaming advertising campaign with a focus on educating fans and consumers. The *Have a Game Plan, Bet Responsibly* campaign is already live at Capital One Arena in Washington, D.C. and T-Mobile Arena in Las Vegas, Nevada, and will expand to sports arenas in states with legal sports betting soon. Additionally, the effort hopes to increase responsible gaming engagement from sports leagues and teams.

“This is a watershed moment for sports betting in the United States,” said Bill Miller, President and CEO of the AGA. “Roughly 100 million Americans will be able to legally wager on sports in their state by the end of this year. It’s more important than ever that the gaming industry, and our new partners in the sports betting ecosystem, are proactive in equipping patrons with the tools they need to engage in these offerings in a responsible manner.”

The campaign focuses on four responsible sports betting principles:

- Set a budget and stick to it.
- Keep it social: play with friends, family, and colleagues.
- Be informed: learn the details of the games you’re playing.
- Play with trusted licensed, regulated operators.

“By encouraging consumers to have a game plan when they wager, the industry is making good on its commitment to instill responsibility as a key tenant of every new legal sports betting market,” Mr. Miller added.

“When it comes to legal sports betting, nothing can be more important than responsibility,” said Jim Van Stone, President, Business Operations and Chief Commercial Officer of Monumental Sports & Entertainment, which owns and operates Capital One Arena in Washington, D.C. “Monumental Sports is proud to support the

AGA’s Have a Game Plan campaign in Capital One Arena and establish a high bar for responsibility, even before legal sports betting launches in Washington, D.C.”

“The Golden Knights are pleased to work with the American Gaming Association to extend our state’s longstanding commitment to responsibility by encouraging all of our fans to Have a Game Plan,” said Vegas Golden Knights President Kerry Bubolz. “Gaming should always be enjoyed responsibly. We look forward to working with the AGA on educating our fans and reinforcing this messaging during our home games at The Fortress.”

The launch of the campaign coincides with Problem Gambling Awareness Month.

## RESPONSE AND AMICUS BRIEFS FILED IN WIRE ACT CHALLENGE

On February 26, both the New Hampshire Lottery Commission (NHLC) and its service provider, NeoPollard Interactive LLC, filed response briefs in the First Circuit. The NHLC and NeoPollard filed suit against Attorney General William Barr in February 2019, seeking to overturn the Department of Justice’s (DOJ) interpretive memo on the Wire Act released in January 2019. The memo had reversed prior DOJ precedent in re-interpreting the Wire Act to apply to all forms of gambling, and not merely sports wagering. The District Court set aside the memorandum earlier this year, leading to the DOJ’s appeal to the First Circuit.

The DOJ filed its opening brief in late December 2019, arguing that the District Court erred in setting aside the advice from the DOJ’s Office of Legal Counsel (OLC), as previously reported in [Volume 26, Issue 1 of the Michigan Gaming Newsletter](#).

The NHLC made the following responses to the DOJ’s arguments:

1. The NHLC’s case is ripe;

2. The Wire Act is limited to sports wagering; and
3. The 2018 OLC opinion and January 2019 directive are final agency action.

First, the NHLC argued that this case is ripe because the 2018 OLC opinion and the DOJ's January 2019 directive put the NHLC in an untenable position, posing an "impending, credible, and substantial risk of harm" to the NHLC.

Second, the NHLC argued that the Wire Act is limited to sports gambling because that is the only plausible interpretation of the statute.

Third, the NHLC argued that the OLC's 2018 opinion and the DOJ's January 2019 directive constitute final agency action because the documents operate together and require the NHLC to conform its business operations or risk prosecution.

In response to the three arguments made by the DOJ in its brief, NeoPollard made the following responses:

1. NeoPollard's declaratory judgment claim is justiciable;
2. The Wire Act is limited to bets or wagers on sporting events or contests; and
3. The 2018 OLC opinion is final agency action subject to review under the Administrative Procedure Act (APA).

First, NeoPollard argued that the 2018 opinion presents a realistic threat of prosecution and the DOJ has "not unambiguously disclaimed" that NeoPollard's conduct violates the Wire Act.

Second, NeoPollard argued that the first and second clauses of the Wire Act apply *only* to sporting events or contests. NeoPollard argues this is consistent with the holdings of every federal court to decide the issue, in addition to the legislative history of the Wire Act's focus on sports wagering.

Third, NeoPollard argued that the OLC's 2018 opinion is final agency action subject to review

under the APA because it is the "consummation of the agency's decision making process" that answers the question addressed and is binding on the DOJ.

In support of the NHLC's and NeoPollard's positions, New Jersey and Pennsylvania filed amicus briefs last week, both arguing that their states invested a significant amount of time and money in reliance on prior DOJ guidance. New Jersey Attorney General Gurbir Grewal wrote that the "reliant interests" of New Jersey must be considered in the First Circuit's decision. Mr. Grewal included financial figures of New Jersey's online poker and iGaming, noting the State could suffer a significant loss if the DOJ's current interpretation stands. Pennsylvania added in its amicus brief that it began operating iLottery games in 2017 with the assurance from the 2011 DOJ opinion that state lottery sales were outside of the Wire Act limitations. The brief notes that Pennsylvania could face over \$1 billion in annual loss in lottery proceeds if the DOJ memo is upheld.

The DOJ may file a reply brief by March 18. With oral arguments likely, it appears that the First Circuit will not issue a decision until Summer 2020.

## **ILLEGAL GAMBLING OPERATOR SENTENCED IN MACOMB COUNTY**

An operator of an illegal gambling operation, David Hoppe, was sentenced to one year of probation for operating the 777 Café in Roseville, Michigan. Visiting Judge James Biernat, Sr. sentenced Hoppe this week, following his conviction in January.

As previously reported in [Volume 26, Issue 6 of the Michigan Gaming Newsletter](#), Hoppe was convicted of one felony count of running an illegal gambling operation, two felony counts of using computers to commit a crime, and a misdemeanor charge of maintaining a gambling house for gain. The most serious charges carried a

10-year maximum sentence.

Hoppe's son, Lucas, who was also involved in the operation, pleaded guilty to a reduced felony charge, while three other charges against him were dropped. Lucas Hoppe is scheduled to be sentenced March 12. Charges against Denise Hagan, an employee of the operation, were dropped.

## **MGCB PUBLIC MEETING SCHEDULED FOR TUESDAY, MARCH 10**

The Michigan Gaming Control Board will hold a regular public meeting on Tuesday, March 10, 2020. The meeting will begin at 9:30 AM with the staff briefing, followed immediately by the regular agenda items.

March's meeting will consider recommendations for occupational licenses, supplier application and renewal requests, transfers of interest, violations of occupational licensees, and proposals for decision of occupational licensees. It is anticipated that the MGCB will authorize the Detroit casinos to launch sports wagering on March 11 at the meeting. You can view the full agenda for the March meeting by clicking [here](#).

The meeting is open to the public, and questions, comments, and suggestions from the public regarding MGCB business, licensing regulation, and conduct of casino gaming in Detroit are welcomed and encouraged during the public comment portion of the meeting.

The meeting will be located at the MGCB Detroit office, Cadillac Place, 3062 West Grand Blvd., Detroit Office Hearing Room. The Cadillac Place is in Detroit's New Center Area near the John Lodge Freeway (M-10), between Second and Cass Avenues. The Fisher Building and the Albert Kahn Building are nearby landmarks.