



HOUSE BILL No. 4809

May 25, 1993, Introduced by Reps. Gire, Anthony, Porreca, Baade, Harrison, Joe Young, Jr., Wallace, DeMars, Dobronski, Harder, Curtis, Olshove and Pitoniak 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~~ TAKES, RECEIVES, OR ACCEPTS
 6 from any person any money or valuable thing with the agreement,
 7 understanding, or allegation that ~~any~~ THE money or valuable
 8 thing will be paid or delivered to any person ~~where such~~ IF THE
 9 payment or delivery is alleged to be or will be contingent upon
 10 the result of any race, contest, or game or upon the happening of
 11 any event not known by the parties to be certain ~~, shall be~~ IS
 12 guilty of a misdemeanor ~~—~~ punishable by imprisonment ~~in the~~
 13 ~~county jail~~ FOR not more than 1 year or by a fine of not more
 14 than \$500.00. ~~dollars.~~

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

1 (2) This section does not prohibit the manufacture of gaming
2 or gambling apparatus or the possession of gaming or gambling
3 apparatus by the manufacturer of the apparatus solely for sale
4 outside of the state ~~—~~ or for sale to a gambling establishment
5 operating within this state in compliance with the laws of this
6 state, if applicable, and in compliance with the laws of the
7 United States ~~—, provided~~ IF the manufacturer meets or exceeds
8 federal government requirements in regard to manufacture, stor-
9 age, and transportation.

10 Sec. 303. (1) Except as otherwise provided in this section
11 AND SECTION 303A, a person who for hire, gain, or reward ~~—~~
12 keeps or maintains a gaming room, gaming table, game of skill or
13 chance, or game partly of skill and partly of chance, used for
14 gaming, or who permits a gaming room, ~~or~~ gaming table, or game
15 to be kept, maintained, or played on premises occupied or con-
16 trolled by the person ~~—~~ is guilty of a misdemeanor ~~—~~ punish-
17 able by imprisonment for not more than 2 years ~~—~~ or a fine of
18 not more than \$1,000.00. A person who aids, assists, or abets in
19 the keeping or maintaining of a gaming room, gaming table, or
20 game ~~—~~ is guilty of a misdemeanor ~~—~~ punishable by imprison-
21 ment for not more than 2 years ~~—~~ or a fine of not more than
22 \$1,000.00.

23 (2) Subsection (1) does not apply to a mechanical amusement
24 device ~~which~~ THAT may, through the application of an element of
25 skill, reward the player with the right to replay the mechanical
26 amusement device at no additional cost if the mechanical
27 amusement device is not allowed to accumulate more than 15

1 replays at 1 time, ~~—~~ the mechanical amusement device is
2 designed so that accumulated free replays may only be discharged
3 by reactivating the device for 1 additional play for each accumu-
4 lated free replay, ~~—~~ and the mechanical amusement device makes
5 no permanent record, directly or indirectly, of the free replays
6 awarded.

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

16 (4) A slot machine ~~which~~ THAT is being used for a gambling
17 purpose in violation of subsection (3) shall be confiscated and
18 turned over to the director of the department of state police for
19 auction.

20 (5) Subsection (1) does not apply to a crane game. As used
21 in this section, "crane game" means an amusement machine acti-
22 vated by the insertion of a coin by which the player uses 1 or
23 more buttons, joysticks, or similar means of control, or a combi-
24 nation of those means of control, to position a mechanical or
25 electromechanical claw ~~—~~ or other retrieval device ~~—~~ over a
26 prize, toy, or novelty having a wholesale value of not more than
27 \$3.75, and thereby attempts to retrieve the prize, toy, or

1 novelty. Subsections (6) through (14) ~~shall~~ DO not apply to a
2 crane game if the crane game is 25 years old or older or is used
3 for demonstration and display purposes and is not used or
4 intended to be used for commercial income-generating purposes.
5 "Crane game" does not include a slot machine.

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

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

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

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

1 (8) All fees collected by the bureau of state lottery under
2 subsection (6) shall be paid into the state lottery fund created
3 under Act No. 239 of the Public Acts of 1972. All necessary
4 expenses incurred by the bureau of state lottery in the adminis-
5 tration and enforcement of subsections (5) ~~to~~ THROUGH (14) and
6 the regulation of crane games shall be financed from the state
7 lottery fund. The amount of those necessary expenses shall not
8 exceed the amount of all fees collected under subsection (6). At
9 the end of each fiscal year all money, including interest, in the
10 state lottery fund ~~which~~ THAT is attributable to fees collected
11 under subsection (6), but which has not been expended pursuant to
12 this subsection, shall be deposited in the state general fund.

13 (9) The commissioner of the state lottery appointed under
14 Act No. 239 of the Public Acts of 1972 shall promulgate rules
15 pursuant to the administrative procedures act of 1969, Act
16 No. 306 of the Public Acts of 1969, being sections 24.201 to
17 24.328 of the Michigan Compiled Laws, to implement all of the
18 following:

19 (a) The issuance of crane game ownership licenses to persons
20 pursuant to subsection (6)(a), including provisions for the revo-
21 cation or suspension of licenses, and the issuance of crane game
22 certificates under subsection (6)(b).

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

26 (c) The prohibition against a crane game containing either
27 of the following:

1 (i) A variable resistor or any turn screw, knob,
2 potentiometer, or similar device that is used to alter the elec-
3 trical closing strength of the crane game's claw.

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

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

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

12 (11) A person who does any of the following is guilty of a
13 misdemeanor ~~—~~ punishable by imprisonment for not more than
14 30 days, or a fine of not more than \$5,000.00, or both:

15 (a) Owns a crane game or games that are available for play
16 without obtaining a license pursuant to subsection (6)(a) or a
17 certificate pursuant to subsection (6)(b).

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

24 (c) Otherwise fails to comply with the elements of the defi-
25 nition contained in subsection (5), or violates the requirements
26 imposed under subsection (6) or the rules promulgated under
27 subsection (9) or (10).

1 (12) A person who knowingly alters a crane game that is
2 available for play so that the crane game is not in compliance
3 with the elements of the definition contained in subsection (5)
4 or the rules promulgated under subsection (9) or (10) is guilty
5 of a felony — punishable by imprisonment for not more than
6 2 years, or a fine of not more than \$20,000.00, or both.

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

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

21 SEC. 303A. RECREATIONAL CARD PLAYING MAY BE CONDUCTED BY A
22 SENIOR CITIZENS CLUB OR A GROUP OF RESIDENTS OF A SENIOR CITIZEN
23 HOUSING FACILITY, WHICH CLUB OR GROUP CONSISTS OF AT LEAST 15
24 MEMBERS WHO ARE 60 YEARS OF AGE OR OLDER ONLY UNDER ALL OF THE
25 FOLLOWING CIRCUMSTANCES:

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

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

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

8 (D) THE PARTICIPATING CARDPLAYERS BET NOT MORE THAN 25 CENTS
9 PER BET.

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

11 (F) EXCEPT FOR WINNINGS, REVENUE GENERATED FROM THE ACTIVITY
12 IS USED FOR REASONABLE EXPENSES INCURRED IN CONDUCTING THE CARD
13 PLAYING, AND NO PERSON IS COMPENSATED FOR PARTICIPATING IN THE
14 CONDUCT OF THE CARD PLAYING.

15 Sec. 314. ~~Winning at gambling Any~~ EXCEPT AS OTHERWISE
16 PROVIDED IN SECTION 303A, A person who by playing at cards, dice,
17 or any other game, ~~or~~ by betting or putting up money on cards,
18 or by any other means or device in the nature of betting on cards
19 ~~, or betting of any kind , shall win or obtain~~ WINS OR
20 OBTAINS any sum of money, ~~or any~~ goods, or any article of value
21 ~~whatever shall,~~ if the money, goods, or ~~articles so won or~~
22 ~~obtained be of the~~ ARTICLE HAS A value of \$50.00 ~~dollars~~ or
23 less, ~~be~~ IS guilty of a misdemeanor. If the money, goods, or
24 ~~articles so won or obtained be of the~~ ARTICLE HAS A value of
25 more than \$50.00, ~~dollars such~~ THE person ~~shall be~~ IS guilty
26 of a misdemeanor ~~, punishable by imprisonment in the county~~

1 ~~jail~~ for not more than 1 year, or by a fine of not more than
2 \$500.00. ~~dollars.~~

3 Sec. 315. ~~Losing at gambling~~ Any EXCEPT AS OTHERWISE
4 PROVIDED IN SECTION 303A, A person who ~~shall lose~~ LOSES any sum
5 of money ~~,~~ or ~~any goods, article or~~ thing of value ~~,~~ by
6 playing or betting on cards ~~,~~ OR dice or by any other device in
7 the nature of such playing or betting, and ~~shall pay~~ PAYS or
8 ~~deliver~~ DELIVERS the ~~same~~ MONEY OR THING OF VALUE or any part
9 thereof to the winner ~~,~~ and ~~shall~~ DOES not, within 3 months
10 after ~~such~~ THE loss, without ~~conv~~ FRAUD or collusion, prose-
11 cute with effect for ~~such~~ THE money or ~~goods~~ THING OF VALUE,
12 the winner to whom ~~such~~ THE money or ~~goods shall have~~ THING
13 OF VALUE HAS been ~~so~~ paid or delivered ~~,~~ ~~shall be~~ IS guilty
14 of a misdemeanor ~~,~~ punishable by a fine not exceeding 3 times
15 the value of ~~such~~ THE money or ~~goods~~ THING OF VALUE. ~~Such~~
16 THE loser may sue for and recover ~~such~~ THE money in an action
17 for money had and received to the use of the plaintiff ~~,~~ and
18 ~~such~~ THE goods, article, or ~~valuable~~ thing OF VALUE in an
19 action of replevin, or the value thereof in an action on the
20 case.