

**AMENDMENT TO
A COMPACT BETWEEN
THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
AND
THE STATE OF MICHIGAN
PROVIDING FOR THE CONDUCT OF TRIBAL CLASS III GAMING
BY THE
LITTLE TRAVERSE BAYBANDS OF ODAWA INDIANS**

The Compact made and entered on the 3d day of December, 1998 by and between the LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS (hereinafter referred to as "Tribe") and the STATE OF MICHIGAN (hereinafter referred to as "State") approved by the Secretary of the Interior by publication in the Federal Register on February 18, 1999 at 64 Fed. Reg. 8111, is hereby amended in accordance with Section 16 of the Compact. All provisions of the Compact not explicitly added or amended herein shall remain in full force and effect.

Section 2(B)(I) is amended to read as follows:

"Eligible Indian lands" means trust and reservation lands acquired under 25 U.S.C. § 1300k-4(a) within Emmet or Charlevoix Counties, Michigan. A total of two (2) tribal Class III gaming facilities may be located on Eligible Indian lands; provided, however, if any tribe which attains federal recognition subsequent to the date of this Compact is granted the right, under a valid Compact with the State of Michigan, to operate more than two (2) Class III gaming facilities on its Indian lands, the Tribe shall be afforded the same right subject to the same terms and conditions imposed on such newly recognized tribe.

Section 2(E) is added and inserted to read as follows:

"Petoskey Site" means the Class III gaming facility that the Tribe has been continuously operating under the terms of the Compact since January of 2000 at 1967 U.S. 131 South, Petoskey, MI or any relocation of that site within the Petoskey vicinity.

Section 2(F) is added and inserted to read as follows:

"Second Site" means the Class III Gaming facility that the Tribe is allowed to operate under the definition of "Eligible Indian lands" in addition to the Petoskey Site. The location of the Second Site is contingent on the approval of the affected local unit of State government (either city, village, or township) by formal action of the governing body, or referendum, or by such other means satisfactory to the Governor.

Section 4(1) is amended to read as follows:

No person under the age of 18 may participate in any Class III game at the Petoskey Site. No person under the age of 21 may participate in any Class III game at the Second Site, unless the State changes its law to allow persons under the age of 21 to participate in State licensed casino gaming.

Section 4(0) is added and inserted to read as follows:

The Tribe shall send reports of customers' winnings to the State to the same extent federal law requires the Tribe to send such reports to the federal government.

Section 12 (A) is amended to read as follows:

This Compact shall be binding upon the State and the Tribe for a term of twenty five (25) years from the effective date of these amendments unless modified or terminated by written agreement of both parties.

Section 12 (B) is amended as follows:

The phrase "twenty (20) years after the Compact becomes effective" is replaced by "twenty five (25) years after these Compact amendments become effective."

Section 17 (B) is amended to read as follows:

(B)(1) For the Petoskey site, so long as there is a binding Class III Compact in effect between the State and Tribe and no change in State law is enacted which is intended to permit or permits the operation of electronic games of chance or commercial casino games by any other person (except a person operating such games in the City of Detroit pursuant to the Initiated Law of 1996, MCL 432.201 *et seq.*) and no other person (except a federally-recognized Indian Tribe operating pursuant to a valid Compact under IGRA or a person operating in the City of Detroit pursuant to the Initiated Law of 1996, MCL 432.201) within the State lawfully operates electronic games of chance or commercial casino games, including expansion of lottery games beyond that allowable under State law on the date of execution of this document by the Tribe and State, the Tribe shall make payments to the State as provided in subsection (C). Provided, once the Second Site has been in operation for a period of 24 months, the Tribe shall continue to make payments to the State as provided in subsection (C) unless any such expansion of gaming permitted under State law occurs within any of the counties listed in Section 17(B)(2).

(B)(2) For the Second Site, so long as there is a binding Class III Compact in effect

between the State and Tribe and no change in State law is enacted which is intended to permit or permits the operation of electronic games of chance or commercial casino games, including expansion of lottery games beyond that allowable under State law on the date of execution of this document by the Tribe and State, by any other person within any of the following counties: Emmet, Cheboygan, Charlevoix, Antrim, Otsego, Crawford, Kalkaska, Presque Isle, Montmorency and Oscoda, the Tribe shall make payments to the State as provided in subsection (C).

Section 17 (C) is amended to read as follows:

(C) From and after the effective date of this Compact, and so long as the conditions set forth in subsection (B) remain in effect, the Tribe will make semi-annual payments to the State as follows:

(i) Payment to the State, as directed by the Governor or designee, in an amount equal to eight percent (8%) of the net win at the casino derived from all Class III electronic games of chance operated at the Petoskey Site, as those games are defined in this Compact. Payment to the State, as directed by the Governor or designee, in an amount equal to ten percent (10%) of the first 50 million dollars in annual net win at the casino derived from all Class III electronic games of chance operated at the Second Site, as those games are defined in this Compact, and twelve percent (12%) of annual net win in excess of 50 million dollars.

(ii) As used in this subsection, "net win" means the total amount wagered on each electronic game of chance, minus the total amount paid to players for winning wagers at such machines.

(iii) For purposes of these payments, all calculations of amounts due shall be based upon a fiscal year beginning October 1 and ending September 30 of the following calendar year, unless the parties agree on a different fiscal year, and all payments due the State pursuant to the terms of this section shall be paid no later than sixty (60) days after October 1 and March 31 of each year. Any payments due and owing from the Tribe in the year this Compact is approved, or the final year the Compact is in force, shall reflect the actual net win but only for the portion of the year the Compact is in effect.

Section 17 (E) is added and inserted to read as follows:

Impact of additional Indian Gaming Facilities.

(i) The payments by the Tribe to the State for the economic benefits of exclusivity provided for in this Section 17 shall cease upon the opening of a class III gaming facility without the express consent of the Tribe in any of the counties

listed in Section 17(B)(2) by a tribe that is already federally recognized on the date of execution of these amendments by the Tribe and State.

(ii) In the event that a tribe that is not federally recognized on the date of execution of these amendments by the Tribe and State opens a Class III gaming facility without the express consent of the Tribe in any of the counties listed in Section 17(B)(2), the payment provided for in Section 17(C) from the Petoskey site shall be reduced to 6% of net win, and the payment provided for in Section 17(C) from the Second Site shall be reduced to 8% of net win.

Section 18. The Tribe and State expressly intend and understand that the Tribal payments to local governments provided for in Section 18 of the Compact apply to both the Petoskey Site and the Second Site.

Effective Date. These amendments shall take effect upon completion of all of the following:

- (A) Execution by the Governor of the State of Michigan.
- (B) Execution by the Tribal Chairperson of the Little Traverse Bay Bands of Odawa Indians.
- (C) Submission of these amendments to the United States Secretary of the Interior for approval pursuant to the provisions of the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*
- (D) Publication of the approval of the Secretary of the Interior in the Federal Register.

IN WITNESS WHEREOF, the Tribal Chairperson acting for the Little Traverse Bay Bands of Odawa Indians and the Governor acting for the State of Michigan have hereunto set their hands and seals.

Date: 7/14/03
By: [Signature]
Gerald V. Chingwa, Chairperson

Date: 7/22/03
By: [Signature]
Jennifer M. Granholm, Governor