

February 11, 2020

The Honorable Michael Webber  
Chair  
Regulatory Reform Committee  
Michigan House of Representatives  
Via Email

Re: SB 661 – Amendments to the Horse Racing Law of 1995

Dear Chair Webber:

On behalf of the American Gaming Association (AGA), I write regarding Senate Bill 661. We understand there is a desire to find new sources of revenue to reestablish horse racing in the state, however, expanding gaming using machines that have been called a “competitive substitute for traditional casino style games”<sup>1</sup> raises several significant concerns.

The 27 licensed commercial and tribal gaming facilities in Michigan<sup>2</sup> – which create \$2.91 billion in economic impact, support over 16,000 jobs across the state, and generate a tax impact of \$777.6 million annually – are subject to strict regulatory oversight. This includes licensing of key personnel and all employees on the gaming floor, testing of gaming products prior to launch and during operation, and regular reporting of gaming and revenue data to the State of Michigan. Further, these licensed facilities are actively involved in responsible gaming efforts, including ensuring that Michiganders on exclusion lists are not allowed to participate in gaming activity or unfairly targeted by advertising and gaming promotions.

The proposed legislation, SB 661, would allow race meeting licensees to conduct gaming via historical horse racing machines without meeting any of the requirements in place to ensure that consumers have a fair and enjoyable gaming experience. For example, the legislation does not contemplate testing of the machines to ensure fair gaming odds nor does it provide for any regulatory oversight of the companies providing these machines to race meeting licensees. Ensuring the machines are operating in a consistent

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<sup>1</sup> Emma Gauthier, *Horse Racing Returns as Gaming Parlors Open in Virginia*, Associated Press, Apr. 11, 2019, <https://apnews.com/06cb5934c7fd459c8f8e1077119e8263>. See also Graham Moomaw, How Virginians will be able to gamble on old horse races 'without having to do any work at all,' Richmond Times-Dispatch, Mar. 25, 2019, [https://www.richmond.com/news/local/government-politics/how-virginians-will-be-able-to-gamble-on-old-horse/article\\_ec1312f1-6e86-5005-a417-8f6254f26438.html](https://www.richmond.com/news/local/government-politics/how-virginians-will-be-able-to-gamble-on-old-horse/article_ec1312f1-6e86-5005-a417-8f6254f26438.html) (“The machines look and feel like traditional slot machines. . . . [P]layers can pull up charts showing horse odds and jockey information and use it to carefully predict the horses’ finishing positions. Or they can just press a button over and over again and hope to get lucky.”).

<sup>2</sup> See Mich. Const. § 41. Amended in 2004, Section 41 of the Michigan Constitution is generally understood to require voter approval of any gaming expansion beyond the state lottery, the three Detroit casinos, and Indian tribal gaming. See Julie Koval & David Zin, Senate Fiscal Agency, November 2004 Ballot Proposal 04-1: An Overview, at 3, available at <https://www.senate.michigan.gov/sfa/publications/ballotprops/proposal04-1.pdf> and Michael Bean, Analysis of Ballot Proposal 04-1, Voter Approval for Gambling Expansion, November 2004 General Election, at 12, available at <https://www.house.mi.gov/hfa/Archives/PDF/Alpha/ballot.pdf>.



and transparent manner, as machines at licensed facilities do, is essential to consumer protection and fairness.

Further, this legislation does not provide for any responsible gaming protections, such as a statewide exclusion program, notification to consumers of resources for problem gaming, or funding of responsible gaming resources and programs. Without these protections in place and robustly enforced, the most vulnerable citizens of and visitors to the state are put at unnecessary risk when confronted with these devices that are virtually indistinguishable from a player standpoint from a Class III slot machine.<sup>3</sup>

Moreover, other jurisdictions that have authorized historical horse racing machines – such as Virginia have also experienced a massive expansion of unregulated “gray market” machines that closely resemble slot machines. Virginia is currently estimated to have 10,000 of these machines in operation across the state.<sup>4</sup> Introducing this new form of gaming in Michigan as proposed under SB 661 blurs the lines regarding what constitutes a slot machine, and is likely to create an environment where other forms of unregulated gaming can thrive more readily.

Finally, the legislation provides for only 1% of the amount wagered to be remitted to the state. This stands in stark contrast to the 19% effective tax rate on Michigan’s commercial casinos with 8.1% going to the state and 10.9% going to the city of Detroit. Even Michigan’s tribal casinos provide between 4% and 12% of their gaming revenue to the state through the various state-tribal gaming compacts. Placing the tax rate for historical horse racing so far below that of the state’s licensed gaming operators creates a competitive disadvantage to the established industry.

We understand there is interest in finding new means to support horse racing in the state of Michigan. However, doing so through allowing proliferation of improperly regulated gaming machines presents serious issues for consumer safety while failing to provide any meaningful economic value to the state. Therefore, we urge the committee to carefully reconsider this legislation.

Sincerely,

Christopher Cylke  
SVP, Government Relations

Cc: Members of the House Regulatory Reform Committee

<sup>3</sup> Other states, such as Virginia, that have introduced historical horse racing machines have subsequently seen an additional push to further expand gaming, including both historical horse racing and other types of gaming. See David McGee, *Northam ‘Open’ to Legalized Casino Gaming*, Bristol Herald Courier, Jan. 10, 2020, [https://www.heraldcourier.com/news/local/northam-open-to-legalized-casino-gaming/article\\_a59426d5-83af-5a0e-80f5-9fa94dbc0aba.html](https://www.heraldcourier.com/news/local/northam-open-to-legalized-casino-gaming/article_a59426d5-83af-5a0e-80f5-9fa94dbc0aba.html).

<sup>4</sup> David McGee, *Rise of the Machines: Skills Machines Popping Up Throughout Virginia, Prompting a Statewide Debate Over Their Legality*, Bristol Herald Courier, Nov. 10, 2019, [https://www.heraldcourier.com/news/skills-machines-popping-up-throughout-virginia-prompting-a-statewide-debate/article\\_dd6910de-d9cd-597d-b683-60ac567faffe.html](https://www.heraldcourier.com/news/skills-machines-popping-up-throughout-virginia-prompting-a-statewide-debate/article_dd6910de-d9cd-597d-b683-60ac567faffe.html).