

SENATE NO. 191

AN ACT TO CONTROL GAMING IN MASSACHUSETTS

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

1 SECTION 1. Section 48 of Chapter 6 of the General Laws, as appearing in the 2002 official
2 edition, is amended by adding the following:

3 SECTION 2. (a) Notwithstanding the provisions of G.L. c. 137, G.L. c. 271, or any other general
4 or special law to the contrary, each racing meeting licensee is eligible to be licensed, subject to
5 all terms and conditions imposed by the Lottery Commission, to operate a gaming
6 establishment; and shall have the right to operate a total of fifteen hundred (1500) slot
7 machines, video gaming devices or combination of, not to exceed fifteen hundred, at a racing
8 meeting licensee's premises only; and, provided, further, that each of said licensees shall have
9 the right to operate an equal number of slot machines, video gaming devices or combination of.
10 No person, entity or shareholder that owns a pari-mutual racing license shall be allowed to

11 possess more than one gaming license. Gaming licenses issued to pari-mutual racing licensees
12 shall be limited to slot machines, video gaming devices or combination of.

13 Prior to the issuance of the gaming license, a plan must be submitted by each licensee to
14 the commission for approval that details the construction, operation, and maintenance necessary
15 to accommodate the operation of VLTs/Slot Machines on the premises. There shall be a one
16 time \$25 million licensing fee to be paid by the licensee to the General Fund within 30 days of
17 the approval of said licensee's plan.

18 SECTION 3. The lottery commission may also impose a civil fine of up to \$50,000 dollars
19 upon any person per entity licensed, registered or otherwise approved under this act, for any
20 violation of this act or of any general or special law related to gambling.

21 SECTION 4. The lottery commission may by regulation approve or disapprove transactions,
22 events, and processes as provided in this act, take actions reasonably designed to ensure that no
23 unsuitable persons are associated with controlled gambling activities.

24 SECTION 5. The minimum age for a person to work at a gaming facility is 21 years of age.
25 The minimum age for a person to engage in a gaming activity is 21 years of age.

26 SECTION 6. So-called licensees shall pay weekly to the lottery commission, on behalf of the
27 Commonwealth, a sum equal to sixty-five (65%) percent of gaming revenues derived from a
28 pari-mutual gaming facility. Further, the lottery commission shall collect all fees, fines and
29 gaming revenues from the gaming licensees and activities associated with the gaming licensees.
30 The Lottery Commission, in conjunction with the House and Senate Ways and Means
31 Committees, shall set revenue expectations annually for local aid distribution. Should these
32 projections, including expected growth, not be met, then the lottery commission shall retain a
33 portion of the fees, fines, and revenues collected from pari-mutual gaming facilities for the

34 purpose of replenishing losses in local aid revenue. The Lottery Commission shall further retain
35 a portion of the fees, fines, and revenues collected for the purpose of executing its duties as
36 required under the law. Of the 65% of the gaming revenues that the commission shall receive,
37 10% will be distributed for the following:

- 38 (1) mitigation to the municipality where the facility is located,
- 39 (2) assistance to the purses of pari-mutual licensees in conjunction with current racing
40 commission standards
- 41 (3) assistance for human services related to gaming, which includes addressing
42 gambling addiction

43 The remainder shall be deposited into the General Fund. The lottery commission shall set a
44 schedule of when fees and gaming revenues are to be collected. The lottery commission shall
45 provide a quarterly report to the state auditor and the house and senate committees on ways and
46 means on all monies collected from the gaming licensees. The remaining thirty-five percent
47 (35%) of gaming revenues shall be distributed to the licensee. The licensee shall be solely
48 responsible for the continued maintenance, operation, including utilities, any other appropriate
49 costs associated with the general upkeep of the facility, and any applicable taxes.

50 SECTION 7. The Massachusetts Lottery Commission shall provide to the senate and house
51 committees on ways and means a copy of all regulations for their records. It shall determine the
52 compensation/payouts/winnings from slots/video gaming devices.

53 SECTION 8. The lottery commission shall promulgate and execute regulations pertaining to
54 proper law enforcement and security for all pari-mutual licenses.

55 SECTION 9. The lottery commission or a gaming licensee shall be permitted to deny access to
56 the gaming facilities persons who have in the past violated gaming state law or gaming

57 regulation, or had behaved unreasonably causing disruption to the proper operation of a gaming
58 facility.

59 SECTION 10. All licenses issued and regulated by the commission shall not be transferred to
60 another entity without the approval of the commission.

61 SECTION 11. There shall be an additional two (2) gubernatorial appointments added to said
62 commission. The attorney general or his designee, and the state auditor or his designee, shall
63 also be granted one (1) seat each on the lottery commission. These appointment shall be made
64 within 30 days of the passage of this act.

65 SECTION 12. The Massachusetts Lottery Commission shall make specific findings on the
66 performance of the tracks, and applicable revenue distribution structures. The commission shall
67 report its' finding and submit these findings to the joint committee on government regulations,
68 and the house and senate committees on ways and means within 1 year after the passage of this
69 act.

70 SECTION 13. The lottery commission shall choose slot machines/video gaming devices
71 vendors per a request for proposal (RFP) and shall set guidelines for approval of said request
72 and set rate of payment to vendors. Said vendors shall be solely responsible for repair and
73 maintenance of all slot machines. In addition to general maintenance, vendors shall provide
74 relevant data on daily performance of all machines to the lottery commission.

75 SECTION 14. There shall be established a Massachusetts Gaming Commission consisting of
76 seven members. Each member shall be a citizen of the United States and a resident of the
77 commonwealth. No person who was formerly a licensee or an unlicensed employee of a
78 gaming licensee within the five years prior to any appointment shall be eligible for appointment
79 to the commission. The commission shall be composed of the most qualified persons available;

80 but no person actively engaged or having a direct pecuniary interest in gaming activities shall be
81 a member of the commission. The governor shall appoint four members of the commission, one
82 of which will serve as its chair, and one of which shall be the Inspector General or his designee.
83 The attorney general or his designee shall be a member of the commission. The treasurer of the
84 commonwealth or his designee shall be a member of the commission, and the state auditor or
85 his designee shall be a member of the commission.

86 In the occurrence of a vacancy, the original appointing authority shall fill any vacancies
87 within 45 days. Any commissioner may be removed by the original appointing authority for
88 just cause, and shall be removed immediately upon conviction of any felony.

89 The term of office of each member of the commission shall be 5 years except that, of the
90 members initially appointed, 1 shall be appointed by the governor for a term of 2 years, 1 shall
91 be appointed by the secretary of state for a term of 4 years, 1 shall be appointed by the attorney
92 general for a term of 3 years, 1 shall be appointed by the state treasurer for a term of 5 years,
93 and 1 shall be appointed by the auditor for a term of 5 years. After the initial term the term of
94 office for each member of the commission is 5 years, provided that no member serve more than
95 3 consecutive terms.

96 The commission members shall devote that time to the business of the commission as
97 may be necessary to the discharge of their duties. The members of the commission shall be
98 compensated at \$500 per meeting; commission members shall be reimbursed for traveling and
99 other expenses necessarily incurred in the performance of official duties. Before entering upon
100 the duties of his or her office each member shall swear that he or she does not have a pecuniary
101 interest in any business or organization holding a gaming license under this act, or doing
102 business with any gaming service industry, as defined by this act and shall submit to the

103 governor, attorney general and state auditor, a statement of financial interest required by chapter
104 286B the General Laws listing all assets and liabilities, property and business interests, and
105 sources of income of said commissioner and his spouse. Such statement shall be under oath and
106 shall be filed at the time of appointment and annually thereafter. No commission member shall
107 have any interest, direct or indirect, in any applicant or in any person licensed by or registered
108 with the commission during his term of office.

109 Regular and special meetings of the commission may be held, at the discretion of the
110 commission, at such times and places as it may deem to be convenient, but a minimum of 6
111 regular meetings must be held over the course of 1 year. A public record of every vote and
112 meeting minutes shall be maintained at the commission's general office. The commission may
113 maintain any other files and records as it deems appropriate. Said records shall be available and
114 open to the public for review. A quorum of 4 members is necessary for the commission to meet
115 and a majority vote of the commission shall be 3 members.

116 SECTION 15. There shall be no more than two commercial gaming licenses issued to separate
117 entities that are not licensed to conduct pari-mutual racing in the commonwealth. The said
118 licenses are limited to one (1) in Hampden County and one (1) in Bristol County. Should there
119 be more than one entity seeking a gaming license in a single location, the gaming commission
120 shall choose the best proposal possible. No single gaming entity, including its shareholders,
121 shall have more than one gaming license.

122 SECTION 16. The commission shall have the power to issue licenses to persons or entities
123 seeking to engage in the business of gambling in the Commonwealth with the exception of
124 lottery, keno, and games associated with a charity such as beano and casino nights, so-called.

125 The commission shall have public hearings when reviewing an applicant's gaming
126 licensee application, when having an administrative hearing on suspension, revocation, transfer
127 or limitation of any of the commercial gaming licensee's licenses.

128 For each commercial gaming license there shall be a onetime fee of \$150 million. The
129 commission shall have a public hearing regarding each of these licenses and solicit testimony as
130 to whether to provide any of these licenses. The commission may set limits and restrictions on
131 licenses, which can include specific operating functions of a gaming facility.

132 SECTION 17. The Massachusetts Gaming Control Commission shall select and appoint an
133 executive director of said Commission. The executive director shall serve at the pleasure of the
134 commission, shall devote his entire time and attention to the duties of his office, and shall
135 receive such salary that the commission may determine. The executive director shall supervise
136 and administer the operation of the commission in accordance to the commission's provisions of
137 the law and regulations. The executive director shall employ employees necessary to the
138 execution of the goals of the commission. The executive director, subject to the approval of the
139 commission and the applicable laws relating to public contracts, may enter into contracts for the
140 operation of the commission, or any part thereof. No contract awarded or entered into by the
141 executive director shall be assigned by the holder thereof except with the specific approval of
142 the commission.

143 The executive director, with the approval of the commission, may expend for legal,
144 investigative, clerical and other assistance such as may be appropriated therefor. Investigators
145 employed by the commission shall have access to all records maintained by the all licensees and
146 registrants hereunder, whether maintained at the licensed gambling establishment or other
147 location as may be pertinent to the investigator powers of the commission.

148 The commission shall promulgate regulations for the certification and licensing of
149 gaming employees. The information to be furnished by a licensee relating to his gaming
150 employees; the fingerprinting of an applicant or licensee or employee of a licensee or other
151 methods of identification.

152 The commission shall be authorized to issue, limit or revoke alcohol licenses to a
153 gaming entity, collect annual alcohol licensing fees, and said gaming entity shall be inspected
154 on a regular basis by the alcohol beverage control commission. The commission shall enter into
155 a contract with the state police, the alcohol beverage control commission, and the division of
156 inspections or the local inspector to carry out the regulations prescribed by the commission.
157 The commission shall set fines and collect fines for the violation of its regulations. It shall
158 investigate complaints made by any persons regarding any possible violation of law, record or
159 other deficiencies at any gaming facility that the commission licenses.

160 The commission shall promulgate regulations for violations of regulations, which may
161 include fines, suspension of licenses and revocation of license. The commission is authorized to
162 suspend any licenses created under this section immediate; provided that, an administrative
163 hearing is conducted within 5 days of the suspension.

164 The commission shall randomly audit the revenues of all gaming facilities. The
165 commission shall establish regulations to set the method and operation of gambling operations
166 including the type and manner of gambling, record keeping, accounting, audit requirements and
167 safeguarding of assets. The commission shall establish minimum security and safety
168 requirements at a gaming facility, including regular meetings with federal, state and local law
169 enforcement. The commission may investigate, civilly or criminally, fraud, deceit,
170 misrepresentation or violations of law by any person licensed or registered under this act, or the

171 occurrence of any such activity within or involving any licensed gambling establishment or
172 gambling operation. The commission shall inspect and or investigate a licensed gaming facility
173 on a regular basis. Should the commission discover any illegal act committed by a gaming
174 licensee or its agents, the commission shall report such illegal activity to the state attorney
175 general and the appropriate district attorney.

176 The commission shall determine the types of games allowed at a gaming facility pursuant to the
177 law. The commission shall set regulations to ensure that the gaming is fair and reasonable to
178 the consumers, including the manner in which winnings, compensation from games and gaming
179 devices, and gross revenue must be computed and reported by the licensee. The
180 compensation/payouts from slots or video gaming devices will be set by the commission.

181 The Governor shall not concur in a determination that a gaming establishment on newly
182 acquired lands would be in the best interest of an Indian tribe, pursuant to 25 U.S.C. § 2719
183 (b)(1)(A), unless the House and Senate each have authorized, by majority vote, the Governor to
184 so concur. The Governor shall not transfer or concur in the transfer of any real property located
185 in the commonwealth into a trust for the benefit of an Indian tribe, pursuant to 25 U.S.C. §
186 2719, without the approval, by vote, of the House and Senate. The commission shall have all
187 powers necessary to undertake the commonwealth's responsibilities and rights under the terms
188 of any compact entered into between the Commonwealth of Massachusetts and any federally
189 recognized tribe under the provisions of IGRA.

190 SECTION 18. There shall be a sum equal to 17% of net revenues, post payout and pre-
191 expenses, from all table games, slot machines or video gaming devices at the commercial
192 gaming facilities to be paid by the licensee to the commission. The commission shall retain a
193 portion of the fees, fines, and revenue collected for the purpose of executing its duties as

194 required under the law and the remainder shall be deposited in the general fund. The
195 commission shall set a schedule of when fees and gaming revenues are to be collected. The
196 commission shall provide a quarterly report to the state auditor and the house and senate
197 committees on ways and means on all monies collected from gaming licensees.

198 In addition to other provisions of this section, the commission must consider the
199 following when making a determination of issuing a gaming license. ,

- 200 (1) demonstrate that the applicant is able to and will invest no less than \$300 million
201 into the facility and property, which shall not include the purchase or lease price of
202 the land where the facility will be located,
- 203 (2) the applicant must have a certified vote from the city or town where the gaming
204 facility will be located, including those gaming entities located on public land.
- 205 (3) the applicant must have an agreement with the city or town and gaming facility.
206 Said agreement shall include all stipulations of responsibilities between the city or
207 town and the gaming facility and said agreement must be determined as reasonable
208 by the commission,
- 209 (4) the applicant must enter into an agreement with the cities and towns that share
210 borders with the municipality where the casino is to be located to provide for
211 mitigation at a rate that will be determined by the commission.
- 212 (5) the applicant must demonstrate to the commission that it will maintain hospitality
213 industry employment standards that meets or exceeds those in the state of California;
- 214 (6) Meet the licensee bonding requirement as set by the commission.
- 215 (7) The applicant must meet the qualifications to be a lottery reseller and must be a
216 lottery reseller for the purpose of lottery and keno games

217 SECTION 19. Section 283 of chapter 94 of the General Laws, as appearing in the 2000 official
218 edition, is amended in line 1 after the word “person” by inserting the words “except persons or
219 entities licensed under chapter 10,”

220 SECTION 20. Section 5A of chapter 271 of the General Laws, as appearing in the 2000 official
221 edition, is amended at the end thereof with the following sentence:- “Persons or entities licensed
222 under chapter 10 shall be exempt from this section.”

223 SECTION 21: Chapter 12B of the Massachusetts General Laws as appearing in the 2002 edition
224 is hereby stricken in its entirety.

225 SECTION 22: Section 23 of chapter 10 of the General Laws, as appearing in the 2000 official
226 edition is hereby amended by striking the following words: “No more than four members of the
227 commission shall be of the same political party.”

228 SECTION 22A: Section 24 of said Chapter 10 of the General Laws is hereby amended by
229 inserting after the word “sold” in line 25, the following words:- , provided, however, the
230 commission paid to sellers of on line games and instant games shall not be less than seven per
231 cent.

232 SECTION 23: All gaming revenue percentages as defined in this act shall remain in effect for
233 not less than ten years. The commission shall every ten years upon the issuance of each gaming
234 license conduct a review of the licensees. Should they, in the opinion of the commission, be in
235 good standing, they shall re-issue both gaming licenses upon receipt of a re-licensing fee to be
236 determined of the commission.

237 SECTION 24. This act shall take effect upon its passage.