

HOUSE BILL No. 4689

May 18, 1999, Introduced by Reps. Koetje, Bishop, Gosselin, Hart, Patterson, Rick Johnson, Birkholz, Pappageorge, Voorhees, Garcia, Law, Richner, Tabor and Toy and referred to the Committee on Gaming and Casino Oversight.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 315b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 315B. (1) AS USED IN THIS SECTION:
- 2 (A) "BET" OR "WAGER" MEANS TO DIRECTLY OR INDIRECTLY TAKE,
3 RECEIVE, OR ACCEPT MONEY OR ANY VALUABLE THING WITH THE UNDER-
4 STANDING OR AGREEMENT THAT THE MONEY OR VALUABLE THING WILL BE
5 PAID OR DELIVERED TO A PERSON IF THE PAYMENT OR DELIVERY IS CON-
6 TINGENT UPON THE RESULT OF A RACE, CONTEST, OR GAME OR UPON THE
7 HAPPENING OF AN EVENT NOT KNOWN TO BE CERTAIN. BET OR WAGER DOES
8 NOT INCLUDE THE PURCHASE, SALE, OR TRADE OF SECURITIES OR COMMOD-
9 ITIES UNDER STATE OR FEDERAL LAW.
- 10 (B) "GAMBLING BUSINESS" MEANS A BUSINESS THAT IS CONDUCTED
11 AT A GAMBLING ESTABLISHMENT OR INVOLVES THE PLACING, RECEIVING,

1 OR MAKING OF BETS OR WAGERS OR OFFERS TO ENGAGE IN THE PLACING,
2 RECEIVING, OR MAKING OF BETS OR WAGERS.

3 (C) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK OF
4 BOTH FEDERAL AND NONFEDERAL INTEROPERABLE PACKET SWITCHED DATA
5 NETWORKS.

6 (D) "INTERACTIVE COMPUTER SERVICE" MEANS A SERVICE, SYSTEM,
7 OR NETWORK OR ACCESS SOFTWARE PROVIDER THAT USES PUBLIC COMMUNI-
8 CATION INFRASTRUCTURE OR OPERATES TO PROVIDE OR ENABLE COMPUTER
9 ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER, INCLUDING, BUT NOT
10 LIMITED TO, A SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE
11 INTERNET.

12 (E) "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, PARTNERSHIP,
13 JOINT VENTURE, CORPORATION, OR A DIRECTOR, EXECUTIVE, OR OFFICER
14 OF AN ASSOCIATION, PARTNERSHIP, JOINT VENTURE, OR CORPORATION, A
15 POLITICAL SUBDIVISION OF THIS STATE, OR A DEPARTMENT, AGENCY, OR
16 INSTRUMENTALITY OF THIS STATE, OR ANY OTHER GOVERNMENT, ORGANIZA-
17 TION, OR ENTITY, INCLUDING, BUT NOT LIMITED TO, AN INDIAN TRIBE.

18 (F) "STATE" MEANS THIS STATE, INCLUDING, BUT NOT LIMITED TO,
19 A TERRITORY, POSSESSION, COUNTY, AND LAND OWNED, OCCUPIED, OR
20 HELD IN TRUST FOR AN INDIAN TRIBE, WHETHER OR NOT FEDERALLY REC-
21 OGNIZED AS AN INDIAN TRIBE.

22 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10), A
23 PERSON ENGAGED IN A GAMBLING BUSINESS SHALL NOT USE THE INTERNET
24 OR AN INTERACTIVE COMPUTER SERVICE TO BET OR WAGER.

25 (3) EXCEPT AS PROVIDED IN SUBSECTION (10), A PERSON SHALL
26 NOT ESTABLISH A LOCATION OR SITE IN THIS STATE FROM WHICH TO

1 CONDUCT A GAMBLING BUSINESS ON OR OVER THE INTERNET OR AN
2 INTERACTIVE COMPUTER SERVICE.

3 (4) A VIOLATION OF THIS SECTION OCCURS IF THE VIOLATION
4 ORIGINATES OR TERMINATES, OR BOTH, IN THIS STATE. EACH INDIVID-
5 UAL BET OR WAGER OFFERED IN VIOLATION OF SUBSECTION (2) OR FROM A
6 LOCATION OR SITE THAT VIOLATES SUBSECTION (3) CONSTITUTES A SEPA-
7 RATE VIOLATION.

8 (5) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY
9 PUNISHABLE AS FOLLOWS:

10 (A) FOR A FIRST OFFENSE, BY IMPRISONMENT FOR NOT MORE THAN 2
11 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

12 (B) FOR A SECOND OR SUBSEQUENT OFFENSE, BY IMPRISONMENT FOR
13 NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$25,000.00, OR
14 BOTH.

15 (6) THE ATTORNEY GENERAL OR THE PROSECUTING ATTORNEY FOR THE
16 COUNTY IN WHICH A VIOLATION UNDER THIS SECTION OCCURRED MAY PROS-
17 ECUTE VIOLATIONS OF THIS SECTION.

18 (7) THE ATTORNEY GENERAL MAY NOTIFY A GAMBLING BUSINESS THAT
19 ITS WEB SITE IS ILLEGAL IN THIS STATE AND LIST THE PENALTIES FOR
20 VIOLATING THIS SECTION.

21 (8) THE ATTORNEY GENERAL OR PROSECUTING ATTORNEY MAY SEEK,
22 AND THE COURT MAY ENTER, A PRELIMINARY RESTRAINING ORDER ENJOIN-
23 ING A PERSON FROM TRANSMITTING BETS OR WAGERS OR INFORMATION TO
24 ASSIST IN THE PLACING OF BETS OR WAGERS AS A CONDITION OF BOND
25 PENDING TRIAL OR OTHER DISPOSITION OF THE CASE.

26 (9) IF THE PERSON IS FOUND GUILTY OR PLEADS GUILTY TO A
27 CHARGE BROUGHT UNDER THIS SECTION, THE ATTORNEY GENERAL OR

1 PROSECUTING ATTORNEY MAY SEEK, AND THE COURT MAY ENTER, A
2 PERMANENT INJUNCTION AGAINST THE PERSON OR GAMBLING BUSINESS
3 ENJOINING THE PERSON OR GAMBLING BUSINESS FROM TRANSMITTING BETS
4 OR WAGERS OR INFORMATION TO ASSIST IN THE PLACING OF BETS OR
5 WAGERS.

6 (10) THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

7 (A) THE BUREAU OF STATE LOTTERY AND ITS AGENTS AND LICENS-
8 EES, WHO ARE ENGAGED IN CONDUCT IN FURTHERANCE OF ACTIVITY
9 EXPRESSLY AUTHORIZED, LICENSED, AND REGULATED UNDER THE
10 MCCAULEY-TRAXLER-LAW-BOWMAN-MCNEELY LOTTERY ACT, 1972 PA 239,
11 MCL 432.1 TO 432.47, INCLUDING, BUT NOT LIMITED TO, THE LAWFUL
12 SALE OF A LOTTERY TICKET PLACED, RECEIVED, OR MADE INTERSTATE FOR
13 A MULTISTATE LOTTERY OPERATED JOINTLY BETWEEN 2 OR MORE STATES
14 WHERE A MULTISTATE LOTTERY IS EXPRESSLY AUTHORIZED, LICENSED, AND
15 REGULATED UNDER STATE LAW.

16 (B) A LICENSEE UNDER THE HORSE RACING LAW OF 1995, 1995
17 PA 279, MCL 431.301 TO 431.336, WHO IS ENGAGED IN CONDUCT IN FUR-
18 THERANCE OF ACTIVITY EXPRESSLY AUTHORIZED, LICENSED, AND REGU-
19 LATED UNDER THE HORSE RACING LAW OF 1995, 1995 PA 279,
20 MCL 431.301 TO 431.336.

21 (C) A LICENSEE UNDER THE MICHIGAN GAMING CONTROL AND REVENUE
22 ACT, THE INITIATED LAW OF 1996, MCL 432.201 TO 432.226, WHO IS
23 ENGAGED IN CONDUCT IN FURTHERANCE OF ACTIVITY EXPRESSLY AUTHO-
24 RIZED, LICENSED, AND REGULATED UNDER THE MICHIGAN GAMING CONTROL
25 AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.201 TO
26 432.226.

1 (D) A LICENSEE UNDER THE TRAXLER-MCCAULEY-LAW-BOWMAN BINGO
2 ACT, 1972 PA 382, MCL 432.101 TO 432.120, WHO IS ENGAGED IN
3 CONDUCT IN FURTHERANCE OF ACTIVITY EXPRESSLY AUTHORIZED,
4 LICENSED, AND REGULATED UNDER THE TRAXLER-MCCAULEY-LAW-BOWMAN
5 BINGO ACT, 1972 PA 382, MCL 432.101 TO 432.120.