

# GAMING LEGALNEWS

## DOLLARS IN, DOLLARS OUT: DOES IT MAKE "CENTS" FOR TENNESSEE TO FURTHER LEGALIZE GAMBLING IN THE STATE?

by W. Stuart Scott and Rodney D. Butler

Uniquely situated in the mid-south, the state of Tennessee and its "three grand divisions," or regions, each have their own tourist attractions and destinations. East Tennessee has the Great Smoky Mountains along with attractions such as Dollywood in Pigeon Forge and the quaint town of Gatlinburg nestled in the heart of the mountains. Middle Tennessee has Nashville, known as Music City USA, with the Country Music Hall of Fame, The Grand Ole Opry, Ryman Auditorium, Music Row, and the famed honky-tonks on Broadway. West Tennessee and Memphis are home to the blues, barbeque, Beale Street, Elvis, and Graceland. While all of these attractions bring tourists and their dollars into the state, is Tennessee losing a stream of revenue from tourists and, in particular, Tennessee residents, who are leaving the state's borders in order to gamble in casinos? The answer to this question is a resounding "YES"!

While Tennessee has not yet legalized casino gambling, Tennesseans do have easy access to casino gambling. As mentioned, Tennessee is uniquely situated in the mid-south. In fact, eight different states (Kentucky, Virginia, North Carolina, Georgia, Alabama, Mississippi, Arkansas, and Missouri) share a border with Tennessee. Three of those states (North Carolina, Mississippi, and Missouri) already have legalized tribal or commercial gambling. According to the American Gaming Association's 2012 Edition of the *State of the States: The AGA Survey of Casino Entertainment*, Tunica (Mississippi) was the ninth largest casino market for the calendar year 2011.

Tunica is only about a half-hour drive from Memphis. On the other end of the state, residents and tourists to Knoxville and the Great Smoky Mountains can easily drive to Cherokee, North Carolina, in a little over an hour (about 75 miles from Knoxville) to enjoy casino gaming. For those in the northwest portion of Tennessee, they are not far from riverboat gambling in Caruthersville, Missouri, which is situated on the border of the two states. Lastly, middle Tennesseans are within a 2.5-hour drive to casinos in the states of Illinois (Metropolis) and Indiana (Evansville).

Expand the drive time for middle Tennesseans to 4.5 hours, and they can reach not only the before-mentioned casinos in Illinois and Indiana, but also Tunica (Mississippi), Cherokee (North Carolina), and the seventeenth largest casino market in 2011, Lawrenceburg, Indiana. Nevertheless, does easy access to gaming actually mean that Tennesseans are crossing the border to gamble?

Based solely upon the data reviewed from the Mississippi Gaming Commission for the Northern River region of Mississippi, which would include Tunica, the answer to this question also appears to be a



February 13, 2013 • Volume 6, Number 4

### GAMING LEGAL NEWS EDITORIAL BOARD

**Robert W. Stocker II**, Gaming Law  
517.487.4715 • rstocker@dickinsonwright.com

**Dennis J. Whittlesey**, Gaming Law/Indian Law  
202.659.6928 • dwhittlesey@dickinsonwright.com

**Michael D. Lipton, Q.C.**, Gaming Law  
416.866.2929 • mdliptonqc@dickinsonwright.com

**Peter H. Ellsworth**, Gaming Law/Indian Law  
517.487.4710 • pellsworth@dickinsonwright.com

**Peter J. Kulick**, Gaming Law/Taxation  
517.487.4729 • pkulick@dickinsonwright.com

**Kevin J. Weber**, Gaming Law  
416.367.0899 • kweber@dickinsonwright.com

### GAMING WEB SITES OF INTEREST

www.indianz.com  
www.pechanga.net  
www.indiangaming.org  
www.nigc.gov  
www.michigan.gov/mgcb  
www.gaminglawmasters.com  
www.casinoenterprisemanagement.com  
www.ggbmagazine.com

*Disclaimer: Gaming Legal News is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the fields of gaming law and federal Indian law. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered in Gaming Legal News.*

resounding “YES”! According to the Mississippi Gaming Commission, between the first quarter of 2007 and the third quarter in 2012, there were only two quarters in which the percentage of Tennesseans patronizing the Northern River region casinos in Mississippi fell below 30%. The fourth quarter of 2007 saw 28.56% of patrons from Tennessee to the Northern River region casinos in Mississippi, whereas the second quarter of 2008 saw 29.76%. Perhaps even more remarkable is the fact that during the same time period, 2007-2012, at the same Northern River region casinos in Mississippi, the data demonstrates that Tennesseans outpaced patrons from every other state, including the host state of Mississippi, in every single quarter.

Certainly, these figures show that Tennesseans are consistently willing to cross state borders to find casino gaming. It should be noted that similar patterns were found in the years leading up to the state's legalization of a lottery in 2002, which began operating in 2004. Perhaps these same patterns will open the door to further legalization of gambling in Tennessee, because otherwise the state is simply watching dollars leave, dollars which could stay within its borders for education, health, roads, property, and other programs, similar to the use of casino revenues in other states. With two other bordering states, Kentucky and Arkansas, actively discussing legalizing casino gaming, the time to act by Tennessee may be sooner rather than later.

#### Mississippi Gaming Commission Data

Quarter/Year	% of Residents From Tennessee	% of Residents From Mississippi
3rd 2012	30.70	20.40
2nd	32.05	21.59
1st	31.60	21.81
4th 2011	30.79	19.69
3rd	30.56	17.48
2nd	32.85	18.93
1st	36.16	19.44
4th 2010	33.00	18.04
3rd	33.34	18.00
2nd	33.25	18.36
1st	33.91	18.83
4th 2009	34.64	18.21
3rd	33.51	17.33
2nd	33.61	17.35
1st	33.58	18.04
4th 2008	30.40	17.70
3rd	32.08	17.01
2nd	29.76	17.19
1st	30.57	17.43

Quarter/Year	% of Residents From Tennessee	% of Residents From Mississippi
4th 2007	28.56	16.20
3rd	31.54	16.53
2nd	32.18	16.58
1st	32.11	16.36

*Stuart Scott is a member in Dickinson Wright's Nashville office. He can be reached at 615.620.1710 or [sscott@dickinsonwright.com](mailto:sscott@dickinsonwright.com). Rodney Butler is an associate in the Nashville office. He can be reached at 615-620-1758 or [rbutler@dickinsonwright.com](mailto:rbutler@dickinsonwright.com).*

#### MICHIGAN GAMING REVENUES SLIGHTLY DECREASE IN 2012: MICHIGAN GAMING CONTROL BOARD RELEASES CALENDAR YEAR 2012 AND DECEMBER 2012 REVENUE DATA

*by Ryan M. Shannon*

The Michigan Gaming Control Board (“MGCB”) released both the December 2012 and the 2012 annual revenue and wagering tax data for the three Detroit, Michigan, commercial casinos. The aggregate annual revenue for the three Detroit casinos decreased by 0.5% in 2012 relative to 2011. The slight decrease for 2012 bucks a trend of upward revenues in the prior two years: 2011 revenue figures showed a 3.4% increase over those in 2010; and 2010 revenues in turn showed a 2.4% increase over those in 2009.

In 2012, MGM gained 0.6% of the Detroit market, with its share rising to 42.7%. Greektown also added market share in 2012, gaining 0.1% over 2011, rising to 24.85%. MotorCity Casino lost the reciprocal 0.7%, dropping to 32.45% of the market for the year.

For December 2012, the three Detroit commercial casinos posted a collective 4.4% decrease in gaming revenues compared to the same month in 2011. Aggregate gross gaming revenue for the Detroit commercial casinos increased, however, in December 2012 compared to November 2012 revenue figures by approximately 4.8%, continuing a trend of an increase in revenues from November to December in prior years.

MGM Grand Detroit posted negative gaming revenue results for December 2012 as compared to the same month in 2011, with gaming revenue decreasing by nearly 3.1%. MGM Grand Detroit continued to maintain the largest market share among the three Detroit commercial casinos and had total gaming revenue in December 2012 of slightly less than \$50.7 million. MotorCity Casino had monthly gaming revenue exceeding \$40.2 million and posted a 0.5% decrease in December 2012 compared to its December 2011 revenues. Greektown Casino had gaming revenue of approximately \$27.3 million, with its gaming revenue decreasing by 11.9% compared to December 2011.

The revenue data released by the MGCB also includes the total wagering tax payments made by the casinos to the State of Michigan. The gaming revenue and wagering tax payments for MGM Grand

Detroit, MotorCity Casino, and Greektown Casino for December 2012 were:

<i>Casino</i>	<i>Gaming Revenue</i>	<i>State Wagering Tax Payments</i>
MGM Grand Detroit	\$50,666,855.19	\$4,104,015.27
MotorCity Casino	\$40,241,934.75	\$3,259,596.71
Greektown Casino	\$27,328,561.61	\$2,213,613.49
<b>Totals</b>	<b>\$118,237,351.55</b>	<b>\$9,577,225.47</b>

The annual gaming revenue and wagering tax payments for MGM Grand Detroit, MotorCity Casino, and Greektown Casino for 2012 were:

<i>Casino</i>	<i>Gaming Revenue</i>	<i>State Wagering Tax Payments</i>
MGM Grand Detroit	\$604,879,416.74	\$48,995,232.76
MotorCity Casino	\$459,750,323.64	\$37,239,776.21
Greektown Casino	\$352,104,685.88	\$28,520,479.56
<b>Totals</b>	<b>\$1,416,734,426.26</b>	<b>\$114,755,488.53</b>

*Ryan Shannon is an associate in Dickinson Wright's Lansing office. He can be reached at 517.487.4719 or rshannon@dickinsonwright.com.*