

SENATE No. 1942

The Commonwealth of Massachusetts

PRESENTED BY:

Gale D. Candaras

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to charitable gaming.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Gale D. Candaras

First Hampden and Hampshire

Joseph F. Wagner

8th Hampden

SENATE No. 1942

By Ms. Candaras, a petition (subject to Joint Rule 12) of Gale D. Candaras and Joseph F. Wagner for legislation relative to charitable gaming. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to charitable gaming.

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 SECTION 1. Clause 41 of section 4 of chapter 23K of the General Laws is hereby
3 repealed.

4 SECTION 2. Section 39A of chapter 10 of the General Laws is hereby repealed.

5 SECTION 3. Chapter 271 of the General Laws is hereby amended by striking section 7A
6 , as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

7 Section 7A:

8 (a) In this section the following words shall have the following meanings:

9 “Raffle”, an arrangement for raising money by the sale of tickets, certain among which,
10 as determined by chance after the sale, entitle the holders to prizes of merchandise, of any value,
11 or cash awards, including a “50/50 raffle” which is an arrangement whereby the prize is half the
12 amount of money raised by the sale of tickets.

13 “Bazaar”, an event, commonly referred to as casino night or Las Vegas night, which is
14 promoted, operated, and conducted by the sponsoring organization for disposal by means of
15 chance of one or both of the following types of prizes: (1) merchandise, of any value, (2) cash
16 awards, not to exceed one hundred dollars each.

17 (b) (1) Notwithstanding any other provisions of law, raffles and bazaars may be

18 promoted, operated and conducted only under permits issued in accordance with the
19 provisions of this section.

20 (2) No organization issued a permit under this section shall conduct more than three
21 bazaars in any single calendar year nor shall such organization conduct more than one bazaar in
22 any single calendar day. The operation of a bazaar shall be limited to five consecutive hours.

23 (3) Notwithstanding any provision of this section, a city or town may elect to prohibit the
24 promotion and operation of raffles or bazaars, or both, in such city or town in a town by town
25 meeting action and in a city by city council action, and in a town with no town meeting by town
26 council action, by adoption of appropriate by-laws and ordinances.

27 (c) No raffle or bazaar shall be promoted, operated or conducted by any person or
28 organization, unless the same is sponsored and conducted exclusively by (1) a veterans'
29 organization chartered by the Congress of the United States; (2) a church or religious
30 organization; (3) a fraternal or fraternal benefit society; (4) an educational or charitable
31 organization; (5) a civic or service club or organization; or (6) clubs or organizations organized
32 and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net
33 earnings of which inures to the benefit of any member or shareholder.

34 Such organization shall be in compliance with the registration and filing requirements of
35 the public charities division of the department of the attorney general under sections 8E and 8F
36 of chapter 12 and section 19 of chapter 68 and have been organized and actively functioning as a
37 nonprofit organization in the commonwealth for a period of not less than two years before it may
38 apply for a permit.

39 (d) The promotion and operation of the raffle or bazaar shall be confined solely to the
40 qualified members of the sponsoring organization and no such member shall receive
41 remuneration in any form for the time or effort devoted to the promotion or operation of such
42 raffle or bazaar.

43 (e) All funds derived from any raffle or bazaar shall be used exclusively for the purposes
44 stated in the permit application of the sponsoring organization which purposes shall be limited to
45 educational, charitable, religious, fraternal or civic purposes or for veterans' benefits.

46 (f) An organization which meets the qualifications required by this section and which
47 desires to conduct or operate a raffle or bazaar within the commonwealth shall apply for a permit
48 to conduct raffles and bazaars from the clerk of the city or town in which the raffle will be drawn
49 or the bazaar held. The application form shall be approved by the commissioner of public safety
50 and shall include:

51 (1) the name and address of the applicant;

52 (2)a statement from the applicant affirming under the penalties of perjury that it meets all
53 of the requirements of this section including registration, reporting and operational requirements;

54 (3)the applicant's six digit attorney general account number, if any, assigned by the
55 division of public charities of the department of the attorney general;

56 (4)the names of three officers or members of the organization who shall be responsible
57 for the operation of the raffle or bazaar with affirmation that they will receive no remuneration
58 for such operation; and

59 (5)the uses to which the net proceeds will be applied.

60 (6)the application fee of ten dollars to be retained by the city or town. A fee in excess of
61 ten dollars may be set in a town by town meeting action and in a city by city council action, and
62 in a town with no town meeting by town council action, by adoption of appropriate by-laws and
63 ordinances to set such fees, but in no event shall any such fee be greater than fifty dollars.

64 (g) Upon receipt of an application to conduct a raffle or bazaar, the clerk shall determine
65 whether it is in conformity with this section. If the clerk so determines, they shall forward the
66 application to the chief of police of the city or town, who shall determine whether the applicant is
67 qualified to operate raffles and bazaars under this section. If the chief of police so determines,
68 they shall endorse the application and return it to the clerk, who shall forthwith issue a permit,
69 which shall be valid for one year from the date of its issuance.

70 The clerk shall give notice of issuance to the state lottery commission and the sponsoring
71 organization, along with notice of its tax obligations under this section and related tax form.
72 Such notice and tax form shall be prepared by the state lottery commission. The clerk shall not
73 issue a permit to an organization found to have violated any provision of this section within three
74 years from the date of such violation.

75 (h) An organization holding a raffle or bazaar permit issued pursuant to this section shall
76 submit such information and reports to the state lottery commission concerning raffles and
77 bazaars conducted by it as may be required by said commission regulations, and said
78 commission may establish regulations governing the operation of raffles and bazaars conducted
79 by such organizations.

80 (i) If an application is not acted upon within thirty days after it is submitted, or if the
81 organization is refused a permit, or if a permit is revoked, any person named on the application
82 may obtain judicial review of such refusal or revocation by filing within ten days of such refusal
83 or revocation or within ten days of the expiration of such thirty day period a petition for review
84 in the district court having jurisdiction in the city or town in which such application was filed. A
85 justice of said court, after a hearing, may direct that such permit be issued, if they are satisfied

86 that there was no reasonable ground for refusing such permit, and that the applicant was not
87 prohibited by law from holding raffles or bazaars.

88 Such permit may be suspended or revoked at the discretion of the director of the state
89 lottery commission and shall be suspended or revoked upon written request to the director by the
90 city or town approving authority as set forth above in this section. The action of the director in
91 suspending or revoking a permit shall be final, and the permittee shall not have a right of appeal.

92 (j) An organization issued a permit under this section shall within thirty days of the
93 expiration of its permit submit a report on a form to be approved by the commissioner of public
94 safety. Such form shall require information concerning the number of raffles and bazaars held,
95 the amount of money received, the expenses connected with the raffle or bazaar, the names of the
96 winners of prizes exceeding twenty-five dollars in value, the net proceeds of the raffles and
97 bazaars, and the uses to which the net proceeds were applied.

98 The organization shall maintain and keep such books and records as may be necessary to
99 substantiate the particulars of such report, which books shall be preserved for at least three years
100 from the date of such report and shall be available for inspection. Such report shall be certified
101 by the three persons designated in the permit application as being responsible for such raffle or
102 bazaar and by an accountant. Three copies of said report shall be filed with the city or town
103 clerk that issued the permit. The clerk shall send one copy to the commissioner of public safety
104 and one copy to the state lottery commission. Failure to file said report shall constitute sufficient
105 grounds for refusal to renew a permit to conduct raffles or bazaars. The fee for renewal of such
106 permit shall be ten dollars.

107 (k) Any organization conducting or operating a raffle or bazaar under this section shall
108 file a tax return with the state lottery commission, on a form prepared by it, within ten days after
109 the raffle or bazaar is held and shall pay therewith a tax of five per cent of the gross proceeds
110 derived from such raffle or bazaar.

111 All sums received by the state lottery commission from the tax imposed by this section as
112 taxes, interest thereon, fees, penalties, forfeitures, costs of suits or fines, less all amounts
113 refunded thereon, together with any interest or costs paid on account of such refunds, shall be
114 paid into the treasury of the commonwealth and shall be credited as follows: --

115 (1) Two-fifths of all such sums received shall be credited to the State Lottery Fund
116 established under the provisions of section thirty-five of chapter 10 of the General Laws and,
117 subject to appropriation, the state lottery commission may expend such sums for the expenses
118 incurred in the administration of this section.

119 (2) Three-fifths of all such sums received shall be credited to the General Fund.

120 (3) Any unappropriated balance remaining in the State Lottery Fund from the sums
121 credited under subsection (1), as determined by the comptroller as of June first and December
122 first of each year, shall be credited to the Local Aid Fund.

123 (l) Whoever violates any provision of this section or submits false information on an
124 application or report required under this section shall be punished by a fine of not more than ten
125 thousand dollars or by imprisonment in the house of correction for not more than two and one-
126 half years, or both. Whoever violates this section shall be deemed to have engaged in an unfair
127 and deceptive trade practice in violation of chapter 93A.

128 Provided, however, that no organization, society, church or club which conducts a raffle
129 or bazaar under the provisions of this section shall be deemed to have set up and promoted a
130 lottery and nothing in this chapter shall authorize the prosecution, arrest or conviction of any
131 person connected with the operation of any such raffle or bazaar; provided, further, that nothing
132 contained in this section shall be construed as permitting the game commonly known as "beano"
133 or any similar game regardless of name.

134 (m) No person who prints or produces tickets, cards or any similar article used in the
135 conduct of a bazaar or raffle pursuant to a permit issued under the provisions of this section shall
136 be subject to any penalty therefor, provided that a certified copy of such permit was presented to
137 them prior to his undertaking to print or produce such tickets or cards.

138 (n) Nothing in this section shall limit the attorney general's authority over public charities
139 pursuant to the General Laws.