

LAWFUL INTERNET GAMING ACT (EXCERPT)
Act 152 of 2019

432.306 Internet gaming operator license; application; fee; form and contents; confidentiality; prohibited conduct.

Sec. 6. (1) The board may issue an internet gaming operator license only to an applicant that is either of the following:

(a) A person that holds a casino license under the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226.

(b) An Indian tribe that lawfully conducts class III gaming in a casino located in this state under a facility license issued in accordance with a tribal gaming ordinance approved by the chair of the National Indian Gaming Commission.

(2) The board shall issue an internet gaming operator license to an applicant described in subsection (1) after receiving the application described in subsection (4) or (5), as applicable, and the application fee, if the board determines that the internet gaming proposed by the applicant complies with this act and the applicant is otherwise eligible and suitable. An applicant is eligible if it meets the requirements set forth in subsection (1)(a) or (b). Each casino licensee described in subsection (1)(a) and each Indian tribe described in subsection (1)(b) is eligible for not more than 1 internet gaming operator license. It is the burden of the applicant to establish by clear and convincing evidence its suitability as to character, reputation, integrity, business probity, and financial ability. The application or enforcement of this subsection by the board must not be arbitrary, capricious, or contradictory to the express provisions of this act. In evaluating the eligibility and suitability of an applicant under the standards provided in this act, the board shall establish and apply the standards to each applicant in a consistent and uniform manner. In determining whether to grant an internet gaming operator license to an applicant, the board may request from the applicant and consider as a factor in the determination any or all of the following information:

(a) Whether the applicant has adequate capitalization and the financial ability and the means to develop, construct, operate, and maintain the proposed internet gaming platform and to offer and conduct internet gaming in accordance with this act and the rules promulgated by the board.

(b) Whether the applicant has the financial ability to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond.

(c) Whether the applicant has adequate capitalization and the financial ability to responsibly pay its secured and unsecured debts in accordance with its financing agreements and other contractual obligations.

(d) Whether the applicant has a history of material noncompliance with casino or casino-related licensing requirements or compacts with this state or any other jurisdiction, where the noncompliance resulted in enforcement action by the person with jurisdiction over the applicant.

(e) Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pleaded guilty or nolo contendere to, forfeited bail concerning, or had expunged any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise. The board may consider mitigating factors, and, for an applicant described in subsection (1)(b), shall give deference to whether the applicant has otherwise met the requirements of the applicant's gaming compact for licensure, as applicable.

(f) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt.

(g) Whether the applicant has a history of material noncompliance with any regulatory requirements in this state or any other jurisdiction where the noncompliance resulted in an enforcement action by the regulatory agency with jurisdiction over the applicant.

(h) Whether at the time of application the applicant is a defendant in litigation involving the integrity of its business practices.

(3) An internet gaming operator license issued under this act is valid for the 5-year period after the date of issuance and, if the board determines that the internet gaming operator continues to meet the eligibility and suitability standards under this act, is renewable for additional 5-year periods.

(4) A person described in subsection (1)(a) may apply to the board for an internet gaming operator license to offer internet gaming as provided in this act. The application must be made on forms provided by the board and include the information required by the board.

(5) A person described in subsection (1)(b) may apply to the board for an internet gaming operator license to offer internet gaming as provided in this act. The application must be made on forms provided by the board that require only the following information:

(a) The name and location of any of the applicant's casinos.

(b) The tribal law, charter, or any other organizational document of the applicant and other governing documents under which the applicant operates any of its casinos.

(c) Detailed information about the primary management officials of the applicant's casinos who will have management responsibility for the applicant's internet gaming operations. As used in this subdivision, "primary management official" does not include an elected or appointed representative of the applicant unless the representative is also a full-time employee of the applicant's internet gaming operations.

(d) The current facility license for the applicant's casinos.

(e) The applicant's current tribal gaming ordinance.

(f) The gaming history and experience of the applicant in the United States and other jurisdictions.

(g) Financial information, including copies of the last independent audit and management letter submitted by the applicant to the National Indian Gaming Commission under 25 USC 2710(b)(2)(C) and (D) and 25 CFR parts 271.12 and 271.13.

(h) The total number of gaming positions, including, but not limited to, electronic gaming devices and table games, at each of the applicant's casinos.

(6) An initial application for an internet gaming operator license must be accompanied by an application fee of \$50,000.00. The rules promulgated under section 10 may include provisions for the refund of an application fee, or the portion of an application fee that has not been expended by the board in processing the application, and the circumstances under which the fee will be refunded. The board may assess additional fees for the costs related to the licensure investigation.

(7) The board shall keep all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the board in the course of its review or investigation of an application for an internet gaming operator license or renewal of an internet gaming operator license confidential. The materials described in this subsection are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(8) An application under this section must be submitted and considered in accordance with this act and any rules promulgated under this act.

(9) An internet gaming operator shall pay a license fee of \$100,000.00 to the board at the time the initial internet gaming operator license is issued and \$50,000.00 each year after the initial license is issued.

(10) The board shall deposit all application and license fees paid under this section into the fund.

(11) An institutional investor that holds for investment purposes only less than 25% of the equity of an applicant under this section is exempt from the licensure requirements of this act.

(12) An internet gaming operator shall not offer internet gaming until all of the following criteria are satisfied:

(a) The board has issued a license to at least 1 person under section 6(1)(a) and 1 person under section 6(1)(b).

(b) Either of the following is satisfied, whichever is first:

(i) The governor agrees to add online versions of authorized class III gaming games, including authorizing internet wagering on games described in this subparagraph, under the tribal-state compact for any tribe in this state whose tribal-state gaming compact requires agreement by the governor for the addition of each new class III gaming game if those tribes request, within 60 days after the effective date of this act, an agreement under section 3(B) of the tribe's tribal-state gaming compact.

(ii) One hundred fifty days have elapsed after the effective date of this act.

History: 2019, Act 152, Imd. Eff. Dec. 20, 2019.