

SENATE BILL No. 126

February 21, 1991, Introduced by Senator VAUGHN and referred to the Committee on State Affairs and Military/Veteran Affairs.

A bill to license and regulate the conducting of jai alai in this state; to legalize and permit the pari-mutuel system of wagering on the results of jai alai; to provide for the disposition of revenue derived from wagering on the results of jai alai; to prescribe certain powers and duties of certain state officers and agencies; to prohibit certain conduct; and to prescribe remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "state jai alai law".

3 Sec. 3. For the purposes of this act, the words and phrases
4 defined in sections 5 to 9 have the meanings ascribed to them in
5 those sections.

1 Sec. 5. (1) "Breakage" means the odd cents deducted in all
2 the calculations to arrive at the payoff price in wagering on jai
3 alai.

4 (2) "City area" means a city or municipality having a popu-
5 lation of 750,000 or more and includes the counties wholly or
6 partly within a distance of 30 miles of the city limits of the
7 city or municipality.

8 (3) "Commissioner" means the racing commissioner appointed
9 under section 3 of the racing law of 1980, Act No. 327 of the
10 Public Acts of 1980, being section 431.63 of the Michigan
11 Compiled Laws.

12 (4) "Exhibition" means the whole period of time, whether
13 consecutive or nonconsecutive dates, during which a licensee con-
14 ducts jai alai games or matches and wagering.

15 (5) "Exhibition license" means a license to conduct an
16 exhibition.

17 Sec. 7. (1) "Fronton" means a building or enclosure in
18 which jai alai is played for public exhibition, and includes the
19 area in which pari-mutuel wagering is conducted.

20 (2) "Jai alai" means the ball game of Basque origin played
21 on a 3-walled court and also known as pelota.

22 (3) "Licensee" means an individual, partnership, associa-
23 tion, corporation, or other person licensed under this act to
24 conduct an exhibition on which wagering is conducted.

25 Sec. 9. (1) "Minor" means an individual who is less than 18
26 years of age.

1 (2) "Municipality" means a city, village, or township.

2 (3) "Occupational license" means a license issued to a
3 person participating in or having to do with pari-mutuel jai alai
4 under this act.

5 (4) "Wagering" means betting on the results of jai alai, and
6 includes win, place, show, and such exotic wagering as, but not
7 limited to, perfecta, trifecta, quinella, daily double, double
8 quinella, and pick 6.

9 Sec. 11. The commissioner has the powers and duties pre-
10 scribed in this act and shall administer this act as to licens-
11 ing, enforcement, and regulation. The commissioner has those
12 additional powers necessary and proper to implement and enforce
13 this act and to maintain jurisdiction over the conduct of each
14 meeting within this state where jai alai is permitted for a
15 stake, purse, or reward.

16 Sec. 13. (1) The commissioner shall promulgate rules pursu-
17 ant to the administrative procedures act of 1969, Act No. 306 of
18 the Public Acts of 1969, being sections 24.201 to 24.328 of the
19 Michigan Compiled Laws, under which jai alai shall be conducted
20 within this state. The rules promulgated under this section
21 shall accomplish all of the following:

22 (a) Govern, restrict, or regulate a uniform system of wager-
23 ing on jai alai, to be used at each fronton in this state.

24 (b) Promote the safety, security, growth, and integrity of
25 all jai alai conducted within this state.

26 (c) License and regulate each person participating in, or
27 having to do with, jai alai within this state.

1 (2) Each licensee shall provide security at all times during
2 the conduct of an exhibition so as to reasonably insure the
3 safety of all persons and players on the fronton grounds, and to
4 protect and preserve the integrity of jai alai and pari-mutuel
5 wagering. Upon a determination by the commissioner that addi-
6 tional security is necessary to insure the safety and integrity
7 of jai alai, supplemental security shall be provided by the com-
8 missioner at each exhibition in areas where occupational licenses
9 are required for admittance.

10 (3) The commissioner may assess a penalty, including an
11 administrative fine of not more than \$5,000.00 for each violation
12 of this act or a rule promulgated under this act committed by a
13 licensee. An administrative fine assessed by the commissioner
14 under this section which exceeds \$500.00, or the suspension of a
15 license, may be appealed to the commissioner. The appeal shall
16 be heard by a hearings officer within 30 days of the date on
17 which the appeal is made and shall be subject to the contested
18 case provisions of Act No. 306 of the Public Acts of 1969.

19 (4) All proposed extensions, additions, or improvements to
20 the buildings, improvements, or frontons upon property owned or
21 leased by a person licensed under this act shall be subject to
22 the approval of the commissioner. The commissioner may compel
23 the production of books, memoranda, electronically retrievable
24 data, or documents showing the receipts and disbursements of any
25 licensee under this act that relate to jai alai. The commis-
26 sioner at any time may, for a violation of this act or violation
27 of a rule promulgated under this act, require the removal of any

1 employee or official involved in or having to do with jai alai.
2 The commissioner may visit, investigate, and place auditors and
3 other persons as the commissioner considers necessary in the
4 offices, frontons, or places of business of a licensee under this
5 act to insure compliance with this act and the rules promulgated
6 under this act. The commissioner may summon witnesses and admin-
7 ister oaths or affirmations, if necessary for the effective dis-
8 charge of duties under this act. A person failing to appear
9 before the commissioner at the time and place specified, without
10 just cause, in answer to a summons, or refusing to testify, or
11 testifying falsely, is guilty of a misdemeanor, punishable by a
12 fine of not more than \$5,000.00, or imprisonment for not more
13 than 6 months, or both.

14 Sec. 15. The commissioner may issue the following general
15 classes of licenses:

16 (a) Occupational licenses issued to individuals who qualify
17 as jai alai participants, exhibition operators, or employees
18 involved in or having to do with jai alai.

19 (b) Exhibition licenses issued annually specifying dates on
20 which jai alai may be conducted, to a person, corporation, firm,
21 partnership, association, or other legal entity proposing to con-
22 duct the exhibition. In addition to all other requirements for
23 an exhibition license, an exhibition license shall only be issued
24 for a fronton that is located in a municipality having a popula-
25 tion of more than 750,000, as determined by the latest federal
26 decennial census.

1 Sec. 17. (1) An exhibition license application shall be in
2 writing on a form supplied by the commissioner, shall demonstrate
3 to the commissioner satisfactory financial responsibility, shall
4 show the location of the fronton or of the proposed fronton at
5 which jai alai will be conducted, and shall be accompanied by
6 substantially detailed plans and specifications of the fronton or
7 proposed fronton. The application shall give the name and
8 address of the applicant, and, if a corporation, shall state the
9 place of its incorporation, and shall give any other information
10 required by the rules promulgated under this act by the
11 commissioner. An application for an exhibition license first
12 shall be filed with the mayor of the municipality in which the
13 jai alai would be conducted. The mayor shall forward to the com-
14 missioner 1 or more applications that the mayor recommends be
15 considered for the exhibition license for that municipality.

16 (2) Upon the filing of the application with the commissioner
17 and payment of a \$1,000.00 nonrefundable application fee, the
18 commissioner shall investigate the applicant and the fronton or
19 proposed fronton as the commissioner considers necessary. If the
20 applicant and the fronton satisfy the requirements of this act
21 and the rules promulgated under this act, the commissioner shall
22 grant a license for the exhibition, designating in the license
23 the municipality of the holder of the license. If the fronton or
24 proposed fronton does not comply with this act and the rules
25 promulgated under this act, the commissioner shall deny the
26 license but shall grant a license upon compliance with the
27 requirements imposed by the commissioner.

1 (3) After a license is issued under this section, the
2 commissioner may revoke a license if the holder of the license
3 willfully violates this act or the rules promulgated under this
4 act. The action of the commissioner in revoking a license may be
5 reviewed by the circuit court for the county in which the fronton
6 is located. The decision of the circuit court is appealable to
7 the court of appeals.

8 (4) The applicant for the license shall also pay the license
9 fees provided in this act or in any rule promulgated under this
10 act.

11 Sec. 19. (1) The commissioner shall not license more than 1
12 fronton in a city area.

13 (2) The commissioner shall not issue more than 1 fronton
14 license to a person, corporation, firm, partnership, association,
15 or other legal entity. Controlling ownership and interlocking
16 directorates among the holders of fronton licenses are
17 prohibited.

18 Sec. 21. (1) An exhibition license expires on December 31
19 of the year in which it was issued.

20 (2) An exhibition license may be renewed annually by appli-
21 cation submitted to the commissioner. The renewal application
22 shall be in a form as prescribed by the commissioner, and shall
23 require verification of the applicant's compliance with this act
24 and the rules promulgated under this act, and any other informa-
25 tion reasonably required by the commissioner.

26 Sec. 23. (1) The commissioner shall not issue or renew an
27 exhibition license to a legal entity organized for a charitable

1 purpose or organized for the purpose of distributing its profits
2 or income to charitable organizations.

3 (2) The commissioner shall not issue or renew an exhibition
4 license unless he or she has determined that the jai alai to be
5 conducted by the applicant will be conducted in connection with
6 pari-mutuel wagering, and that the applicant will meet the
7 requirements of this act and the rules promulgated under this
8 act.

9 (3) If, after the issuance or renewal of an exhibition
10 license, the commissioner determines that the holder of an exhi-
11 bition license does not meet, or will be unable to meet the
12 requirements of the license, the commissioner may impose an
13 administrative fine or revoke the license. In making the
14 required determination and before revoking an exhibition license,
15 the commissioner shall consider whether, by reason of any cause
16 beyond the control of the licensee, jai alai cannot be conducted
17 on a date licensed.

18 (4) An action of the commissioner pursuant to subsection (3)
19 shall become effective only after 10 days' written notice to the
20 holder of the license and may include either of the following:

21 (a) Imposition of an administrative fine on the licensee.

22 (b) Revocation of the license for the remainder of the
23 period during which the license was granted.

24 (5) An action of the commissioner may be appealed pursuant
25 to the administrative procedures act of 1969, Act No. 306 of the
26 Public Acts of 1969, being sections 24.201 to 24.328 of the
27 Michigan Compiled Laws. The denial of an exhibition license may

1 be reviewed by the circuit court, and that decision is appealable.
2 to the court of appeals.

3 Sec. 25. (1) Before March 31 of each year, each holder of
4 an exhibition license shall file with the commissioner a certi-
5 fied full statement of receipts from all sources during the pre-
6 vious calendar year and of expenses and disbursements, itemized
7 in a manner and on a standardized form as directed by the state
8 treasurer, showing the net revenue from all sources derived by
9 the holder of the exhibition license. The certified financial
10 statements shall be considered public records and shall be made
11 available to any member of the legislature and open for public
12 inspection. The certified financial statements submitted shall
13 be prepared by a certified public accountant in accordance with
14 generally accepted auditing standards as promulgated by the
15 American institute of certified public accountants. The working
16 papers and other records pertaining to preparation of the finan-
17 cial statements may be reviewed by the state treasurer.

18 (2) On the first day other than Sunday after each day's jai
19 alai, each holder of an exhibition license shall remit to the
20 state treasurer, or deliver to the representative of the commis-
21 sioner, or directly deposit into an approved financial deposito-
22 ry, the money due the state at the close of the day's jai alai,
23 with a detailed statement of that money as required by this act
24 and the rules promulgated under this act.

25 Sec. 27. A person, firm, partnership, corporation, or other
26 legal entity shall not hold or conduct, or assist, aid, or abet
27 in holding or conducting, an exhibition within the state where

1 jai alai is permitted for a stake, purse, or reward, and at which
2 pari-mutuel wagering is used, unless the person, firm, partner-
3 ship, corporation, or other legal entity and the fronton on which
4 the jai alai is conducted is licensed under this act.

5 Sec. 29. (1) Each person participating in or having to do
6 with pari-mutuel jai alai may be licensed by the commissioner
7 under rules promulgated under this act. The commissioner shall
8 not issue an occupational license to a person who was convicted
9 of a felony related to the person's ability and likelihood to
10 serve the public in a fair, honest, and open manner within 6
11 years immediately preceding application for the occupational
12 license. The commissioner shall not issue an occupational
13 license to a person who was convicted of a misdemeanor related to
14 the person's ability and likelihood to serve the public in a
15 fair, honest, and open manner within 2 years immediately preced-
16 ing application for the occupational license.

17 (2) The commissioner may demand, in addition to other infor-
18 mation he or she considers necessary and proper, fingerprints of
19 occupational license applicants, and as appropriate, proof of
20 compliance with the worker's disability compensation act of 1969,
21 Act No. 317 of the Public Acts of 1969, being sections 418.101 to
22 418.941 of the Michigan Compiled Laws.

23 (3) In addition to the requirements of subsection (2), an
24 applicant for an occupational license shall consent upon applica-
25 tion and for the duration of the occupational license, if issued,
26 to all of the following:

1 (a) Personal inspections, inspections of the applicant's
2 personal property, and inspections of premises and property
3 related to his or her participation in an exhibition by persons
4 authorized by the commissioner.

5 (b) If the applicant is applying for any license for an
6 occupation that involves contact with or access to the fronton or
7 fronton area, the applicant shall agree as a condition of licen-
8 sure to submit for the duration of the license period to a
9 breathalyzer test, urine test, or other noninvasive fluid test to
10 detect the presence of alcohol or a controlled substance as
11 defined in section 7104 of the public health code, Act No. 368 of
12 the Public Acts of 1978, being section 333.7104 of the Michigan
13 Compiled Laws, if directed to do so by the commissioner or his or
14 her representative. If the results of a test show that a person
15 has more than .05% of alcohol in his or her blood, or has present
16 in his or her body a controlled substance, the person shall not
17 be permitted to continue in his or her duties on that match day
18 and until he or she can produce, at his or her own expense, a
19 negative test result, and the person shall be subject to action
20 as provided in subsection (4). This subsection does not apply to
21 a controlled substance obtained directly from, or pursuant to a
22 valid prescription from, a licensed health care professional.
23 The commissioner shall suspend for not less than 1 year the
24 license of a person who for the third time in a period of not
25 more than 6 consecutive years is relieved of his or her duties
26 for the reasons prescribed in this subdivision.

1 (4) Upon the filing of a written complaint, under oath, with
2 the office of the commissioner, or upon the commissioner's
3 written motion regarding the actions or omissions of a person
4 issued an occupational license, the commissioner may suspend the
5 occupational license of the person for a period of not more than
6 90 days pending a hearing and the commissioner's final determina-
7 tion regarding the acts or omissions complained of in the written
8 complaint. The commissioner shall set the date, time, and place
9 for the hearing within 14 business days after the occupational
10 license is suspended and notify the holder of an occupational
11 license of the date, time, and place of the hearing not less than
12 5 days before the date of the hearing. In the conduct of the
13 hearing, the commissioner is not bound by technical rules of evi-
14 dence, but all evidence offered before the commissioner shall be
15 reduced to writing. That evidence together with the exhibits and
16 the commissioner's findings shall be permanently preserved and
17 shall constitute the record in the case. The commissioner shall
18 make a written final order setting forth the reasons for his or
19 her action, and a copy of the final order shall be served on the
20 holder of the occupational license. The commissioner's action in
21 revoking or suspending a license is reviewable by the circuit
22 court for the county in which the alleged act or failure to act
23 took place. If the commissioner's order is predicated upon a
24 written complaint alleging a series of acts, the review by the
25 circuit court may be in the county in which any of the alleged
26 acts or failure to act took place.

1 (5) Upon a refusal by the commissioner to issue an
2 occupational license, a court shall not issue a writ of mandamus
3 directed to the commissioner until a hearing is held and findings
4 are issued on the basis of the hearing as provided by law and
5 court rule.

6 (6) Each occupational licensee shall pay a license fee of
7 not less than \$10.00 nor more than \$100.00 as determined by the
8 commissioner.

9 Sec. 31. (1) A holder of an exhibition license may provide
10 a place in the fronton area at which the licensee may conduct and
11 supervise the pari-mutuel system of wagering by patrons on jai
12 alai. The pari-mutuel system of wagering upon jai alai within
13 the fronton area shall not be held or construed to be unlawful.
14 If the pari-mutuel system of wagering is used at an exhibition, a
15 totalisator, or other device which is approved by the commis-
16 sioner for its clarity and accuracy, shall be used. The odds
17 display of the totalisator or other device shall be placed in
18 full view of the patrons.

19 (2) Of the total amount wagered, 19% shall be divided as
20 follows:

21 (a) 12% to the licensee.

22 (b) 4% to the municipality in which the exhibition takes
23 place.

24 (c) 2% to the state.

25 (d) 1% withheld for the capital improvement fund described
26 in section 33.

1 (3) Net wager pools may be accumulated and carried forward
2 from performance to performance in order to create a
3 super-jackpot.

4 (4) All sums accumulated as a result of breakage shall be
5 equally divided between the municipality and the licensee.

6 (5) Any federal taxes shall be paid by the licensee from out
7 of its 12% share of the total amount wagered.

8 (6) Any sums held by any licensee for payment of outstanding
9 pari-mutuel tickets not claimed by the person or persons entitled
10 to them within a period of 1 year following the last day of the
11 calendar year during which the ticket was purchased shall be
12 divided equally between the licensee and the municipality.

13 (7) The amounts to be distributed under this section shall
14 be distributed quarterly. All payments made to the state shall
15 be credited to the general fund of the state.

16 (8) Any act or transaction relative to wagering permitted by
17 this act shall only occur or be permitted to occur within the
18 fronton. A person shall not participate in or be a party to any
19 act or transaction relative to the placing of a wager or carrying
20 a wager for placement outside of a fronton. A person shall not
21 provide messenger service for the placing of a bet for another
22 person who is not a patron.

23 Sec. 33. Each licensee shall establish a capital improve-
24 ment fund, maintained as a separate bank account. The capital
25 improvement fund shall be used exclusively to do all of the
26 following:

1 (a) Fund capital improvements, including the purchase or
2 construction of new facilities and permanent improvements to
3 existing facilities used to conduct exhibitions. Amounts paid or
4 incurred for repairs or maintenance of property, interest
5 expenses, or lease payments do not qualify as capital
6 improvements.

7 (b) Reduce debt used to fund capital improvements.

8 (c) Pay state and federal income taxes attributable to the
9 capital improvement fund.

10 Sec. 35. (1) The auditing of pari-mutuel operations at each
11 exhibition shall be performed by a private auditing firm
12 appointed by the state treasurer and approved by the
13 commissioner. The expense of pari-mutuel audits shall be paid by
14 the state as a part of the state treasurer's budget. The scope
15 and frequency of the pari-mutuel audits, and the audit reporting
16 required of an exhibition licensee, shall be established in spec-
17 ifications prepared by the state treasurer and approved by the
18 commissioner.

19 (2) The auditors representing the state shall have free and
20 full access to the space or enclosure where the pari-mutuel
21 system of wagering is conducted, to the calculating room where
22 the pay-off prices are calculated, to the rooms and enclosures
23 where the totalisator equipment is operated, and to the money
24 rooms and cashier terminals, and shall be responsible for the
25 accuracy of the calculations on which are based the pay-off
26 prices to the public and amount of the exhibition licensee's
27 commission, state tax and breakage, and for the amounts withheld

1 by the holder of the exhibition license for payment of uncashed
2 tickets. The auditors at all times shall have full and free
3 access to all pari-mutuel records and all aspects, areas, and
4 functions of the totalisator system, including but not limited
5 to, all hardware, software, input and output data, documents, and
6 files. The auditors may audit internally and externally any or
7 all parts and elements of the totalisator system whether on or
8 off the site of the fronton. If the records are maintained in a
9 machine-readable form, such as computer tapes or disks, copies
10 shall be made available to the auditors on request. The audi-
11 tors, in addition to their regular reports, shall promptly report
12 to the commissioner, the state treasurer, and the holder of the
13 exhibition license of any irregularities or discrepancies which
14 they may encounter during their auditing.

15 (3) In addition to auditing the pari-mutuel operations, the
16 auditors shall include in their final reports the daily
17 attendance figures as supplied by the holder of the exhibition
18 license.

19 Sec. 37. (1) A person licensed under this act shall not
20 knowingly permit the dissemination of information about jai alai
21 matches or games that might be of benefit to the operator of an
22 illegal handbook or other illegal gambling enterprise, including
23 the changes in odds which may take place during the period of
24 wagering in advance of each match or game.

25 (2) This section does not prevent the accredited representa-
26 tives of newspapers, sports publications, newspaper press
27 services, and radio and television networks and stations from

1 promptly reporting from the fronton the results of games or
2 matches, pay-off prices on winning tickets, claims, and other
3 information concerning the conducting of jai alai.

4 Sec. 39. At least 85% of all employees, other than players,
5 of a holder of an exhibition license shall have been residents or
6 registered voters of this state for at least 2 years at the time
7 of their employment. Annually, all employees shall furnish affi-
8 davits of compliance with this section to their employer.

9 Sec. 41. A person shall not participate in jai alai involv-
10 ing wagering of any kind except as permitted under this act.

11 Sec. 43. A political subdivision of this state shall not
12 assess nor collect an excise or license tax or fee from a person
13 licensed under this act based upon jai alai-related activity per-
14 formed under this act.

15 Sec. 45. (1) A person who willfully aids, assists, or abets
16 the violation of this act or the rules promulgated under this act
17 is guilty of a misdemeanor, punishable by a fine of not more than
18 \$10,000.00, or by imprisonment for not more than 1 year, or
19 both.

20 (2) For the purpose of this section, each day of jai alai
21 conducted in violation of this act constitutes a separate and
22 distinct offense.

23 Sec. 47. (1) A person shall not have in his or her posses-
24 sion within the fronton a controlled substance as defined in sec-
25 tion 7104 of the public health code, Act No. 368 of the Public
26 Acts of 1978, being section 333.7104 of the Michigan Compiled
27 Laws, or a hypodermic needle or other instrument that can be used

1 to administer a controlled substance, unless the controlled
2 substance was obtained directly from, or pursuant to a prescrip-
3 tion from, a licensed physician, and the person notifies the com-
4 missioner or his or her designee that the person possesses the
5 controlled substance or instrument. A person who violates this
6 subsection, or who aids or abets another in violating this sub-
7 section, is guilty of a misdemeanor, punishable by a fine of not
8 more than \$10,000.00, or by imprisonment for not more than 1
9 year, or both.

10 (2) In addition to the penalties prescribed in subsection
11 (1), a person who is a licensee under this act and who does any
12 of the acts described in subsection (1) shall have his or her
13 license suspended by the commissioner for a period of not less
14 than 5 years after being convicted.

15 Sec. 49. A person influencing or attempting to influence
16 the result of a game or match, by offer of money, thing of value,
17 future benefit, favor, preferment; by any form of pressure or
18 threat; or by seeking or having an agreement, understanding, or
19 conniving with any occupational licensee or other person associ-
20 ated with the conducting of jai alai; or in any other manner, is
21 guilty of a felony, punishable by a fine of not more than
22 \$10,000.00, or by imprisonment for not more than 5 years, or
23 both.

24 Sec. 51. A person who has information regarding a violation
25 or attempted violation of section 49 shall report that informa-
26 tion to the commissioner or an agent of the commissioner. A
27 person who violates this section is guilty of a misdemeanor,

