

HOUSE BILL No. 5833

May 12, 1992, Introduced by Reps. Gire, DeBeaussaert, Porreca, Harrison, Dobronski, Baade, DeMars, Wallace, Weeks, Olshove, Harder, Wozniak, Pitoniak, Joe Young, Jr., Scott, Strand, Gubow and Anthony and referred to the Committee on State Affairs.

A bill to amend sections 301, 302, 303, 314, and 315 of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

section 302 as amended by Act No. 85 of the Public Acts of 1989 and section 303 as amended by Act No. 130 of the Public Acts of 1990, being sections 750.301, 750.302, 750.303, 750.314, and 750.315 of the Michigan Compiled Laws; and to add section 303a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 301, 302, 303, 314, and 315 of Act
2 No. 328 of the Public Acts of 1931, section 302 as amended by Act
3 No. 85 of the Public Acts of 1989 and section 303 as amended by
4 Act No. 130 of the Public Acts of 1990, being sections 750.301,
5 750.302, 750.303, 750.314, and 750.315 of the Michigan Compiled
6 Laws, are amended and section 303a is added to read as follows:

1 Sec. 301. ~~Accepting money or valuable thing contingent~~
2 ~~upon result of contest or happening of uncertain event Any~~
3 EXCEPT AS OTHERWISE PROVIDED IN SECTION 303A, A person or his OR
4 HER agent or ~~employee~~ EMPLOYEE who shall, directly or
5 indirectly, take, receive, or accept from any person any money or
6 valuable thing with the agreement, understanding, or allegation
7 that any money or valuable thing will be paid or delivered to any
8 person where such payment or delivery is alleged to be or will be
9 contingent upon the result of any race, contest, or game or upon
10 the happening of any event not known by the parties to be cer-
11 tain, ~~shall be~~ IS guilty of a misdemeanor, punishable by
12 imprisonment ~~in the county jail~~ FOR not more than 1 year or by
13 a fine of not more than \$500.00. ~~dollars.~~

14 Sec. 302. (1) ~~Keeping and occupying building for gaming,~~
15 ~~etc.~~ Except as provided in subsection (2) AND SECTION 303A,
16 any person, or his OR HER agent or employee who shall, directly
17 or indirectly, keep or occupy or assist in keeping or occupying
18 any common gambling house or any building or place where gaming
19 is permitted or suffered or who shall suffer or permit on any
20 premises owned, occupied, or controlled by him OR HER any appa-
21 ratus used for gaming or gambling or who shall use such apparatus
22 for gaming or gambling in any place within the state of Michigan,
23 ~~shall be~~ IS guilty of a misdemeanor, punishable by imprisonment
24 ~~in the county jail~~ FOR not more than 1 year or by a fine of not
25 more than \$500.00.

26 (2) This section does not prohibit the manufacture of gaming
27 or gambling apparatus or the possession of gaming or gambling

1 apparatus by the manufacturer of the apparatus solely for sale
2 outside of the state, or for sale to a gambling establishment
3 operating within this state in compliance with the laws of this
4 state, if applicable, and in compliance with the laws of the
5 United States, ~~provided~~ IF the manufacturer meets or exceeds
6 federal government requirements in regard to manufacture, stor-
7 age, and transportation.

8 Sec. 303. (1) Except as otherwise provided in this section
9 AND SECTION 303A, a person who for hire, gain, or reward, keeps
10 or maintains a gaming room, gaming table, game of skill or
11 chance, or game partly of skill and partly of chance, used for
12 gaming, or who permits a gaming room, ~~or~~ gaming table, or game
13 to be kept, maintained, or played on premises occupied or con-
14 trolled by the person, is guilty of a misdemeanor, punishable by
15 imprisonment for not more than 2 years, or a fine of not more
16 than \$1,000.00. A person who aids, assists, or abets in the
17 keeping or maintaining of a gaming room, gaming table, or game,
18 is guilty of a misdemeanor, punishable by imprisonment for not
19 more than 2 years, or a fine of not more than \$1,000.00.

20 (2) Subsection (1) does not apply to a mechanical amusement
21 device which may, through the application of an element of skill,
22 reward the player with the right to replay the mechanical amuse-
23 ment device at no additional cost if the mechanical amusement
24 device is not allowed to accumulate more than 15 replays at 1
25 time; the mechanical amusement device is designed so that accumu-
26 lated free replays may only be discharged by reactivating the
27 device for 1 additional play for each accumulated free replay;

1 and the mechanical amusement device makes no permanent record,
2 directly or indirectly, of the free replays awarded.

3 (3) Subsection (1) does not apply to a slot machine if the
4 slot machine is 25 years old or older and is not used for gambl-
5 ing purposes. As used in this section, "slot machine" means a
6 mechanical device, an essential part of which is a drum or reel
7 which bears an insignia and which when operated may deliver, as a
8 result of the application of an element of chance, a token or
9 money or property, or by operation of which a person may become
10 entitled to receive, as a result of the application of an element
11 of chance, a token or money or property.

12 (4) A slot machine which is being used for a gambling pur-
13 pose in violation of subsection (3) shall be confiscated and
14 turned over to the director of the department of state police for
15 auction.

16 (5) Subsection (1) does not apply to a crane game. As used
17 in this section, "crane game" means an amusement machine acti-
18 vated by the insertion of a coin by which the player uses 1 or
19 more buttons, joysticks, or similar means of control, or a combi-
20 nation of those means of control, to position a mechanical or
21 electromechanical claw, or other retrieval device, over a prize,
22 toy, or novelty having a wholesale value of not more than \$3.75,
23 and thereby attempts to retrieve the prize, toy, or novelty.
24 Subsections (6) through (14) shall not apply to a crane game if
25 the crane game is 25 years old or older or is used for demonstra-
26 tion and display purposes and is not used or intended to be used

1 for commercial income-generating purposes. "Crane game" does not
2 include a slot machine.

3 (6) The following license and certificate relating to crane
4 games are required, and shall be obtained from the bureau of
5 state lottery created in the McCauley-Traxler-Law-Bowman-McNeely
6 lottery act, Act No. 239 of the Public Acts of 1972, being sec-
7 tions 432.1 to 432.47 of the Michigan Compiled Laws:

8 (a) A person who owns 1 or more crane games shall not make
9 that game or those games available for play unless he or she
10 obtains a crane game ownership license. An annual license fee
11 under this subdivision shall be \$500.00. A copy of the license
12 shall be prominently displayed in a conspicuous place adjacent to
13 each location where crane games are available for play.

14 (b) A person who obtains a license under subdivision (a)
15 also shall obtain an annual crane game certificate for each crane
16 game owned by the person and available for play, which certifi-
17 cate shall be affixed to the crane game. The annual fee for each
18 certificate shall be \$50.00.

19 (7) An annual crane game ownership license issued under sub-
20 section (6)(a) expires at midnight on May 31. If the license is
21 issued for a period of 6 months or less, the fee under subsection
22 (6)(a) for that license shall be reduced by 1/2.

23 (8) All fees collected by the bureau of state lottery under
24 subsection (6) shall be paid into the state lottery fund created
25 under Act No. 239 of the Public Acts of 1972. All necessary
26 expenses incurred by the bureau of state lottery in the
27 administration and enforcement of subsections (5) to (14) and the

1 regulation of crane games shall be financed from the state
2 lottery fund. The amount of those necessary expenses shall not
3 exceed the amount of all fees collected under subsection (6). At
4 the end of each fiscal year all money, including interest, in the
5 state lottery fund which is attributable to fees collected under
6 subsection (6) but which has not been expended pursuant to this
7 subsection shall be deposited in the state general fund.

8 (9) The commissioner of the state lottery appointed under
9 Act No. 239 of the Public Acts of 1972 shall promulgate rules
10 pursuant to the administrative procedures act of 1969, Act
11 No. 306 of the Public Acts of 1969, being sections 24.201 to
12 24.328 of the Michigan Compiled Laws, to implement all of the
13 following:

14 (a) The issuance of crane game ownership licenses to persons
15 pursuant to subsection (6)(a), including provisions for the revo-
16 cation or suspension of licenses, and the issuance of crane game
17 certificates under subsection (6)(b).

18 (b) The establishing of standards for the manufacture and
19 operation of crane games, which standards shall be published and
20 made available by the bureau of state lottery.

21 (c) The prohibition against a crane game containing either
22 of the following:

23 (i) A variable resistor or any turn screw, knob, potentiome-
24 ter, or similar device that is used to alter the electrical clos-
25 ing strength of the crane game's claw.

1 (ii) A self-regulating claw, the closing strength of which
2 is altered between plays, whether designated as percentaging or
3 ANY other name.

4 (d) The inspection of crane games during reasonable hours by
5 the bureau of state lottery or a law enforcement officer.

6 (10) The commissioner of state lottery shall promulgate
7 emergency rules to implement subsection (9) pursuant to Act
8 No. 306 of the Public Acts of 1969.

9 (11) A person who does any of the following is guilty of a
10 misdemeanor, punishable by imprisonment for not more than
11 30 days, or a fine of not more than \$5,000.00, or both:

12 (a) Owns a crane game or games that are available for play
13 without obtaining a license pursuant to subsection (6)(a) or a
14 certificate pursuant to subsection (6)(b).

15 (b) Makes available for play a crane game that is not in
16 compliance with the elements of the definition contained in sub-
17 section (5) or the rules promulgated under subsection (9) or
18 (10), except that a third or subsequent violation of this subdi-
19 vision is a felony, punishable by imprisonment for not more than
20 2 years, or a fine of not more than \$20,000.00, or both.

21 (c) Otherwise fails to comply with the elements of the defi-
22 nition contained in subsection (5), or violates the requirements
23 imposed under subsection (6) or the rules promulgated under sub-
24 section (9) or (10).

25 (12) A person who knowingly alters a crane game that is
26 available for play so that the crane game is not in compliance
27 with the elements of the definition contained in subsection (5)

1 or the rules promulgated under subsection (9) or (10) is guilty
2 of a felony, punishable by imprisonment for not more than
3 2 years, or a fine of not more than \$20,000.00, or both.

4 (13) The bureau of state lottery or a law enforcement offi-
5 cer may confiscate any crane game that is available for play and
6 is not in compliance with the elements of the definition con-
7 tained in subsection (5) or the rules promulgated under subsec-
8 tion (9) or (10). The confiscated crane games and their contents
9 shall not be destroyed, altered, dismantled, sold, or otherwise
10 disposed of except upon order of a court having competent
11 jurisdiction.

12 (14) A crane game shall not be made available for play in
13 connection with a fund-raising event, as defined in section 7 of
14 the Michigan campaign finance act, Act No. 388 of the Public Acts
15 of 1976, being section 169.207 of the Michigan Compiled Laws. A
16 person who violates this subsection is guilty of a misdemeanor,
17 punishable as provided in subsection (11).

18 SEC. 303A. RECREATIONAL CARD PLAYING MAY BE CONDUCTED BY A
19 SENIOR CITIZENS CLUB OR A GROUP OF RESIDENTS OF A SENIOR CITIZEN
20 HOUSING FACILITY WHICH CLUB OR GROUP CONSISTS OF AT LEAST 15 MEM-
21 BERS WHO ARE 60 YEARS OF AGE OR OLDER ONLY UNDER ALL OF THE FOL-
22 LOWING CIRCUMSTANCES:

23 (A) THE CARD PLAYING IS CONDUCTED SOLELY FOR THE AMUSEMENT
24 AND RECREATION OF THE MEMBERS AND GUESTS OF THE CLUB OR GROUP AND
25 IS NOT CONDUCTED FOR FUND-RAISING.

26 (B) ONLY BONA FIDE MEMBERS AND EMPLOYEES OF THE CLUB OR
27 GROUP PARTICIPATE IN THE CONDUCT OF THE ACTIVITY.

1 (C) THE CARD PLAYING IS CONDUCTED AFTER 9 A.M. AND BEFORE
2 MIDNIGHT.

3 (D) THE PARTICIPATING CARDPLAYERS BET NOT MORE THAN 25 CENTS
4 PER BET.

5 (E) THE WINNINGS FROM 1 HAND OF CARDS DO NOT EXCEED \$5.00.

6 (F) EXCEPT FOR WINNINGS, REVENUE GENERATED FROM THE ACTIVITY
7 IS USED FOR REASONABLE EXPENSES INCURRED IN CONDUCT OF THE CARD
8 PLAYING, AND NO PERSON IS COMPENSATED FOR PARTICIPATING IN THE
9 CONDUCT OF THE CARD PLAYING.

10 Sec. 314. ~~Winning at gambling Any~~ EXCEPT AS OTHERWISE
11 PROVIDED IN SECTION 303A, A person who by playing at cards, dice,
12 or any other game, or by betting or putting up money on cards, or
13 by any other means or device in the nature of betting on cards,
14 or betting of any kind, shall win or obtain any sum of money or
15 any goods, or any article of value whatever, ~~shall,~~ if the
16 money, goods, or articles so won or obtained be of the value of
17 \$50.00 ~~dollars~~ or less, ~~be~~ IS guilty of a misdemeanor. If
18 the money, goods, or articles so won or obtained be of the value
19 of more than \$50.00 ~~dollars~~ such person ~~shall be~~ IS guilty of
20 a misdemeanor, punishable by imprisonment ~~in the county jail~~
21 for not more than 1 year, or by a fine of not more than \$500.00.
22 ~~dollars.~~

23 Sec. 315. ~~Losing at gambling Any~~ EXCEPT AS OTHERWISE
24 PROVIDED IN SECTION 303A, A person who shall lose any sum of
25 money, or any goods, article, or thing of value, by playing or
26 betting on cards, dice, or by any other device in the nature of
27 such playing or betting, and shall pay or deliver the same or any

1 part thereof to the winner, and shall not, within 3 months after
2 such loss, without covin or collusion, prosecute with effect for
3 such money or goods, the winner to whom such money or goods shall
4 have been so paid or delivered, ~~shall be~~ IS guilty of a misde-
5 meanor, punishable by a fine not exceeding 3 times the value of
6 such money or goods. Such loser may sue for and recover such
7 money in an action for money had and received to the use of the
8 plaintiff ~~—~~ and such goods, article, or valuable thing in an
9 action of replevin, or the value thereof in an action on the
10 case.