HOUSE DOCKET, NO. 3318 FILED ON: 1/20/2017

HOUSE . . . . . No. 2836

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph F. Wagner

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:	DATE ADDED:
Joseph F. Wagner	*8th Hampden*	*1/20/2017*
Thomas M. McGee	*Third Essex*	*1/20/2017*

HOUSE DOCKET, NO. 3318 FILED ON: 1/20/2017

HOUSE . . . . . No. 2836

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 2836) of Joseph F. Wagner and Thomas M. McGee relative to charitable gaming. Economic Development and Emerging Technologies.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *301* OF 2015-2016.]

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

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:

Notwithstanding any general or special law to the contrary:

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 Clause 41 of section 4 of chapter 23K of the General Laws is hereby repealed.

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 Section 39A of chapter 10 of the General Laws is hereby repealed.

SECTION 3. Chapter 271 of the General Laws is hereby amended by striking section 7A, as appearing in the 2014 Official Edition, and inserting in place thereof the following section:-

Section 7A:

(a) In this section the following words shall have the following meanings unless the context clearly requires otherwise:-

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

"Bazaar", an event, commonly referred to as a casino night or Las Vegas night, which is promoted, operated, and conducted by the sponsoring organization for disposal by means of chance of one or both of the following types of prizes: (1) merchandise, of any value, (2) cash awards, not to exceed $100 each.

(b) (1) Notwithstanding any general or special law to the contrary, raffles and bazaars may be promoted, operated and conducted only under permits issued in accordance with the provisions of this section.

(2) No organization issued a permit under this section shall conduct more than 3 bazaars in any single calendar year nor shall the organization conduct more than 1 bazaar in any single calendar day. The operation of a bazaar shall be limited to 5 consecutive hours.

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

(c) No raffle or bazaar shall be promoted, operated or conducted by any person or organization, unless the same is sponsored and conducted exclusively by: (i) a veterans' organization chartered by the Congress of the United States; (ii) a church or religious organization; (iii) a fraternal or fraternal benefit society; (iv) an educational or charitable organization; (v) a civic or service club or organization; or (vi) clubs or organizations organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any member or shareholder.

An organization shall be in compliance with the registration and filing requirements of the public charities division of the department of the attorney general under sections 8E and 8F of chapter 12 of the General Laws and section 19 of chapter 68 of the General Laws and have been organized and actively functioning as a nonprofit organization in the commonwealth for a period of not less than 2 years before it may apply for a permit.

(d) The promotion and operation of the raffle or bazaar shall be confined solely to the qualified members of the sponsoring organization and no member shall receive remuneration in any form for the time or effort devoted to the promotion or operation of the raffle or bazaar; provided however, that this section shall not apply to employees of the sponsoring organization who devote time or effort to the operation of the raffle or bazaar as part of their employment.

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

(f) An organization which meets the qualifications required by this section and which desires to conduct or operate a raffle or bazaar within the commonwealth shall apply for a permit

to conduct raffles and bazaars from the clerk of the city or town in which the raffle will be drawn or the bazaar held. The application form shall be approved by the commissioner of public safety and shall include:

(1) the name and address of the applicant;

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

(3) the applicant's 6 digit attorney general account number, if any, assigned by the division of public charities of the department of the attorney general;

(4) the names of 3 officers or members of the organization who shall be responsible for the operation of the raffle or bazaar with affirmation that they will receive no remuneration for the operation;

(5) the uses to which the net proceeds will be applied; and

(6) the $10 application fee to be retained by the city or town. A fee in excess of $10 may be set in a town by town meeting action and in a city by city council action, and in a town with no town meeting by town council action, by adoption of appropriate by-laws and ordinances to set such fees, but in no event shall any fee be greater than $50.

(g) Upon receipt of an application to conduct a raffle or bazaar, the clerk shall determine whether it is in conformity with this section. If the clerk so determines, they shall forward the application to the chief of police of the city or town, who shall determine whether the applicant is qualified to operate raffles and bazaars under this section. If the chief of police so determines,

they shall endorse the application and return it to the clerk, who shall immediately issue a permit, which shall be valid for 1 year from the date of its issuance.

The clerk shall give notice of issuance to the state lottery commission and the sponsoring organization, along with notice of its tax obligations under this section and related tax form. The notice and tax form shall be prepared by the state lottery commission. The clerk shall not issue a permit to an organization found to have violated any provision of this section within 3 years from the date of a violation.

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

(i) If an application is not acted upon within 30 days after it is submitted, or if the organization is refused a permit, or if a permit is revoked or suspended, any person named on the application may obtain judicial review of the refusal, suspension or revocation by filing within 10 days of the refusal, suspension or revocation or within 10 days of the expiration of the 30-day period a petition for review in the district court having jurisdiction in the city or town in which the application was filed. A justice of the court, after a hearing, may direct that the permit be issued or reinstated, if they are satisfied that there was no reasonable ground for refusing, suspending or revoking the permit, and that the applicant was not prohibited by law from holding raffles or bazaars.

A permit may be suspended or revoked at the discretion of the director of the state lottery commission and shall be suspended or revoked upon written request to the director by the city or

town approving authority as set forth above in this section; provided however, that any permit which is suspended or revoked may be appealed pursuant to this section. The action of the director in suspending or revoking a permit shall be final, and the permittee shall not have a right of appeal.

(j) An organization issued a permit under this section shall within 30 days of the expiration of its permit submit a report on a form to be approved by the commissioner of public safety. A form shall require information concerning the number of raffles and bazaars held, the amount of money received, the expenses connected with the raffle or bazaar, the names of the winners of prizes exceeding $25 in value, the net proceeds of the raffles and bazaars, and the uses to which the net proceeds were applied.

The organization shall maintain and keep books and records as may be necessary to substantiate the particulars of a report, which books shall be preserved for at least 3 years from the date of a report and shall be available for inspection. A report shall be certified by the 3 persons designated in the permit application as being responsible for the raffle or bazaar and by an accountant. Three copies of the report shall be filed with the city or town clerk that issued the permit. The clerk shall send 1 copy to the commissioner of public safety and 1 copy to the state lottery commission. Failure to file the report shall constitute sufficient grounds for refusal to renew a permit to conduct raffles or bazaars. The fee for renewal of a permit shall be $10.

(k) Any organization conducting or operating a raffle or bazaar under this section shall file a tax return with the state lottery commission, on a form prepared by it, within 10 days after the raffle or bazaar is held and shall pay therewith a tax of 5 per cent of the gross proceeds derived from the raffle or bazaar.

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

(1) Three-fifths of all sums received shall be credited to the State Lottery Fund established under the provisions of section 35 of chapter 10 of the General Laws and, subject to appropriation, the state lottery commission may expend such sums for the expenses incurred in the administration of this section;

(2) Two-fifths of all sums received shall be credited to the General Fund; and

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

(l) Whoever violates any provision of this section or submits false information on an application or report required under this section shall be punished by a fine of not more than $10,000 or by imprisonment in the house of correction for not more than 2 ½ years, or both. Whoever violates this section shall be deemed to have engaged in an unfair and deceptive trade practice in violation of chapter 93A of the General Laws; provided, however, that no organization, society, church or club which conducts a raffle or bazaar under the provisions of this section shall be deemed to have set up and promoted a lottery and nothing in this chapter shall authorize the prosecution, arrest or conviction of any person connected with the operation of any raffle or bazaar; provided further, that nothing contained in this section shall be construed as permitting the game commonly known as “beano” or any similar game regardless of name.

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

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