

SENATE No. 281

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 gaming.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>3/17/2021</i>

SENATE No. 281

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 281) of Bruce E. Tarr and Steven S. Howitt for legislation relative to gaming. Economic Development and Emerging Technologies.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 228 OF 2019-2020.]

The Commonwealth of Massachusetts

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

An Act relative to gaming.

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

1 SECTION 1. Subclause (ii) of clause Tenth of section 7 of chapter 4 of the General Laws,
2 as appearing in the 2016 Official Edition, is hereby amended by inserting after the word “game”,
3 the following words:- or sports pool or online sports pool.

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

7 SECTION 3. Said section 2 of said chapter 23K, as so appearing, is hereby further
8 amended, in the definition of “Gaming establishment”, by inserting after the word “area” in line
9 112, the following words:-, a sports wagering lounge as defined in section 20A.

10 SECTION 4. Said section 2 of said chapter 23K, as so appearing, is hereby further
11 amended, in the definition of “Gaming license”, by inserting at the end thereof, the following
12 words:- , sports pool or online sports pool as defined in section 20A, or a license issued by the
13 commission that permits the operation of sports wagering through a mobile application and other
14 digital platforms and in person at a live thoroughbred race track approved by the commission,
15 provided that said licensee (i) operates a thoroughbred horse racing track with at least a 1 mile
16 circumference; (ii) has received approval from the New England Horsemen’s Benevolent and
17 Protective Association to conduct sports wagering pursuant to this chapter; and (iii) makes a
18 capital investment of not less than \$25,000,000 within 3 years after receiving a category 1
19 license and conducts at least ten race days in a year.

20 SECTION 5. Section 8 of said chapter 23K, as so appearing, is hereby further amended
21 by inserting, in line 2, after the word “licenses”, the following words:- and sports wagering
22 licenses as defined in section 20A.

23 SECTION 6. Section 9 of said chapter 23K, as so appearing, is hereby amended by
24 adding the following subsection:-

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

27 SECTION 7. Said chapter 23K of the General Laws, as so appearing, is hereby amended
28 by inserting after section 20, the following 6 sections:-

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

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

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

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

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

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

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

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

52 “Sports event”, any professional sport or athletic event, any Olympic or international
53 sports competition event, or any portion thereof, including, but not limited to, the individual
54 performance statistics of athletes in a sports event or combination of sports events, except “sports
55 event” shall not include a prohibited sports event or a fantasy contest, as defined in section 135
56 of chapter 219 of the acts of 2016;

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

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

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

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

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

72 Section 20B. (a)The commission shall issue all sports wagering licenses and renewals
73 thereof to gaming licensees. In addition to games permitted under this chapter, a gaming licensee
74 which holds a sports wagering license issued by the commission may operate a sports pool in
75 accordance with the provisions of this chapter and applicable regulations promulgated by the
76 commission. A gaming licensee that holds a sports wagering license may conduct an online
77 sports pool or may authorize an internet sports pool operator that holds a gaming license, sports
78 wagering license or gaming vendor license, to operate an online sports pool on its behalf,
79 provided that the terms of that agreement are approved by the commission. Each sports wagering
80 licensee may provide a limited number of individually branded websites, each of which may
81 have an accompanying mobile application bearing the same brand as the website for an online
82 sports pool; provided that, said websites and mobile applications, in the case of a gaming
83 licensee, may be in addition to or conjunction with any websites and mobile applications that
84 also offer fantasy contests as defined in section 135 of chapter 219 of the acts of 2016. The
85 commission shall determine the number of individually branded websites and accompanying
86 mobile application that each sports wagering licensee may provide.

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

93 (c) The commission shall determine the minimum licensing fee for the issuance or
94 renewal of a sports wagering license, which shall not be less than \$500,000 for initial issuance,

95 to be paid within 30 days after the award of the license. The commission shall set any renewal
96 fee for such license based on the cost of fees associated with the evaluation of a sports wagering
97 licensee under this chapter which shall be deposited into the Gaming Local Aid Fund established
98 in section 63. Such renewal fee shall be exclusive of any subsequent licensing fees under this
99 section.

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

102 (2) No category 1 or category 2 licensee shall be permitted to operate a sports pool or
103 accept wagers via an online sports pool unless a sports wagering lounge is established and has
104 commenced operation in its facility; provided, however, that an applicant for a sports wagering
105 license may petition the commission to commence operation of the sports pool at a temporary
106 facility and or an online sports pool during the pendency of construction of a sports wagering
107 lounge in its facility. Such temporary facility may include, at the discretion of the commission,
108 the utilization of designated windows and self-service wagering machines located in the gaming
109 area or a cashless wagering system pursuant to the provisions of section 29; provided that the
110 provisions of this clause shall not apply to an online sports pool operator.

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

113 (e) No applicant shall be authorized to operate a sports pool or online sports pool unless it
114 has produced, to the satisfaction of the commission, information, documentation, and assurances
115 concerning its financial background and resources, including cash reserves, that are sufficient to

116 demonstrate that it has the financial stability, integrity, and responsibility to operate a sports pool
117 or online sports pool.

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

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

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

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

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

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

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

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

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

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

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

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

164 (d) The prohibition set forth in subsection (a) shall not apply to (i) a person owning less
165 than 5 per cent of the common stock of the applicant company, directly or indirectly, or a
166 holding, intermediary or subsidiary company as defined in section 2 of a specific sports
167 governing body member team; and (ii) a person owning less than 5 per cent of the common stock
168 of the applicant company, directly or indirectly, or a holding, intermediary or subsidiary
169 company as defined in said section 2 in a gaming establishment or gaming licensee.

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

177 (b) An operator shall adopt procedures to be approved by the commission to obtain
178 personally identifiable information from any individual who places any single wager in an

179 amount of \$10,000 or greater on a sports event while physically present in a gaming
180 establishment.

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

185 (d) An operator shall promptly report to the bureau: any criminal or disciplinary
186 proceedings commenced against the operator or its employees in connection with the operations
187 of the sports pool or online sports pool; any abnormal betting activity or patterns that may
188 indicate a concern about the integrity of a sports event or events; any other conduct with the
189 potential to corrupt a betting outcome of a sports event for purposes of financial gain, including
190 but not limited to match fixing; and suspicious or illegal wagering activities, including the use of
191 funds derived from illegal activity, wagers to conceal or launder funds derived from illegal
192 activity, use of agents to place wagers, or use of false identification. The bureau is authorized to
193 share any information under this section with any law enforcement entity, team, sports governing
194 body, or regulatory agency the bureau deems appropriate.

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

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

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

207 (2) Notwithstanding the provisions of clause (1) of this subsection, wagers may be
208 accepted thereunder or pooled with wagers from persons who are not physically present in the
209 commonwealth if the commission determines that such wagering is not inconsistent with federal
210 law or the law of the jurisdiction, including any foreign nation, in which any such person is
211 located, or such wagering is conducted pursuant to a reciprocal agreement to which the
212 commonwealth is a party that is not inconsistent with federal law.

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

220 (2) As to each holding, intermediary and subsidiary company of an applicant for or
221 holder of a sports wagering license, such applicants and holders shall be required to establish and
222 maintain the qualifications of the following: each board appointed officer of the corporation;

223 each director of the corporation; each person who directly holds any voting or controlling interest
224 of 5 percent or more of the securities issued by such applicant or holder; and each person who
225 directly holds any non-voting or passive ownership interest of 25 percent or more in such
226 holding or intermediary company.

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

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

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

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

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

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

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

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

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

247 (6) method of issuing tickets;

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

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

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

251 (10) a cashless wagering system for sports wagering pursuant to the provisions of section
252 29;

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

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

257 (l) Each operator shall adopt comprehensive house rules governing sports wagering
258 transactions which shall be approved by the commission. The rules shall specify the amounts to
259 be paid on winning wagers and the effect of schedule changes. The house rules, together with
260 any other information the commission deems appropriate, shall be conspicuously displayed in
261 the sports wagering lounge, posted on the online sports pool operator's website or mobile
262 application, and included in the terms and conditions of the cashless wagering system pursuant to

263 the provisions of section 29, and copies shall be made readily available as required by the
264 commission.

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

270 SECTION 8. Section 21 of said chapter 23K, as so appearing, is hereby further amended
271 by adding, the following subsection:-

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

274 SECTION 9. Section 23 of said chapter 23K, as so appearing, is hereby further amended
275 by inserting after the word "licensee", in line 1, the following words:- and a sports wagering
276 licensee as defined in section 20A.

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

282 SECTION 11. Said chapter 23K, as so appearing, is hereby further amended by inserting
283 after section 55, the following section:-

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

293 (b) The operator of fantasy contests as defined in section 135 of chapter 219 of the acts of
294 2016 shall pay a tax of 12.5 per cent, except that sums received from a fantasy contest, less only
295 the total of all sums actually paid out as winnings, and shall be remitted to the commission no
296 less frequently than monthly by the operator to be paid to the Gaming Local Aid Fund
297 established in section 63.

298 SECTION 12. Subsection (e) of section 56 of said chapter 23K, is hereby further
299 amended by inserting after the first sentence, the following sentence:- The commission shall also
300 assess an annual fee of \$1,000,000 in shares to be determined by the commission against each
301 sports wagering licensee that is not a category 1 or category 2 gaming licensee.

302 SECTION 13. Subsection (2) of section 71 of said chapter 23K, as so appearing is hereby
303 further amended by inserting after clause (vi), the following clause:- (vi ½) an assessment of the
304 impacts on sports wagering on individuals, families, businesses, social institutions and the
305 economy generally;.