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The _____ MICHIGAN GAMING _____ Newsletter



MICHIGAN LAUNCHES IGAMING AND ISPORTS FRIDAY, JANUARY 22

The Michigan Gaming Control Board ("MGCB") authorized ten operators to begin internet gaming and internet sports betting at noon on Friday, January 22. The announcement comes after provisional licenses were issued to a number of operators in December once administrative rules had been filed.

"Michigan can now offer legal, regulated online gaming and sports betting to residents and visitors," said MGCB Executive Director Rick Kalm in a press release. "It's an exciting and much anticipated day and will bring revenue to support education, tribal communities, and the city of Detroit."

Michigan Senator Curtis Hertel (East Lansing) placed the ceremonial first wager at noon, as he was instrumental in drafting the Lawful Internet Gaming Act and Lawful Sports Betting Act.

"It took years of work and significant contributions from several legislators, commercial casino and tribal leaders, industry experts, MGCB staff and others, but today I'd like to recognize Sen. Hertel for the key role he played in taking the idea from dream to reality," said Mr. Kalm. "His leadership on the 2019 bills made today's announcement possible, and his work on the recently signed legislation permitting multi-jurisdictional poker will allow poker players to compete against players in other states in the future. It's a fitting tribute to have Sen. Hertel launch this new era of gaming."

The operators authorized to begin offerings on January 22 are the following:

- Bay Mills Indian Community & DraftKings - Internet Casino Games, Internet Sports Betting
- Grand Traverse Band of Ottawa and Chippewa Indians & William Hill - Internet Casino Games, Internet Sports Betting

- Greektown Casino & Penn Sports Interactive/ Barstool Sportsbook - Internet Sports Betting
- Hannahville Indian Community & TwinSpires - Internet Casino Games, Internet Sports Betting
- Keweenaw Bay Indian Community & Golden Nugget Online Gaming - Internet Casino Games, Internet Sports Betting
- Lac Vieux Desert Band of Lake Superior Chippewa Indians & PointsBet - Internet Sports Betting
- Little River Band of Ottawa Indians & Rush Street - Internet Casino Games, Internet Sports Betting
- MGM Grand Detroit & BetMGM/Roar Digital - Internet Casino Games, Internet Sports Betting
- MotorCity Casino & FanDuel - Internet Casino Games, Internet Sports Betting
- Sault Ste. Marie Tribe of Chippewa Indians & Wynn - Internet Casino Games, Internet Sports Betting

"Michigan residents love sports and, judging by inquiries we've received, eagerly anticipate using mobile devices to place bets through the commercial and tribal casinos," said Mr. Kalm in a [press release](#). "Online gaming and sports betting will provide the casinos with new ways to engage with customers while the state and local communities will benefit from taxes and payments on wagering revenue."

The MGCB stated in a press release that it expects to authorize additional operators and platform providers in the coming days and weeks as more applicants meet the regulatory requirements for launch.

"We want the public to have confidence when they place wagers, and our agency has required the providers to prove they meet Michigan's standards, which are designed to protect the participants," said Mr. Kalm.

Online sports betting is taxed at 8.4%, while internet gaming taxes range from about 20% to 28%. Detroit casinos may also pay a municipal services fee and development agreement payments to the City of Detroit. As previously

reported in [Volume 27, Issue 2](#) of The Michigan Gaming Newsletter, tax allocations are different for commercial casinos and tribal casinos. Other funds collected go toward appropriated funding for the MGCB, the Compulsive Gambling Prevention Fund, the First Responder Presumed Coverage Fund, and the State School Aid Fund.

For more information on how and where to bet in Michigan, read the MGCB's [FAQs](#) or visit the website of each operator listed above.

FIRST CIRCUIT COURT OF APPEALS: WIRE ACT ONLY APPLIES TO WAGERING ON SPORTING EVENTS OR CONTESTS

On Wednesday of this week, the First Circuit Court of Appeals affirmed a declaratory ruling entered by the U.S. District Court of New Hampshire declaring that the federal Wire Act is only applicable to wagering on "any sporting event or contest" and that it does not have broader application to other forms of online gaming. As previously reported in [Volume 26, Issue 25](#) of The Michigan Gaming Newsletter, the New Hampshire Lottery Commission ("NHLC") and its vendor, Michigan-based NeoPollard Interactive, filed suit in federal court in New Hampshire seeking to invalidate a 2018 Opinion from the Department of Justice ("DOJ") which reversed prior DOJ opinions that had been relied upon by the lottery industry and the online gaming industry. The 2018 DOJ Opinion took the position that the Wire Act's prohibitions extend to all forms of wagering, not just sporting events and contests. The lower court entered a declaratory ruling stating that the Wire Act only applies to sporting events or contest transmissions over the wires, and the First Circuit affirmed this decision.

The State of Michigan Lottery and several other states, lottery commissions, and trade associations filed amicus briefs in support of NHLC and NeoPollard. The much anticipated opinion comes after a three-judge panel heard oral

arguments in June 2020, and the DOJ's fourth extension of its grace period on implementing and prosecuting cases under the 2018 Opinion.

In its opinion written by Judge Kayatta, the First Circuit first concluded that the case presents a justiciable case or controversy, as required under the United States Constitution for a federal court to issue an opinion. The DOJ has sought to avoid a court ruling by issuing a Memorandum calling into question the application of the opinion to state lotteries.

The Court then turned to the main issue involved, the language of two key clauses of the Wire Act. The DOJ's 2018 Opinion and position in the litigation was that the second clause of the Wire Act prohibiting "[t]he transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers" should be broadly construed without reference back to the "sporting events or contest" limitation contained in the first clause of the Wire Act.

The Court looked to the plain meaning of the statute's text, while looking at the whole of the statute, and not "isolated sentences." The Court concluded that Congress used shorthand in drafting the Wire Act, carrying over a phrase from the first clause to the second clause. The Court also applied a "natural reading" approach in attempt to "harmonize" the provisions of the Wire Act and "avoid the oddities" that other interpretations would create. Ultimately, the First Circuit found that the DOJ's reading of the statute created "unharmonious oddities". Legislative history also guided the Court's conclusions, as it indicated that Congress "train[ed] its efforts solely on sports gambling." The Court acknowledged the ambiguity of the Wire Act's language, but concluded that the DOJ's reading of the Wire Act would "create an odd and unharmonious piece of criminal legislation."

In its conclusion, the First Circuit affirmed the District Court for the District of New Hampshire's grant of the Plaintiffs' motions for summary judgment and declaratory ruling and its denial of

the DOJ's motion to dismiss and motion for summary judgment, but vacated a portion of the district court's decision relating to the federal Administrative Procedure Act, as it found it unnecessary to address that issue given its affirmation of the declaratory ruling.

As indicated above, the Michigan Attorney General's office played a significant leadership role working with other states in arguing in support of the plaintiffs in the case. Assistant Attorneys General Melinda Leonard, Mark Sands, and Donald McGehee worked on the matter on behalf of the state. Michigan Attorney General Dana Nessel released the following statement today related to the Court's decision:

"This is a major victory for state lotteries across the nation that raise millions of dollars in revenue which directly supports our schools, emergency personnel and other fundamental services for residents," Nessel said. "Preserving this critical revenue stream is incumbent on me as Attorney General of Michigan, and I am grateful for the bipartisan effort to achieve that. Ensuring our schools and first responders have funding to perform their duties should not be an issue divided by politics and party affiliation."

FinCEN AND FEDERAL BANKING AGENCIES ISSUE FREQUENTLY ASKED QUESTIONS REGARDING SARS AND AML REQUIREMENTS

The Financial Crimes Enforcement Network (FinCEN), jointly with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency, and in consultation with the staff of certain other federal functional regulators, issued responses to Frequently Asked Questions (FAQs) Regarding Suspicious Activity Reporting and Other Anti-Money Laundering (AML) Requirements this week.

The FAQs and answers address the following topics:

1. Requests by Law Enforcement for Financial Institutions to Maintain Accounts.
2. Receipt of Grand Jury Subpoenas/Law Enforcement Inquiries and SAR Filing.
3. Maintaining a Customer Relationship Following the Filing of a SAR or Multiple SARs.
4. SAR Filing on Negative News Identified in Media Services.
5. SAR Monitoring on Multiple Negative Media Alerts.
6. Information in Data Fields and Narrative.
7. SAR Character Limits.

The complete five page set of FAQs is available at this [link](#).

POKAGON BAND CONTRIBUTES \$860,000 TO CITY OF SOUTH BEND AND LOCAL NON-PROFITS

The Pokagon Band of Potawatomi announced that it provided \$860,000 to the City of South Bend, Indiana, and several local non-profit organizations. The annual contribution marks the third year of a five-year voluntary local agreement between the Pokagon Band and the City of South Bend.

"The Pokagon Band is very proud to be able to make our annual voluntary contributions to the City of South Bend and several non-profit organizations that play a vital role in serving the community," said Matthew Wesaw, Tribal Chairman of the Pokagon Band and CEO of the Pokagon Gaming Authority. "Although the challenges due to COVID-19 persist, we must continue to find ways to support individuals and families, especially those with the greatest need. We are fortunate to be in a position to continue to provide this level of support in the current environment."

"The Pokagon Band of Potawatomi have been a generous partner in our community, and we are grateful for their contributions to improve our city's parks, open spaces, and neighborhoods," said Mayor of South Bend James Mueller. "We look forward to continuing this great partnership into the future."

Communities and non-profit organizations receiving a portion of the contribution are:

- South Bend Venues, Parks & Arts
- Beacon Children's Hospital
- The Bowman Creek Project
- The South Bend Community School Corporation
- The YWCA of North Central Indiana
- Jobs for America's Graduates Indiana
- The Food Bank of Northern Indiana
- The Boys & Girls Clubs of St. Joseph County

GUN LAKE CASINO GIVES \$639,000 IN EMPLOYEE BONUSES

Gun Lake Casino announced that it distributed over \$639,000 in quarterly incentives to its team members in January to show its thanks for being acknowledged as one of "West Michigan's Best and Brightest Companies to Work For" by the National Association for Business Resources in 2020. Since 2011, Gun Lake Casino has given over \$17.2 million in quarterly bonuses to its team members.

"We are exceptionally proud, especially during the ongoing pandemic, to continue our quarterly bonus program at Gun Lake Casino. The devotion and hard work of our team played a monumental role in our success throughout this difficult year," said Sal Semola, President and COO of Gun Lake Casino. "This is our third round of bonuses provided during the pandemic, totaling over \$2 million in support given to our hardworking team."

In addition to the bonuses, Gun Lake Casino continued to provide health benefits and compensation to all team members during the recent pause in amenities offered from November 20 through January 15, due to COVID-19.