

NAME

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DURATION

1h 30m 5s

19 SPEAKERS

- Chair Jay DeBoyer (R)
- Clerk
- Jasmine Tompkins
- Video
- John Lessnau
- Rep. Jaime Greene (R)
- Rep. Angela Rigas (R)
- Rep. Dylan Wegela (D)
- Aaron Poncgraz
- Rep. Jason Woolford (R)
- Rep. Sharon MacDonell (D)
- Rep. William T. Bruck (R)
- Rep. Laurie Pohutsky (D)
- Rep. Luke Meerman (R)
- Vice Chair Matthew Bierlein
- Rep. Denise Mentzer (D)
- Rep. Josh Schriver (R)
- Speaker 18
- Minority Vice Chair Reggie Miller (D)

START OF TRANSCRIPT

[00:06:16] Chair Jay DeBoyer (R)

The House Committee on Oversight will come to order. Will the clerk please take attendance?

[00:06:19] Clerk

Chair. Deboyer here. Representatives. Bierlein here. Meerman. Paquette. Here. Carra here. Bruck. Present. Breen. Rigas. Here. Schriver. Woolford. Miller. Pohutsky. Conlin. Here. Macdonell. Mentzer. Wegela. Here. Mr. chair, you have a quorum? Thank you, Mr. Clerk.

[00:06:41] Chair Jay DeBoyer (R)

We have a couple of orders of business to take care of quickly first. Um, vice Chair Miller moves to approve the minutes of the June 25th meeting. Hearing no objections are approved. Next. Representative. Excuse me. Majority. Vice chair Bierlein moves to approve the minutes of the July 29th meeting. Hearing no objections. There are approved. Today we're going to hear testimony, as I promised, that I would provide for you, um, on the issues regarding the Michigan Gaming Control Board. Uh, this again, is a follow up meeting we had on June 25th about the same topic we discussed at that meeting. Uh, that being the Michigan Gaming control boards campaign to crack down on illegal gaming, gambling games. Uh, if the members and audience recall, due to time constraints, the Michigan Gaming Control Board was limited to only about ten minutes of testimony. I want to make sure the folks at the commission had fair and adequate time to present their testimony and offer them to testify at the following following hearing, which we're now here to do that. Uh, with that, uh, individuals here to testify are can. Jasmine Tompkins, director of external affairs and responsible gaming and tribal liaison colleagues John Lessnau and Aaron, help me with that one pack. Congress, please come to the table and begin when you are ready. Good morning guys, ladies and gentlemen. Appreciate you guys coming in. Um, make sure your red button is on there and feel free to begin when you are ready.

[00:08:18] Jasmine Tompkins

Thank you. Good morning. And I did try to provide Aaron's name phonetically for you. So. Well, thank you for keeping your word and having us back here. Uh, my executive director, Henry Williams, does send his regrets that he couldn't make it today. But I think between myself, you've already read my position and John Lessnau, who is the manager of the Criminal Investigation section, and Aaron, who is with the gaming lab, I think between all of us, we'll be able to answer your questions. I do have a prepared statement, so I'll go through that first. I have a video to show you all and then we'll open it up for questions if that's okay. Um, I'm here with a few handouts. So in all of your folders, you have a printout of a few statutes that address our authority, which is where we left off last time. A printout of the redemption gaming section, a copy of the educational letter that was sent out to different businesses across the state last summer, warning them about illegal gaming machines and example of our cease and desist letter and AG consumer protection notice about illegal machines and MEDC bulletin on illegal gaming, and a fact sheet about illegal gaming machines, the ones that we're talking about today. So by way of background, Mxb is governed by a couple of acts. So we have the Michigan Gaming Control and Revenue Act.

[00:09:30] Jasmine Tompkins

We have the Lawful Internet Gaming Act, the Lawful Sports Betting Act, the Fantasy Contest and Consumer Protection Act. And then we have some authority in the Horse Racing Act to regulate live and simulcast horse racing, and we have some authority in the Bingo act for millionaire parties with charitable gaming. I say all that to say, the board only does what the legislature has given us authority to do, and that is to oversee gaming in the state only gambling. Oh I'm sorry. The law generally prohibits gambling. That's in the penal code. Only gambling the legislature has expressly authorized is horse racing. Bingo. The Michigan lottery. Charitable gaming, which includes millionaire parties, pulltabs, raffles, internet gaming and sports betting, fantasy contests, and licensed casino gambling under the Michigan Gaming Control and Revenue Act. So you'll see in front of you, I provided some definitions. The act defines gambling game, and included in its definition is slot machines. I did highlight that in there. The act also defines gambling operation and as the conduct of gambling game, which is previously defined is authorized by the board. What's clear in this act is that slot machines is in Michigan's the Michigan Gaming Control Boards Authority. The legislature carved out a very narrow redemption exemption for amusement type games at family entertainment centers. To be clear, this is an exemption to the penal codes. General gambling prohibition, not a public act.

[00:11:03] Jasmine Tompkins

Despite how it was portrayed in the June meeting, this exemption is in front of you, and it clearly defines what's considered a redemption game. I could read the whole thing if you'd like, but for the sake of time, I'll specifically point out subsection two, which states a redemption game means a single player or multiplayer mechanical, electronic or manual amusement device involving a game. The object of which is throwing, rolling, bowling, shooting, placing, propelling, or stopping a ball or other object onto, upon or against a hole or other target. So, Mr. Chair, on June 25th, you asked if redemption games are excluded from our redemption games as defined by the section in front of you are excluded under the Michigan Penal Code, but slot machines included in the definition of gambling games are under the purview of the board. So in reviewing the June 25th record, I identified a few areas where the testimony presented did not align with the facts of our statutory authority or current law. So if you provide me a little bit of time, I'd like to walk through those briefly. First, the slot machine specialists testified that the games in question require skill and dexterity that is not accurate. While actual redemption games, as defined, should require skill and dexterity, the board lab testing shows that the machines we continuously find operate no differently than slot machines.

[00:12:32] Jasmine Tompkins

The machines determine the outcome before the player touches the screen and owners can adjust the settings in their own favor. That was testified in June. Moving the real does not affect the result. It only creates a false impression of control for the player. Rep Rigas asked him what was the difference in the machine that he was describing in traditional slot machines, to which he answered how the game was played and that they offered gift cards and not cash. Both of his answers were incorrect about these machines. We have heard that argument that because winnings are paid in gift cards rather than cash, these machines are operating lawfully. This is not what the law provides. The redemption gaming section in front of you says redemption prizes must be gift cards redeemable at that specific retailer or an affiliated group of retailers. So fraternal organizations are not retailers. They are clubs. They do not meet the statutory standard. Furthermore, the visa gift cards that are being distributed at these operators do not meet the definition of a gift certificate or a gift card as provided by the Michigan Consumer Protection Act. Second, the gaming expert called the board's enforcement regulatory creep, and it is not. Mcl43 2.2 04A1D expressly authorizes the board to investigate suspected illegal gaming and pursue disciplinary or legal action. Mcl432 .218 separately makes unlicensed gambling operations a felony punishable by up to ten years and a \$100,000 fine, and bars violators from future licensure.

[00:14:08] Jasmine Tompkins

The board does not have staff that randomly spend their days walking the streets into bars and restaurants, trying to spot check for machines. We have a tip line. We receive tips from all of your constituents about suspected illegal gaming machines. When we received that tip, John's staff began their investigation. If it is found that the machine is an illegal slot machine or is being used illegally, we use the cease and desist letter. And if that is ignored, that is when we recommend action from the AG's office. Third, that same presenter called the board standard cease and desist letter threatening. It is not. I have provided a copy for all of you in your folders. Its tone is educational, explaining the violation and path to compliance. We referenced the redemption gaming section exemption and the qualifications required to meet that exemption. Most owners removed the machines voluntarily. Once informed, only continued noncompliance is referred for potential sanctions. The Attorney General has also posted a public consumer alert on these machines, and that has been provided in your packet as well. I want to clarify for the committee today, the ECB does not set out to fight or harass local businesses. Local business owners or organizations. We see this fight as a fight with manufacturers who sell or lease these illegal games under the guise that they qualify as redemption gaming machine.

[00:15:32] Jasmine Tompkins

It was falsely repeated multiple times that the board does not like redemption games, and I think I'm on record multiple times saying skee ball is my favorite game, so clearly that's not true. We have no issues with these games that meet the redemption exemption. But the fact is, is that the machines we're talking about today simply do not. The impact on fraternal organizations was also discussed at the June 25th meeting, and I want to be clear about the board's position to date. The Mgcgb has not taken enforcement action against any charity for illegal slot machines. Our enforcement efforts have focused solely on private businesses operating illegal gaming for profit. Now, I'm not encouraging all the charities who hear this message to go and engage in illegal gambling, but we do believe that the level of impact being attributed to our actions on this specific population is overstated. To further the agenda of the illegal gaming manufacturers. Even so, we're fully open to discussing legislative solutions that will support charities while maintaining the integrity of gaming laws. We've done so in the past, when charitable gaming was at risk of having to either increase fees or prevent services. We took on the costs from our gaming fund to make sure that we can keep their fees low. When Millionaire Parties was explaining that the process was too cumbersome, we worked with them to make sure that the millionaire party process was smooth.

[00:16:52] Jasmine Tompkins

So we have always been willing to come to the table, and I myself has met with a past prisoner a couple of times, even though he said we won't meet with him. And lastly, as a reminder, I'd like to note that legal gaming in Michigan is taxed for public benefit, with gaming taxes going to fund the Michigan School Aid Fund, the Compulsive Gaming Prevention Act and the First Responders Coverage Fund. These machines that I'm talking about today are not. And I want to be clear that our intent in raising all of those points that I just talked about was not to diminish the other witnesses perspectives, but I wanted to ensure that you all had the full picture and the facts to legislate responsibly. So before we get to questions, I'd like to show my video. It's just about seven minutes. I will flag for you that in your last June 25th meeting, the machine expert said that these machines should have a puzzle appear that would require interaction. And if the player did not do anything with that interaction, they would lose. I say you'll see in this video that that machine actually stops until you do the selected option. So there's not a puzzle that you have to interact with or you lose.

[00:17:59] Clerk

We're good. Well, hello.

[00:18:02] Video

My name is Mike Tucci. I'm a regulation officer with the state of Michigan, and I'm currently assigned to the Michigan Gaming Control Board. I am in the Michigan Gaming Control Board lab, and I'm being assisted today by Aaron Congress, who works for the Michigan Gaming Control Board lab. What we're going to do today is videotape These two casino style slot gaming machines. The gaming machine on the left is a product of IGT, and the gaming machine on the right is made by vanilla games and is a Diamond Skill Fusion two game. Like I said, the gaming machine on the left is currently in operation in the approved board casinos in Detroit, and the gaming machine on the right is something that we confiscated from a criminal investigation that. I'm going to go over here and explain or do the same thing for this one. Now, the attract screen for this gaming system shows the progressives and then the five games available for play. So I'm going to select Bourbon Street dice, and it's right here. It's showing how to nudge. And that will be explained in the rules. When I get there, I'm going to press play. The game is loading. So this is the gaming screen and I'm going to go to rules. Here's the main rules of the game. And then explains to the patron how the game operates.

[00:19:48] Video

And I'll just cycle through the rules. It goes through the wild feature on how to and how the patron would move something up or down to get to that feature. Bonus games patron can read it and see what the bonus games are, and this is showing how to nudge and when they mean nudge for this game, it's going to be raise or lower. So what the object is, is to raise or lower the matching combination onto the single pay line, which is in the middle. And that would be it. So I'm going to exit. And now for this I will show two. I'm going to turn the volume up so we can hear it. And this is where the wager is says play amount. So it started at 50 a dollar \$2 and \$3. That's as high as you can go. I'm going to set it at \$2. I'm going to go back over here. Dice. I've already set my bet at \$2 a spin. You can either hit play here or the play button on the button deck. I'm going to hit the red play button on the button deck. And they will start spinning and they stopped. As the rule stated, rays would pop up across the top of these three reels and lower would be illuminated and be displayed at the bottom.

[00:21:35] Video

If this spin was a possible winner, it is not. So. I will spin again. Same thing. Okay, this spin has a potential for a winning spin. There's a wild that's flashing. And as you can see, Ray's is above or at the top of the three reels. Lower is displayed at the bottom, and it's also giving me an indicator that I need to press this lower icon to align the wild with these two symbols. I will press lower. And now the spin. Is over and I want \$8 on that spin. And it was. It will be added to the credits. No spin, no way. No spin. When the spin was not a win, I was able to continue to spin and the machine would continue to spin. Since this spin is a possible winning spin and it's indicating to me, I need to raise this symbol to the center pay line because it's a possible win. The machine also will not let me go to the next spin, which is another indicator to the player that, hey, you have a winning spin. So I'll complete the spin, complete the win by pressing the raise icon. And I won \$4. And \$4 was added to the credits that I have now available to play with. We can go back over and on the Bourbon Street Dice game.

[00:24:14] Video

No winner. It lets me go on to the next spin. Same with this one. And. As you can see, it shows I have insufficient funds to add money to continue because I'm down to \$0.90 and I was betting \$2 a spin. So at this point I'm going to put another 20 in. And it shows. I now have \$20.90 to game with. No wind. No wind. No wind. And even though this shows wild being that there's no raise or lower, this is not a potential winning spin and it lets me go on to the next again. Now I have the raise or lower on each reel, and it's given me the indicator, which way, which icon is the winning one and which direction to move the icon to complete the winning spin. I have \$10.90 in this machine, so at this point I'm going. I'm deciding to end my game play. So I am going to hit ticket, which is on the button deck, and then a window pops up asking the patron if they're sure they want to collect. I press yes. And the ticket voucher prints out here and it shows. The amount the patron won the store. The terminal. And that's set by the people that install the machine. So we'll leave that here.

[00:26:35] Jasmine Tompkins

Okay. I guess I really could have ended this quickly and just said, Mr. Chair, no, we don't have authority over redemption games. But as you see, we have authority over slot machines.

[00:26:44] Chair Jay DeBoyer (R)

Of course you do.

[00:26:45] Chair Jay DeBoyer (R)

Um, is there anyone that's engaged in this? Let's call it debate for the lack of a better descriptive right now, um, especially the individuals that we've had testify, um, that would say that, that, that, that game qualifies.

[00:27:03] Jasmine Tompkins

I believe that was the argument of the June 25th was that that game qualifies, that the raise and lower is the puzzle and the fact that you have to raise or lower it is the skill.

[00:27:15] Chair Jay DeBoyer (R)

Well, raise and lower could be a skill, but I'm asking specifically that game.

[00:27:20] Jasmine Tompkins

That game is one that we have collected from one of the folks whose machines we've taken. So that person would have argued that that was a redemption game.

[00:27:29] Chair Jay DeBoyer (R)

Okay. And the determination by the court has been what.

[00:27:33] Jasmine Tompkins

I was not there for that particular machine. And I don't know which case that machine was in. Uh, I don't know, Aaron or John does, but we have a couple court cases. I can let John speak to those.

[00:27:46] John Lessnau

Uh, Mr. Chairman, um, we've had several most of our cases that go to court, um, result in. Please, um.

[00:27:54] Chair Jay DeBoyer (R)

Just pull the mic a little closer just so everybody can hear. Thanks.

[00:27:57] John Lessnau

Most of the cases that go to court result in. Please. Um, those that do go to court, the courts have found that these do qualify as games of chance.

[00:28:12] Chair Jay DeBoyer (R)

So when there's a disagreement on whether it's a game of skill or a game of chance, is it in my understanding accurate that at the end of the day, it ends up as a court determination? That's that's where it goes.

[00:28:27] John Lessnau

Well, a Trier of fact will always have to make the ultimate decision on whether it's a game of skill or a game of chance. Um, we, we've been very, very careful over the years to make sure that we move slowly and sure. Footedly so that we don't embarrass our executive director or the agency. Um, we've taken the time to make sure that our lab was trained and qualified, um, and have gone through and conducted the analysis needed so that we're comfortable with their decision. Um, not only are we comfortable with their decision, um, it pretty much mirrors the decision or the opinion of the expert that testified last time. Um, all these games have predetermined outcomes. The um the interaction by the player has no bearing on whether that game is a winner or a loser. It's I guess it's similar to a lottery scratch off ticket. When you buy that ticket from the store, that ticket already has an outcome. It's either a winner or a loser. Your, uh, scratching off and displaying what the outcome is doesn't determine whether that's a winner or a loser. These games are very similar. The outcome has already been determined what the prize is going to be. The player can't change that. That little interaction only merely allows the player to accept the win and prize that the game has already chosen.

[00:29:58] Chair Jay DeBoyer (R)

But I think really, I think everybody understands the difference, at least definition wise, and how we determine, you know, what a game of skill and a game of chance is. But I think where the debate is coming in is the individuals who are making the interpretations and perhaps doing the investigations, because I'm going to quote your director from his last testimony in my question, I guess based on this quote to you guys, is you just said people in our laboratory. So I'm assuming that you have an extensive laboratory. Trained individuals understand software coding, writing, programing, all those things to make a determination based on that. Yes. Is that correct?

[00:30:35] John Lessnau

Yes. However, we're a little bit handcuffed because when they do their analysis, they don't have the source code, which is proprietary information held by the makers of the machine. So they have to go through, and I'm not going to speak for Aaron on how he goes about and does it, but they have to go through and be able to gather the evidence they need in different methods.

[00:30:58] Chair Jay DeBoyer (R)

Mhm. So the quote from Executive Director Henry Williams at our June 25th was. So now to question. So now to the question of overreach. I want to be very direct about. The Gaming Control Board does not have legal authority to remove gaming machines from a bar or a restaurant. Do you guys ever do that?

[00:31:17] John Lessnau

We, our people work as the evidence gatherers.

[00:31:23] Chair Jay DeBoyer (R)

Do they remove machines from bars and restaurants?

[00:31:25] John Lessnau

We assist the Attorney General's office because of a cooperation that we have with them.

[00:31:31] Chair Jay DeBoyer (R)

Um, so the Attorney General's office does not have the ability to physically move a game. You guys have to assist them.

[00:31:36] John Lessnau

We have to assist them just because we have more people available.

[00:31:40] Chair Jay DeBoyer (R)

Do you have the authority to do that.

[00:31:42] John Lessnau

Under with the at the direction of the Attorney General's staff? Yes.

[00:31:46] Chair Jay DeBoyer (R)

You do.

[00:31:46] John Lessnau

Yes.

[00:31:47] Chair Jay DeBoyer (R)

Because your director says you don't.

[00:31:51] John Lessnau

I think that's a misinterpretation. I think what he was saying was.

[00:31:54] Chair Jay DeBoyer (R)

Let me continue. They do not have the legal authority to remove gaming machines from a bar or restaurant. When a citizen reports a suspected illegal machine to us through our tip line, by email, or through our website, we review it. And if it appears to violate the law, we refer to the Attorney General's office. It is the Attorney General's office, not this board, that has the legal authority to physically remove illegal machines. So are you telling me that you work for both the Attorney General's office and the Gaming Control Board?

[00:32:24] John Lessnau

We have two attorney and attorney general investigators that work in cooperation with us. Once we do and conduct the investigation, we for that information over to them. If there's any questions, they'll ask us to get additional information. If there's not, they will take our investigation issue and draft a search warrant, get it approved by one of the attorneys on the Attorney general staff, and that search warrant will then be executed, executed. And we do assist them in that execution.

[00:32:59] Chair Jay DeBoyer (R)

So then you do become a member of the Attorney General's office. At that point.

[00:33:03] John Lessnau

We assist them.

[00:33:04] Chair Jay DeBoyer (R)

Okay. Because it says you can't. At least your director says you can't.

[00:33:11] John Lessnau

Well, I can't speak for.

[00:33:12] Chair Jay DeBoyer (R)

It's not funny.

[00:33:13] John Lessnau

No, I'm not laughing.

[00:33:14] Chair Jay DeBoyer (R)

You were laughing. It's not funny.

[00:33:16] John Lessnau

I can't speak for the.

[00:33:17] Chair Jay DeBoyer (R)

You're talking about screwing with people's lives.

[00:33:22] John Lessnau

Well, that's not our intent. Like I said before, we have.

[00:33:25] Chair Jay DeBoyer (R)

But it's the result. See, this is the problem with government. It's not our intent. It's not our intent. But in the end, we do, because we have that authority to do that. That is the number one issue with this problem. The statutes really clear about who can control and who can make determinations about games of skill. And you don't win all the time. In fact, recently you Lost and the judge excoriated you guys for your behavior. Am I wrong?

[00:34:01] John Lessnau

You're not wrong.

[00:34:04] Chair Jay DeBoyer (R)

This is government out of control. That's what this is. I agree with you that if there is a legitimate, demonstrated illegal gambling operation going on, that we should address it. There's no doubt. But I think the fact that individuals and entities like the American Legion feel threatened and frankly, are being threatened based on the behavior, is a great example of government gone awry. Because I'm going to tell you something about these individuals. They volunteered to defend our liberties and our freedoms. Right. Then they come back to our country and the government fails them. Doesn't take care of them in the manner they do. So what do they do? They say, we're going to form our own organizations. We're going to fund the care for our individuals ourselves because US government bureaucrats have failed them. And then what do we do? We go at them and try to turn them into criminals for doing that.

[00:35:09] Jasmine Tompkins

Mr. chair, I want to remind you that I said the board has not gone after any veterans organization.

[00:35:15] Chair Jay DeBoyer (R)

What are they supposed to feel when they're watching this behavior? The overreach?

[00:35:21] Jasmine Tompkins

I would also remind them and you, that there are plenty of legal gaming options that they have available to still fund this sort of thing. And there are other ways where we could use gaming legislation to help. But I would not encourage them to engage in illegal activity.

[00:35:36] Chair Jay DeBoyer (R)

What statute gives you the authority to walk into any entity? And I'm not saying there isn't one. I'm just asking you this. What statute gives you the authority to walk in to investigate a game of skill?

[00:35:48] Jasmine Tompkins

The one I referenced earlier was MCL4 32.204, and so it gives us the authority to investigate suspected illegal gaming and pursue disciplinary and legal action.

[00:35:58] Chair Jay DeBoyer (R)

In the phone call to you on a tip line creates the suspected illegal game. How many? How many have you investigated that weren't illegal games?

[00:36:08] Jasmine Tompkins

I don't kick that to John.

[00:36:12] John Lessnau

Not too many. Um, I think we recently had one, uh, that we did not look into because it did seem to meet the definition of a redemption game. And we just passed on that one. Again, we're making sure that we move very slow and very judiciously on these things. We do realize that people's livelihood and businesses are involved. That's why we've started sending out the cease and desist letter as a as an educational platform. Um, there's no requirement for us to do that. Um, we're doing that to let them know you could be in violation. Um, everything we try to do is make sure that we do things with the consideration of those involved.

[00:36:55] Chair Jay DeBoyer (R)

Would you say that a cease and desist letter is a de facto removing of a game from a establishment?

[00:37:02] John Lessnau

It gives them an opportunity to remove it without any sanctions.

[00:37:07] Chair Jay DeBoyer (R)

Do you have the authority to remove that game from their establishment?

[00:37:10] John Lessnau

We would not do that.

[00:37:11] Chair Jay DeBoyer (R)

And if they don't abide by it, is the penalty and the action towards them going to be more severe? No. So you don't have the authority to ask them to not do it. Correct. But we do it again. This is government overreach. You take one inch and then you take a foot and then you take a mile. That's why this has to be addressed now. You know where I stand on legislation with regard to this. Right. And I think that everyone should be on board with that, including the commission, including all the members, frankly.

[00:37:44] Jasmine Tompkins

The legislation that you speak of doesn't just make it easier for the veterans organizations that you talk about. If you pass that legislation, I could quit my job and go open up the Sears down in Frandor and put machines in it. So the legislation is a little bit irresponsible as it currently is, because any of us would go and be casino owners.

[00:38:05] Chair Jay DeBoyer (R)

Do you believe that there should be an independent certifying agency?

[00:38:07] Jasmine Tompkins

I do not. I believe that you all have given the Gaming Control Board the express authority over slot machines. So why would you not let us certify the machines?

[00:38:16] Chair Jay DeBoyer (R)

Because you have an intrinsic bias as being the governor government.

[00:38:20] Jasmine Tompkins

I don't believe we have a bias. I think that's a matter of opinion.

[00:38:23] Chair Jay DeBoyer (R)

Well, unfortunately the government does. Whether we believe it or not has an intrinsic bias.

[00:38:28] Jasmine Tompkins

But I can speak for the gaming Control Board. And that has only worked within the authority that you've given us. Sure. Even the letters that we've sent out before the cease and desist, I believe it's our role to educate, as I do with you all. Every year when I come and talk about the things we do. I think it's only fair that we educate the community on the potential illegal machine. Sure. So those letters last summer were not meant to be a threat. They were supposed to be to inform them that the AG was coming out with a new bulletin. Here are the machines in those bulletins. Here's what you might have.

[00:38:56] Chair Jay DeBoyer (R)

To move into. A couple more questions, if you don't mind. Representative Green.

[00:39:01] Rep. Jaime Greene (R)

Okay, so I understand. I, I, I understand what the chair is doing. Um, and I saw the video and so I guess that's where I'm still confused because I was at an establishment this weekend and there was a full blown casino style and I will show you the photo afterwards. So at what, I guess that's where, at what point do we have where these games are truly the casino style slot machines? And then so we're saying because you can push the button, it's a game of choice or chance. I guess that's I'm just trying to understand because I don't want slot machines everywhere. I don't want her. I mean to go to Frandor and open a casino either. But I also don't want my my own American Legion to feel threatened. So at what line do we draw where there are these the definition of these machines or I guess, certifying of these machines? And that could be a question for the chair or even you guys as well.

[00:40:03] Chair Jay DeBoyer (R)

Well, I think it's important to remember, as provided by the commission already, that the Michigan Penal Code Redemption game section spells it out rather clearly. As used in the section, redemption game means a single player or multiple player, mechanical, electronic or manual amusement device involving a game. The object of which is throwing, rolling, bowling, shooting, placing, propelling or stopping a ball or other object into, upon or against a hole or other target.

[00:40:38] Rep. Jaime Greene (R)

Right.

[00:40:38] Chair Jay DeBoyer (R)

So which means that your dexterity is what results in those actions, right? And if your dexterity isn't good or your skill level isn't good, you can't successfully win that game. That's a game of skill.

[00:40:51] Rep. Jaime Greene (R)

Okay.

[00:40:51] Chair Jay DeBoyer (R)

A game of chance is one that is 100% predetermined, regardless of your skill level and regardless of your ability to do anything, you're going to lose.

[00:41:00] Rep. Jaime Greene (R)

So the game that we saw in the video is that a game of skill or a game of chance.

[00:41:05] Chair Jay DeBoyer (R)

I can't answer that because we have no background on that. I don't know.

[00:41:08] Rep. Jaime Greene (R)

And that's I guess that's where I understand that like an arcade game, you hit it, you hit it and you get the ball or whatever. But I am seeing full blown casino machines in bars.

[00:41:19] Chair Jay DeBoyer (R)

Yeah for sure. And if that's the truth, then rightfully so. Right. That should be dealt with. I don't know, I don't think anybody here disagrees with that. Okay.

[00:41:27] Rep. Jaime Greene (R)

Um okay.

[00:41:28] Jasmine Tompkins

Thank you, I will. Can I add before you move on, our issue is the manufacturer that sold whoever sold that machine or leased it to wherever you were, sold them that likely sold them that as a redemption game, and from what you say, without us being able to test it, it does not sound like it is okay.

[00:41:44] Rep. Jaime Greene (R)

Thank you.

[00:41:47] Chair Jay DeBoyer (R)

Representative Rigas.

[00:41:51] Rep. Angela Rigas (R)

Thank you, Mr. Chair. So how are these establishments supposed to understand these rules the way they are laid out? Why isn't there an educational component to ensure small business owners are compliant?

[00:42:04] Jasmine Tompkins

I would argue that's what we were attempting to do with the letter was add an educational component. But I'm open for suggestions for how we could do that better. Our initial plan was to send out the letter. The result of that letter was businesses calling us to find out more. So that was the start of us trying to educate.

[00:42:18] Rep. Angela Rigas (R)

Well, it seems to be that the laws are a little vague, and I. I fully believe that you that you use that vagueness to intimidate these business owners. And I feel that you know, this letter. Um, anytime any establishment receives a letter from the state of Michigan, from any department, it can it can be very intimidating. So I would encourage you to. Um. Be less intimidating and be more willing and open to have meaningful discussions with these business owners. If the VFW didn't feel intimidated, do you think that our our room would be packed today?

[00:43:10] Jasmine Tompkins

Um, I can't speak to how they feel. I can say we have met with members of the VFW, and.

[00:43:15] Rep. Angela Rigas (R)

Maybe.

[00:43:15] Jasmine Tompkins

That's part.

[00:43:16] Rep. Angela Rigas (R)

Of the problem, ma'am, is that you are out of touch.

[00:43:21] Jasmine Tompkins

Are you saying because I'm not a veteran, I'm assuming.

[00:43:23] Rep. Angela Rigas (R)

No, I'm saying because you have come in in our committee and you are very bold. Thank you. And it's not a compliment. Very intimidating. And I would encourage you to maybe take take your level of authority down a little bit. That would be helpful. Thank you.

[00:43:42] Jasmine Tompkins

I don't want to argue.

[00:43:43] Rep. Angela Rigas (R)

I'm not I'm not arguing. I'm stating the facts. Thank you.

[00:43:46] Jasmine Tompkins

But I would offer that if you would like us to come and speak to business owners in your area, we'd be happy to come.

[00:43:52] Rep. Angela Rigas (R)

I think that the business owners in my area probably wouldn't want you at their door because of your demeanor. Thank you. That is all.

[00:43:59] Chair Jay DeBoyer (R)

Representative Wegela.

[00:44:03] Rep. Dylan Wegela (D)

Hi. Um, first, thanks for being here. Uh, I think a couple questions that will be should be like just yes no's. First, the machines that you showed are these, you know, quote unquote skill games. That one was clearly one of chance. Does anyone regulate that right now? Yes or no in terms of like, like regulate the that how the machine pays out and whatnot.

[00:44:25] Jasmine Tompkins

I'm going to assume no, but I'll kick it to Aaron.

[00:44:28] Aaron Poncgraz

No, sir.

[00:44:29] Rep. Dylan Wegela (D)

Okay. And then additionally, does the state of Michigan get any revenues from those machines? No. Okay. So my question is, and the reason I bring this up is I would argue that that game could potentially just be a straight up scam. You know, when you play slot machines, they have this thing called return to player that is posted that when you're playing, you can see every dollar you put into the machine, you know exactly how much that machine is going to pay out over like a meta amount of time. So do you know what those machines do? They have a clearly defined return to player. And who sets that? Is that so like if you play it, can you can you figure out what it is? But then additionally, who sets the return to player on those machines?

[00:45:11] Aaron Poncgraz

They do have a set return to player. So that's actually defined in the software, the, the manufacturers that make that and the operators of the machine, they can set and adjust that pay table within the parameters that are inside the software.

[00:45:27] Rep. Dylan Wegela (D)

Do you know what the parameters are? Because my understanding of general slot machines anywhere from like 90 to 100%.

[00:45:34] Aaron Poncgraz

Typically in the vanilla games, the game you saw in the video, um, it could be 96%, it could be 94%. I've seen games as low as 84%, 86%. So it depends on the specific software. Um, but it can be adjusted and set inside the administrator screens.

[00:45:53] Rep. Dylan Wegela (D)

So you can set the determined amount of money that is paid back out after every time playing. How could anyone consider that anything other than a game of chance? And that's a question. And the second thing is how do we you know, I think it makes sense to curb, you know, illegal gambling. I think we should want that to be happening in regulated spaces. But how do we go after manufacturers for creating scam machines like this?

[00:46:19] Jasmine Tompkins

That's a good question. The answer is probably legislation, but I don't know how you all would feel about that. We do have a bill out. I'm sorry, I'm blanking on the number, but Representative Neeley has a bill that would actually update the definition of slot machine to be more current with what's actually in casinos. And then it would be clear that the machine that you just saw is illegal. And maybe that could help us, but we can. I'd be happy to talk about other ways we could go after the the manufacturer specifically.

[00:46:49] Chair Jay DeBoyer (R)

Representative Woolford.

[00:46:53] John Lessnau

Thank you, Mr. Chair.

[00:46:54] Rep. Jason Woolford (R)

Thank you for being here today. At the end of the day, I think the question is whose interest is the Michigan Gaming Control Board really protecting? I ask that because director Henry Williams received the 2024 American Gambling Award for being a good regulator. It's fascinating to me. Uh, so is this commission protecting the Michigan citizens, or is it effectively acting as enforcement and or a lobbying arm of the large casino industry by eliminating local competition and those establishments. Also, these VFW and these American Legion's, they're not billion dollar casinos, they're community institutions. And that money that raise is raised in those doesn't disappear into corporate balance sheets. It stays in our communities. It helps our struggling veterans like those that are sitting in this room. It supports military families. It sponsors youth programs, teaches children about the Constitution and the declaration, which I would invite all three of you to maybe visit one of those and teach the next generation on what it means to honor our country and stand for the American flag. So when the state takes machines revenue and property revenue from these organizations, these military organizations, it's not simply taking money from a business. It's taking it and taking those resources from their veterans, the locals and their families, and even their children. No one is asking me to ignore illegal gambling, just as the chair spoke about earlier.

[00:48:37] Rep. Jason Woolford (R)

We're demanding that it follow the statute exactly as the legislation was wrote. An agency cannot invent high standards, higher standards than what the law states. It can't expand on its own jurisdiction. And look, if MKB wants redemption games prohibited, it should come before us. The legislation and make the argument publicly. I want to remind all of you, you don't make the law. You don't interpret the law. The Democrats and the Republicans that sit on this committee that are lawmakers and those write the law and you follow it. You don't interpret it. I think it's terrible that you're messing with these people. Representative Rigas talked about people feeling, um, what was the word? Uh, threatened, intimidated. You're talking about people who've had to kill people who've had to throw grenades and do some of the most unimaginable things. And they're feeling pressure from your organization. Why? Because you want to get a bigger piece of the pie. The people you represent want a bigger piece of the pie, and that's the truth. So lastly, my question is, do you have an office in your personal offices in your your local VFW or American Legion halls? No. No. Do you have any offices in the big casinos?

[00:50:07] Jasmine Tompkins

Yes. We have an office in each of the three Detroit commercial casinos.

[00:50:11] Rep. Jason Woolford (R)

Okay.

[00:50:11] Jasmine Tompkins

Because we are the regulator. If you give me a second to address all of your questions.

[00:50:15] Rep. Jason Woolford (R)

I know you're the regulators and you do a good job so much that your director got an award for being a good regulator. You know, I never get awards from the people that I'm investigating. This is a travesty. It's disrespectful. The chair talked about the smiles that are on your face. I think it's disrespectful. You have people sitting in this room that go in those places. By the way, the game that you showed us on the video, you took ten minutes to explain. It sounds like a game of skill to me when you have to explain how it works. Other games you walk in, put money and press a button. Some of these people here have seen and went through the most unimaginable things. Leave them alone. Have a good day. Thank you chair.

[00:50:59] Chair Jay DeBoyer (R)

Thank you. Representative. Representative MacDonell.

[00:51:07] Jasmine Tompkins

Mr. chair, can I address. Sure, because he had a couple of points. So whose interest was the first question that I think I heard. I don't we don't take having the regulator Award as a bad award because the interest that we seek to protect is the interest of the people of Michigan. What being a regulator means is protecting them from illegal gaming, for making sure that the actual legal casinos tax money goes towards the funds that I mentioned earlier, and doing those things and fighting offshore, illegal gaming and all the illegal gaming that we've been fighting is what got us that award. So we do take that award with pride as far as taking money goes and going into these veterans halls. I've said earlier, and I will keep saying, we have not been in any of these facilities. So I just want to clarify that. And then you asked if we wanted redemption games prohibited, we would come and ask. We don't. I keep saying those are some of my favorite games. What we want is actual redemption games in those establishments and what we're finding. I don't think it's at the fault of those halls, but at the folks that are leasing it to them is that they're leasing to them slot machines and selling them as redemption games. And that is not something that we've asked for you to make illegal because it's already illegal. So we just would like to do what you told us to do, which is operate within the law.

[00:52:26] Rep. Jason Woolford (R)

Yeah, but but you're not doing what we told you to do. Thank you.

[00:52:32] Chair Jay DeBoyer (R)

Representative MacDonell.

[00:52:34] Rep. Sharon MacDonell (D)

Thank you. Chair. At our last hearing, I said how I felt that I'm frustrated about what's happening. The problem is, um, I guess I am very much in favor of looking for ways for Legionnaires and VFW halls to seek alternative funding. Um, but I think today, in the future, we could spend a lot more time finding solutions. As you've talked about education, as someone brought up and bringing bills that we already have that are all ready to go to the floor for a vote. Why are we talking about this here? We could be talking about this on the floor, sitting here spreading disinformation and criticizing and insulting people who are trying to do their jobs may make good videos, but it doesn't get us to a solution. Let's vote on the bills that are already written and ready to go and have not in this year and a half been brought to the floor. Let's do that and we can fix it instead of just complaining about it. Thank you.

[00:53:31] Chair Jay DeBoyer (R)

Great idea. Representative. Representative Bruck.

[00:53:36] Rep. William T. Bruck (R)

Thank you, Mr. Chair. Thank you for being here today and at our hearing. Appreciate it. I'll be frank. I've never played a slot machine or even played the lotto. You know, I think it's for the mathematical illiterate. However, there's a lot of people that do. And and so my question is we have the major casinos you guys regulate. Um, have there been instances where there's machines there that are illegal or do not fit your whatever the schematics that you do to determine the win or lose or that payout ratio?

[00:54:14] Aaron Poncgraz

Yes, sir. There have been games that we have found that were either shipped in or may have even been in use, and those once we found those machines, they were taken off the floor and compliance action would be taken against the casino.

[00:54:27] Rep. William T. Bruck (R)

Okay. So are they pretty careful to stay within? What happens to. The Detroit casino if they're found to have a bad machine? Or is there some sort of penalty they have to pay or something?

[00:54:43] Aaron Poncgraz

Yes, sir. There's a compliance conference and then that can result in a in a fine to the casino monetary fine.

[00:54:49] Rep. William T. Bruck (R)

Okay. And where do casinos actually get their machines? I mean, can you buy a machine off Amazon or like, how do you get a casino machine?

[00:54:58] Aaron Poncgraz

No. The casino machines are are bought by the casino from suppliers that are licensed by the Michigan Gaming Control Board.

[00:55:08] Rep. William T. Bruck (R)

Okay. So the machines that we're talking about, the, the, the games of skill or these other similar to slot machine games. Where do people purchase these from?

[00:55:21] Aaron Poncgraz

That that I don't know sir. There's a companies that make these um in like the video we showed you, that's a company called Vanilla games and they supply, um, quite a few different types of machines that are just like that. Um, so there's, there's, there's private companies that make these machines.

[00:55:37] Rep. William T. Bruck (R)

But do they, these same manufacturers, are they the same manufacturers that the big casinos are using? Or are they like different manufacturers doing these?

[00:55:46] Aaron Poncgraz

They are different manufacturers.

[00:55:48] Rep. William T. Bruck (R)

Okay. So I guess, you know, my goal is to lower the temperature on the like the, the VFW, the veteran organizations that are that may or may not have these, these illegal. Games in their in their property, in their organization. Um, and you said that you are not going after the non-profits, i.e. VFW Legion halls. However, if they have an illegal game, what would happen at that point then if you said you're not going into the nonprofits? I mean, there's a reason they're here is because they're worried what what surety, I guess, or what can you offer to help lower that temperature?

[00:56:30] Jasmine Tompkins

Well, I would not sit here and promise that we would never or that we would encourage them to keep illegal machines. I believe we're here because we sent them a letter. We sent most businesses a letter letting them know that these particular machines were illegal. I don't think we would offer them an assurance that we would not come in. I would say that to date we have not, and that's not been our focus. Our sole focus are on private businesses that make money off of these machines. So that's probably as much of an assurance.

[00:56:58] Rep. William T. Bruck (R)

That are finding these machines from other manufacturers. So so I guess in the regulatory world, when a casino buys a machine, it has to be a certified machine to come into a casino. But if I, as an individual business owner, bar owner, etc. want to buy a machine, I can purchase a machine that's not certified and bring it in. And I think Wegela represent Wegela mentioned. There's there's not a lot of regulation on the payout or any. There's nothing as far as the oversight on your part on those machines.

[00:57:30] Jasmine Tompkins

On those machines. No.

[00:57:33] Rep. William T. Bruck (R)

Okay. All right. Well, I guess FanDuel. How do you guys regulate FanDuel. I know this is off topic. I apologize but you know is that a game of skill or is that a game of chance.

[00:57:46] Jasmine Tompkins

Are you talking about their iGaming or their sports betting. We regulate.

[00:57:49] Rep. William T. Bruck (R)

I've never done either, but I hear it on the radio all the time.

[00:57:52] Jasmine Tompkins

Okay. Okay. We regulate all of the providers in the state for iGaming and for sports betting. I'm I don't play these games either. Obviously we can't because we work here. I would assume some would say the sports bets are a game of skill if you know the players. But they could also be a game of chance.

[00:58:07] Rep. William T. Bruck (R)

Okay. Thank you very much. Thank you. Chair.

[00:58:13] Chair Jay DeBoyer (R)

Representative Pohutsky.

[00:58:17] Rep. Laurie Pohutsky (D)

Thank you, Mr. Chair. Thank you all for coming back. Um, if I heard earlier correctly, you said that the the goal long term is to try and crack down on the people who are distributing these illegal games. Right. How exactly? Because I understand that you have to penalize the people who have them. I get that, but how is the the overall goal of trying to crack down on the people who are knowingly distributing these. How does that factor into to how this operates?

[00:58:47] Jasmine Tompkins

Are you asking how we would like to or how it would work?

[00:58:50] Rep. Laurie Pohutsky (D)

Yeah. How how you would like to. And what barriers are in place for, you know, stopping this where it starts not necessarily at the people downstream. Yeah.

[00:59:00] Jasmine Tompkins

Uh, John.

[00:59:06] John Lessnau

In situations like this, we'd have to work with the attorney general's office, and they would have to determine and make a determination. If there are statutes that would be violated by the suppliers of the machines. And then the attorney General's office would charge them accordingly.

[00:59:21] Rep. Laurie Pohutsky (D)

And that starts with the investigations about where they are. And like trying to just a broader investigation. Am I understanding that correctly?

[00:59:29] John Lessnau

Yes, because the Attorney General will look at and want to see more than just, say, one location that a supplier is supplying. You know, the idea that these businesses are losing out on money. I think last time we were here, one of them said that they only make it up to, you know, pay an electric bill. The ones that are really making the money are the suppliers that are supplying hundreds of machines to hundreds of locations across the state. Because every place that we've looked at all the machines, for the most part, are worked on a contract basis with the supplier that gets a 5050 split.

[01:00:10] Rep. Laurie Pohutsky (D)

Okay, that makes sense. Thank you. And, Mr. Chair, if I may. Sure. I appreciate them coming back since they were going to. You know, they expected to speak the last time they were here. And I would just hope that we encourage our members to treat these people with respect. There were some really. Egregious displays, I think, and I don't understand why there are. Not that I want anyone to be beat up there, but there are three people up there, and for whatever reason, we've only been really attacking Jasmine. And I think that that is just really, really gross and should be above this committee.

[01:00:46] Chair Jay DeBoyer (R)

I appreciate your comments, representative. Um, really quickly, I just want to. So who is Gerald Ulrich?

[01:00:57] John Lessnau

He's a regulation officer that works in our section.

[01:01:00] Chair Jay DeBoyer (R)

Is he one of your like laboratory experts or individuals that understands this.

[01:01:03] John Lessnau

Know he would be an investigator.

[01:01:05] Chair Jay DeBoyer (R)

Okay. And and you're John Lessnau?, correct. Okay. Um, I mean, how long have you been doing it, John?

[01:01:16] John Lessnau

I've been doing this since 2001, when I was a lieutenant with the Michigan State Police gaming section. I retired with the state police in 2007, was employed by the Michigan Gaming Control Board in 2008. And shortly after that, we established the Criminal Investigation Section. So I've been doing this since 2001. I've testified as an expert witness in numerous courts on illegal gambling investigations and have overseen hundreds of investigations.

[01:01:46] Chair Jay DeBoyer (R)

So you would consider yourself or or the agent of the commission would consider you to be one of their. Expert investigators making determinations based on, you know, your history, all those good things, right? I would assume that. Right? Yeah. Um, so. Then that would mean to me that you guys are clearly familiar with the people versus O'Keefe and Parsons case. Yes. That occurred. Um, let me just read you something from the judge's opinion. Right. Uh, Jared Lowitz testified that he this is written by the judge, in his opinion, testified that he personally played the, quote, Red Hot Buffalo game during his investigation. He initially stated that he understood the game's features and believed the outcome was based on chance rather than skill. However, when pressed on cross examination, he concluded that he was unfamiliar with several of the features, including the nudge function, to follow the banana sequence and the presence of a timer requiring players to act quickly. His inability to identify or explain these features significantly, significantly diminished the weight of his opinion that the game was one of chance. Jon Snow, presented as an experienced gambling investigator, testified that he reviewed videos of the game and consulted the manufacturer's website. From this, he concluded that the outcomes were predetermined and that the machines were illegal gambling devices. On further questioning, however, he acknowledged that the game included features not found on traditional slot machines and admitted that at least some element element of skill was present. This concession directly undercuts the people's assertion that the devices involved chance alone. In. My question to any of you would be this. Where in the statute does it say that the Gaming Control Board gets to measure the volume of skill required?

[01:04:12] John Lessnau

I think if you look at the redemption statute, which is broken down into two parts. Part two specifically says that a redemption game is not a game where the outcome is determined by primarily fortuitous and accidental circumstances. Which means, if that's true, that the inverse also has to be true, and that the game has to be determined by primarily skill. Mhm.

[01:04:42] Chair Jay DeBoyer (R)

So that allows you to make a determination on the level of skill.

[01:04:46] John Lessnau

That makes, allows me to make a determination on whether this should go to the attorney general, who will then make the legal conclusion.

[01:04:55] Chair Jay DeBoyer (R)

In two of our experts. Not not by an opinion, by an individual who might be biased to the other side, but by the judge said that those two experts, by their own operating operating set, missed it.

[01:05:10] John Lessnau

That's what the judge said.

[01:05:11] Chair Jay DeBoyer (R)

And that I would assume that the agency is taking the advice of those individuals when they send letters to individuals, telling them that they're operating games that are not games of skill. Correct.

[01:05:23] John Lessnau

I'm not sure I understand.

[01:05:25] Chair Jay DeBoyer (R)

If you're sending letters to organizations telling them that they're operating games of chance, I'm assuming that those individual experts would be involved in the discussion of that determination. When we send the letters. Somebody had to write the letter and somebody had to say that those games are not games of skill. Right. And I'm assuming that we would be using the experts from the control board to do that.

[01:05:47] John Lessnau

Right? Absolutely.

[01:05:48] Chair Jay DeBoyer (R)

But on your own admission, sir, you acknowledged that there were games. These games had skill that you were unaware of.

[01:05:57] John Lessnau

Yes, sir. That's that's true. But that's taking a piece of the statute. It's almost like a like an a la carte definition. I'm going to take this one piece and use that to prove my point, but not look at the whole plate. And the legislature, when it wrote it, wrote that statute in two parts. And part two, um, uh, clarifies part one. It says a redemption has to meet certain elements. It's not just an element of skill. It has to have give out a gift card. It has to the the player has to achieve the object of the game. The question is, what is the object of the game? Part two says the object of the game is throwing, bowling, tossing or propelling a ball or another object against the target. Now if the.

[01:06:44] Chair Jay DeBoyer (R)

Or any other object.

[01:06:45] John Lessnau

Right now, if. If somebody wants to make the legal conclusion that putting your index finger on a button is an object and a target. That's going to be for a Trier of fact.

[01:06:56] Chair Jay DeBoyer (R)

I really appreciate you just demonstrating the fact of bureaucracy. That was the judge that said that. But you believe that you should make that determination. You just demonstrated the problem with government. You just did it right there. You just said that the judge is wrong. That's what you just said. This is the very crux of the problem. It isn't about games, although it isn't about the money. It is about the authority of the government. That's what this is about. You just demonstrated the judge ruled against you guys, and the judge said that those two individuals, on their own admission, one being you said, you know what? You're right. We missed that. So now when I asked the question earlier about who should be the regulating agency in making these determinations, your answer was you should be. I would argue that that is putting a thumb on the scale and that that is biased. There should be an entity that determines what these games are. It should not be the casinos. It should not be the American Legion. It should not be the Gaming Control Commission. It should be an independent agency that makes those determinations. But what we have right now is an overreach of your department. Frankly, that's my opinion, and I will leave it at that and I will move on to Representative Merryman.

[01:08:17] Rep. Luke Meerman (R)

Thank you chair. Um, why why are we why is this an issue this year? I mean, I guess what I'm trying to say is from what I know, these games have been around for a decade or more. Like, do they all appear in these VFW halls and everywhere else in the last year.

[01:08:47] Jasmine Tompkins

I think we've been seeing them more. And so what I can assume, cause this hearing was the letters that we sent last summer, that letter was inspired by the fact that the AG was releasing a bulletin that was specifically talking about those machines. So we wanted to educate folks that that was coming out, that these are the machines that are mentioned. If you have these machines, you should remove them.

[01:09:09] Rep. Luke Meerman (R)

So I guess I can believe that there's been an uptick. But does that mean then ten years ago, when the game was around, the gaming control board didn't think it was a problem then or the the attorney general didn't think it was a problem then?

[01:09:26] Jasmine Tompkins

Yeah.

[01:09:28] John Lessnau

Sir, if I may, um, we face this question a lot. Because it gives the impression that at one point we thought everything was legal and now we don't. Um, the truth of the matter is, is that we've consulted with the Attorney General's office about this for a very, very long time. There was some concern that we make sure that we are on good, sound legal footing before any action was taken. If we were to just exercise overreach and move hastily, we could create bad case law that could not be done undone. So we had to wait until we were very comfortable with developing our own level of expertise at the board, because we knew that when it came down to it, the the other side would have people that they would bring as experts. So we would have to be able to counter that expertise. These machines have been in existence for a very long time, in one form or another. And in the time that I've been handling these, I've watched them change and evolve and morph based on the. The climate of the time before these games were games of skill. They were operated in businesses. They called them sweepstakes, and they said that they were operating under an exception to the Michigan Penal Code that allows for businesses to have sweepstakes, much like McDonald's has their monopoly game. When we started cracking down and showing that that wasn't the case, um, the same software providers were able to make tweaks to their software because much of the software is a multi-platform based, and they were now able to make the same game that operate the same way a game that had a interactive feature or nudge to make it look like it was a skill feature. More and more jurisdictions across the country are starting to recognize this is not the case, that these aren't games of skill, and it's merely an impression that they give the patron, um, Pennsylvania being the most recent one within the past month that have determined that these games of skill are illegal.

[01:11:45] John Lessnau

So the only reason it's been going on for taking so long is we wanted to make sure that we were doing it right. And as we went along, we started realizing that a lot of the businesses you can understand initially when we started investigating, we investigated standalone businesses. And these were some businesses that ran nothing but 30 or 40 machines, and that was their sole purpose. Um, we have since closed those down. Now we're starting to see a lot of local businesses having a couple of machines in there. And we do know that these people are told by the supplier that these meet the redemption statute. And they do, just like a lot of people here have said, they point to one part or two parts of the statute and say that because there's an element of skill and you give out a gift card, you're fine. If you take that same game and pay out cash, then it's no longer redemption game. The game still functions the same way. It's just what prize is being determined. So we wanted to make sure that these people were aware of what was going on. That's why we sent out letters. We've published a fact sheets on our website that anybody can go to and research the the statutes are there. They can go through, contact a lawyer, have them interpret what the statutes mean. Uh, our main purpose is to make sure that everybody's well informed before we took any kind of action.

[01:13:07] Rep. Luke Meerman (R)

Appreciate the answer. And I understand how you could come to that position. But, you know, from where we're sitting, it just looks like a decision was made that this is now illegal. And I don't know, lost court case should mean something. And I, I guess I would hope that you would go back and kind of try to reevaluate where we're headed with all this.

[01:13:31] John Lessnau

I'd like to address that. That lost court case, just so it's on the record, the attorney general has also filed a motion to have those charges reconsidered or reestablished. We have never lost a court case.

[01:13:51] Chair Jay DeBoyer (R)

You know, you mentioned Pennsylvania there. I mean, do you align with what do you think that Michigan lines up with Pennsylvania on their position?

[01:14:01] John Lessnau

Overall, yes.

[01:14:06] Chair Jay DeBoyer (R)

You're aware that Michigan has a safe harbor provision.

[01:14:11] John Lessnau

I'm not.

[01:14:12] Chair Jay DeBoyer (R)

Okay. Well, I'm CL 75310 B permits, awards, physical prizes and gift cards not to exceed \$500. It also. Pennsylvania does not have.

[01:14:22] John Lessnau

It also says that it has to be for a retailer or affiliated retailers. And since the word affiliated isn't defined in the statute, you have to go to the dictionary definition and that definition specifically means that these businesses have to be related so that anybody that accepts a visa is not affiliated.

[01:14:42] Chair Jay DeBoyer (R)

So does that make the game illegal or does it make the dispersion of those illegal?

[01:14:46] John Lessnau

That just makes another one of the criteria outlined in the statute not met.

[01:14:52] Chair Jay DeBoyer (R)

But the dispersion of a gift card that that doesn't change a game of skill or chance. Correct.

[01:14:57] John Lessnau

The game is not a game of skill and it doesn't. The gift card does not change that.

[01:15:02] Chair Jay DeBoyer (R)

Okay. Representative Bierlein

[01:15:03] Vice Chair Matthew Bierlein

Thank you, Mr. Chair. Um, I want to get back to more of on the private business side. So the bar owner, they can still have Keno in their bar, which is a regulated gambling. They can have pull tabs.

[01:15:21] Jasmine Tompkins

All that is licensed by the state lottery. And those are legal.

[01:15:25] Vice Chair Matthew Bierlein

Okay. Um, last year I was in North Dakota at a bar and said, oh my gosh, they have slot machines in your bars. I said, no, those are electronic pull tabs. Um, look just like a slot machine to me. Uh, I don't, I don't do that. It doesn't seem to be the game is the actual problem. It seems to be that we're not collecting the tax revenue that we'd like to get from the games. And that's what when when we're talking about government overreach, it seems like we want to enforce this because we would like to regulate it so we can collect the tax revenue. And that's what it always it always comes down to money with government. They just they want either authority or taxes. And this seems like they're not getting the taxes. So they're expressing their authority because we allow gambling in restaurants and bars. Um, you can do it from your phone now in any setting. Um, but it's just, it's not the regulation level we want. And so therefore we don't get to collect the taxes. And I think that's the reoccurring theme over and over here is that we want that tax revenue. So we want the game to be regulated. And then then we'd probably allow slot machines in every place as long as we could have the tax revenue.

[01:16:37] Jasmine Tompkins

So I think I would say Beeler to that. We do so we regulate millionaire parties. We do not collect revenue that goes to the state off of that. Um, so that is just one of the issues that we would find with that regulation. What goes into our regulation includes making sure those games aren't cheating the customers that play them. Also making sure they have an opportunity to be able to ask for help if they need it, or, for instance, those games you talk about on the phone. We license those people. We require them to have certain features like cooling off periods. So if you think you have a problem gambling within a certain time or you've gambled too much, you would be able to sign up to say, I need to only do three hours a day or cut off, or somehow none of that, or of those features that we regulate for our licensed folks are available at these machines.

[01:17:25] Vice Chair Matthew Bierlein

Right? No. Yeah, I understand that. And a millionaire party is that's charitable gaming. So, you know, I wouldn't expect tax revenue to be collected from that. But these are for profit entities running a business. Casino is a for profit entity running a business. And it it just if this wasn't if you were getting tax revenue off of these. I just have a feeling we wouldn't be looking to stop them from existing. And that's how the state likes to do things.

[01:17:52] Jasmine Tompkins

So I'll speak for the gaming control board because I know my boss is watching and say that even if we were getting state revenue, we would for sure regulate the way that you all tell us to in the law.

[01:18:05] Rep. Denise Mentzer (D)

Representative Mentzer thank you chair. You know, several years ago, a friend of mine turned one of those big birthdays, and she lives in sparks right outside Reno, Nevada. Um, right now she's gambling whether or not her house is going to survive the forest fires. But I went out there, as did several of us, to, you know, party with her. I sat down at a slot machine and in my personal opinion, there all redemption games. I was bored out of my flipping mind. Put the money in, spin the wheel, put the money in, spin the wheel, put the money in, spin the wheel. You know what I did? I went over and played blackjack and lost everything. But at least. But at least that made me think and try and do what? What kind of math was that you called it? You know, um, what I appreciate here is the fact that you were attempting to educate our viewers, our vets, our legions in what is legal and what is not. Not that you went in there to, you know, put their feet to the fire or take their machines away or give them a hard time that you are attempting to educate them. And I think that that's very important and something that we need to remember, I don't know if there might have been a better way to educate.

[01:19:31] Rep. Denise Mentzer (D)

Um, maybe, you know, somebody going in there, maybe offering a, a a a seminar, a class so you could actually, you know, sit down and look at one of these, you know, machines that, you know, bore you to death because it's put the money in spin, put the money in spin. Um, but I appreciate the fact that you are attempting to educate these facilities, these veterans, as Representative Woolford and a couple others have pointed out. So I would just encourage you to continue on the path of education, what's legal, what's not. Because as you can see here, there's been a vast difference of opinion in what's redemption game and what's a skill game. And when I sit down at those slot machines and there was a lot of them from a nickel on up to me. They were all the same. Put the money in, spend, put the money in, spend, and then just go home because you just lost everything. So education, I think here is the key. I think that the veterans organizations would be happy to know which machines are legal and which are not, and how that's determined. And I appreciate the fact that that's what you were attempting to do before we got this far. So thank you.

[01:20:57] Jasmine Tompkins

Thank you. Mentzer and I offer the same offer I made earlier to everybody. If you'd like us, if I'm welcome to at your coffee hours. I would happily come and talk to any of your constituents about this.

[01:21:10] Chair Jay DeBoyer (R)

Representative Schriver.

[01:21:14] Aaron Poncgraz

Thank you, Mr. Chair.

[01:21:17] Rep. Josh Schriver (R)

What percentage of gambling in Michigan is online.

[01:21:24] Jasmine Tompkins

Can I get back to you on that? I'm not 100% sure. We have a lot of gaming in this state. I would have to get back to you on what percentage is online.

[01:21:29] Rep. Josh Schriver (R)

Okay, that'd be helpful. Um, I guess you wouldn't know then what percentage of gamblers gamble online? As far as, you know, Gen Z versus boomers, you wouldn't know the differentiation in terms of who goes to the casinos versus who is gambling on their phone.

[01:21:53] Jasmine Tompkins

I think we all assume one way or the other, but I don't think we as a gaming control board have the data. I'm sure some of our providers may and I could find that out too, if you're interested.

[01:22:01] Rep. Josh Schriver (R)

Yeah, that'd be helpful to know the breakdown of who is gambling, which way. Uh, just to know, more background. Um, and my ideal version of what gambling is, is like a James Bond movie where everyone puts on suits and ties and they go to the casino and they're playing cards and they're, you know, fraternizing and having fun together. But when I see in terms of the future with Gen Z and Gen Alpha, you have, uh, organizations like stake who are engaged in streamer contracts, they're going on YouTube and they're hooking young people, uh, on, on these, uh, clear games of chance where they're advertising literally pressing a button on their phone over and over and over again, hoping that they can somehow make a profit based on an algorithm. Do you have any background on the algorithms of these online gambling entities by chance, in terms of the likelihood of winning? Do they provide that to you?

[01:23:13] Aaron Poncgraz

Yes, sir. They do.

[01:23:15] Rep. Josh Schriver (R)

Do you know what that is offhand?

[01:23:17] Aaron Poncgraz

Well, it varies between suppliers and actually between almost every game. We do have requirements in the Lawful Internet Gaming Act for payback percentage and for um, award odds. And so the maximum award odds in Michigan for an online game is actually 1 in 50,000,000. It has to be lower than that. Um, now that's a very extreme example. That would be very high jackpots would approach that. Um, but many games run the gamut all the way through down, you know, maybe um one in every four games or ten games. Um, so there's a lot of awards available on these games and they all have different probabilities of, of occurring.

[01:23:57] Rep. Josh Schriver (R)

As a final question across generations. Uh, in Michigan, what do you have a statistic as far as what percentage of gamblers win and lose?

[01:24:12] Jasmine Tompkins

No.

[01:24:14] Aaron Poncgraz

No. I mean, that's winning. And losing games would be something that the providers, you know, if you're gambling online, they they know those statistics. Um, honestly, the statistics are sort of mathematically baked into the game. So they have, you know, uh, win percentages, you know, hit frequencies, things like that. So the mathematics, uh, they shake out ultimately to be just like how the games are designed after they've been played long enough. You know, there's a, you need a long, uh, sample size to, to reach that. But, um, yeah, so they do provide that information to us.

[01:24:49] Chair Jay DeBoyer (R)

Not to be gentlemen, not to be disrespectful, but, uh, redemption, gaming and the issue of redemption gaming is the purpose of the committee. Um, we do have other committees that are going to literally be starting in four minutes. I do have some additional questions. So unless you have a very specific question to the redemption gaming issue that we're talking, I'm going to move.

[01:25:08] Rep. Josh Schriver (R)

I was just going to say, I look forward to getting some more statistics from you guys. Thank you.

[01:25:12] Chair Jay DeBoyer (R)

Thank you. Reb Schriver Minority Vice Chair Miller.

[01:25:16] Speaker 18

Thank you for being here.

[01:25:18] Minority Vice Chair Reggie Miller (D)

You know, we have three bills, right? We have House Bill 668, which is a representative Neeley bill, which would update the Michigan's definition of a slot machine and strengthen the board's ability to fight illegal gaming machines in the state. Chair, you have a bill package as well with rep Snyder on, you know. So where are we with these bills, first of all?

[01:25:44] Chair Jay DeBoyer (R)

Good question.

[01:25:44] Minority Vice Chair Reggie Miller (D)

Have they gone through committee? And why doesn't this board make a motion that we urge that these bills go up for a vote?

[01:25:52] Chair Jay DeBoyer (R)

Yeah I would yeah. I would say that I believe that our bills both have gone through committee. My recollection is and yeah, I, I would love to see them go up for sure.

[01:26:01] Minority Vice Chair Reggie Miller (D)

Have you urged leadership to put these bills up for a vote. And have you received any feedback, um, from these veterans who have said that they have felt violated, that they felt threatened.

[01:26:14] Chair Jay DeBoyer (R)

Yeah, I think there's been an ongoing conversation, not just by me, but by multiple, uh, um, concerned and involved individuals, including rep Snyder for that matter. Yeah. Fair enough. But, but great outstanding point. Yeah. That we, we should consider these bills. Yes. For sure. You know.

[01:26:32] Minority Vice Chair Reggie Miller (D)

Get to the point.

[01:26:34] Chair Jay DeBoyer (R)

We are really, really short on time. So I am going to move to, uh, actually everybody that is left has already asked a question. I'm going to leave one last question and then we have to, uh, we have to adjourn. Um. Representative Bruck.

[01:26:50] Rep. William T. Bruck (R)

I appreciate chair, we just a quick question. We certified games of chance, correct. Do we certify games of skill? Can you do that?

[01:27:03] Jasmine Tompkins

I think we've talked a lot about skill today. And I should clarify that skill alone is not a test for these games being legal or illegal. Mcl750 .3031 has language in there that says even if skill is involved, a game could still be illegal. There's no statutory definition of skill, so we certify the games that are legal per the statutes.

[01:27:24] Rep. William T. Bruck (R)

Because I want to see a protection someplace and maybe it's this third this third party authorization. I don't know what it is that you know, but but as far as our veteran organizations that are feeling pressure from you folks, whether it's direct or not, they're feeling the pressure. And that's quite obvious today. How do they know they're doing the right thing? Veterans don't. These organizations do not want to break the law. They don't want to do illegal things. They're trying to support their organizations in the way that they have found to be able to do that. As the chair had mentioned, maybe there's options here, but if we're certifying that that they don't meet the definition of chance or redemption, etc., how do we know? How can they know that they're doing the right thing, and that's what they want to do in order for them to run their organizations. Thank you chair.

[01:28:14] Jasmine Tompkins

Yeah.

[01:28:15] Jasmine Tompkins

Can I just say I would say anything outside of those definitions would not be, but I would love to come and talk about all of the legal options we have for those entities. If you want to have me very quickly.

[01:28:27] Chair Jay DeBoyer (R)

Um, Todd did not wish to speak but was in support of the bills to create the provisions that we spoke about. Um, Dave Phillips, uh, did wish to speak, I apologize, wanted to talk about Bill 4494. Um, additionally, Tina Paxson from the American Legion Department of Michigan did want to speak to discuss this issue. I apologize to you that our time ran short, but you will be on the record. And if you care to put in maybe a written statement or something of that matter, we would entertain providing that in the record. Um, thank you guys for coming and testifying. I know that it can be contentious at times, but at the end of the day, that's how we get to a result that I think is comfortable for all people of the state of Michigan. So I do appreciate you guys taking the time to come here today. Um, there being no further business before the committee, the Committee of Oversight will stand adjourned.

END OF TRANSCRIPT



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