

SENATE No. 2461

Text of amendment (Senator Tarr) to the Senate Bill making appropriations for the fiscal year 2022 for the maintenance of the departments, boards, commissions, institutions and certain activities of the commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (Senate, No. 3).

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

1 by inserting after section _ the following:-

2 "SECTION X. Subclause (ii) of clause Tenth of section 7 of chapter 4 of the General
3 Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word
4 “game”, the following words:- or sports pool or online sports pool.

5 SECTION X. Section 2 of chapter 23K of the General Laws, as so appearing, is hereby
6 amended, in the definition of “Game”, by inserting at the end thereof the following words:- This
7 term shall also include sports pools and online sports pools as defined in section 20A.

8 SECTION X. Said section 2 of said chapter 23K, as so appearing, is hereby further
9 amended, in the definition of “Gaming establishment”, by inserting after the word “area” in line
10 112, the following words:-, a sports wagering lounge as defined in section 20A.

11 SECTION X. Said section 2 of said chapter 23K, as so appearing, is hereby further
12 amended, in the definition of “Gaming license”, by inserting at the end thereof, the following
13 words:- , sports pool or online sports pool as defined in section 20A, or a license issued by the
14 commission that permits the operation of sports wagering through a mobile application and other

15 digital platforms and in person at a live thoroughbred race track approved by the commission,
16 provided that said licensee (i) operates a thoroughbred horse racing track with at least a 1 mile
17 circumference; (ii) has received approval from the New England Horsemen’s Benevolent and
18 Protective Association to conduct sports wagering pursuant to this chapter; and (iii) makes a
19 capital investment of not less than \$25,000,000 within 3 years after receiving a category 1
20 license and conducts at least ten race days in a year.

21 SECTION X. Section 8 of said chapter 23K, as so appearing, is hereby further amended
22 by inserting, in line 2, after the word “licenses”, the following words:- and sports wagering
23 licenses as defined in section 20A.

24 SECTION X. Section 9 of said chapter 23K, as so appearing, is hereby amended by
25 adding the following subsection:-

26 (c) The commission may waive certain provisions of subsection (a) that it deems
27 inapplicable to the issuance of a sports wagering license as defined in section 20A.

28 SECTION X. Said chapter 23K of the General Laws, as so appearing, is hereby amended
29 by inserting after section 20, the following 6 sections:-

30 Section 20A. In addition to the definitions set forth in section 2, the following definitions
31 shall apply to sections 20A to 20F, inclusive:-

32 “Collegiate sport or athletic event”, a sport or athletic event offered, sponsored by, or
33 played in connection with a public or private institution that offers educational services beyond
34 the secondary level;

35 “Electronic Sports” or “eSports”, a multiplayer video game played competitively for
36 spectators by professionals;

37 “Online sports pool”, a sports pool operation in which wagers on sports events are made
38 through computers or mobile or interactive devices and accepted at a sports wagering lounge
39 through an online gaming system which is operating pursuant to a sports wagering license issued
40 by the commission pursuant to section 20B;

41 “Online sports pool operator”, an entity that holds a gaming license or a gaming vendor
42 license as defined in section 2 and that holds a license issued by the commission to operate an
43 online sports pool;

44 “Operator”, a gaming licensee that has elected to operate a sports pool, either
45 independently or jointly, and any entity with whom a gaming licensee contracts to operate a
46 sports pool or online sports pool, including an online sports pool operator;

47 “Professional sport or athletic event”, an event at which two or more persons participate
48 in sports or athletic events and receive compensation in excess of actual expenses for their
49 participation in such event;

50 “Prohibited sports event”, any amateur sport or athletic event, including any collegiate
51 sport or athletic event or high school sport or athletic event regardless of where the event takes
52 place; and any electronic sports or eSports event;

53 “Sports event”, any professional sport or athletic event, any Olympic or international
54 sports competition event, or any portion thereof, including, but not limited to, the individual
55 performance statistics of athletes in a sports event or combination of sports events, except “sports

56 event” shall not include a prohibited sports event or a fantasy contest, as defined in section 135
57 of chapter 219 of the acts of 2016;

58 “Sports governing body”, a sports organization that has a regulatory, sanctioning or
59 organizing function for a specific sport or athletic event; provided, that this definition shall
60 include but not be limited to a professional sports organization as defined in 28 U.S.C. section
61 3701(3) and national governing body as defined in 36 U.S.C. section 220501(b)(8);

62 “Sports pool”, the business of accepting wagers on any sports event by any system or
63 method of wagering, including but not limited to single-game bets, teaser bets, parlays, over-
64 under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets,
65 and straight bets;

66 “Sports wagering license”, a license issued by the commission that permits the licensee to
67 operate a sports pool or online sports pool;

68 “Sports wagering licensee”, an operator or online sports pool operator who holds a sports
69 wagering license under this chapter; and

70 “Sports wagering lounge”, an area wherein a licensed sports pool is operated located in a
71 gaming establishment. For the purposes of this chapter, the sports wagering lounge shall be
72 considered part of the gaming area.

73 Section 20B. (a)The commission shall issue all sports wagering licenses and renewals
74 thereof to gaming licensees. In addition to games permitted under this chapter, a gaming licensee
75 which holds a sports wagering license issued by the commission may operate a sports pool in
76 accordance with the provisions of this chapter and applicable regulations promulgated by the

77 commission. A gaming licensee that holds a sports wagering license may conduct an online
78 sports pool or may authorize an internet sports pool operator that holds a gaming license, sports
79 wagering license or gaming vendor license, to operate an online sports pool on its behalf,
80 provided that the terms of that agreement are approved by the commission. Each sports wagering
81 licensee may provide a limited number of individually branded websites, each of which may
82 have an accompanying mobile application bearing the same brand as the website for an online
83 sports pool; provided that, said websites and mobile applications, in the case of a gaming
84 licensee, may be in addition to or conjunction with any websites and mobile applications that
85 also offer fantasy contests as defined in section 135 of chapter 219 of the acts of 2016. The
86 commission shall determine the number of individually branded websites and accompanying
87 mobile application that each sports wagering licensee may provide.

88 (b) An applicant for a sports wagering license shall pay to the commission a
89 nonrefundable application fee of \$100,000 to defray the costs associated with the processing of
90 the application and investigation of the applicant; provided, however, that if the costs of the
91 investigation exceed the initial application fee, the applicant shall pay the additional amount to
92 the commission within 30 days after notification of insufficient fees or the application shall be
93 rejected.

94 (c) The commission shall determine the minimum licensing fee for the issuance or
95 renewal of a sports wagering license, which shall not be less than \$500,000 for initial issuance,
96 to be paid within 30 days after the award of the license. The commission shall set any renewal
97 fee for such license based on the cost of fees associated with the evaluation of a sports wagering
98 licensee under this chapter which shall be deposited into the Gaming Local Aid Fund established

99 in section 63. Such renewal fee shall be exclusive of any subsequent licensing fees under this
100 section.

101 (d) (1) No sports wagering license shall be issued by the commission to any applicant
102 unless it has been qualified for licensure by the commission under sections 12 and 16.

103 (2) The commission may allow up to three online sports pools or may authorize up to
104 three online sports pool operators licensed as gaming vendors under section 31 of 23K to operate
105 an online sports pool on its behalf under a category 1 or category 2 license.

106 (3) No sports wagering license shall be issued to any entity that is not qualified under this
107 chapter.

108 (e) No applicant shall be authorized to operate a sports pool or online sports pool unless it
109 has produced, to the satisfaction of the commission, information, documentation, and assurances
110 concerning its financial background and resources, including cash reserves, that are sufficient to
111 demonstrate that it has the financial stability, integrity, and responsibility to operate a sports pool
112 or online sports pool.

113 (f) (1) No online sports pool shall be opened to the public, and no sports wagering, except
114 for test purposes, may be conducted therein, until an online sports pool operator receives from
115 the commission a permit to conduct an online sports pool.

116 (2) No applicant for an online sports wagering license shall be approved unless it
117 provides a system of verification for users on its online sports pool website or mobile
118 application.

119 (g) No later than 5 years after the date of the issuance of a sports wagering license and
120 every 5 years thereafter or within such lesser periods as the commission may direct, an operator
121 or online sports pool operator shall submit to the commission such documentation or information
122 as the commission may by regulation require, to demonstrate to the satisfaction of the
123 commission that the operator or online sports pool operator continues to meet the requirements
124 and regulations of this chapter.

125 (h) Sports wagering licensees and operators may provide promotional credits, incentives,
126 bonuses, complimentaries, or similar benefits designed to induce sports betters to wager. The
127 commission shall establish by regulation, standards governing the provision of these measures.

128 (i) The server or other equipment used by a gaming licensee, operator or sports pool
129 operator, to accept wagers at a sports pool or online sports pool shall conform to requirements
130 which the commission may impose by regulation.

131 Section 20C. (a) The operator or online sports pool operator shall establish or display the
132 odds at which wagers may be placed on sports events.

133 (b) An operator shall accept wagers on sports events only from persons physically present
134 in the sports wagering lounge or through self-service wagering machines located in the gaming
135 area.

136 (c) An online sports pool operator shall accept wagers through an online sports pool.

137 (d) An operator or online sports pool operator shall not accept wagers on prohibited
138 sports events.

139 Section 20D. (a) The following persons shall not be permitted to (1) have any ownership
140 interest in, control of, or otherwise be employed by an operator, online sports pool operator, a
141 sports wagering licensee, a gaming establishment or gaming licensee in which a sports wagering
142 lounge is located or (2) place a wager on a sports event that is overseen by that person's sports
143 governing body based on publicly available information: (i) Any person who is an athlete, coach,
144 referee, or director of a sports governing body or any of its member teams; (ii) a sports governing
145 body or any of its member teams; (iii) a player or a referee personnel member, in or on any
146 sports event overseen by that person's sports governing body based on publicly available
147 information; (iv) a person who holds a position of authority or influence sufficient to exert
148 influence over the participants in a sporting contest, including but not limited to coaches,
149 managers, handlers, and athletic trainers; (v) a person with access to certain types of exclusive
150 information on any sports event overseen by that person's sports governing body based on
151 publicly available information; or (vi) a person identified by any lists provided by the sports
152 governing body to the commission.

153 (b) Any employee of a sports governing body or its member teams who is not prohibited
154 from wagering on a sports event under subsection (a) shall provide notice to the commission
155 prior to placing a wager on a sports event.

156 (c) The direct or indirect legal or beneficial owner of 5 per cent or greater of a sports
157 governing body or any of its member teams shall not place or accept any wager on a sports event
158 in which any member team of that sports governing body participates.

159 (d) The prohibition set forth in subsection (a) shall not apply to (i) a person owning less
160 than 5 per cent of the common stock of the applicant company, directly or indirectly, or a

161 holding, intermediary or subsidiary company as defined in section 2 of a specific sports
162 governing body member team; and (ii) a person owning less than 5 per cent of the common stock
163 of the applicant company, directly or indirectly, or a holding, intermediary or subsidiary
164 company as defined in said section 2 in a gaming establishment or gaming licensee.

165 Section 20E. (a) An operator shall adopt procedures to prevent persons from wagering on
166 sports events who are prohibited from placing sports wagers. An operator shall not accept wagers
167 from any person; (i) whose identity is known to the operator and whose name appears on the
168 exclusion list maintained by the commission pursuant to section 45; (ii) who is the operator,
169 director, officer, owner, or employee of the operator or any relative thereof living in the same
170 household as the operator; (iii) who has access to nonpublic confidential information held by the
171 operator; or (iv) who is an agent or proxy for any other person.

172 (b) An operator shall adopt procedures to be approved by the commission to obtain
173 personally identifiable information from any individual who places any single wager in an
174 amount of \$10,000 or greater on a sports event while physically present in a gaming
175 establishment.

176 (c) A sports wagering licensee may contract with a gaming vendor to conduct that
177 operation, in accordance with regulations promulgated by the commission. The gaming vendor
178 shall obtain a gaming vendor license prior to the execution of any such contract and in
179 accordance with the regulations promulgated by the commission.

180 (d) An operator shall promptly report to the bureau: any criminal or disciplinary
181 proceedings commenced against the operator or its employees in connection with the operations
182 of the sports pool or online sports pool; any abnormal betting activity or patterns that may

183 indicate a concern about the integrity of a sports event or events; any other conduct with the
184 potential to corrupt a betting outcome of a sports event for purposes of financial gain, including
185 but not limited to match fixing; and suspicious or illegal wagering activities, including the use of
186 funds derived from illegal activity, wagers to conceal or launder funds derived from illegal
187 activity, use of agents to place wagers, or use of false identification. The bureau is authorized to
188 share any information under this section with any law enforcement entity, team, sports governing
189 body, or regulatory agency the bureau deems appropriate.

190 (e) An operator shall maintain records of sports wagering operations in accordance with
191 regulations promulgated by the commission.

192 (f) A sports wagering licensee may, in addition to having a sports wagering lounge,
193 conduct wagering on authorized sports events through one or more kiosks or self-service
194 wagering stations located within its facility. Such self-service wagering stations located at a
195 casino may offer any game authorized under regulations promulgated by the commission.

196 (g) (1) All wagers on sports events authorized under this chapter shall be initiated,
197 received and otherwise made within the commonwealth unless otherwise determined by the
198 commission in accordance with applicable federal and state laws. Consistent with the Unlawful
199 Internet Gambling Enforcement Act of 2006 (31 U.S.C. s.5361 et seq.), the intermediate routing
200 of electronic data relating to a lawful intrastate wager authorized under this provision shall not
201 determine the location or locations in which such wager is initiated, received or otherwise made.

202 (2) Notwithstanding the provisions of clause (1) of this subsection, wagers may be
203 accepted thereunder or pooled with wagers from persons who are not physically present in the
204 commonwealth if the commission determines that such wagering is not inconsistent with federal

205 law or the law of the jurisdiction, including any foreign nation, in which any such person is
206 located, or such wagering is conducted pursuant to a reciprocal agreement to which the
207 commonwealth is a party that is not inconsistent with federal law.

208 (h) (1) Applicants for and holders of a sports wagering and online sports wagering license
209 shall be required to disclose the identity of the following: each board appointed officer of the
210 corporation; each director of the corporation; each person who directly holds any voting or
211 controlling interest of 5 percent or more of the securities issued by such applicant or holder; each
212 person who directly holds any non-voting or passive ownership interest of 25 percent or more of
213 the securities issued by such applicant or holder; and each holding or intermediary company of
214 an applicant for or holder of an operator.

215 (2) As to each holding, intermediary and subsidiary company of an applicant for or
216 holder of a sports wagering license, such applicants and holders shall be required to establish and
217 maintain the qualifications of the following: each board appointed officer of the corporation;
218 each director of the corporation; each person who directly holds any voting or controlling interest
219 of 5 percent or more of the securities issued by such applicant or holder; and each person who
220 directly holds any non-voting or passive ownership interest of 25 percent or more in such
221 holding or intermediary company.

222 (i) (1) All persons employed directly in wagering-related activities conducted within a
223 gaming establishment in a sports wagering lounge or an online sports pool shall be licensed as a
224 key gaming employee or a gaming employee or so designated by the commission. All other
225 employees who are working in the sports wagering lounge or an online sports pool shall register
226 with the commission as a gaming service employee.

227 (2) Each operator shall designate one or more gaming key employees who shall be
228 responsible for the operation of the sports pool or online sports pool. At least one such gaming
229 key employee shall be in the gaming establishment whenever sports wagering is conducted.

230 (j) Except as otherwise provided by this chapter, the commission shall have the authority
231 to regulate sports pools, online sports pools, and the conduct of sports wagering under this
232 chapter to the same extent that the commission regulates gaming.

233 (k) The commission, shall promulgate regulations necessary to carry out the provisions of
234 sections 20B through 20F, inclusive, including but not limited to, regulations governing the:

235 (1) number of individually branded websites and accompanying mobile application that
236 each sports wagering licensee may provide;

237 (2) amount of cash reserves to be maintained by operators to cover winning wagers;

238 (3) acceptance of wagers on a series of sports events;

239 (4) maximum wagers which may be accepted by an operator from any one person on any
240 one sports event;

241 (5) type of wagering tickets which may be used;

242 (6) method of issuing tickets;

243 (7) method of accounting to be used by operators;

244 (8) types of records which shall be kept;

245 (9) use of credit and checks by patrons;

246 (10) a cashless wagering system for sports wagering pursuant to the provisions of section
247 29;

248 (11) protections for a person placing a wager, including a verification system for online
249 sports pools, including age and identity verification; and

250 (12) the display of information on the signs of problem gambling and how to access
251 assistance.

252 (l) Each operator shall adopt comprehensive house rules governing sports wagering
253 transactions which shall be approved by the commission. The rules shall specify the amounts to
254 be paid on winning wagers and the effect of schedule changes. The house rules, together with
255 any other information the commission deems appropriate, shall be conspicuously displayed in
256 the sports wagering lounge, posted on the online sports pool operator's website or mobile
257 application, and included in the terms and conditions of the cashless wagering system pursuant to
258 the provisions of section 29, and copies shall be made readily available as required by the
259 commission.

260 Section 20F. Nothing in sections 20A through 20F, inclusive, shall limit (1) the tribal-
261 state compact entered into pursuant to section 91 of chapter 194 of the acts of 2011 and as
262 approved by the general court pursuant to chapter 1 of the resolves of 2012, or (2) the attorney
263 general's authority over daily fantasy contests as defined in section 135 of chapter 219 of the acts
264 of 2016 pursuant to the General Laws and regulations promulgated by the attorney general.

265 SECTION X. Section 21 of said chapter 23K, as so appearing, is hereby further amended
266 by adding, the following subsection:-

267 (e)The commission may waive certain provisions of this section that it deems
268 inapplicable to the issuance of a sports wagering license as defined in section 20A.

269 SECTION X. Section 23 of said chapter 23K, as so appearing, is hereby further amended
270 by inserting after the word “licensee”, in line 1, the following words:- and a sports wagering
271 licensee as defined in section 20A.

272 SECTION X. Section 37 of said chapter 23K, as so appearing, is hereby further amended
273 by inserting after subsection (g), the following subsection:- (h) Whoever willfully violates the
274 provisions of section 20D shall be punished by imprisonment in the house of correction for not
275 more than 6 months or by a fine not to exceed \$10,000, or both, and in the case of a person other
276 than a natural person, by a fine not to exceed \$100,000.

277 SECTION X. Said chapter 23K, as so appearing, is hereby further amended by inserting
278 after section 55, the following section:-

279 Section 55A.(a) (1) The sums received by a sports wagering licensee from sports
280 wagering, all as defined in section 20A, less only the total of all sums actually paid out as
281 winnings to patrons, shall not be taxed as gross gaming revenue as defined in section 2 but shall
282 be subject to a tax of 10 per cent. (2) The sums received from an online sports wagering licensee
283 on sports events, both as defined in section 20A, less only the total of all sums actually paid out
284 as winnings, shall be subject to a tax of 12.5 per cent, which shall be paid to the Gaming Local
285 Aid Fund established in section 63. (3)The cash equivalent value of any merchandise or thing of
286 value included in a jackpot or payout shall not be included in the total of all sums paid out as
287 winnings for purposes of determining revenue under this subsection.

288 (b) The operator of fantasy contests as defined in section 135 of chapter 219 of the acts of
289 2016 shall pay a tax of 12.5 per cent, except that sums received from a fantasy contest, less only
290 the total of all sums actually paid out as winnings, and shall be remitted to the commission no
291 less frequently than monthly by the operator to be paid to the Gaming Local Aid Fund
292 established in section 63.

293 SECTION X. Subsection (e) of section 56 of said chapter 23K, is hereby further amended
294 by inserting after the first sentence, the following sentence:- The commission shall also assess an
295 annual fee of \$1,000,000 in shares to be determined by the commission against each sports
296 wagering licensee that is not a category 1 or category 2 gaming licensee.

297 SECTION X. Subsection (2) of section 71 of said chapter 23K, as so appearing is hereby
298 further amended by inserting after clause (vi), the following clause:- (vi ½) an assessment of the
299 impacts on sports wagering on individuals, families, businesses, social institutions and the
300 economy generally;"