

# SENATE BILL NO. 991

June 25, 2020, Introduced by Senators HERTEL, IRWIN, GEISS, POLEHANKI, WOJNO, ANANICH and HOLLIER and referred to the Committee on Regulatory Reform.

A bill to amend 2019 PA 152, entitled  
"Lawful internet gaming act,"  
by amending sections 3, 5, 7, and 11 (MCL 432.303, 432.305,  
432.307, and 432.311).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3. As used in this act:  
2           (a) "Adjusted gross receipts" means gross receipts less a  
3           deduction equal to the amount of free play provided and wagered by  
4           authorized participants as an incentive to place or as a result of  
5           placing internet wagers under this act. The deduction under this

1 subdivision is limited as follows:

2 (i) For years 1-3, a deduction not to exceed 10% of gross  
3 receipts.

4 (ii) For year 4, a deduction not to exceed 6% of gross  
5 receipts.

6 (iii) For year 5, a deduction not to exceed 4% of gross  
7 receipts.

8 (iv) For year 6 and each year thereafter, no deduction of free  
9 play is allowed. The January 1 following the year in which the  
10 internet gaming operator begins internet gaming operations is  
11 considered the **beginning of the** first year of internet gaming for  
12 the purposes of this subdivision. An internet gaming operator may  
13 deduct up to 10% of gross receipts during any period of internet  
14 gaming operations before January 1 of the first year of internet  
15 gaming operations.

16 (b) "Affiliate" means a person that, directly or indirectly,  
17 through 1 or more intermediaries, controls or is controlled by an  
18 internet gaming operator.

19 (c) "Applicant" means a person that applies for a license or  
20 for registration under this act. As used in section 8, applicant  
21 includes an affiliate, director, or managerial employee of the  
22 applicant that performs the function of principal executive  
23 officer, principal operations officer, or principal accounting  
24 officer, or a person who holds more than 5% ownership interest in  
25 the applicant. As used in this subdivision, affiliate does not  
26 include a partnership, a joint venture, a co-shareholder of a  
27 corporation, a co-member of a limited liability company, or a co-  
28 partner in a limited liability partnership that has 5% or less  
29 ownership interest in the applicant and is not involved in the

1 internet gaming operation.

2 (d) "Authorized participant" means an individual who has a  
3 valid internet wagering account with an internet gaming operator  
4 and is 21 years of age or older.

5 (e) "Board" means the Michigan gaming control board created  
6 under section 4 of the Michigan Gaming Control and Revenue Act,  
7 1996 IL 1, MCL 432.204.

8 (f) "Casino" means a building or buildings in which gaming is  
9 lawfully conducted under the Michigan Gaming Control and Revenue  
10 Act, 1996 IL 1, MCL 432.201 to 432.226, or in which class III  
11 gaming is lawfully conducted by an Indian tribe in this state under  
12 a facility license issued in accordance with a tribal gaming  
13 ordinance approved by the chair of the National Indian Gaming  
14 Commission.

15 (g) "Class II gaming" means that term as defined in 25 USC  
16 2703.

17 (h) "Class III gaming" means that term as defined in 25 USC  
18 2703.

19 (i) "Compact" means a tribal-state compact governing the  
20 conduct of gaming activities that is negotiated under the Indian  
21 gaming regulatory act, Public Law 100-497, 102 Stat 2467.

22 (j) "Fantasy contest" means ~~a simulated game or contest with~~  
23 ~~an entry fee that meets all of the following conditions:~~

24 ~~(i) No fantasy contest team is composed of the entire roster of~~  
25 ~~a real world sports team.~~

26 ~~(ii) No fantasy contest team is composed entirely of individual~~  
27 ~~athletes who are members of the same real world sports team.~~

28 ~~(iii) Each prize and award or the value of all prizes and awards~~  
29 ~~offered to winning fantasy contest players is made known to the~~

1 ~~fantasy contest players in advance of the fantasy contest.~~

2 ~~(iv) Each winning outcome reflects the relative knowledge and~~  
3 ~~skill of the fantasy contest players and are determined by the~~  
4 ~~aggregated statistical results of the performance of multiple~~  
5 ~~individual athletes selected by the fantasy contest player to form~~  
6 ~~the fantasy contest team, whose individual performances in the~~  
7 ~~fantasy contest directly correspond with the actual performance of~~  
8 ~~those athletes in the athletic event in which those individual~~  
9 ~~athletes participated.~~

10 ~~(v) A winning outcome is not based on randomized or historical~~  
11 ~~events, or on the score, point spread, or performance in an~~  
12 ~~athletic event of a single real-world sports team, a single~~  
13 ~~athlete, or any combination of real-world sports teams.~~

14 ~~(vi) The fantasy contest does not constitute or involve and is~~  
15 ~~not based on any of the following:~~

16 ~~(A) Racing involving animals.~~

17 ~~(B) A game or contest ordinarily offered by a horse track or~~  
18 ~~casino for money, credit, or any representative of value, including~~  
19 ~~any races, games, or contests involving horses, or that are played~~  
20 ~~with cards or dice.~~

21 ~~(C) A slot machine or other mechanical, electromechanical, or~~  
22 ~~electric device, equipment, or machine, including computers and~~  
23 ~~other cashless wagering systems.~~

24 ~~(D) Any other game or device authorized by the board under the~~  
25 ~~Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to~~  
26 ~~432.226.~~ **that term as defined in section 2 of the fantasy contests**  
27 **consumer protection act, 2019 PA 157, MCL 432.502.**

28 (k) "Fund" means the internet gaming fund created under  
29 section 16.

1           (l) "Gross receipts" means the total of all sums, including,  
2 but not limited to, valid or invalid checks, valid or invalid  
3 credit or debit card deposits, valid or invalid ACH deposits,  
4 currency, coupons, free play or promotional credits, redeemable  
5 credits, vouchers, entry fees assessed for tournaments or other  
6 contests, or instruments of monetary value whether collected or  
7 uncollected, in each case actually wagered by an authorized  
8 participant at or with an internet gaming operator on an internet  
9 game, less all of the following:

10           (i) Winnings.

11           (ii) Amounts returned to an authorized participant due to a  
12 game, platform, or system malfunction or because the internet wager  
13 must be voided due to concerns regarding integrity of the wager or  
14 game.

15           (iii) Uncollectible markers or successfully disputed credit or  
16 debit card charges that were previously included in the computation  
17 of gross receipts.

18           (m) "Indian lands" means that term as defined in 25 USC 2703.

19           (n) "Indian tribe" means that term as defined in 25 USC 2703  
20 and any instrumentality, political subdivision, or other legal  
21 entity through which an Indian tribe operates its casino in this  
22 state.

23           (o) "Institutional investor" means a person that is any of the  
24 following:

25           (i) A retirement fund administered by a public agency for the  
26 exclusive benefit of federal, state, or local public employees.

27           (ii) An employee benefit plan or pension fund that is subject  
28 to the employee retirement income security act of 1974, Public Law  
29 93-406.

1           (iii) An investment company registered under the investment  
2 company act of 1940, 15 USC 80a-1 to 80a-64.

3           (iv) A collective investment trust organized by a bank under 12  
4 CFR part 9.

5           (v) A closed end investment trust.

6           (vi) A chartered or licensed life insurance company or property  
7 and casualty insurance company.

8           (vii) A chartered or licensed financial institution.

9           (viii) An investment advisor registered under the investment  
10 advisers act of 1940, 15 USC 80b-1 to 80b-21.

11           (ix) Any other person that the board determines through  
12 rulemaking should be considered to be an institutional investor for  
13 reasons consistent with this act.

14           (p) "Internet" means the international computer network of  
15 interoperable packet-switched data networks, inclusive of such  
16 additional technological platforms as mobile, satellite, and other  
17 electronic distribution channels.

18           (q) "Internet game" means a game of skill or chance that is  
19 offered for play through the internet in which an individual wagers  
20 money or something of monetary value for the opportunity to win  
21 money or something of monetary value. Internet game includes gaming  
22 tournaments conducted via the internet in which individuals compete  
23 against one another in 1 or more of the games authorized by the  
24 board or in approved variations or composites as authorized by the  
25 board. Internet game does not include a social media internet game  
26 as that term is defined in section 310c of the Michigan penal code,  
27 1931 PA 328, MCL 750.310c.

28           (r) "Internet gaming" means operating, conducting, or offering  
29 for play an internet game.

1 (s) "Internet gaming operator" means a person that is issued  
2 an internet gaming operator license from the board.

3 (t) "Internet gaming operator license" means a license issued  
4 by the board to a person to operate, conduct, or offer internet  
5 gaming.

6 (u) "Internet gaming platform" means an integrated system of  
7 hardware, software, applications, including mobile applications,  
8 and servers through which an internet gaming operator operates,  
9 conducts, or offers internet gaming.

10 (v) "Internet gaming platform provider" means an internet  
11 gaming supplier that contracts with an internet gaming operator to  
12 provide an internet gaming platform.

13 (w) "Internet gaming supplier" means a person that the board  
14 has identified under the rules promulgated by the board as  
15 requiring a license to provide internet gaming operators goods or  
16 services that directly affect wagering, play, and results of  
17 internet games offered under this act. Internet gaming supplier  
18 includes, but is not limited to, internet gaming platform  
19 providers.

20 (x) "Internet gaming supplier license" means a license issued  
21 by the board to an internet gaming supplier.

22 (y) "Internet wager" means money or something of monetary  
23 value risked on an internet game.

24 (z) "Internet wagering" means risking money or something of  
25 monetary value on an internet game.

26 (aa) "Internet wagering account" means an electronic ledger in  
27 which all of the following types of transactions relative to an  
28 authorized participant are recorded:

29 (i) Deposits and credits.

1 (ii) Withdrawals.

2 (iii) Internet wagers.

3 (iv) Monetary value of winnings.

4 (v) Service or other transaction-related charges authorized by  
5 the authorized participant, if any.

6 (vi) Adjustments to the account.

7 (bb) "Mobile application" means an application on a mobile  
8 phone or other device through which an individual is able to place  
9 an internet wager.

10 (cc) "Occupational license" means a license issued by the  
11 board to a person to perform an occupation that directly impacts  
12 the integrity of internet gaming and that the board has identified  
13 as requiring a license to perform the occupation.

14 (dd) "Person" means an individual, partnership, corporation,  
15 association, limited liability company, federally recognized Indian  
16 tribe, or other legal entity.

17 **(ee) "Poker" means the traditional game of poker, and any**  
18 **derivative of the game of poker as approved by the board, in which**  
19 **2 or more authorized participants play against each other and wager**  
20 **on the value of the authorized participants' hands.**

21 **(ff)** ~~(ee)~~ "Vendor" means a person that is not licensed under  
22 this act that supplies any goods or services to an internet gaming  
23 operator or internet gaming supplier.

24 **(gg)** ~~(ff)~~ "Winnings" means the total cash value of all  
25 property or sums including currency or instruments of monetary  
26 value paid to an authorized participant by an internet gaming  
27 operator as a direct result of a winning internet wager.

28 Sec. 5. (1) The board has the powers and duties specified in  
29 this act and all other powers necessary to enable it to fully and



1 effectively execute this act to administer, regulate, and enforce  
2 the system of internet gaming established under this act.

3 (2) The board has jurisdiction over every person licensed by  
4 the board and may take enforcement action against a person that is  
5 not licensed by the board that offers internet gaming in this  
6 state.

7 **(3) The board may enter into agreements with other**  
8 **jurisdictions, including Indian tribes, to facilitate, administer,**  
9 **and regulate multijurisdictional internet gaming for poker by**  
10 **internet gaming operators to the extent that entering into the**  
11 **agreement is consistent with state and federal laws and if the**  
12 **internet gaming under the agreement is conducted only in the United**  
13 **States.**

14 Sec. 7. (1) The board shall condition the issuance,  
15 maintenance, and renewal of an internet gaming operator license to  
16 a person described in section 6(1)(b) on the person's compliance  
17 with all of the following conditions:

18 (a) The person complies with this act, rules promulgated by  
19 the board, and minimum internal controls pertaining to all of the  
20 following:

21 (i) The types of and rules for playing internet games that  
22 internet gaming operators may offer under this act.

23 (ii) Technical standards, procedures, and requirements for the  
24 acceptance, by the person, of internet wagers initiated or  
25 otherwise made by individuals located in this state who are not  
26 physically present on the person's Indian lands in this state at  
27 the time the internet wager is initiated or otherwise made.

28 **(iii) Procedures and requirements for the acceptance of internet**  
29 **wagers for poker initiated or otherwise made by individuals located**

1 in other jurisdictions, if the board authorizes multijurisdictional  
2 internet gaming for poker as provided in this act.

3 (iv) ~~(iii)~~—The requirements set forth in section 11.

4 (b) The person adopts and maintains technical standards for  
5 internet gaming platforms, systems, and software that are  
6 consistent with the standards adopted by the board under section  
7 10.

8 (c) The person maintains 1 or more mechanisms on the internet  
9 gaming platform that are designed to reasonably verify that an  
10 authorized participant is 21 years of age or older and that  
11 internet wagering is limited to transactions that are initiated and  
12 received or otherwise made by an authorized participant located in  
13 this state **or, if the board authorizes multijurisdictional internet**  
14 **gaming for poker as provided in this act, another jurisdiction in**  
15 **the United States authorized by the multijurisdictional agreement.**

16 (d) The person adopts and maintains responsible gaming  
17 measures consistent with those described in section 12.

18 (e) The person continues to maintain and operate in this state  
19 a casino offering class III gaming and the casino contains not less  
20 than 50% of the gaming positions that were in place on ~~the~~  
21 ~~effective date of this act.~~ **December 20, 2019.**

22 (f) The person, within the time period described in section  
23 14(3), makes payments, to be allocated as outlined in section 15a,  
24 based on a graduated percentage schedule on the adjusted gross  
25 receipts received each calendar year by the person from all  
26 internet gaming it conducts under this act as an internet gaming  
27 operator, as set forth below:

28 (i) For adjusted gross receipts less than \$4,000,000.00, 20%.

29 (ii) For adjusted gross receipts of \$4,000,000.00 or more but

1 less than \$8,000,000.00, 22%.

2 (iii) For adjusted gross receipts of \$8,000,000.00 or more but  
3 less than \$10,000,000.00, 24%.

4 (iv) For adjusted gross receipts of \$10,000,000.00 or more but  
5 less than \$12,000,000.00, 26%.

6 (v) For adjusted gross receipts of \$12,000,000.00 or more,  
7 28%.

8 (g) The person agrees to provide and timely provides, on  
9 written request of the board, books and records directly related to  
10 its internet gaming operations for the purpose of permitting the  
11 board to verify the calculation of the payments under subdivision  
12 (f).

13 (h) The person provides a waiver of sovereign immunity to the  
14 board for the sole and limited purpose of consenting to both of the  
15 following:

16 (i) The jurisdiction of the board to the extent necessary and  
17 for the limited purpose of providing a mechanism for the board to  
18 do all of the following:

19 (A) Issue, renew, and revoke the person's internet gaming  
20 license.

21 (B) Enforce the payment obligations set forth in this section  
22 and section 14.

23 (C) Regulate the person under and enforce sections 10(a), (b),  
24 (d) to (g), 11, 12(4) and (5), 13, 19, and 21.

25 (D) Inspect the person's internet gaming operation and records  
26 to verify that the person is conducting its internet gaming  
27 operation in conformity with this act.

28 (E) Assess fines or monetary penalties for violations referred  
29 to in sub-subparagraph (C).

1 (F) Enforce the payment of internet gaming license fees  
2 described in section 6(9).

3 (ii) The jurisdiction of the courts of this state, and  
4 expressly waiving the exhaustion of tribal remedies, with the  
5 circuit court for Ingham County having exclusive jurisdiction, and  
6 any courts to which appeals from that court may be taken, to permit  
7 this state to enforce administrative orders of the board, the  
8 person's obligation to make payments required under subdivision  
9 (f), and collection of any judgment. Any monetary award under this  
10 subparagraph is deemed limited recourse obligations of the person  
11 and does not impair any trust or restricted income or assets of the  
12 person.

13 (2) This state, acting through the governor, at the request of  
14 any Indian tribe, is authorized to negotiate and conclude and  
15 execute any amendments to an Indian tribe's compact necessary to  
16 effectuate internet gaming by the Indian tribe under this act and  
17 to ensure internet gaming conducted by the Indian tribe is in  
18 compliance with this act and any applicable federal laws. If the  
19 governor fails to enter into negotiations with the Indian tribe, or  
20 fails to negotiate in good faith with respect to the request, this  
21 state waives its sovereign immunity to permit the Indian tribe to  
22 initiate an action against the governor in his or her official  
23 capacity in either state court or in federal court and obtain those  
24 remedies as authorized in 25 USC 2710(d)(7).

25 (3) Notwithstanding anything in this act to the contrary, this  
26 act only regulates internet gaming as provided in this act and does  
27 not extend to the board, or any other agency of this state, any  
28 jurisdiction or regulatory authority over any aspect of any gaming  
29 operations of an Indian tribe described in section 4(4)(b) beyond

1 those rights granted to this state under the compact with the  
2 Indian tribe.

3       Sec. 11. (1) An internet gaming operator shall provide, or  
4 shall require its internet gaming platform provider to provide, 1  
5 or more mechanisms on the internet gaming platform that the  
6 internet gaming operator uses that are designed to reasonably  
7 verify that an authorized participant is 21 years of age or older  
8 and that internet wagering is limited to transactions that are  
9 initiated and received or otherwise made by an authorized  
10 participant located in this state **or, if the board authorizes**  
11 **multijurisdictional internet gaming for poker as provided in this**  
12 **act, another jurisdiction in the United States authorized by the**  
13 **multijurisdictional agreement.**

14       (2) An individual who wishes to place an internet wager under  
15 this act must satisfy the verification requirements under  
16 subsection (1) before the individual may establish an internet  
17 wagering account or make an internet wager on an internet game  
18 offered by the internet gaming operator.

19       (3) An internet gaming operator shall include, or shall  
20 require its internet gaming platform provider to include,  
21 mechanisms on its internet gaming platform that are designed to  
22 detect and prevent the unauthorized use of internet wagering  
23 accounts and to detect and prevent fraud, money laundering, and  
24 collusion.

25       (4) An internet gaming operator, or its internet gaming  
26 platform provider, shall not knowingly authorize any of the  
27 following individuals to establish an internet wagering account or  
28 knowingly allow them to wager on internet games offered by the  
29 internet gaming operator, except if required and authorized by the

1 board for testing purposes or to otherwise fulfill the purposes of  
2 this act:

3 (a) An individual who is less than 21 years old.

4 (b) An individual whose name appears in the board's  
5 responsible gaming database.

6 (5) An internet gaming operator shall display, or shall  
7 require its internet gaming platform provider to display, in a  
8 clear, conspicuous, and accessible manner, evidence of the internet  
9 gaming operator's internet gaming license issued under this act.