

LAWFUL INTERNET GAMING ACT Act 152 of 2019

AN ACT to create the lawful internet gaming act; to require licensure for persons to offer internet gaming; to impose requirements for internet gaming; to provide for the powers and duties of the Michigan gaming control board and other state and local officers and entities; to impose fees; to impose tax and other payment obligations on the conduct of licensed internet gaming; to create the internet gaming fund; to prohibit certain acts in relation to internet gaming and to prescribe penalties for those violations; to require the promulgation of rules; and to provide remedies.

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

The People of the State of Michigan enact:

432.301 Short title.

Sec. 1. This act shall be known and may be cited as the "lawful internet gaming act".

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

432.302 Legislative findings, declaration, and intent.

Sec. 2. The legislature finds and declares all of the following:

(a) Operating, conducting, and offering for play internet games over the internet involves gaming activity that already occurs throughout this state illegally.

(b) This act is consistent and complies with the unlawful internet gambling enforcement act of 2006, 31 USC 5361 to 5367, and specifically authorizes use of the internet to place, receive, or otherwise knowingly transmit a bet or wager if that use complies with this act and rules promulgated under this act.

(c) This act is consistent and complies with the state constitution of 1963 by ensuring that the internet may be used to place wagers only on games of skill or chance that may be lawfully played in this state and that internet gaming is only conducted by persons who are lawfully operating casinos in this state.

(d) In order to protect residents of this state who wager on games of chance or skill through the internet and to capture revenues generated from internet gaming, it is in the best interest of this state and its citizens to regulate this activity by establishing a secure, responsible, fair, and legal system of internet gaming.

(e) The use of the internet to sell lottery games, including digital representations of lottery games and entertaining displays for revealing outcomes, continues to be permitted as a method for selling state lottery games. This act is not intended to prohibit sales described in this subdivision.

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

432.303 Definitions.

Sec. 3. As used in this act:

(a) "Adjusted gross receipts" means gross receipts less a deduction equal to the amount of free play provided and wagered by authorized participants as an incentive to place or as a result of placing internet wagers under this act. The deduction under this subdivision is limited as follows:

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

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

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

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

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

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

(d) "Authorized participant" means an individual who has a valid internet wagering account with an

internet gaming operator and is 21 years of age or older.

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

(f) "Casino" means a building or buildings in which gaming is lawfully conducted under the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226, or in which class III gaming is lawfully conducted by an Indian tribe 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.

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

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

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

(j) "Fantasy contest" means that term as defined in section 2 of the fantasy contests consumer protection act, 2019 PA 157, MCL 432.502.

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

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

(i) Winnings.

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

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

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

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

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

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

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

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

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

(v) A closed end investment trust.

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

(vii) A chartered or licensed financial institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Deposits and credits.

(ii) Withdrawals.

(iii) Internet wagers.

(iv) Monetary value of winnings.

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

(vi) Adjustments to the account.

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

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

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

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

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

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

History: 2019, Act 152, Imd. Eff. Dec. 20, 2019;— Am. 2020, Act 327, Eff. Mar. 24, 2021.

432.304 Internet gaming, conduct generally; applicability of act; limitation on brand of internet gaming.

Sec. 4. (1) Internet gaming may be conducted only to the extent that it is conducted in accordance with this act.

(2) An internet wager received by an internet gaming operator or its internet gaming platform providers is considered to be gambling or gaming that is conducted in the internet gaming operator's casino located in this state, regardless of the authorized participant's location at the time the participant initiates or otherwise places the internet wager.

(3) A law that is inconsistent with this act does not apply to internet gaming as provided for by this act.

(4) This act does not apply to any of the following:

(a) Lottery games offered by the bureau of lottery under the McCauley-Traxler-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(b) Class II and Class III gaming conducted exclusively on Indian lands by an Indian tribe under a facility license issued in accordance with a tribal gaming ordinance approved by the chair of the National Indian Gaming Commission. For purposes of this act, gaming is conducted exclusively on Indian lands only if the individual who places the wager is physically present on Indian lands when the wager is initiated and the wager is received or otherwise made on equipment that is physically located on Indian lands, and the wager is initiated, received, or otherwise made in conformity with the safe harbor requirements described in 31 USC 5362(10)(C).

(c) A lawful fantasy contest.

(d) Any lawful internet sports betting.

(5) A person shall not provide or make available computers or other internet access devices in a place of public accommodation in this state, including a club or other association, to enable individuals to place internet wagers or play an internet game. The prohibition under this subsection does not apply to an internet

gaming operator aggregating, providing, or making available computers or other internet access devices at its own casino.

(6) For purposes of this act, the intermediate routing of electronic data in connection with internet wagering, including routing across state lines, does not determine the location or locations in which the internet wager is initiated, received, or otherwise made.

(7) An internet gaming operator may offer internet gaming under a maximum of 2 separate brands, 1 for each of interactive poker and other casino style games. This subsection does not prohibit an internet gaming operator from using fewer than 2 brands or from using a single brand to offer any combination of interactive poker or other casino style games. Only an internet gaming operator or its internet gaming platform providers may process, accept, or solicit internet wagers under this act. All websites and corresponding applications used to offer internet gaming must clearly display the brand of the internet gaming operator or its affiliate. The internet gaming operator may also elect, in its sole discretion, to have the brand of each internet gaming platform that it utilizes be the name and logos or no more than 1 internet gaming platform provider if the internet gaming platform also clearly displays the internet gaming operator's own trademarks and logos or those of an affiliate. The internet gaming operator is responsible for the conduct of its internet gaming platform provider.

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

432.305 Michigan gaming control board; powers and duties; jurisdiction; agreements for multijurisdictional internet gaming for poker.

Sec. 5. (1) The board has the powers and duties specified in this act and all other powers necessary to enable it to fully and effectively execute this act to administer, regulate, and enforce the system of internet gaming established under this act.

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

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

History: 2019, Act 152, Imd. Eff. Dec. 20, 2019;—Am. 2020, Act 327, Eff. Mar. 24, 2021.

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.

432.307 Internet gaming operator license; issuance and renewal; compliance requirements; Indian tribe compacts.

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

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

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

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

(iii) Procedures and requirements for the acceptance of internet wagers for poker initiated or otherwise made by individuals located in other jurisdictions, if the board authorizes multijurisdictional internet gaming for poker as provided in this act.

(iv) The requirements set forth in section 11.

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

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

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

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

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

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

(ii) For adjusted gross receipts of \$4,000,000.00 or more but less than \$8,000,000.00, 22%.

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

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

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

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

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

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

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

(B) Enforce the payment obligations set forth in this section and section 14.
(C) Regulate the person under and enforce sections 10(a), (b), (d) to (g), 11, 12(4) and (5), 13, 19, and 21.
(D) Inspect the person's internet gaming operation and records to verify that the person is conducting its internet gaming operation in conformity with this act.

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

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

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

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

(3) Notwithstanding anything in this act to the contrary, this act only regulates internet gaming as provided in this act and does not extend to the board, or any other agency of this state, any jurisdiction or regulatory authority over any aspect of any gaming operations of an Indian tribe described in section 4(4)(b) beyond those rights granted to this state under the compact with the Indian tribe.

History: 2019, Act 152, Imd. Eff. Dec. 20, 2019;—Am. 2020, Act 327, Eff. Mar. 24, 2021.

432.308 Internet gaming supplier license; application; form; fee; confidentiality.

Sec. 8. (1) The board may issue an internet gaming supplier license to an internet gaming supplier. A person that is not licensed under this section shall not provide goods, software, or services as an internet gaming supplier to an internet gaming operator.

(2) On application by an interested person, the board may issue a provisional internet gaming supplier license to an applicant for an internet gaming supplier license. A provisional license issued under this subsection allows the applicant for the internet gaming supplier license to conduct business with an internet gaming operator before the internet gaming supplier license is issued to the applicant. A provisional license issued under this subsection expires on the date provided by the board. The board shall not issue a provisional internet gaming supplier license to an internet gaming platform provider under this subsection until board rules as described in section 10(b) are in effect.

(3) An internet gaming supplier license issued under subsection (1) is valid for the 5-year period after the date of issuance. An internet gaming supplier license is renewable after the initial 5-year period for additional 5-year periods if the board determines that the internet gaming supplier continues to meet the eligibility and suitability standards under this act.

(4) A person may apply to the board for an internet gaming supplier license as provided in this act and the rules promulgated under this act.

(5) Except as otherwise provided in this section, an application under this section must be made on forms provided by the board and include the information required by the board.

(6) An application under this section must be accompanied by a nonrefundable application fee in an amount to be determined by the board, not to exceed \$5,000.00. The board may assess additional fees for the cost 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 supplier license or renewal of an internet gaming supplier 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 internet gaming supplier shall pay a license fee of \$5,000.00 to the board at the time an initial internet gaming supplier license is issued to the internet gaming supplier and \$2,500.00 each year after the initial license is issued.

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

(10) 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.

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

432.309 Michigan gaming control board; jurisdiction and supervision of internet gaming operations; powers; investigation.

Sec. 9. (1) The board has jurisdiction over and shall supervise all internet gaming operations governed by this act. The board may do anything necessary or desirable to effectuate this act, including, but not limited to, all of the following:

(a) Develop qualifications, standards, and procedures for approval and licensure by the board of internet gaming operators and internet gaming suppliers.

(b) Decide promptly and in reasonable order all license applications and approve, deny, suspend, revoke, restrict, or refuse to renew internet gaming operator licenses and internet gaming supplier licenses. A party aggrieved by an action of the board denying, suspending, revoking, restricting, or refusing to renew a license may request a contested case hearing before the board under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A request for hearing under this subdivision must be made to the board in writing within 21 days after service of notice of the action by the board.

(c) Conduct all hearings pertaining to violations of this act or rules promulgated under this act.

(d) Provide for the establishment and collection of all applicable license fees, taxes, and payments imposed by this act and the rules promulgated under this act and the deposit of the applicable fees, taxes, and payments into the fund.

(e) Develop and enforce testing and auditing requirements for internet gaming platforms, internet wagering, and internet wagering accounts.

(f) Develop and enforce requirements for responsible gaming and player protection, including privacy and confidentiality standards and duties.

(g) Develop and enforce requirements for accepting internet wagers.

(h) Adopt by rule a code of conduct governing board employees that ensures, to the maximum extent possible, that persons subject to this act avoid situations, relationships, or associations that may represent or lead to an actual or perceived conflict of interest.

(i) Develop and administer civil fines for internet gaming operators and internet gaming suppliers that violate this act or the rules promulgated under this act.

(j) Audit and inspect books and records relevant to internet gaming operations, internet wagers, internet wagering accounts, internet games, or internet gaming platforms, including, but not limited to, the books and records regarding financing and accounting materials held by or in the custody of an internet gaming operator or internet gaming supplier.

(k) Acquire by lease or by purchase personal property, including, but not limited to, any of the following:

(i) Computer hardware.

(ii) Mechanical, electronic, and online equipment and terminals.

(iii) Intangible property, including, but not limited to, computer programs, software, and systems.

(2) The board may investigate and may issue cease and desist orders and obtain injunctive relief against a person that is not licensed by the board that offers internet gaming in this state.

(3) The board shall keep all information, records, interviews, reports, statements, memoranda, and other data supplied to or used by the board in the course of any investigation of a person licensed under this act 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.

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

432.310 Rules.

Sec. 10. The board shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules may include any necessary and proper to govern internet gaming, including, but not limited to, any of the following:

(a) The types of internet games to be offered, which must include, but need not be limited to, poker, blackjack, cards, slots, and other games typically offered at a casino, but does not include pick numbers or other lottery games typically offered by the bureau of lottery under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(b) The qualifications, standards, and procedures for approval and licensure by the board for internet gaming operators and internet gaming suppliers consistent with this act.

(c) Requirements to ensure responsible gaming.

(d) Technical and financial standards for internet wagering, internet wagering accounts, and internet gaming platforms, systems, and software or other electronic components integral to offering internet gaming.

(e) Procedures for a contested case hearing under this act consistent with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(f) Requirements for occupational licensing.

(g) Requirements for vendors and vendor registration.

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

432.311 Internet gaming operator; duties; age verification requirements; unauthorized use and fraud prevention.

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

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

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

(4) An internet gaming operator, or its internet gaming platform provider, shall not knowingly authorize any of the following individuals to establish an internet wagering account or knowingly allow them to wager on internet games offered by the internet gaming operator, except if required and authorized by the board for testing purposes or to otherwise fulfill the purposes of this act:

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

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

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

History: 2019, Act 152, Imd. Eff. Dec. 20, 2019;—Am. 2020, Act 327, Eff. Mar. 24, 2021.

432.312 Statewide responsible gaming database.

Sec. 12. (1) The board may develop responsible gaming measures, including a statewide responsible gaming database identifying individuals who are prohibited from establishing an internet wagering account or participating in internet gaming offered by an internet gaming operator. The executive director of the board may place an individual's name in the responsible gaming database if any of the following apply:

(a) The individual has been convicted in any jurisdiction of a felony, a crime of moral turpitude, or a crime involving gaming.

(b) The individual has violated this act or another gaming-related law.

(c) The individual has performed an act or has a notorious or unsavory reputation such that the individual's participation in internet gaming under this act would adversely affect public confidence and trust in internet gaming.

(d) The individual's name is on a valid and current exclusion list maintained by this state or another jurisdiction in the United States.

(2) The board may promulgate rules for the establishment and maintenance of the responsible gaming database.

(3) An internet gaming operator, in a format specified by the board, may provide the board with names of individuals to be included in the responsible gaming database.

(4) An internet gaming operator or its internet gaming platform provider shall offer responsible gambling services and technical controls to authorized participants, consisting of both temporary and permanent self-exclusion for all internet games offered and the ability for authorized participants to establish their own periodic deposit and internet wagering limits and maximum playing times.

(5) An authorized participant may voluntarily prohibit himself or herself from establishing an internet wagering account with an internet gaming operator. The board may incorporate the voluntary self-exclusion list into the responsible gaming database and maintain both the self-exclusion list and the responsible gaming database in a confidential manner.

(6) The self-exclusion list and responsible gaming database established under this section and any information and records used by the board in the administration of the self-exclusion list and responsible

gaming database are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

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

432.313 Prohibited conduct; violations; penalties.

Sec. 13. (1) A person shall not do any of the following:

(a) Offer internet gaming for play in this state if the person is not an internet gaming operator unless this act does not apply to the internet gaming under section 4(4).

(b) Knowingly make a false statement on an application for a license to be issued under this act.

(c) Knowingly provide false testimony to the board or an authorized representative of the board while under oath.

(d) Willfully fail to report, pay, or truthfully account for any license fee, tax, or payment imposed by this act, or willfully attempt in any way to evade or defeat the license fee, tax, or payment.

(e) Knowingly, with the intent to cheat, alter, tamper with, or manipulate any game, platform, equipment, software, hardware, devices, or supplies used to conduct internet gaming, in order to alter the odds or the payout, or to disable the game, platform, equipment, software, hardware, devices, or supplies from operating in the manner authorized by the board, or knowingly, with the intent to cheat, offer or allow to be offered any game, platform, equipment, software, hardware, devices, or supplies that have been altered, tampered with, or manipulated in such a manner.

(f) Open, maintain, or use in any way an internet wagering account or make or attempt to make an internet wager if the individual is under the age of 21, or knowingly allow an individual under the age of 21 to open, maintain, or use in any way an internet wagering account or make or attempt to make an internet wager.

(g) Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value from an internet gaming operator with the intent to defraud, or to claim, collect, or take an amount greater than the amount won.

(2) A person that violates subsection (1)(a) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$100,000.00, or both.

(3) A person that violates subsection (1)(b) to (g) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a \$10,000.00 fine.

(4) The board may consider a person's violation of subsection (1) in determining whether to issue a license under this act to the person.

(5) The attorney general or a county prosecuting attorney may bring an action to prosecute a violation of subsection (1) in the county in which the violation occurred or in Ingham County.

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

432.314 Graduated tax; exception.

Sec. 14. (1) Except for an internet gaming operator that is an Indian tribe, an internet gaming operator is subject to a graduated tax on the adjusted gross receipts received each calendar year by the internet gaming operator from all internet gaming it conducts under this act as set forth below:

(a) For adjusted gross receipts less than \$4,000,000.00, a tax of 20%.

(b) For adjusted gross receipts of \$4,000,000.00 or more but less than \$8,000,000.00, a tax of 22%.

(c) For adjusted gross receipts of \$8,000,000.00 or more but less than \$10,000,000.00, a tax of 24%.

(d) For adjusted gross receipts of \$10,000,000.00 or more but less than \$12,000,000.00, a tax of 26%.

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

(2) An internet gaming operator that is an Indian tribe is subject to the payment requirements under section 7(1)(f).

(3) An internet gaming operator shall pay the tax or payment, as applicable, under subsection (1) or (2) on a monthly basis. The payment for each monthly accounting period is due on the tenth day of the following month.

(4) Except as provided in this act and section 12(17) of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.212, an internet gaming operator is not subject to any excise tax, license tax, privilege tax, occupation tax, or other tax, payment, or fee imposed exclusively on an internet gaming operator or internet gaming operators by this state or any political subdivision of this state, except as provided in this act. This subsection does not impair the contractual rights under an existing development agreement between a city and an internet gaming operator that holds a casino license under the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226.

(5) In addition to payment of the tax and other fees as provided in this act, and to any payment required pursuant to an existing development agreement described in subsection (4), if a city has imposed a municipal

services fee equal to 1.25% on a casino licensee, the city shall charge a 1.25% fee on the adjusted gross receipts of an internet gaming operator that holds a casino license under the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.201 to 432.226, whose casino is in that city.

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

432.315 Allocation of tax.

Sec. 15. (1) The tax imposed under section 14 must be allocated as follows:

(a) Thirty percent to the city in which the internet gaming operator licensee's casino is located, for use in connection with the following:

(i) The hiring, training, and deployment of street patrol officers in that city.

(ii) Neighborhood development programs designed to create jobs in that city with a focus on blighted neighborhoods.

(iii) Public safety programs such as emergency medical services, fire department programs, and street lighting in that city.

(iv) Anti-gang and youth development programs in that city.

(v) Other programs that are designed to contribute to the improvement of the quality of life in that city.

(vi) Relief to the taxpayers of the city from 1 or more taxes or fees imposed by the city.

(vii) The costs of capital improvements in that city.

(viii) Road repairs and improvements in that city.

(b) Sixty-five percent to this state to be deposited in the fund.

(c) Five percent to the Michigan agriculture equine industry development fund created under section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320. However, if the 5% allocated under this subdivision to the Michigan agriculture equine industry development fund created under section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320, exceeds \$3,000,000.00 in a fiscal year, the amount in excess of \$3,000,000.00 must be allocated and deposited in the fund created under section 16.

(2) By September 30, 2020 and each September 30 after that date, if the combined amount of money received in the preceding city fiscal year by the city in which the internet gaming operator's casino is located from money allocated under subsection (1)(a), from the wagering tax allocated under section 12 of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.212, from the wagering tax allocated under section 15 of the lawful sports betting act, and all payments received under existing development agreements with internet gaming operators, is less than \$183,000,000.00, the board shall distribute from the fund to the city in which the internet gaming operator's casino is located an amount equal to the difference between \$183,000,000.00 and the combined amount of money the city in which the internet gaming operator's casino is located received in the preceding fiscal year from money allocated under subsection (1)(a), from the wagering tax allocated under section 12 of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.212, from the wagering tax allocated under section 15 of the lawful sports betting act, and all payments received by the city under existing development agreements with internet gaming operators. The calculations set forth in this subsection must not include any payments made under section 14(5) or any payments made under section 13(1) of the Michigan Gaming Control and Revenue Act, 1996 IL 1, MCL 432.213, or any payments made under section 14(5) of the lawful sports betting act. However, the total amount the city in which the internet gaming operator's casino is located receives for the preceding fiscal year under subsection (1)(a) and this subsection must not be more than 55% of the total received from the tax imposed under section 14 in the state fiscal year.

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

432.315a Allocation of certain payments.

Sec. 15a. Any payments under section 7(1)(f) must be allocated as follows:

(a) Twenty percent to the governing body of the jurisdiction where the internet gaming operator's casino is located for its use in connection with the provision of governmental services.

(b) Seventy percent to this state to be deposited in the fund.

(c) Ten percent to the Michigan strategic fund created under section 5 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2005.

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

432.316 Internet gaming fund.

Sec. 16. (1) The internet gaming fund is created in the state treasury.

(2) The state treasurer may receive money or other assets required to be paid into the fund under this act or from any other source for deposit into the fund. The state treasurer shall direct the investment of the fund. The

state treasurer shall credit to the fund interest and earnings from fund investments.

(3) The board is the administrator of the fund for auditing purposes.

(4) Except as otherwise provided in section 15(2), the board shall expend money from the fund, on appropriation, for all of the following:

(a) The board's costs of regulating and enforcing internet gaming under this act.

(b) After the expenditure under subdivision (a), each year, \$500,000.00 to the compulsive gaming prevention fund created in section 3 of the compulsive gaming prevention act, 1997 PA 70, MCL 432.253.

(c) After the expenditures under subdivisions (a) and (b), each year, \$2,000,000.00 to the first responder presumed coverage fund created in section 405 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.405.

(d) All money remaining after expenditures under subdivisions (a), (b), and (c), to be deposited into the state school aid fund established under section 11 of article IX of the state constitution of 1963.

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

432.317 Scope of act.

Sec. 17. This act does not authorize the construction or operation of a casino that was not constructed or operating before the effective date of this act.

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

432.319 Application for license; criminal history background checks; fingerprinting.

Sec. 19. (1) An applicant must submit with its application, on forms provided by the board, a photograph and 2 sets of fingerprints for each individual that is subject to licensure.

(2) An applicant and licensee shall consent to inspections, criminal history background checks, searches and seizures, and the providing of handwriting exemplars, fingerprints, photographs, and information as authorized in this act and in rules promulgated by the board.

(3) The board may collect fingerprints from, and conduct criminal history investigations on, a board employee or prospective board employee.

(4) The board may conduct criminal history investigations on applicants, licensees, board employees, prospective board employees, and other persons, including board agents and contractors working for or on behalf of the board, for the purpose of carrying out its statutory powers and responsibilities under this act and rules promulgated under this act.

(5) For the purpose of carrying out its statutory powers and responsibilities, the board shall require the persons identified in subsection (4) to submit his or her fingerprints for review by the department of state police and the Federal Bureau of Investigation for the criminal history record check, in the form and manner required by the department of state police and the Federal Bureau of Investigation to obtain any information currently or subsequently contained in the files of the department of state police or the Federal Bureau of Investigation. The department of state police shall provide all criminal history record checks requested by the board under this act and rules promulgated under this act. The department of state police may charge the board a fee for a criminal history record check required under this section. The board shall not share the criminal history record check with a private entity.

(6) The department of state police shall store and retain all fingerprints submitted under this act in an automated fingerprint identification system that provides for an automatic notification if new criminal arrest information matches fingerprints previously submitted under this act. Upon the notification described in this subsection, the department of state police shall immediately notify the board. The fingerprints retained under this act may be searched against future fingerprint submissions, and any relevant results will be shared with the board.

(7) If the department of state police is able to participate in the Federal Bureau of Investigation's automatic notification system, all fingerprints submitted to the Federal Bureau of Investigation may be stored and retained by the Federal Bureau of Investigation in its automatic notification system. The automatic notification system provides for automatic notification if new criminal arrest information matches fingerprints previously submitted to the Federal Bureau of Investigation under this act. If the department of state police receives a notification from the Federal Bureau of Investigation under this act, the department of state police shall immediately notify the board.

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

432.321 Monthly report of internet gaming operations.

Sec. 21. (1) An internet gaming operator shall provide to the board a monthly report regarding its internet gaming operations under this act to include all of the following by game category, including, but not limited

to, internet slots, poker, and table games:

- (a) Total amount of wagers received.
- (b) Payouts.
- (c) Free play redeemed.
- (d) Deductions.
- (e) Adjusted gross receipts.

(2) The board shall provide the report under subsection (1) to the department of treasury, the state budget office on request, and the house and senate fiscal agencies on request. In addition, the department of treasury and the state budget office may request additional information from the internet gaming operator, that is directly related to, and for the purposes of verification of, the financial data provided under subsection (1)(a) and (b), which must be provided within 60 days after the request. Any information provided under this section is confidential and proprietary and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

432.322 Application of act to sale of internet lottery games.

Sec. 22. This act does not prohibit selling internet lottery games, including, but not limited to, digital representations of lottery games.

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

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