



October 31, 2016

Mr. Steven T. James, House Clerk
Office of the Clerk of the House
State House, Room 145
Boston, MA 02133

Re: Filings for consideration in the 190th General Court

Dear Mr. James:

Pursuant to the provisions of Section 33 of Chapter 30 of the General Laws, I hereby submit the attached legislative recommendations from the Massachusetts Gaming Commission for consideration during the 2017-2018 legislative session.

The two proposed bills are:

1. AN ACT RELATIVE TO HORSE RACING AND WAGERING

This bill would repeal M.G.L. c. 128A and M.G.L. c.128C, which regulate horse racing, wagering on horse races and simulcasting in the Commonwealth and would repeal sections 7 and 60 of M.G.L. c. 23K, which govern simulcasting by gaming licensees and former racing licensees and the race horse development fund. The bill replaces those chapters and sections with a consolidated new M.G.L. c. 128D that places responsibility for the regulation of all matters related to horse racing with the Massachusetts Gaming Commission.

The legislation would direct the Gaming Commission to create regulations in accordance with the bill that support the racing industry in the Commonwealth. It would grant the Gaming Commission greater flexibility to determine the use of the Race Horse Development Fund, which is funded through revenues generated by the category 1 and category 2 gaming licensees. It further would grant the Gaming Commission the authority to regulate racing licensees on matters pertaining to safety and internal controls.

The Gaming Commission is seeking to repeal M.G.L. c. 128A, M.G.L. c. 128C, and sections 7 and 60 of M.G.L. c. 23K and replace it with M.G.L. c. 128D so that it can create regulations that modernize the regulation of racing and support its growth in the Commonwealth.



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2. AN ACT TO ENABLE MUNICIPAL AND REGIONAL PLANNING AGENCY
EMPLOYEES TO FULLY PARTICIPATE IN GAMING POLICY ADVISORY
COMMITTEES

This legislation would exempt municipal and regional planning employees who are members of the Gaming Policy Advisory Committee (GPAC), its Subcommittees and Local Community Mitigation Advisory Committees (or LCMACs) from Section 4 of the state's Conflict of Interest Law. M.G.L. c. 23K, §68 created the GPAC, subcommittees (including a Subcommittee on Community Mitigation) and LCMACs to provide advice to the Commission on gaming policy and related mitigation matters. By statute the LCMACs include appointees from the host and surrounding communities to the gaming facilities. It is likely municipal and regional planning agency employees that are familiar with how gaming facilities are being developed and operated in their communities are in the best position to provide informed input in many of these advisory roles. However, it has been determined that municipal and regional employees may be in violation of the State's Conflict of Interest Law (M.G.L. c. 268A) if they provide advice to the Gaming Commission while also performing their local duties involving gaming related matters. The Gaming Commission worked closely with the State Ethics Commission to craft language to allow municipal and regional planning employees to provide advice to the Gaming Commission while also meeting their gaming-related local and regional duties.

Mr. Clerk, attached are the two pieces of legislation on separate pages incorporating these recommendations. Please feel free to contact me if you have any questions about the content of these bills or need any additional information. Thank you for your assistance.

Very truly yours,

Edward R. Bedrosian, Jr.
Executive Director

Attachments

cc: Catherine Blue, General Counsel
John S. Ziemba, Ombudsman

AN ACT RELATIVE TO HORSE RACING AND WAGERING

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

SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out clause Tenth and inserting in place thereof the following clause:

Tenth, "Illegal Gaming", a banking or percentage game played with cards, dice, tiles or dominoes or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) pari-mutuel wagering on horse races and greyhound races under chapter 128D; (iv) a game of bingo conducted under chapter 271; and (v) charitable gaming conducted under said chapter 271.

SECTION 2. Chapter 128A of the General Laws is hereby repealed.

SECTION 3. Said chapter 128C is hereby repealed.

SECTION 4. Section 7 of chapter 23K of the General Laws is hereby repealed.

SECTION 5. Section 60 of chapter 23K of the General laws is hereby repealed.

SECTION 6. The General Laws are hereby amended by inserting after chapter 128C the following chapter:-

**CHAPTER 128D.
HORSE RACING AND WAGERING.**

Section 1. Preamble. It is the intent of this chapter to grant the Massachusetts Gaming Commission all necessary authority to oversee and regulate all aspects of horse racing and simulcasting in the Commonwealth with the object of promoting its efficient operation, and the honesty and integrity of the wagering process related to it. It is the further intent of this chapter that the Commission utilize best efforts to ensure that the horse racing industry be preserved and sustained for, amongst other reasons, the preservation of open space, the agricultural benefits associated with horse racing, and the creation and preservation of jobs and businesses associated with horse racing.

Section 2. Terms used in this chapter shall, unless the context otherwise requires, be construed as follows:

“Advance Deposit Wagering”, a form of pari-mutuel wagering in which an individual may deposit money to an account established through an agreement with a holder of a racing meeting license or simulcasting license and use the account balance to make and pay for wagers by the holder of the account which wagers may be made in person, by direct telephone call or by communication through other electronic media by the holder of the account.

“Breaks”, in the case of live horse racing meetings conducted in the commonwealth by a racing meeting licensee, the odd cents over any multiple of 10 cents of winnings per \$1 wagered; provided however, that in the case of live horse racing meeting conducted at a race track outside the commonwealth, the amount of the breaks shall be determined in accordance with the laws of the state in which the race track is located.

"Commission", the Massachusetts gaming commission established in chapter 23K.

“Exotic wager” a bet on the speed or ability of a combination of more than 1 horse in a single race.

“Guest track” a racing meeting licensee or an out-of-state pari-mutuel wagering facility which accepts a simulcast wager on a live race conducted at another track which is presented by simulcast at the facility of the racing meeting licensee or the out-of-state pari-mutuel wagering facility.

“Host track”, a racing meeting licensee or an out-of-state track which conducts a live race which is the subject of intertrack simulcasting and simulcast wagering.

“Pari-mutuel wagering”, a form of wagering on the outcome of an event in which all wagers are pooled and held by an association for distribution of the total amount, less the deductions authorized by law, to holder of tickets on the winning contestants.

"Premium", the amount paid to a racing meeting licensee in addition to a host track fee for purposes of providing a simulcast signal.

“Race track”, a track where live horse racing meeting are held, including but not limited to, grounds, auditoriums, amphitheatres and bleachers, if any, and adjacent places used in connection therewith.

“Racing license”, an authorization awarded by the commission, under specified conditions, to accept wagers on live horse racing conducted on licensed premises in the commonwealth.

“Racing licensee”, is a person who holds a racing license.

"Rebate" a portion of pari-mutuel wagers, otherwise payable to a racing licensee, that is paid to a holder of a pari-mutuel wagering ticket and that reduces the amount otherwise payable to such licensee, including, but not limited to, refunds to holders of pari-mutuel wagering tickets of any portion or percentage of the full face value of a pari-mutuel wager, paying a bonus on a winning

pari-mutuel ticket, awards of merchandise, services such as meals, parking, admission, seating and programs, free or reduced cost pari-mutuel wagers, monetary awards, or any other benefit that the commission deems appropriate to reward horse racing patrons for their patronage.

"Simulcast", the broadcast, transmission, receipt or exhibition, by any medium or manner, of a live race conducted live at a race track other than the one at which it is being exhibited at, whether inside or outside the commonwealth, including but not limited to, a system, network, or programmer which transmits, or receives, television or radio signals by wire, satellite, or otherwise.

"Simulcasting license", is an authorization awarded to a person by the commission under specified conditions, to accept simulcast wagers.

"Simulcast licensee", a person who holds a simulcasting license.

"Simulcast wager", a wager taken by a simulcast licensee on a race that is simulcast.

"Takeout", monies deducted from a pari-mutuel wager as required by the commission prior to payment of winnings.

Section 2. The commission shall have all powers necessary or convenient to effectively regulate horse racing, simulcasting and pari-mutuel wagering including, but not limited to, the power to adopt, amend or repeal regulations for the implementation, administration and enforcement of this chapter. The commission shall not issue a prohibition on horse racing or simulcasting or related wagering thereon; provided, however, that the commission may use its powers to act on each individual licensing decision or in all other decisions in the best interest of horse racing with the object of promoting its efficient operation and the honesty and integrity of the wagering process related to it.

The commission shall administer and enforce any general and special law related to pari-mutuel wagering and simulcasting. The commission shall serve as a host racing commission and an off-track betting commission for the purposes of 15 U.S.C. 3001 et seq. The commission shall have all requisite powers afforded in accordance with section 4 of chapter 23K. The power and authority granted to the commission shall be construed as broadly as necessary for the implementation, administration and enforcement of this chapter.

Section 3. (a) The commission shall promulgate regulations for the implementation, administration and enforcement of this chapter including, without limitation, regulations that:

(i) prescribe the application process and criteria for evaluation of the application and renewal for a racing license; provided, however, in determining whether to award or renew a racing license the commission shall take into consideration the physical location of the race track as it relates other proposed and licensed tracks, whether the race track will maximize benefits to the commonwealth, the support or opposition to each applicant from the public, and any other considerations deemed relevant by the commission;

- (ii) prescribe the process and criteria for evaluation of the application and renewal of a simulcasting license, provided, however that a simulcasting license shall be limited to a race meeting licensee, a gaming licensee pursuant to chapter 23K or an entity licensed under chapters 128A or 128C to conduct simulcasting as of June 1, 2016 and in granting a simulcasting license to a gaming licensee, the commission shall take into consideration the impact on existing facilities previously licensed pursuant to said chapters 128A and 128C;
- (iii) prescribe the minimum number of live racing days required to be held by a racing licensee;
- (iv) prescribe rules governing live horse racing, pari-mutuel wagering, simulcasting and simulcast wagering;
- (v) prescribe requirements that may direct a percentage of wagering received on in-state and out-of-state horse races to the Race Horse Development Fund established in section 8 to support purse assistance and breeding programs;
- (vi) prescribe the amount and manner that premiums, if any, will be assessed upon the racing meeting and/or simulcasting licensees;
- (vii) prescribe the amount and manner of takeouts;
- (viii) prescribe procedures and requirements for the use of breaks and unclaimed wagers;
- (ix) establish uniform standards and requirements for horse racing including, but not limited to, safety standards for horses, jockeys, drivers, and other participants, and for the drug testing of horses and jockeys and drivers;
- (x) prescribe the types of allowable wagers;
- (xi) prescribe procedures for the use of advance deposit wagering accounts including electronic components of advance deposit wagering account, rebates and rewards;
- (xii) prescribe the manner in which judges, stewards and race officials will be qualified and appointed;
- (xiii) develop procedures for the voluntary and involuntary exclusion of patrons from a race track in a manner consistent with section 45 of chapter 23K;
- (xiv) require racing meeting licensees and simulcasting licensees to develop protocols to prevent underage wagering and establish security procedures for ensuring the safety of minors at race tracks;
- (xv) prescribe the minimum internal control procedures for racing meeting licensees and simulcasting licensees including those for effective control over the internal fiscal affairs of a licensee, including provisions for implementation of a uniform standard of accounting, the

safeguarding of assets and revenues, the recording of cash and evidence of indebtedness and the maintenance of reliable records, accounts and reports of transactions, operations and events, including reports to the commission;

(xvi) establish licensure and registration procedures for employees of racing meeting licensees and simulcasting licensees not working at a gaming establishment pursuant to chapter 23K;

(xvii) establish licensure and registration provisions for veterinarians, blacksmiths, owners, trainers, jockeys and stable employees performing work at race tracks;

(xviii) require that all employees of a racing meeting licensee and simulcasting licensee who have racing or simulcasting responsibilities, be properly trained in their respective professions;

(xix) establish procedures governing the operation of the Racehorse Development Fund established pursuant to section 8 of this chapter;

(xx) prescribe grounds and procedures for the revocation, termination or suspension of licenses and registrations issued by the commission, and for the issuance of discipline or fines to persons holding licenses and registrations granted by the commission;

(xxi) prescribe the allocation of funds from racing meeting licensees and simulcast licensees for the purpose of funding the activities of the commission relative to racing; and

(xxii) prescribe any other issues related to the honest conduct of horse racing, simulcasting and wagering related to horse racing and simulcasting.

(b) The commission may, pursuant to section 2 of chapter 30A, promulgate, amend or repeal any regulation promulgated under this chapter as an emergency regulation if such regulation is necessary to protect the interests of the commonwealth in regulating horse racing.

Section 4. The commission may inspect and shall have access to the entire race track and premises associated therewith upon which activity is conducted pursuant to a racing meeting license or a simulcasting license issued in accordance with this chapter or chapter 23K including all records, documents, systems, equipment, and supplies on the premises.

Section 5. The commission may audit as often as the commission determines necessary the accounts, programs, activities, and functions of all racing meeting licensees and simulcasting licensees. To conduct the audit, authorized officers and employees of the commission or consultants contracted by the commission shall have access to such accounts at reasonable times, upon reasonable notice and the commission may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit.

Section 6. Each racing meeting licensee and simulcasting licensee shall make readily available to the commission all documents, materials, equipment, personnel and any other items requested during an investigation; provided, however, that material that a racing meeting licensee or simulcasting licensee considers a trade secret may, with the commission's approval, be protected

from public disclosure and the licensee may require nondisclosure agreements with the commission before disclosing such material.

Section 7. The commission shall establish application fees for all licenses, approvals, and renewals awarded under this chapter which shall include costs incurred for conducting a background investigation into an applicant. The commission may seek reimbursement from an applicant for any costs of investigation in excess of the initial application or renewal fee.

Section 8. (a) There shall be a Race Horse Development Fund to be administered by the commission which shall be used to support the best interest of the horse racing industry. The fund shall consist of monies deposited under subsection (c) of section 55 of chapter 23K, subclause (1) of clause (2) of section 59 of said chapter 23K and any money and any monies credited to or transferred to the fund from any other fund or source, including gifts, grants and donations. Amounts credited to the fund shall be expended:

- (i) to fund purses for live horse racing meetings;
- (ii) to support the general welfare of the horse racing and simulcasting industry in the commonwealth;
- (iii) for a commission program that supports health, pension, life insurance and other benefits deemed appropriate by the commission for owners, trainers, breeders, jockeys, drivers and other associated with horse racing;
- (iv) to support the equine economy which shall include but not be limited to commonwealth bred thoroughbred and Standardbred horses and veterinary medicine including but not limited to Tufts University School of Veterinary Medicine, equine care, open space preservation and equestrian sport and therapeutic programs.

(b) The commission shall ensure that not less than 50 per cent of amounts credited to the fund are available for purses under clause (i) in any year where live horse racing is conducted in the commonwealth and is sufficient to sustain those purse funds. No expenditure from the fund shall cause it to be in deficiency at the close of a fiscal year.

(c) All monies in the Race Horse Development Fund on the effective day of this chapter pursuant to section 60 of chapter 23K of the General Laws shall be transferred to the Race Horse Development Fund established in section 8 of this chapter 128D of the General Laws. On and after the effective date of this chapter, all funds directed by any general or special law to be deposited in the Race Horse Development Fund established in section 60 of chapter 23K shall be deposited into the Race Horse Development Fund established in said section 8 of this chapter 128D.

Section 9. (a) A racing meeting licensee that conducts pari-mutuel betting on horse races conducted on a licensed race track, shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein less any takeouts as determined by the commission.

(b) A simulcasting licensee acting as a guest track shall return to the winning patrons wagering on such simulcast races all sums so deposited as an award or dividend, less any takeouts as determined by the commission.

Section 10. Notwithstanding this chapter or any general or special law to the contrary, no live dog racing meeting or live racing meeting where any form of betting or wagering on the speed or ability of dogs occurs shall be conducted or permitted in this commonwealth and the commission is hereby prohibited from accepting or approving any application or request for racing dates for live dog racing.

Any person who violates this section relative to live dog racing shall be subject to a civil penalty of not less than \$20,000 which shall be payable to the commission and used for administrative purposes of the commission.

Section 11. Any person who accepts or pays out a wager or bet on the results of any horse race or dog race, or aids or abets any of the foregoing types of wagering or betting, except as permitted by this chapter, shall for a first offence be punished by a fine of not more than \$2000 and imprisonment in the house of correction for not more than 1 year, and for a subsequent offence by a fine of not more than \$10,000 and imprisonment in the house of correction for not more than 2 years or both such fine or imprisonment.

Section 12. The commission shall provide an annual report of activity conducted pursuant to this chapter. The report shall include, but not be limited to, an analysis of commission activities designed to further the race horse industry and equine economy; a full and complete statement of revenues, expenditures and the balance of the Race Horse Development Fund; an accounting of funds received from racing meeting licensees and simulcast licensees for the purpose of funding the activities of the commission; and an accounting of projected expenditures from the Race Horse Development Fund in the next year. The report shall be made available on the commission's website and filed annually with the clerks of the house of representatives and the senate, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on economic development and emerging technologies not later than March 1 of each calendar year.



**AN ACT TO ENABLE MUNICIPAL AND REGIONAL PLANNING AGENCY
EMPLOYEES TO FULLY PARTICIPATE IN GAMING POLICY ADVISORY
COMMITTEES**

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

SECTION 1. Section 68 of chapter 23K of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end the following paragraph:

(f) A municipal employee serving as a member of an advisory committee or subcommittee created by this section shall not violate section 4 of Chapter 268A by expressing the views of his employing municipality or regional planning agency during committee or subcommittee meetings or by receiving his usual compensation as a municipal employee or by performing the usual duties of his municipal employment, including acting as an agent or attorney for the municipality or regional planning agency, in relation to particular matters in which he participated or which are, or in the prior year have been a subject of his official responsibility as a member of the advisory committee or subcommittee or which are pending before the advisory committee or subcommittee.



Massachusetts Gaming Commission