SENATE DOCKET, NO. 2412 FILED ON: 2/19/2021

SENATE . . . . . No. 263

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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 sports wagering in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Paul R. Feeney	*Bristol and Norfolk*	
Tackey Chan	*2nd Norfolk*	*3/4/2021*
Steven S. Howitt	*4th Bristol*	*3/16/2021*

SENATE DOCKET, NO. 2412 FILED ON: 2/19/2021

SENATE . . . . . No. 263

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 263) of Paul R. Feeney, Tackey Chan and Steven S. Howitt for legislation relative to sports wagering in the Commonwealth. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

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

An Act relative to sports wagering in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 7 of chapter 4 of the General Laws, appearing in the 2018 Official Edition, is hereby amended by striking out the Tenth clause and inserting in place thereof the following clause:-

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

SECTION 7. The General Laws are hereby amended by inserting after chapter 23M the following chapter:-

CHAPTER 23N.

AUTHORIZATION AND REGULATION OF SPORTS WAGERING

Section 1. This chapter shall be known and may be cited as the “Massachusetts Sports Wagering Act”.

Section 2. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules and regulations of the commission.

Section 3. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Adjusted gross sports wagering receipts”, an operator’s total gross receipts from sports wagering, excluding sports wagers made with promotional gaming credits, less the total of all winnings, not including voided wagers, paid to wagerers in such games, which shall include the cash equivalent of any merchandise or thing of value awarded as a prize, and all excise taxes paid pursuant to federal law.

“Category S1 - Master”, a license issued by the commission that permits the operation of sports wagering through a mobile application and other digital platforms approved by the commission and in person at a category 1 or category 2 gaming establishment as defined in section 2 of chapter 23K.

"Category S1 - Sub", a license issued by the commission that permits the operation of sports wagering through a mobile application and other digital platforms approved by the commission by a category 1 or category 2 gaming establishment as defined in section 2 of chapter 23k, that is separately and distinctly branded from the licensee's "S1-Master" license and may be contracted by the license holder to a services provider approved by the commission.

"Category S2 - Track", (i) a license issued by the commission that permits the operation of sports wagering in person or through a mobile application and other digital platforms approved by the commission at a race track as defined in section 1 of chapter 128A or at a facility owned or operated by a person who was a racing meeting licensee under said chapter 128A during calendar year 2020 and conducts pari-mutuel wagering in accordance with applicable laws; or (ii) a license issued by the commission that permits the operation of sports wagering in person or through a mobile application and other digital platforms and in person at a live thoroughbred race track approved by the commission, provided that said licensee (A) operates a thoroughbred horse racing track with at least a 1 mile circumference; (B) has received approval from the New England Horsemen's Benevolent and Protective Association to conduct sports wagering pursuant to this chapter; and (C) makes a capital investment of not less than $25,000,000 within 3 years after receiving said license and conducts at least twenty race days in a year.

"Category S3 - Mobile" a license issued by the commission that permits the operation of sports wagering through a mobile application and other digital platforms approved by the commission to any entity that has offered fantasy sports contests in the commonwealth pursuant to 940 C.M.R. 34.00 for at least 1 year at the time of enactment of this act, has been permitted to offer sports wagering in at least 2 other jurisdictions in the United States by the relevant

regulatory body in those jurisdictions and meets the requirements of this chapter and the rule and regulations of the commission.

"Collegiate sport or athletic event", a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.

"Commission", the Massachusetts gaming commission established in section 3 of chapter 23K.

"Governmental authority", any governmental unit of a national, state or local body exercising governmental functions, other than the United States government.

"License", any license, applied for or issued by the commission under this chapter, including, but not limited to: (i) an operator license; or (ii) an occupational license.

"National criminal history background check system", the criminal history record system maintained by the Federal Bureau of Investigation, based on fingerprint identification or any other method of positive identification.

"Occupational license", a license required by an employee of an operator when the employee performs duties directly related to the operation of sports wagering in the commonwealth in a supervisory role. This shall not include employees who do not accept wagers or have the ability to alter material aspects of sports wagering in the Commonwealth.

"Operator" or "sports wagering operator", any entity permitted under this chapter to offer sports wagering to persons in the commonwealth through a category S1-Master license, category S1-Sub license, category S2-Track license or category S-3 Mobile license.

"Operator license", a license issued by the commission that permits the operation of sports wagering in the following categories: category S1-Master license, category S1-Sub license, category S2-Track license or category S-3 Mobile license to operate sports wagering.

"Official league data", statistics, results, outcomes and other data relating to a sporting event that is obtained pursuant to an agreement with the relevant sports governing body, or with an entity expressly authorized by the relevant sports governing body to provide such data to sports wagering operators, which authorizes the use of such data for determining the outcome of tier 2 sports wagers on such sporting event.

"Professional sport or athletic event", an event at which 2 or more persons participate in a sports event and receive compensation in excess of actual expenses for their participation in such event.

"Promotional gaming credit", a sports wagering credit or other item issued by an operator to a patron to enable the placement of a sports wager.

"Qualified gaming entity", an entity that: (i) holds a gaming license as defined in section 2 of chapter 23K; (ii) holds a license to conduct a racing meeting as defined in section 1 of chapter 128A or was licensed as a grey hound or horse racing meeting licensee pursuant to chapter 128A during calendar year 2020 and conducts pari-mutuel wagering in accordance with applicable laws; (iii) holds a license issued by the commission that permits the operation of sports wagering through a mobile application and other digital platforms and in person at a live thoroughbred race track approved by the commission, provided that said licensee (A) operates a thoroughbred horse racing track with at least a 1 mile circumference; (B) has received approval from the New England Horsemen's Benevolent and Protective Association to conduct sports

wagering pursuant to this chapter; and (C) makes a capital investment of not less than $25,000,000 within 3 years after receiving a said license. and conducts at least twenty race days in a year; or (iv) offers fantasy sports contests in the commonwealth pursuant to 940 C.M.R. 34.00 for at least 1 year at the time of enactment of this act, has been permitted to offer sports wagering in at least 2 other jurisdictions in the United States by the relevant regulatory body in those jurisdictions and meets the requirements of this chapter and the rule and regulations of the commission.

"Sports wagering", the business of accepting wagers on sporting events or portions of sporting events, other events, the individual performance statistics of athletes in a sporting event or other events or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms; provided, that sports wagering shall not include the acceptance of any wager with an outcome dependent on the performance of an individual athlete in any athletic event, including but not limited, to in-game or in-play wagers; provided, further that sports wagering shall not include any acceptance of wagers on a high school or youth sporting event; provided further, that sports wagering shall not include fantasy contests as defined in section 135 of chapter 219 of the acts of 2016. Sports wagering shall include, but is not limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets.

"Sports wagering account", a financial record established by an operator for an individual patron in which the patron may deposit by any method approved by the commission and withdraw funds for sports wagering and other authorized purchases, and to which the operator may credit winnings or other amounts due to or authorized by that patron. Such account may be

established and funded by the patron electronically through an approved mobile application or digital platform.

"Tier 1 sports wager", a sports wager that is determined solely by the final score or outcome of a sporting event and is placed before the sporting event has begun.

"Tier 2 sports wager", a sports wager that is not a tier 1 sports wager.

"Wager", a sum of money or thing of value risked on an uncertain occurrence.

Section 4. (a) The commission shall have the authority to regulate the conduct of sports wagering under this chapter.

(b) The commission shall examine the rules and regulations implemented in other states where sports wagering is authorized and shall, as far as practicable, adopt a similar regulatory framework through promulgation of rules and regulations.

(c) The commission shall have the authority to promulgate rules and regulations necessary for the implementation, administration and enforcement of this chapter. The commission may promulgate emergency rules and regulations in accordance with applicable procedures for the promulgation of emergency rules and regulations.

(d) The commission may promulgate rules and regulations including, but not limited to, those governing the acceptance of wagers on a sports event, other event or a series of sports events; types of wagering receipts which may be used; methods of issuing receipts; methods of accounting to be used by operators; types of records to be kept; types of systems for wagering; protections for patrons placing wagers; and promotion of social responsibility and responsible gambling; provided, that such regulations shall include a requirement that all mobile applications

and digital platforms authorized for sports wagering include prominently upon each entry into the application or platform, the following statement: “If you or someone you know has a gambling problem and wants help, call the Massachusetts Council on Compulsive Gambling hotline at 1-800-426-1234.”

(e) The commission shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses and shall maintain a record of all licenses issued under this chapter. The commission may accept applications, evaluate qualifications of applicants, undertake initial review of licenses and issue temporary licenses upon the effective date of this chapter.

(f) The commission shall levy and collect all fees, surcharges, civil penalties and taxes on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.

(g) The commission shall have the authority to enforce this chapter and any rule or regulation of the commission and may request that the attorney general bring an action to enforce this chapter or any rule or regulation of the commission by civil action or petition for injunctive relief.

(h) The commission may hold hearings, administer oaths and issue subpoenas or subpoenas duces tecum in order to enforce this chapter and the rules and regulations of the commission.

(i) The commission may exercise any other powers necessary to effectuate this chapter and the rules and regulations of the commission.SEP SEPSection 5. (a) No person shall engage in any activity in connection with sports wagering in the commonwealth unless all necessary

licenses or temporary licenses have been obtained in accordance with this chapter and rules and regulations of the commission.

(b) The commission shall not grant an operator license, other than a temporary license pursuant to subsection (c) of section 6, until it determines that each person who has control of the applicant meets all qualifications for licensure. The following persons are considered to have control of an applicant:

(1) Each person who owns 10 per cent or more of a corporate applicant and who has the ability to control the activities of the corporate applicant; provided, however, that a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business shall not be considered to have control of an applicant;

(2) Each person who holds a beneficial or proprietary interest of 10 per cent or more of a non-corporate applicant's business operation and who has the ability to control the activities of the non-corporate applicant; and

(3) At the commission's discretion, any executive, employee or agent having the power to exercise significant influence over decisions concerning the applicant's sports wagering operations in the commonwealth.

(c) Each controlling person pursuant to subsection (b) shall submit to the commission an application in a form determined by the commission, and each such controlling person who is a natural person shall submit to the commission: (i) fingerprints for a national criminal records check by the department of the state police and the Federal Bureau of Investigation; and (ii) a signed authorization for the release of information by the department of the state police and the Federal Bureau of Investigation; provided, however, that a controlling person who is a natural

person that has submitted to a national criminal records check in any jurisdiction within the previous year shall not be required to submit to another national criminal records check if such person submits to the commission the results of such previous national criminal records check. Any applicant convicted of any disqualifying offense shall not be licensed.

(d) Each person licensed under this chapter shall give the commission written notice within 30 days of any change to any material information provided in the application for a license or renewal.

(e) No commission employee shall be an applicant for any license issued under this chapter.

Section 6. (a) A licensed qualified gaming entity may operate sports wagering upon the approval of the commission.

(b)(1) The commission shall issue a category S1-Master license to any holder of a gaming license, as defined in section 2 of chapter 23K, that meets the requirements of this chapter and the rules and regulations of the commission.

(2) The commission shall issue 2 category S1-Sub licenses to any and each holder of a gaming license, as defined in section 2 of chapter 23k, that meets the requirements of this chapter and the rules and regulations of the commission.

(3) The commission shall issue a category S2-Track license to: (i) any holder of a license to conduct a racing meeting, as defined in section 1 of chapter 128A or to any person who was licensed as a grey hound or horse racing meeting licensee pursuant to said chapter 128 during the calendar year 2020 and conducts pari-mutuel wagering in accordance with applicable laws; or

(ii) a live thoroughbred race track approved by the commission, provided that said licensee (A) operates a thoroughbred horse racing track with at least a 1 mile circumference; (B) has received approval from the New England Horsemen's Benevolent and Protective Association to conduct sports wagering pursuant to this chapter; and (C) makes a capital investment of not less than $25,000,000 within 3 years after receiving a said license and conducts at least twenty race days per year; that meets the requirements of this chapter and the rules and regulations of the commission.

(3) The commission shall issue a category S3 - Mobile license to any entity that has offered fantasy sports contests in the commonwealth pursuant to 940 C.M.R. 34.00 for at least 1 year at the time of enactment of this act, has been permitted to offer sports wagering in at least 2 other jurisdictions in the United States by the relevant regulatory body in those jurisdictions and meets the requirements of this chapter and the rule and regulations of the commission. The commission shall issue no more than 1 license of this category type.

(4) All fees, surcharges, civil penalties and taxes collected by the Commission under this chapter shall revert to the General Fund unless otherwise specified.

(c) Upon application by a qualified gaming entity and payment of a $5,000,000 application fee, the commission shall grant an operator license to a qualified gaming entity that provides for the right to conduct sports wagering; provided, that the qualified gaming entity meets the requirements for licensure under this chapter and the rules and regulations of the commission. Such license shall be issued for a 3-year period, and may be renewed for 3-year periods upon payment of a $1,000,000 renewal fee; provided, that an operator continues to meet all requirements under this chapter and the rules and regulations of the commission.

(d) An operator shall submit to the commission such documentation or information as the commission may require demonstrating that the operator continues to meet the requirements of this chapter and the rules and regulations of the commission. An operator shall submit required documentation or information no later than 3 years after issuance of its operator license and every 3 years thereafter, or within lesser periods based on circumstances specified by the commission.

Section 7. (a) All persons employed by an operator to perform duties directly related to the operation of sports wagering in Massachusetts in a supervisory role shall maintain a valid occupational license issued by the commission. This shall not include employees who do not accept wagers or have the ability to alter material aspects of sports wagering in the Commonwealth. The commission shall issue such occupational license to a person who meets the requirements of this section.

(b) An occupational license authorizes the licensee to be employed in the capacity designated by the commission while the license is active. The commission may establish, by rule or regulation, job classifications with different requirements based on the extent to which a particular job impacts, or has the potential to impact, the lawful operation of sports wagering.

(c) An applicant for an occupational license shall submit any required application forms established by the commission and shall pay a nonrefundable application fee of $100. The employer shall pay the application fee on behalf of the applicant.

(d) Each occupational license holder shall annually pay to the commission a license fee of $100 by March 1 and submit a renewal application on the form required by the commission. The employer shall pay the application fee on behalf of the applicant.

Section 8. (a) For both operator and occupational licenses, the commission shall deny a license to any applicant, reprimand any licensee or suspend or revoke a license, if the applicant or licensee:

(1) has knowingly made a false statement of a material fact to the commission;

(2) has had a license revoked by any governmental authority responsible for regulation of gaming activities;

(3) has been convicted of a crime of moral turpitude, a gambling-related offense or a theft or fraud offense;

(4) has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise; or

(5) is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business.

(6) has been found by the Federal of State authority having jurisdiction to have violated Federal, State or Local labor and employment law.

(b) The commission may deny, suspend or revoke an operator license or reprimand any licensee if the applicant or licensee has not met the requirements of this chapter.

Section 9. (a) Each operator shall adopt comprehensive house rules for game play governing sports wagering transactions with its patrons. The house rules shall specify the amounts to be paid on winning wagers and the effect of sports event schedule changes. The commission shall approve house rules prior to implementation.

(b) The house rules, together with any other information the commission deems appropriate, shall be accessible to any patrons of the sports wagering system. The operator shall make copies readily available to patrons and shall display and post the house rules in a conspicuous place easily visible by patrons.

Section 10. (a) Sports wagering operators shall employ commercially reasonable methods to:

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

(2) prohibit athletes, coaches, referees, team owners, employees of a sports governing body or its member teams and player and referee union personnel from wagering on any sporting event of their sport's governing body; provided, that in determining which persons are excluded from placing wagers under this subsection, operators shall use lists of such persons that the sports governing body may provide to the commission;

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

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

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

(b) A sports governing body may submit to the commission in writing, by providing notice in such form and manner as the commission may require, a request to restrict, limit or exclude a certain type, form or category of sports wagering with respect to sporting events of such body, if the sports governing body believes that such type, form or category of sports wagering with respect to sporting events of such body is contrary to public policy, unfair to consumers, may undermine the perceived integrity of such body or sporting events of such body or affects the integrity of such body or sporting events of such body. The commission shall request comment from sports wagering operators on all such requests. After giving due consideration to all comments received, the commission shall, upon a demonstration of good cause from the requestor, grant the request. The commission shall respond to a request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, no later than 7 days after the request is made; provided, that if the commission determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the commission may provisionally grant the request of the sports governing body until the commission makes a final determination as to whether the requestor has demonstrated good cause. Absent such a provisional grant by the commission, sports wagering operators may continue to offer sports wagering on sporting events that are the subject of such a request during the pendency of the consideration of the applicable request.

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

(d) The commission and sports wagering operators shall use commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including but not limited to, using commercially reasonable efforts to provide or facilitate the provision of anonymized account-level betting information and audio or video files relating to persons placing wagers. All disclosures under this section are subject to the obligation of a sports wagering operator to comply with all federal, state and local laws and regulations, including but not limited to, laws and regulations relating to privacy and personally identifiable information.

(e) Sports wagering operators shall immediately report to the commission any information relating to:

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

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

(3) any potential breach of the internal rules and codes of conduct pertaining to sports wagering of a relevant sports governing body;

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

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

Sports wagering operators shall immediately report information relating to conduct described in paragraphs (2), (3) and (4) of this subsection to the relevant sports governing body.

(f) The commission and sports wagering operators shall maintain the confidentiality of information provided by a sports governing body for purposes of investigating or preventing the conduct described in paragraphs (2), (3) and (4) of subsection (e), unless disclosure is required by this chapter, the commission, other law or court order or unless the sports governing body consents to disclosure.

(g) With respect to any information provided by a sports wagering operator to a sports governing body relating to conduct described in paragraphs (2), (3) and (4) of subsection (e), a sports governing body:

(1) shall only use such information for integrity purposes and shall not use the information for any commercial or other purpose; and

(2) shall maintain the confidentiality of such information, unless disclosure is required by this chapter, the commission, other law or court order or unless the sports wagering operator consents to disclosure; provided, that the sports governing body may make disclosures necessary to conduct and resolve integrity-related investigations and may publicly disclose such information if required by its integrity policies or if deemed by the sports governing body in its reasonable judgment to be necessary to maintain the actual or perceived integrity of its sporting events, and subject in all cases to the sports governing body’s compliance with federal, state and local laws and regulations, including but not limited to, laws and regulations relating to privacy and personally identifiable information. Prior to any such public disclosure that would identify

the sports wagering operator by name, the sports governing body shall provide such sports wagering operator with notice of such disclosure and an opportunity to object to such disclosure.

(h) Sports wagering operators shall maintain records of all wagers placed by its patrons, including personally identifiable information of the patron, amount and type of the bet, the time the bet was placed, the location of the bet, including the IP address if applicable, the outcome of the bet and records of abnormal betting activity for 3 years after a sporting event occurs and video camera recordings in the case of in-person wagers for at least 1 year after a sporting event occurs, and shall make such data available for inspection upon request of the commission or as required by court order.

(i) A sports wagering operator shall use commercially reasonable efforts to maintain in real time and at the account level, anonymized information for each patron, including the amount and type of bet, the time the bet was placed, the location of the bet, including the IP address if applicable, the outcome of the bet and records of abnormal betting activity. The commission may request such information in the form and manner as it requires. Nothing in this section shall require a sports wagering operator to provide any information prohibited by federal, state or local laws or regulations, including but not limited to, laws and regulations relating to privacy and personally identifiable information.

(j) If a sports governing body has notified the commission and demonstrated a need for access to the information described in subsection (i) for wagers placed on sporting events of such sports governing body for integrity monitoring purposes, and demonstrated the capability to use such data for the purpose of effectively monitoring the integrity of sporting events of such sports governing body, a sports wagering operator shall share, in a commercially reasonable frequency,

form and manner, with the sports governing body or its designee the same information the sports wagering operator is required to maintain under subsection (i) with respect to sports wagers on sporting events of such sports governing body. A sports governing body and its designee shall only use information received under this section for integrity-monitoring purposes and shall not use information received under this section for any commercial or other purpose. Nothing in this section shall require a sports wagering operator to provide any information that is prohibited by federal, state or local laws or regulations, including but not limited to, laws and regulations relating to privacy and personally identifiable information.

(k) The commission shall promulgate through rules and regulations a framework of sufficient vetting and background checks on a sports wagering operator's certain existing employees and certain newly hired employees, such as officers, directors, executive level employees, and those in similarly situated roles that are consistent with industry standards and practices. Background checks if so required by the commission shall search for criminal history, charges or convictions involving corruption or manipulation of sporting events and association with organized crime.

Section 11. (a) All operators licensed under this chapter to conduct sports wagering shall:

(1) employ a monitoring system utilizing software to identify irregularities in volume or changes in odds that could signal suspicious activities and promptly report such information to the commission for further investigation. System requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards;

(2) promptly report to the commission any facts or circumstances related to the operation of a sports wagering licensee which constitute a violation of state or federal law and promptly report to the appropriate state or federal authorities any suspicious betting over a threshold set by the operator that has been approved by the commission;

(3) conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety or welfare of the residents of the commonwealth;

(4) keep current in all payments and obligations to the commission;

(5) prevent any person from tampering with or interfering with the operation of any sports wagering;

(6) ensure that mobile sports wagering occurs only using a commission-approved mobile application or other digital platform to accept wagers initiated within the commonwealth;

(7) maintain sufficient cash and other supplies to conduct sports wagering at all times; and

(8) maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the licensee from sports wagering and shall timely file with the commission any additional reports required by rule, regulation or this chapter.

(b) Sports wagering operators may use any data source for determining:

(1) the results of any and all tier 1 sports wagers on any and all sporting events; and

(2) the results of any and all tier 2 sports wagers on sporting events of an organization that is not headquartered in the United States.

(c) A sports governing body may notify the commission that it desires sports wagering operators to use official league data to settle tier 2 sports wagers on sporting events of such sports governing body. Such notification shall be made in the form and manner as the commission may require. Within 5 days of receipt of such notification, the commission shall notify each sports wagering operator of the requirement to use official league data to settle tier 2 sports wagers. If a sports governing body does not notifiy the commission of its desire to supply official league data, a sports wagering operator may use any data source for determining the results of tier 2 sports wagers on sporting events of such sports governing body.

(d) Within 45 days of the commission notifying a sport wagering operator of the requirement to use official league data to settle tier 2 sports wagers pursuant to subsection (c), or such longer period as may be agreed between the sports governing body and the applicable sports wagering operator, a sports wagering operator shall use only official league data to determine the results of tier 2 sports wagers on sporting events of that sports governing body, unless:

(1) the sports governing body or its designee cannot provide a feed of official league data to determine the results of a particular type of tier 2 sports wager, in which case a sports wagering operator may use any data source for determining the results of the applicable tier 2 sports wager until such time a data feed becomes available from the sports governing body on commercially reasonable terms and conditions; or

(2) a sports wagering operator can demonstrate to the commission that the sports governing body or its designee will not provide a feed of official league data to the sports wagering operator on commercially reasonable terms and conditions.

(e) In evaluating whether official league data is offered on commercially reasonable terms and conditions for purposes of paragraphs (1) and (2) of subsection (d), the commission may consider factors, including but not limited to:

(1) the availability of official league data to a sports wagering operator from more than 1 authorized source;

(2) market information, including but not limited to, price and other terms and conditions regarding the purchase by sports wagering operators of comparable data for the purpose of settling sports wagers in the commonwealth and other jurisdictions;

(3) the nature and quantity of data, including the quality and complexity of the process used for collecting such data; and

(4) the extent to which a sports governing body or its designee has made data used to settle tier 2 wagers available to sports wagering operators and any terms and conditions relating to the use of that data.

(f) Notwithstanding anything to the contrary set forth herein, including but not limited to, subsection (d), during the pendency of the determination of the commission as to whether a sports governing body or its designee may provide official league data on commercially reasonable terms, a sports wagering operator may use any data source to determine the results of tier 2 sports wagers. The determination shall be made within 120 days of the sports wagering operator notifying the commission that it requests to demonstrate that the sports governing body or its designee will not provide a feed of official league data to the sports wagering operator on commercially reasonable terms.

(g) A sports governing body may enter into commercial agreements with a sports wagering operator or other entity in which such sports governing body may share in the amount bet or revenues derived from sports wagering on sporting events of such sports governing body. A sports governing body shall not be required to obtain a license or any other approval from the commission to lawfully accept such amounts or revenues.

Section 12. (a) Holders of category S1-Master and category S2-Track licenses may accept wagers on sports events and other events authorized under this chapter in person at authorized gaming facilities.

(b) Holders of category S1-Master, category S1-Sub, category S2-Track, and category S3-Mobile licenses may accept wagers on sports events and other events authorized under this chapter from individuals physically located within the commonwealth using mobile applications or digital platforms approved by the commission, through the patron's sports wagering account. The branding for each mobile application or digital platform shall be determined by the operator. All bets authorized under this section must be initiated, received and otherwise made within the commonwealth. Consistent with the intent of the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized under this chapter shall not determine the location or locations in which the wager is initiated, received or otherwise made.

(c) An operator may accept wagers placed by other operators, and may place wagers with other operators; provided, that any operator that places a wager with another operator shall inform the operator accepting the wager that the wager is being placed by an operator and shall disclose its identity.

(d) A person placing a wager shall be at least 21 years of age.

(e)(1) The commission or operator may ban any person from participating in the play or operation of any sports wagering consistent with rules and regulations promulgated by the commission. A list of all excluded patrons shall be kept by the commission and provided to each licensee, and no patron on the exclusion list shall be permitted to conduct sports wagering under this chapter.

(2) The commission shall establish a list of self-excluded persons from sports wagering. A person may request such person's name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person shall not collect any winnings or recover any losses resulting from any sports wagering. The commission shall adopt further regulations for the self-excluded persons list including procedures for placement, removal and transmittal of such list to sports wagering operators. The commission may revoke, limit, condition, suspend or fine a sports wagering operator if the operator knowingly or recklessly fails to exclude or eject from its premises any person placed on the list of self-excluded persons.

(f) No licensed employee may place a sports wager through any mobile application or digital platform owned or operated by their employer.

(g) No licensed employee may place a sports wager at any facility owned or operated by their employer.

(h) Sections 24, 24A and 27 of chapter 10 of the General Laws shall not apply to an operator conducting sports wagering in accordance with this chapter.

(i) The commission may adopt rules to establish internet sports wagering accounts, but nothing in this bill shall prohibit account registration in person at a sports gaming facility, or over the internet without appearing in person. An operator shall adopt reasonable procedures to ensure that individuals have no more than one internet wagering account with the operator, or S1-Sub license holder offering internet wagering on the operator's behalf.(j) The Commission shall adopt rules requiring that sports gaming may only be conducted with chips, tokens, electronic cards, or other means including:

(a) Cash;

(b) Cash equivalent;

(c) Debit or credit card;

(d) Reloadable prepaid card or online account;

(e) ACH

(f) PayPal

(g) Promotional Funds;

(h) Winnings; and

(i) Any other means approved by the commission Section 13. (a)(1) For the privilege of holding a license to operate sports wagering under this chapter, the commonwealth shall impose and collect an excise equal to 14 percent of the operator’s adjusted gross sports wagering receipts from the operation of sports wagering within a gaming establishment facility permitted under a category S1 - Master license; 18 percent of the operator’s adjusted gross sports wagering

receipts from the operation of sports wagering using mobile and online platforms permitted under category S1-Master licenses, category S1-Sub licenses, category S2- Track licenses, and category S3-Mobile licenses, hereinafter “privilege tax”. The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee.

(b)(1) The tax levied and collected pursuant to paragraph (1) of subsection (a) shall be due and payable to the commission in monthly installments on or before the 15th calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.

(2) The operator shall complete and submit the return for the preceding month by electronic communication to the commission, on or before the 15th of each month, in the form prescribed by the commission that provides:

(i) the total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of sports wagering during that month;

(ii) the tax amount for which the sports wagering licensee is liable; and

(iii) any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the commission.

(3) The tax amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

(4) When adjusted gross receipts for a month is a negative number because the winnings paid to patrons wagering on the operator’s sports wagering exceed the operator’s total gross receipts from sports wagering by patrons, the commission shall allow the operator to carry over the negative amount to returns filed for subsequent months. The negative amount of adjusted

gross receipts shall not be carried back to an earlier month and taxes previously received by the commission will not be refunded, except if the operator surrenders its license and the operator's last return reported negative adjusted gross receipts.

(c) The tax on adjusted gross sports wagering receipts imposed by this section shall be in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of sports wagering.

Section 14. The commission may impose on any person who violates this chapter a civil penalty not to exceed $2,000 for each violation or $5,000 for violations arising from the same series of events. Such penalty shall be imposed on all individuals and is not limited to individuals licensed under this chapter.

Section 15. (a) Any person, other than an operator under this chapter, who engages in accepting, facilitating or operating a sports wagering operation is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000 or confined in jail for not more than 90 days, or both fined and confined.

(b) Any person convicted of a second violation of subsection (a) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $50,000, or confined in jail for not more than 6 months, or both fined and confined.

(c) Any person convicted of a third or subsequent violation of subsection (a) is guilty of a felony, and upon conviction thereof, shall be fined not less than $25,000 nor more than $100,000 or imprisoned in a state correctional facility for not less than 1 year nor more than 5 years, or both fined and confined.

Section 16. No person shall be permitted to place or receive a sports wager on a National Collegiate Athletic Association team from the Commonwealth of Massachusetts.