

# Legislative Analysis



## MICHIGAN GAMING CONTROL AND REVENUE ACT

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

House Bill 4307 as enacted

Public Act 158 of 2019

Sponsor: Rep. Brandt Iden

1st House Committee: Regulatory Reform

2nd House Committee: Ways and Means

Senate Committee: Regulatory Reform

Complete to 10-23-24

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4307 makes numerous revisions to the Michigan Gaming Control and Revenue Act, the act that regulates the three Detroit casinos. The changes include paying members of the Michigan Gaming Control Board (MGCB) for attending board meetings, allowing a person with a criminal conviction to be eligible for licenses under the act after a specified post-conviction time period, raising the percentage of interest in a licensee or applicant that would trigger a background check, requiring an annual audit instead of a quarterly audit for suppliers, and no longer allowing the disclosure of certain currently available information pertaining to licensees or applicants. Significant changes to the Michigan Gaming Control and Revenue Act made by House Bill 4307 are described below.

### Definitions

The bill revises the definitions of several terms used in the act, including most notably the following:

- ***Junket enterprise*** is deleted.
- ***Occupational license*** means a license issued by MGCB to a person to perform in a casino or a casino enterprise an occupation *that directly impacts the integrity of gaming and* that MGCB has identified as requiring a license.
- ***Supplier***, defined as a person requiring a license to provide casino licensees with goods or services regarding the business of a casino or casino enterprise on a regular or continuing basis, no longer specifically includes junket enterprises, security businesses, manufacturers, distributors, persons who service gaming devices or equipment, garbage haulers, maintenance companies, food purveyors, or construction companies.
- The level of direct or indirect interest in a casino for a person or partnership to be considered an ***applicant*** is increased from 1% or more to greater than 5%.
- ***Affiliate*** means a person who, directly or indirectly, through one or more intermediaries, controls a casino licensee under the act.
- ***Affiliated company*** means any form of business organization that controls a casino licensee under the act.
- ***Casino*** includes a building *or buildings* in which gaming is conducted.

### Direct or indirect interest in an applicant or pecuniary interest in a casino

Under the bill, persons having less than 5% (increased from 1%) direct or indirect interest in an applicant, or direct or indirect pecuniary interest in the casino, are no longer subject to criminal history background checks or other restrictions. Casino licensees must submit a list

annually to MGCB of stockholders or other persons having a 5% (rather than 1%) or greater beneficial interest in the licensee's gambling activities.

### **Michigan Gaming Control Board**

Beginning January 1, 2024, the bill requires that each member of MGCB be compensated in the amount of \$1,000 for each public board meeting attended, with the chairperson receiving \$1,250, in addition to being reimbursed for all actual and necessary expenses and disbursements.

The bill eliminates a requirement that four members of the board constitute a quorum for the purpose of making determinations on applications for casino licenses. Under the bill, three members of the board constitute a quorum for all of its business.

Under the bill, a person cannot be appointed to or employed by MGCB if he or she held a direct or indirect interest in, or had been employed by, a casino licensee during the previous year (rather than the previous three years).

A member of MGCB, executive director, or *board employee* (rather than key employee) is barred from holding an interest in, or being employed by, or contracting for services with a *casino licensee* (rather than an applicant, a person licensed or registered by the board, or a casino enterprise) for a period of *two years* (rather than four years). [The four-year period previously applied to members of MGCB, the executive director, and key employees; other board employees were subject to the two-year requirement.]

The bill eliminates a provision prohibiting a business entity in which a former board member or board employee has an interest from making an appearance or representation prohibited to the former board member or employee.

The bill allows MGCB to enter into agreements with other jurisdictions to facilitate, administer, and regulate multijurisdictional gaming by casino licensees if the gaming under the agreement is conducted only in the United States.

### **Information subject to FOIA**

Under the bill, any information that would disclose employment schedules, travel schedules, vehicle information, or other information that might endanger the physical safety of MGCB employees, or investigation information, is not subject to disclosure under the Freedom of Information Act (FOIA).

The bill also allows an applicant, a licensee, or MGCB to designate information, records, interviews, reports, correspondence, statements, memoranda, documents, or other data as confidential and thus not subject to disclosure under FOIA.

### **Application to conduct a gambling operation**

The bill raises the ownership interest number triggering disclosure on a casino's application from 1% to 5%.

The prohibition against receiving a casino, supplier, or occupational license if the applicant has been convicted of a felony or misdemeanor offense under federal law or the law of any state may be waived by MGCB if the conviction occurred more than 10 years before application for

a felony, or five years for a misdemeanor, *and* if MGCB is convinced that the applicant does not pose a threat to the integrity of gaming and otherwise meets the requirements for licensure.

Additionally, the bill expands the prohibition against applicants holding local, state, or federal elective offices to include their being employees of the city or county where the casino is located.

### **Allowable taxes**

Generally, a wagering tax of 18% applies to the adjusted gross receipts received by a casino licensee for gaming authorized under the act. The bill provides that, if sports betting or other forms of internet gaming are authorized by other laws of the state, any taxes, payments, and fees received by a casino licensee related to those internet wagers are subject to those other laws. If another state law does not control, however, the bill imposes a wagering tax of 8.4% on the adjusted gross receipts received by a casino licensee for sports betting under the act. If a casino licensee provides a wagerer with a device to conduct internet gaming at the casino, the taxes otherwise provided for in section 12 of the act, up to 19%, apply. These provisions do not impair the contractual rights under an existing development agreement between a city and a casino licensee.

### **Reporting requirement**

The bill requires a casino licensee to provide to MGCB a monthly report including all of the following by game category, such as slots, poker and table games, and sports betting by sport:

- Total amount of wagers received.
- Winnings.
- Free play redeemed.
- Deductions.
- Adjusted gross receipts.

MGCB must, upon request, provide the above report to the Department of Treasury and State Budget Office. The Department of Treasury and State Budget Office can request additional information from a casino licensee to verify financial data provided in the report concerning wagers and winnings, and the licensee must provide the information within 60 days after the request. Any information provided is confidential, proprietary, and exempt from disclosure under FOIA.

### **Criminal history information**

The bill requires MGCB, when considering criminal history information as part of its statutory responsibilities, to have the applicable person submit fingerprints for review by the Department of State Police (MSP) and the Federal Bureau of Investigation (FBI). MGCB cannot share the criminal history check with a private entity. MSP must provide the criminal information requested by MGCB, but can charge MGCB a fee for doing so. MSP also must store and retain fingerprints submitted under the act in an automated fingerprint identification system that provides for an automatic notification if new criminal arrest information matches previously submitted fingerprints. The bill allows the FBI to likewise store and retain fingerprints once MSP is able to participate in the FBI's automatic notification system. MSP must notify MGCB of relevant notifications, matches, or results under these systems.

### **Other provisions**

The bill also does all of the following:

- Eliminates the authority of MGCB to revoke or suspend a casino license or impose other disciplinary action for a violation of the Michigan Liquor Control Act or departmental rules.
- Eliminates as conduct constituting a one-year misdemeanor offense knowingly violating or aiding or abetting in the violation of the provisions of section 7b of the act. (Section 7b prohibited certain political contributions and is repealed by the bill.)
- Excludes a player's mobile or other personal device from being considered an *electronic funds transfer terminal* and specifies that a prohibition against games played with a device allowing a player to transfer funds electronically from a credit or debit card does not apply to sports betting.
- Eliminates a requirement that a casino licensee must immediately remove an individual confirmed as filing an affidavit to be on the disassociated persons list from the casino premises and report the incident to the county prosecutor.
- Clarifies that the prohibition against casino licensees' extending credit, offering coupons, or advertising gambling operations to, or soliciting the patronage of, persons whose names are on the list of disassociated persons does not pertain to nongaming amenities such as hotels, restaurants, and event centers.
- Requires casino licensees to comply with the federal Bank Secrecy Act.
- Deletes the requirement for a supplier to file a quarterly return with MGCB listing all sales, leases, and services.
- Requires each local labor organization directly representing casino gaming employees to register with MGCB every other year rather than annually.
- Requires annual financial audits of each casino licensee and allows the licensee to transmit the audit to MGCB and the city in which the casino is located within 90 days after the end of the fiscal year. Previously, audits were required quarterly and had to be transmitted within 30 days of the end of each fiscal year quarter.
- Eliminates, as grounds for denial of an occupational license, that the applicant or affiliate owns more than a 10% ownership interest in any entity holding a casino license under the act.
- If video lottery is allowed to be conducted at horse racetracks, a casino licensee authorized to simulcast horse races under the Horse Racing Law would no longer be restricted to displaying and allowing wagering on simulcast races only at the licensee's casino.

### **Repealers**

The bill repeals sections 7b, 8a, and 10 of the act, described as follows:

Section 7b defined persons considered to have an interest in a licensee or casino and generally prohibited them and members of their immediate family from contributing to political campaigns.

Section 8a pertained to a requirement for a licensee for a casino license to post a \$1.0 million bond prior to issuance of the license.

Section 10 required alcoholic beverages to be sold or distributed in a casino only pursuant to the Michigan Liquor Control Act (which was repealed and replaced by the Michigan Liquor Control Code in 1998).

MCL 432.202 et seq.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.