

# HOUSE . . . . . No. 358

By Mr. Flynn of Bridgewater, petition of David L. Flynn relative to authorizing low stakes card games at pari-mutuel facilities. Economic Development and Emerging Technologies.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

### AN ACT AUTHORIZING LOW STAKES CARD GAMES AT PARI-MUTUEL FACILITIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Notwithstanding any General or special law to the contrary,  
2 M.G.L. Chapter 128A is hereby amended by adding at the end  
3 thereof the following section:—

4 (2) DEFINITIONS. As used in this section:—

5 (a) “Authorized game” means a game or series of games of  
6 poker which are played in a non-banking manner.

7 (b) “Banking game” means a game in which the house is a par-  
8 ticipant in the game, taking on players, paying winners, and col-  
9 lecting from losers or in which the card room establishes a bank  
10 against which participants play.

11 (c) “Card room” means a facility where authorized card games  
12 are played for money or anything of value and to which the public  
13 is invited to participate in such games and charged a fee for par-  
14 ticipation by the operator of such facility. Authorized games and  
15 card rooms do not constitute casino gaming operations.

16 (d) “Card room management company” means any individual  
17 not an employee of the card room operator, any proprietorship,  
18 partnership, corporation, or other entity that enters into an agree-  
19 ment with a card room operator to manage, operate, or otherwise  
20 control the daily operation of a card room.

21 (e) “Card room distributor” means any business that distributes  
22 card room paraphernalia such as card tables, betting chips, chip

23 holders, drop boxes, banking supplies, playing cards, card shuf-  
24 flers, and other associated equipment to authorized card rooms.

25 (f) “Card room operator” means a licensed pari-mutuel licensee  
26 which holds a valid license to conduct live racing on, at least 100  
27 calendar days of a year.

28 (g) “Division” means the state Treasury.

29 (h) “Gross receipts” means the total amount of money received  
30 by a card room from any person for participation in authorized  
31 games.

32 (i) “House” means the card room operator and all employees of  
33 the card room operator.

34 (j) “Net proceeds” means the total amount of gross receipts  
35 received by a card room operator from card room operations less  
36 direct operating expenses related to card room operations,  
37 including labor costs, admission taxes only if a separate admission  
38 fee is charged for entry to the card room facility, gross receipts  
39 taxes imposed on card room operators by this section, the annual  
40 card room license fees imposed by this section on each table oper-  
41 ated at a card room, and reasonable promotional costs excluding  
42 officer and director compensation, interest on capital debt, legal  
43 fees, real estate taxes, bad debts, contributions or donations, or  
44 overhead and depreciation expenses not directly related to the  
45 operation of the card rooms.

46 (k) “Rake” means a set fee or percentage of the pot assessed by  
47 a card room operator for providing the services of a dealer, table,  
48 or location for playing the authorized game.

49 (3) **CARDROOM AUTHORIZED.** Notwithstanding any other  
50 provision of law, it is not a crime for a person to participate in an  
51 authorized game at a licensed card room or to operate a card room  
52 described in this section if such game and card room operation are  
53 conducted strictly in accordance with the provisions of this sec-  
54 tion.

55 (4) **AUTHORITY OF DIVISION.** The Treasury shall admin-  
56 ister and regulate the operation of card rooms under this section  
57 and the rules adopted pursuant thereto, and is hereby authorized  
58 to:—

59 (a) Adopt rules, including, but not limited to:— the issuance of  
60 card room and employee licenses for card room operations; the  
61 operation of a card room; recordkeeping and reporting require-

62 ments; and the collection of all fees and taxes imposed by this  
63 section.

64 (b) Conduct investigations and monitor the operation of card  
65 rooms and the playing of authorized games therein.

66 (c) Review the books, accounts, and records of any current or  
67 former card room operator.

68 (d) Suspend or revoke any license or permit, after hearing, for  
69 any violation of the provisions of this section or the administrative  
70 rules adopted pursuant thereto.

71 (e) Take testimony, issue summons and subpoenas for any wit-  
72 ness, and issue subpoenas duces tecum in connection with any  
73 matter within its jurisdiction.

74 (f) Monitor and ensure the proper collection of taxes and fees  
75 imposed by this section. Permit holder internal controls are man-  
76 dated to ensure no compromise of state funds. To that end, a  
77 roaming division auditor will monitor and verify the cash flow  
78 and accounting of card room revenue for any given operating day.

79 (5) LICENSE REQUIRED; APPLICATION; FEES.No person  
80 may operate a card room in this state unless such person holds a  
81 valid card room license issued pursuant to this section.

82 (a) Only those persons holding a valid card room license issued  
83 by the division may operate a card room. A card room license may  
84 only be issued to a licensed pari-mutuel permit holder and an  
85 authorized card room may only be operated at the same facility at  
86 which the permit holder is authorized under its valid pari-mutuel  
87 wagering permit to conduct pari-mutuel wagering activities.

88 (b) After the initial card room license is granted, the application  
89 for the annual license renewal shall be made in conjunction with  
90 the applicant's annual application for its pari-mutuel license. If a  
91 permit holder has operated a card room during any of the 3 pre-  
92 vious fiscal years and fails to include a renewal request for the  
93 operation of the card room in its annual application for license  
94 renewal, the permit holder may amend its annual application to  
95 include operation of the card room. In order for a card room  
96 license to be renewed the applicant must have requested, as part of  
97 its pari-mutuel annual license application, to conduct at least 90  
98 percent of the total number of live performances conducted by  
99 such permit holder during either the state fiscal year in which its  
100 initial card room license was issued or the state fiscal year

101 immediately prior thereto. If the application is for a harness  
102 permit holder card room, the applicant must have requested autho-  
103 rization to conduct a minimum of 140 live performances during  
104 the state fiscal year immediately prior thereto. If more than one  
105 permit holder is operating at a facility, each permit holder must  
106 have applied for a license to conduct a full schedule of live racing.

107 (c) Persons seeking a license or a renewal thereof to operate a  
108 card room shall make application on forms prescribed by the divi-  
109 sion. Applications for card room licenses shall contain all of the  
110 information the division, by rule, may determine is required to  
111 ensure eligibility.

112 (d) The annual card room license fee for each facility shall be  
113 \$500 for the first table and \$250 for each additional table to be  
114 operated at the card room. This license fee shall be deposited by  
115 the division with the Chief Financial Officer to the credit of the  
116 Pari-mutuel Wagering Trust Fund.

117 (7) CONDITIONS FOR OPERATING A CARDROOM.

118 (a) A card room may be operated only at the location specified  
119 on the card room license issued by the division, and such location  
120 may only be the location at which the pari-mutuel permit holder is  
121 authorized to conduct pari-mutuel wagering activities pursuant to  
122 such permit holder's valid pari-mutuel permit or as otherwise  
123 authorized by law.

124 (c) A card room operator must at all times employ and provide  
125 a non-playing dealer for each table on which authorized card  
126 games which traditionally utilize a dealer are conducted at the  
127 card room. Such dealers may not have any participatory interest in  
128 any game other than the dealing of cards and may not have an  
129 interest in the outcome of the game. The providing of such dealers  
130 by a licensee shall not be construed as constituting the conducting  
131 of a banking game by the card room operator.

132 (d) Each card room operator shall conspicuously post upon the  
133 premises of the card room a notice which contains a copy of the  
134 card room license; a list of authorized games offered by the card  
135 room; the wagering limits imposed by the house, if any; any addi-  
136 tional house rules regarding operation of the card room or the  
137 playing of any game; and all costs to players to participate,  
138 including any rake by the house. In addition, each card room oper-  
139 ator shall post at each table a notice of the minimum and max-

140 imum bets authorized at such table and the fee for participation in  
141 the game conducted.

142 (e) The card room facility shall be subject to inspection by the  
143 division or any law enforcement agency during the licensee's reg-  
144 ular business hours. The inspection will specifically encompass  
145 the permit holder internal control procedures approved by the  
146 division.

147 (f) A card room operator may refuse entry to or refuse to allow  
148 to play any person who is objectionable, undesirable, or disrup-  
149 tive, but such refusal shall not be on the basis of race, creed, color,  
150 religion, sex, national origin, marital status, physical handicap, or  
151 age, except as provided in this section.

152 (8) METHOD OF WAGERS; LIMITATION.

153 (a) No wagering may be conducted using money or other nego-  
154 tiable currency. Games may only be played utilizing a wagering  
155 system whereby all players' money is first converted by the house  
156 to tokens or chips which shall be used for wagering only at that  
157 specific card room.

158 (b) The card room operator may limit the amount wagered in  
159 any game or series of games, but the maximum bet may not  
160 exceed \$2 in value. There may not be more than three raises in  
161 any round of betting. The fee charged by the card room for partici-  
162 pation in the game shall not be included in the calculation of the  
163 limitation on the bet amount provided in this paragraph.

164 (9) BOND REQUIRED. The holder of a card room license shall  
165 be financially and otherwise responsible for the operation of the  
166 card room and for the conduct of any manager, dealer, or other  
167 employee involved in the operation of the card room. Prior to the  
168 issuance of a card room license, each applicant for such license  
169 shall provide evidence of a surety bond in the amount of \$50,000,  
170 payable to the state, furnished by a corporate surety authorized to  
171 do business in the state or evidence that the licensee's pari-mutuel  
172 bond required by S. 550.125 has been expanded to include the  
173 applicant's card room operation. The bond shall guarantee that the  
174 card room operator will redeem, for cash, all tokens or chips used  
175 in games. Such bond shall be kept in full force and effect by the  
176 operator during the term of the license.

177 (10) FEE FOR PARTICIPATION. The card room operator may  
178 charge a fee for the right to participate in games conducted at the

179 card room. Such fee may be either a flat fee or hourly rate for the  
180 use of a seat at a table or a rake subject to the posted maximum  
181 amount but may not be based on the amount won by players. The  
182 rake-off, if any, must be made in an obvious manner and placed in  
183 a designated rake area which is clearly visible to all players.  
184 Notice of the amount of the participation fee charged shall be  
185 posted in a conspicuous place in the card room and at each table at  
186 all times.

187 (11) RECORDS AND REPORTS.

188 (a) Each licensee operating a card room shall keep and maintain  
189 permanent daily records of its card room operation and shall  
190 maintain such records for a period of not less than 3 years. These  
191 records shall include all financial transactions and contain suffi-  
192 cient detail to determine compliance with the requirements of this  
193 section. All records shall be available for audit and inspection by  
194 the division or other law enforcement agencies during the  
195 licensee's regular business hours. The information required in  
196 such records shall be determined by division rule.

197 (b) Each licensee operating a card room shall file with the divi-  
198 sion a report containing the required records of such card room  
199 operation. Such report shall be filed monthly by licensees. The  
200 required reports shall be submitted on forms prescribed by the  
201 division and shall be due at the same time as the monthly pari-  
202 mutuel reports are due to the division, and such reports shall con-  
203 tain any additional information deemed necessary by the division,  
204 and the reports shall be deemed public records once filed.

205 (12) PROHIBITED ACTIVITIES.

206 (a) No person licensed to operate a card room may conduct any  
207 banking game or any game not specifically authorized by this sec-  
208 tion.

209 (b) No person under 18 years of age may be permitted to hold a  
210 card room or employee license, or engage in any game conducted  
211 therein.

212 (c) No electronic or mechanical devices, except mechanical  
213 card shufflers, may be used to conduct any authorized game in a  
214 card room.

215 (d) No cards, game components, or game implements may be  
216 used in playing an authorized game unless such has been fur-  
217 nished or provided to the players by the card room operator.

218 (e) Each licensee that operates a card room facility shall use at  
219 least 4 percent of such permit holder's card room monthly gross  
220 receipts to supplement its purses.

221 (f) The card room shall be deemed an accessory use to a  
222 licensed pari-mutuel operation.

223 (14) SUSPENSION, REVOCATION, OR DENIAL OF  
224 LICENSE; FINE.

225 (a) The division may deny a license or the renewal thereof, or  
226 may suspend or revoke any license, when the applicant has:—vio-  
227 lated or failed to comply with the provisions of this section or any  
228 rules adopted pursuant thereto; knowingly caused, aided, abetted,  
229 or conspired with another to cause any person to violate this sec-  
230 tion or any rules adopted pursuant thereto; or obtained a license or  
231 permit by fraud, misrepresentation, or concealment; or if the  
232 holder of such license or permit is no longer eligible under this  
233 section.

234 (b) If a pari-mutuel permit holder's pari-mutuel permit or  
235 license is suspended or revoked by the division pursuant to  
236 Chapter 550, the division may, but is not required to, suspend or  
237 revoke such permit holder's card room license. If a card room  
238 operator's license is suspended or revoked pursuant to this sec-  
239 tion, the division may, but is not required to, suspend or revoke  
240 such licensee's pari-mutuel permit or license.

241 (c) Notwithstanding any other provision of this section, the  
242 division may impose an administrative fine not to exceed \$1,000  
243 for each violation against any person who has violated or failed to  
244 comply with the provisions of this section or any rules adopted  
245 pursuant thereto.