

**SENATE . . . . . No. 2038**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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  
2 official 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  
4 general or special law to the contrary, each racing meeting licensee is eligible to be licensed,  
5 subject to 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 machines,  
7 video gaming devices or combination of, not to exceed fifteen hundred, at a racing meeting  
8 licensee's premises only; and, provided, further, that each of said licensees shall have the right to  
9 operate an equal number of slot machines, video gaming devices or combination of. No person,  
10 entity or shareholder that owns a pari-mutual racing license shall be allowed to possess more  
11 than one gaming license. Gaming licenses issued to pari-mutual racing licensees shall be limited  
12 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 time  
16 \$25 million licensing fee to be paid by the licensee to the General Fund within 30 days of the  
17 approval of said licensee's plan.

18 SECTION 3. The lottery commission may also impose a civil fine of up to \$50,000  
19 dollars upon any person per entity licensed, registered or otherwise approved under this act, for  
20 any 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  
22 transactions, events, and processes as provided in this act, take actions reasonably designed to  
23 ensure that no 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  
25 age. 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  
27 of the Commonwealth, a sum equal to sixty-five (65%) percent of gaming revenues derived from  
28 a 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  
44 set a schedule of when fees and gaming revenues are to be collected. The lottery commission  
45 shall provide a quarterly report to the state auditor and the house and senate committees on ways  
46 and 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  
51 house committees on ways and means a copy of all regulations for their records. It shall  
52 determine the compensation/payouts/winnings from slots/video gaming devices.

53 SECTION 8. The lottery commission shall promulgate and execute regulations  
54 pertaining to 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  
56 access to 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  
60 transferred to another entity without the approval of the commission.

61 SECTION 11. There shall be an additional two (2) gubernatorial appointments added to  
62 said 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  
66 the performance of the tracks, and applicable revenue distribution structures. The commission  
67 shall report its' finding and submit these findings to the joint committee on government  
68 regulations, and the house and senate committees on ways and means within 1 year after the  
69 passage of this 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 and  
72 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  
76 consisting of seven members. Each member shall be a citizen of the United States and a resident  
77 of the 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 his  
85 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 just  
88 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, and  
93 1 shall be appointed by the auditor for a term of 5 years. After the initial term the term of office  
94 for each member of the commission is 5 years, provided that no member serve more than 3  
95 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  
117 separate entities that are not licensed to conduct pari-mutual racing in the commonwealth. The  
118 said licenses are limited to one (1) in Hampden County and one (1) in Bristol County. Should  
119 there be more than one entity seeking a gaming license in a single location, the gaming  
120 commission shall choose the best proposal possible. No single gaming entity, including its  
121 shareholders, shall have more than one gaming license.

122 SECTION 16. The commission shall have the power to issue licenses to persons or  
123 entities seeking to engage in the business of gambling in the Commonwealth with the exception  
124 of 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  
126 gaming licensee application, when having an administrative hearing on suspension, revocation,  
127 transfer 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  
133 an executive director of said Commission. The executive director shall serve at the pleasure of  
134 the 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 the  
142 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 gaming  
153   entity, collect annual alcohol licensing fees, and said gaming entity shall be inspected on a  
154   regular basis by the alcohol beverage control commission. The commission shall enter into a  
155   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. The  
157   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  
177 to the law. The commission shall set regulations to ensure that the gaming is fair and reasonable  
178 to the consumers, including the manner in which winnings, compensation from games and  
179 gaming 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. § 2719,  
186 without the approval, by vote, of the House and Senate. The commission shall have all powers

187 necessary to undertake the commonwealth's responsibilities and rights under the terms of any  
188 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 gaming  
192 facilities to be paid by the licensee to the commission. The commission shall retain a portion of  
193 the fees, fines, and revenue collected for the purpose of executing its duties as required under the  
194 law and the remainder shall be deposited in the general fund. The commission shall set a  
195 schedule of when fees and gaming revenues are to be collected. The commission shall provide a  
196 quarterly report to the state auditor and the house and senate committees on ways and means on  
197 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 the land  
202 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 town and the  
207 gaming facility and said agreement must be determined as reasonable by the commission,

208 (4) the applicant must enter into an agreement with the cities and towns that share  
209 borders with the municipality where the casino is to be located to provide for mitigation at a rate  
210 that will be determined by the commission.

211 (5) the applicant must demonstrate to the commission that it will maintain hospitality  
212 industry employment standards that meets or exceeds those in the state of California;

213 (6) Meet the licensee bonding requirement as set by the commission.

214 (7) The applicant must meet the qualifications to be a lottery reseller and must be a  
215 lottery reseller for the purpose of lottery and keno games

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

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

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

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

227 SECTION 22A: Section 24 of said Chapter 10 of the General Laws is hereby amended by  
228 inserting after the word “sold” in line 25, the following words:- , provided, however, the

229 commission paid to sellers of on line games and instant games shall not be less than seven per  
230 cent.

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

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