

HOUSE No. 366

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel R. Cullinane

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 to regulate sports wagering.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Daniel R. Cullinane

12th Suffolk

David M. Nangle

17th Middlesex

HOUSE No. 366

By Mr. Cullinane of Boston, a petition (accompanied by bill, House, No. 366) of Daniel R. Cullinane and David M. Nangle relative to establishing and regulating sports wagering in the Commonwealth. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to regulate sports wagering.

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: Chapter 4 of the general laws, as so appearing, is hereby amended by
2 striking out lines 67-76, in section 7, and inserting in place thereof the following:-

3 Tenth, “illegal gaming,” banking or percentage game played with cards, dice, tiles or
4 dominoes, an electronic, electrical or mechanical device or machine for money, property, checks,
5 credit or any representative of value, but excluding: (i) a lottery game conducted by the state
6 lottery commission, under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under
7 chapter 23K; (iii) a sports wager conducted under chapter 23N; (iv) pari-mutuel wagering on
8 horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (v) a
9 game of bingo conducted under chapter 271; and (vi) charitable gaming conducted under said
10 chapter 271.

11 SECTION 2: The general laws, as so appearing, are hereby amended by inserting after
12 chapter 23M, the following chapter: -

13 Chapter 23N: Regulation of Sports Wagering.

14 Section 1. Definitions.

15 As used in this chapter, unless the context requires otherwise:

16 (a) “Gaming establishment” means a licensee offering gaming at a facility in this state as
17 defined in section 2 of chapter 23K.

18 (b) “Interactive sports wagering platform” or “platform” means a person or entity that
19 offers sports wagering over the internet, including on websites and mobile devices, on behalf of a
20 gaming establishment.

21 (c) “Official league data” means statistics, results, outcomes, and other data relating to a
22 sporting event obtained pursuant to an agreement with the relevant sports governing body, or an
23 entity expressly authorized by the sports governing body to provide such information to sports
24 wagering operators, which authorizes the use of such data for determining the outcome of tier
25 two sports wagers.

26 (d) “Registered sports governing body” means a sports governing body that is
27 headquartered in the United States and who has registered with [regulating entity] pursuant to
28 this Act.

29 (e) “Sports governing body” means the organization that prescribes final rules and
30 enforces codes of conduct with respect to a sporting event and participants therein.

31 (f) “Sports wagering” means accepting wagers on sporting events or portions of sporting
32 events, or on the individual performance statistics of athletes in a sporting event or combination
33 of sporting events, by any system or method of wagering, including but not limited to in-person,

34 or over the internet through websites and on mobile devices. The term includes, but is not
35 limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange
36 wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

37 (g) “Sports wagering gross revenue” means the amount equal to the total of all sports
38 wagers, except for sports wagers made with promotional gaming credits, that a sports wagering
39 operator collects from bettors, less the total of all sums paid out as winnings to all bettors,
40 however, that the total of all sums paid out as winnings to bettors shall not include the cash
41 equivalent of any merchandise or thing of value awarded as a prize.

42 (h) “Sports wagering operator” or “operator” means a gaming establishment that offers
43 sports wagering or an interactive sports wagering platform that offers sports wagering on behalf
44 of a gaming establishment;

45 (i) “Tier one sports wager” means a sports wager that is determined solely by the final
46 score or final outcome of the sporting event and is placed before the sporting event has begun;

47 (j) “Tier two sports wager” means a sports wager that is not a tier one sports wager;

48 (k) “Wager” or “bet” means the staking or risking by a person of something of value
49 upon an agreement or understanding that the person or another person will receive something of
50 value in the event of a certain outcome. The term does not include:

51 (i) any activity governed by the securities laws of the United States or this state;

52 (ii) any contract of indemnity or guarantee;

53 (iii) any contract for insurance; or

54 (iv) participation in any game or contest in which the participants do not stake or risk
55 anything of value other than personal efforts of the participants in playing the game or contest or
56 obtaining access to the internet, or points or credits that the sponsor of the game or contest
57 provides to participants free of charge and that can be used or redeemed only for participation in
58 games or contests offered by the sponsor.

59 Section 2. Sports wagering by gaming establishments.

60 (a) Sports wagering may not be offered in this state except by a gaming establishment
61 pursuant to this Act.

62 (b) Gaming establishments may offer sports wagering:

63 (i) in-person at the licensed facility; and

64 (ii) over the internet via an interactive sports wagering platform to persons physically
65 located in this state.

66 (c) A gaming establishment may contract with interactive sports wagering platforms to
67 administer sports wagering over the internet on its behalf.

68 Section 3. Licensing of interactive sports wagering platforms.

69 (a) An interactive sports wagering platform may offer sports wagering on behalf of a
70 gaming establishment only if it holds a platform license issued by the Massachusetts gaming
71 commission.

72 (b) Applicants for interactive sports wagering platform licenses shall:

73 (i) submit an application to the commission in the manner prescribed by the commission
74 to verify the platform's eligibility under this chapter, and

75 (ii) pay an initial fee of \$10,000.

76 (c) Each year on or before the anniversary date of the payment of the initial fee made
77 under subsection (b)(ii), if such platform license has been issued, a platform shall pay to the
78 commission an annual license renewal fee of \$5,000.

79 (d) Notwithstanding contrary law, a platform license application and all documents,
80 reports, and data submitted by an interactive sports wagering platform to the commission
81 containing proprietary information, trade secrets, financial information, or personal information
82 about any person shall be treated by the commission as closed records and shall not to be
83 disclosed to the public unless required by court order, this chapter, or other law.

84 (e) An interactive sports wagering platform may enter into agreements to offer sports
85 wagering on behalf of one or more gaming establishments without limitation. Such agreements
86 are not prerequisites to obtaining an interactive sports wagering platform license.

87 Section 4. Sports wagering operators; consumer protections.

88 (a) Sports wagering operators shall verify that a person placing a wager, including with
89 respect to online or mobile betting, is of the legal minimum age for placing such a wager.

90 (b) Sports wagering operators shall allow individuals to restrict themselves from placing
91 wagers with the operator, including limits on the time spent betting and amounts wagered, and
92 take reasonable steps to prevent those individuals from placing such wagers, including upon

93 request of such individual to share the request with the commission for the sole purpose of
94 disseminating the request to other sports wagering operators.

95 (c) The commission shall promulgate rules that require an operator to implement
96 responsible gaming programs that include comprehensive employee trainings on responding to
97 circumstances in which individuals present signs of a gambling addiction.

98 (d) The commission shall promulgate rules to ensure that an operator's advertisements
99 for sports wagering:

100 (i) do not target minors or other persons who are ineligible to place wagers, problem
101 gamblers, or other vulnerable persons, which may include limitations on the form, content,
102 quantity, timing, and location of advertisements;

103 (ii) disclose the identity of the sports wagering operator;

104 (iii) provide information about or links to resources relating to gambling addiction; and

105 (iv) are not false, misleading, or deceptive to a reasonable consumer.

106 Section 5. Integrity requirements.

107 (a) Sports wagering operators shall conduct background checks on newly hired
108 employees, and annual background checks on all existing employees. Background checks shall
109 search for criminal history, and any charges or convictions involving corruption or manipulation
110 of sporting events and association with organized crime.

111 (b) Sports wagering operators shall employ commercially reasonable methods to:

112 (i) prohibit the operator, directors, officers, owners, and employees of the operator, and
113 any relative living in the same household as such persons, from placing bets with the operator;

114 (ii) prohibit athletes, coaches, referees, team owners, employees of a sports governing
115 body or its member teams, and player and referee union personnel from wagering on any
116 sporting event overseen by their sport's governing body. In determining which persons are
117 excluded from placing wagers under this subsection, operators shall use publicly available
118 information and any lists of such persons that the sports governing body may provide to the
119 commission;

120 (iii) prohibit any individual with access to non-public confidential information held by
121 the operator from placing wagers with the operator;

122 (iv) prohibit persons from placing wagers as agents or proxies for others; and

123 (v) maintain the security of wagering data, customer data, and other confidential
124 information from unauthorized access and dissemination; provided, however, that nothing in this
125 chapter shall preclude the use of internet or cloud-based hosting of such data and information or
126 disclosure as required by court order, other law, or this chapter.

127 (c) A sports governing body may notify the the commission that it desires to restrict,
128 limit, or exclude sports wagering on its sporting events by providing notice in the form and
129 manner as the the commission may require, including, without limitation, restrictions on the
130 sources of data and associated video upon which an operator may rely in offering and paying
131 wagers and the bet types that may be offered. Upon receiving such notice, the commission shall
132 only deny a request if it deems such request arbitrary and capricious. If the the commission
133 denies a request, the sports governing body shall be afforded notice and the right to be heard and

134 offer proof in opposition to such determination in accordance with the regulations of the the
135 commission. Offering or taking wagers contrary to restrictions promulgated by the the
136 commission is a violation of this section. In the event that a request is submitted in relation to an
137 emergency situation, the executive director of the the commission may temporarily grant the
138 request of the sports governing body until the the commission makes a final determination as to
139 whether such request is arbitrary and capricious.

140 (d) The commission shall designate a state law-enforcement entity to have primary
141 responsibility for conducting, or assisting the commission in conducting, investigations into
142 abnormal betting activity, match fixing, and other conduct that corrupts a betting outcome of a
143 sporting event or events for purposes of financial gain.

144 (e) The commission and sports wagering operators shall cooperate with investigations
145 conducted by sports governing bodies or law enforcement agencies, including but not limited to
146 providing or facilitating the provision of account-level betting information and audio or video
147 files relating to persons placing wagers.

148 (f) Sports wagering operators shall immediately report to the commission any
149 information relating to:

150 (i) criminal or disciplinary proceedings commenced against the sports wagering operator
151 in connection with its operations;

152 (ii) abnormal betting activity or patterns that may indicate a concern with the integrity of
153 a sporting event or events;

154 (iii) any potential breach of the relevant sports governing body's internal rules and codes
155 of conduct pertaining to sports wagering;

156 (iv) any other conduct that corrupts a betting outcome of a sporting event or events for
157 purposes of financial gain, including match fixing; and

158 (v) suspicious or illegal wagering activities, including use of funds derived from illegal
159 activity, wagers to conceal or launder funds derived from illegal activity, using agents to place
160 wagers, and using false identification.

161 Sports wagering operators shall also immediately report information relating to conduct
162 described in subsections (ii), (iii), and (iv) to the relevant sports governing body.

163 (g) Sports wagering operators shall maintain the confidentiality of information provided
164 by a sports governing body to the sports wagering operator, unless disclosure is required by this
165 chapter, the commission, other law, or court order.

166 (h) The commission and sports wagering operators shall maintain the
167 confidentiality of all information relating to conduct described in subsections (f)(ii), (f)(iii), and
168 (f)(iv) unless disclosure is required by this chapter, other law, or court order, or authorized by the
169 relevant sports governing body. Nothing herein prohibits the commission or a sports wagering
170 operator from making a confidential disclosure to another sports wagering operator, a sports
171 governing body, sports betting regulating entity, law enforcement entity or other party for the
172 purpose of preventing or investigating conduct that corrupts or could corrupt the outcome of a
173 sporting event, including match fixing.

174 (i) Except as provided in subsection (j), sports wagering operators may use any data
175 source to determine the results of sports wagers, provided the data is not obtained directly or
176 indirectly from live event attendees who collect the data in violation of the terms of admittance
177 to an event or through automated computer programs that compile data from the internet in
178 violation of the terms of service of the relevant website or other internet platform.

179 (j) Commencing on [date], a sports governing body may notify the commission that it
180 desires to supply official league data to sports wagering operators for determining the results of
181 tier two sports wagers. Such notification shall be made in the form and manner as the
182 commission may require. Within 30 days of such notification by a sports governing body, sports
183 wagering operators shall use only official league data to determine the results of tier two sports
184 wagers, unless the sports wagering operator can demonstrate to the commission that the sports
185 governing body or its designee cannot provide a feed of official league data to the sports
186 wagering operator on commercially reasonable terms.

187 Section 6. Recordkeeping; information sharing; registration; sports betting royalty.

188 (a) Sports wagering operators shall maintain records of all bets and wagers placed,
189 including personally identifiable information of the bettor, amount and type of bet, time the bet
190 was placed, location of the bet, including IP address if applicable, the outcome of the bet, records
191 of abnormal betting activity, and video camera recordings in the case of in-person wagers for at
192 least three years after the sporting event occurs and make such data available for inspection upon
193 request of the commission or as required by court order.

194 (b) If a sports governing body has notified the commission that real-time information
195 sharing for wagers placed on its sporting events is necessary and desirable, sports wagering

196 operators shall share in real time, at the account level, and in pseudonymous form, the
197 information required to be retained pursuant to subsection (a) (other than video files) with the
198 sports governing body or its designee with respect to wagers on its sporting events. Such
199 information may be used by a sports governing body solely for integrity purposes.

200 (c) sports governing body may register with the commission if the sports governing body
201 is headquartered in the United States and it completes such registration form as the commission
202 may require. Upon submission of a completed registration form to the commission, the eligible
203 sports governing body shall be deemed registered and shall be entitled to receive the royalty
204 provided for in this section.

205 (d) Within thirty days of the end of each calendar quarter, a sports wagering operator
206 shall remit to the commission a royalty of one-quarter of one percent of the amounts wagered on
207 sporting events conducted by registered sports governing bodies.

208 (e) The royalty shall be remitted on a form as the commission may require, on which the
209 sports wagering operator shall identify the percentage of wagering during the reporting period
210 attributable to each registered sports governing body's sporting events.

211 (f) No later than the thirtieth of April of each year, a registered sports governing body
212 may submit a request for disbursement funds remitted by sports wagering operators in the
213 previous calendar year. The commission shall disburse the funds to the registered sports
214 governing body in pro rata proportion of the total amount wagered on its sporting events. No
215 registered sports governing body is required to obtain a license from the commission in order to
216 lawfully accept the funds provided for in this subsection.

217 (g) The commission shall annually publish a report stating the amount received from
218 sports wagering operators in royalties and the amount paid to registered sports governing bodies.

219 (h) Any unclaimed royalties shall be distributed to the sports wagering operators that
220 timely remitted the royalties required under this section to commission. Such royalties shall be
221 distributed to the eligible sports wagering operators on a pro rata basis.

222 (i) The commission shall cooperate with a registered sports governing body and sports
223 wagering operators to ensure the timely, efficient, and accurate sharing of information and the
224 remittance of the royalty to the registered sports governing body or its designee.

225 Section 7. Civil penalty.

226 Any person, firm, corporation, association, agent, or employee who knowingly violates
227 any procedure implemented under this Act shall be liable for a civil penalty of not more than
228 [amount] for each violation, not to exceed [amount] for violations arising out of the same
229 transaction or occurrence, which shall accrue to the state and may be recovered in a civil action
230 brought by the commission.

231 Section 8. Criminal liability.

232 (a) Whoever:

233 (i) places, or causes to be placed, a bet or wager on the basis of material nonpublic
234 information relating to that bet or wager, while knowing that the information is material
235 nonpublic information; or

236 (ii) knowingly engages in, facilitates, or conceals conduct that intends to improperly
237 influence a betting outcome of a sporting event for purposes of financial gain, in connection with
238 betting or wagering on a sporting event—

239 shall be fined not more than \$5,000,000 or imprisoned not more than ten years, or both.

240 (b) A bet or wager is “on the basis of” material nonpublic information relating to that bet
241 or wager if the person placing the bet or wager, or causing it to be placed, was aware of the
242 material nonpublic information when such person placed the bet or wager or caused it to be
243 placed.

244 (c) Any person or gaming establishment who violates subsection (a)(ii) shall be liable to
245 the relevant sports governing body, which sports governing body may sue either at law or in
246 equity in any court of competent jurisdiction.

247 SECTION 3. Sections 24, 24A and 27 of chapter 10 of the general laws, as so appearing,
248 shall not apply to a gaming establishment conducting sports wagering in accordance with this
249 chapter.

250 SECTION 4. Section 2 of chapter 271 of the general laws, as so appearing, is hereby
251 amended, in line 4, by striking out “except as permitted under chapter 23K” and inserting in its
252 place thereof the following:- “except as permitted under chapters 23K or 23N.”

253 SECTION 5. Section 3 of chapter 271 of the general laws, as so appearing, is hereby
254 amended, in line 1, by striking out “Except as permitted under chapter 23K” and inserting in its
255 place thereof the following:- “Except as permitted under chapters 23K or 23N.”

256 SECTION 6. Section 5 of chapter 271 of the general laws, as so appearing, is hereby
257 amended, in line 1, by striking out “except as permitted under chapter 23K” and inserting in its
258 place thereof the following:- “except as permitted under chapters 23K or 23N.”

259 SECTION 7. Section 5B of chapter 271 of the general laws, as so appearing, is hereby
260 amended, in line 58, by striking out “under chapter 23K” and inserting in its place thereof the
261 following:- “under chapters 23K or 23N.”

262 SECTION 8. Section 8 of chapter 271 of the general laws, as so appearing, is hereby
263 amended, by striking out lines 10-11 and inserting in its place thereof the following:- “other
264 illegal gaming that is not being conducted pursuant to chapters 23K or 23N.”

265 SECTION 9. Chapter 271 of the general laws, as so appearing, is hereby amended by
266 striking section 17A and inserting in its place thereof the following section:-

267 271:17A. Telephones, internet or other communications technology; use for gaming
268 purposes

269 Section 17A. Except as permitted under chapter 23N, whoever uses a telephone, internet
270 or other communications technology or, being the occupant in control of premises where a
271 telephone, internet or other communications technology is located or a subscriber for a
272 telephone, knowingly permits another to use a telephone, internet or other communications
273 technology so located or for which he subscribes, as the case may be, for the purpose of
274 accepting wagers or bets, or buying or selling of pools, or for placing all or any portion of a
275 wager with another, upon the result of a trial or contest of skill, speed, or endurance of man,
276 beast, bird, or machine, or upon the result of an athletic game or contest, or upon the lottery
277 called the numbers game, or for the purpose of reporting the same to a headquarters or booking

278 office, or who under a name other than his own or otherwise falsely or fictitiously procures
279 telephone, internet or other communications technology service for himself or another for such
280 purposes, shall be punished by a fine of not more than two thousand dollars or by imprisonment
281 for not more than one year.