

**SUBSTITUTE FOR
HOUSE BILL NO. 4689**

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) "FINANCIAL INSTITUTION" MEANS A FINANCIAL INSTITUTION
11 THAT IS REGULATED UNDER 1984 PA 379, MCL 493.101 TO 493.114, OR

HB4689, As Passed House, November 3, 1999

House Bill No. 4689

2

1 THE CONSUMER FINANCIAL SERVICES ACT, 1988 PA 161, MCL 487.2051 TO
2 487.2072, OR UNDER A FINANCIAL LICENSING ACT AS THAT TERM IS
3 DEFINED IN SECTION 2 OF THE CONSUMER FINANCIAL SERVICES ACT, 1988
4 PA 161, MCL 487.2052.

5 (C) "GAMBLING BUSINESS" MEANS A BUSINESS THAT IS CONDUCTED
6 AT A GAMBLING ESTABLISHMENT OR INVOLVES THE PLACING, RECEIVING,
7 OR MAKING OF BETS OR WAGERS OR OFFERS TO ENGAGE IN THE PLACING,
8 RECEIVING, OR MAKING OF BETS OR WAGERS.

9 (D) "INTERNET" MEANS THE INTERNATIONAL COMPUTER NETWORK OF
10 BOTH FEDERAL AND NONFEDERAL INTEROPERABLE PACKET SWITCHED DATA
11 NETWORKS.

12 (E) "INTERACTIVE COMPUTER SERVICE" MEANS A SERVICE, SYSTEM,
13 OR NETWORK OR ACCESS SOFTWARE PROVIDER THAT USES PUBLIC COMMUNI-
14 CATION INFRASTRUCTURE OR OPERATES TO PROVIDE OR ENABLE COMPUTER
15 ACCESS BY MULTIPLE USERS TO A COMPUTER SERVER, INCLUDING, BUT NOT
16 LIMITED TO, A SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE
17 INTERNET.

18 (F) "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, PARTNERSHIP,
19 JOINT VENTURE, CORPORATION, OR FINANCIAL INSTITUTION OR A DIREC-
20 TOR, EXECUTIVE, OR OFFICER OF AN ASSOCIATION, PARTNERSHIP, JOINT
21 VENTURE, CORPORATION, OR FINANCIAL INSTITUTION, A POLITICAL SUB-
22 DIVISION OF THIS STATE, OR A DEPARTMENT, AGENCY, OR INSTRUMENTAL-
23 ITY OF THIS STATE.

24 (2) EXCEPT AS PROVIDED IN SUBSECTION (10), A PERSON ENGAGED
25 IN A GAMBLING BUSINESS SHALL NOT USE THE INTERNET OR AN INTERAC-
26 TIVE COMPUTER SERVICE TO BET OR WAGER OR TO OFFER TO BET OR
27 WAGER.

HB4689, As Passed House, November 3, 1999

House Bill No. 4689

3

1 (3) EXCEPT AS PROVIDED IN SUBSECTION (10), A PERSON SHALL
2 NOT ESTABLISH A LOCATION OR SITE IN THIS STATE FROM WHICH TO CON-
3 DUCT A GAMBLING BUSINESS ON OR OVER THE INTERNET OR AN INTERAC-
4 TIVE COMPUTER SERVICE.

5 (4) EACH INDIVIDUAL BET OR WAGER MADE OR OFFERED IN VIOLA-
6 TION OF SUBSECTION (2) OR FROM A LOCATION OR SITE THAT VIOLATES
7 SUBSECTION (3) CONSTITUTES A SEPARATE VIOLATION.

8 (5) A PERSON WHO VIOLATES SUBSECTION (2) OR (3) IS GUILTY OF
9 A FELONY 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 SUBSECTION (2) OR (3) OCCURRED
17 MAY PROSECUTE THE VIOLATION.

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

HB4689, As Passed House, November 3, 1999

House Bill No. 4689

4

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.

HB4689, As Passed House, November 3, 1999

House Bill No. 4689

5

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.

6 (11) A PERSON SHALL NOT HONOR THE PAYMENT OF A WAGER OR LOSS
7 MADE IN VIOLATION OF THIS SECTION THAT IS PAID OR IS ATTEMPTED TO
8 BE PAID. TO FURTHER THIS OBJECTIVE, THE DEPARTMENT OF STATE
9 POLICE SHALL MAINTAIN A LIST OF PERSONS KNOWN TO ENGAGE OR TO
10 OFFER TO ENGAGE IN CONDUCT IN VIOLATION OF THIS SECTION AND SHALL
11 DISTRIBUTE THE LIST TO FINANCIAL INSTITUTIONS.

12 (12) A FINANCIAL INSTITUTION THAT DECLINES TO HONOR THE PAY-
13 MENT OF A WAGER OR LOSS AS PRESCRIBED UNDER SUBSECTION (11)
14 SHALL, NOT LESS THAN 30 DAYS AFTER THE FINANCIAL INSTITUTION
15 DECLINES TO HONOR THAT PAYMENT, REPORT ALL OF THE FOLLOWING TO
16 THE ATTORNEY GENERAL:

17 (A) THE DATE OF ANY ATTEMPTED PAYMENT.

18 (B) THE AMOUNT OF ANY ATTEMPTED PAYMENT.

19 (C) THE NAME AND ADDRESS OF THE GAMBLING BUSINESS TO WHOM A
20 PAYMENT WAS ATTEMPTED TO BE MADE.