

SENATE No. 2862

Senate, April 28, 2022 -- Text of the Senate amendment to the House Bill regulating sports wagering (House, No. 3993) (being the text of Senate, No. 2844, printed as amended)

The Commonwealth of Massachusetts

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

1 SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking
2 out clause Tenth, as appearing in the 2020 Official Edition, and inserting in place thereof the
3 following clause:-

4 Tenth, “Illegal gaming”, a banking or percentage game played with cards, dice, tiles,
5 dominoes or with an electronic, electrical or mechanical device or machine for money, property,
6 checks, credit or any representative of value; provided, however, that “illegal gaming” shall not
7 include: (i) a lottery game conducted by the state lottery commission under sections 24, 24A and
8 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) sports wagering conducted under
9 chapter 23N; (iv) pari-mutuel wagering on horse races under chapters 128A and 128C; (v) a
10 game of bingo or any other charitable gaming conducted under chapter 271; and (vi) a fantasy
11 contest conducted under section 11M½ of chapter 12.

12 SECTION 2. Chapter 12 of the General Laws is hereby amended by inserting after
13 section 11M the following section:-

14 Section 11M½. Notwithstanding sections 24, 24A and 27 of chapter 10, chapter 271 or
15 any other general or special law to the contrary, a person or entity that offers fantasy contests for

16 a cash prize to members of the public may offer a fantasy contest to residents of the
17 commonwealth in accordance with regulations promulgated by the attorney general. For the
18 purposes of this section, “fantasy contest” shall mean a fantasy or simulated game or contest
19 based on a professional sports event in which: (i) the value of all prizes and awards offered to
20 winning participants are established and made known to the participants in advance of the
21 contest; (ii) all winning outcomes shall be determined predominantly by accumulated statistical
22 results of the performance of individual athletes; (iii) no winning outcome is based on the score,
23 point spread or any performance of a single actual team or combination of teams or solely on a
24 single performance of an individual athlete or player in a single actual event; (iv) all winning
25 outcomes are based upon a participant’s performance relative to other participants in the contest;
26 and (v) the per cent of gross revenue retained by the person or entity offering the fantasy contest
27 is prominently displayed prior to a participant’s entry into the fantasy or simulated game or
28 contest.

29 SECTION 3. Section 4 of chapter 23K of the General Laws, as appearing in the 2020
30 Official Edition, is hereby amended by striking out subsections (40) and (41) and inserting in
31 place thereof the following 2 subsections:-

32 (40) provide assistance to the governor in negotiating a compact with a federally-
33 recognized Indian tribe in the commonwealth; and

34 (41) regulate and enforce chapter 23N relating to sports wagering.

35 SECTION 4. Section 58 of said chapter 23K, as so appearing, is hereby amended by
36 striking out, in line 6, the word “may” and inserting in place thereof the following words:- , in

37 addition to expenditures for administering the compulsive gambling direct assistance program,
38 may.

39 SECTION 5. Said section 58 of said chapter 23K, as so appearing, is hereby further
40 amended by adding the following 2 paragraphs:-

41 The secretary of health and human services shall expend money in the fund to administer
42 a compulsive gambling assistance program to provide counselling, treatment, referrals and
43 indirect financial recovery to residents with a gambling addiction. Participants in the program
44 shall be required to self-exclude from gambling under chapters 23K and 23N and attend
45 treatment or other counselling to be eligible for indirect financial recovery; provided, however,
46 that financial recovery shall not exceed \$5,000 per participant.

47 Annually, not later than January 1, the secretary shall report on activities of the fund
48 including, but not limited to: (i) the total expenditure of the fund; (ii) the number of people
49 receiving assistance from the fund, delineated by the number of individuals receiving
50 counselling, treatment, referrals and indirect financial recovery; (iii) the average amount of
51 indirect financial recovery funds distributed to each individual; (iv) the purposes for which
52 indirect financial recovery payments were made; and (v) the zip codes associated with the
53 domiciles, if any, of the people who received assistance from the fund. The report shall be
54 submitted to the house and senate committees on ways and means, the joint committee on public
55 health and the joint committee on mental health, substance use and recovery.

56 SECTION 6. Clause (2) of section 59 of said chapter 23K, as so appearing, is hereby
57 amended by striking out subclause (l) and inserting in place thereof the following subclause:-

58 (l) 2.5 per cent to: (i) the Race Horse Development Fund established in section 60 if not
59 less than 20 live racing days at a thoroughbred horse track with a 1-mile circumference occurred
60 in the immediately preceding calendar year; or (ii) the Education Fund established in section 64
61 if not more than 19 live racing days at a thoroughbred horse track with a 1-mile circumference
62 occurred in the immediately preceding calendar year.

63 SECTION 7. Section 60 of said chapter 23K, as so appearing, is hereby amended by
64 adding the following subsection:-

65 (d) Notwithstanding subsection (c), if not more than 19 live racing days occurred in the
66 immediately preceding calendar year at a thoroughbred horse track with a 1-mile circumference,
67 all money in the fund may go to the benefit of standardbred accounts.

68 SECTION 8. The General Laws are hereby further amended by inserting after chapter
69 23M the following chapter:-

70 CHAPTER 23N.

71 AUTHORIZATION AND REGULATION OF SPORTS WAGERING.

72 Section 1. Notwithstanding any general or special law to the contrary, the operation of
73 sports wagering and ancillary activities shall be conducted in accordance with this chapter and
74 the rules and regulations of the commission.

75 Section 2. As used in this chapter, the following words shall have the following meanings
76 unless the context clearly requires otherwise:

77 “Adjusted gross fantasy wagering receipts”, the total gross receipts from fantasy contests
78 as defined in section 11M½ of chapter 12, less only the total of all cash prizes paid to

79 participants in the fantasy contests; provided, however, that the total of all cash prizes paid to
80 participants shall not include the cash equivalent of any merchandise or thing of value awarded
81 as a prize.

82 “Adjusted gross sports wagering receipts”, the total gross receipts from sports wagering
83 less only the total of all winnings paid to participants; provided, however, that the total of all
84 winnings paid to participants shall not include the cash equivalent of any merchandise or thing of
85 value awarded as a prize.

86 “Affiliate”, a person who directly or indirectly controls or is controlled by or is under
87 common control with a specified person.

88 “Applicant”, a person who has applied for a license to engage in activity regulated under
89 this chapter.

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

93 “Category 2 license”, a license issued by the commission that permits the operation of
94 sports wagering in person at a facility approved by the commission and through 1 mobile
95 application or other digital platform approved by the commission.

96 “Close associate”, a person who holds a relevant financial interest in, or is entitled to
97 exercise power in, the business of an applicant or licensee and, by virtue of that interest or
98 power, is able to exercise a significant influence over the management or operation of the
99 applicant or licensee.

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

103 “Commission”, the Massachusetts gaming commission established in section 3 of chapter
104 23K.

105 “Electronic sports”, a single or multiplayer video game played competitively for
106 spectators.

107 “Governmental authority”, a governmental unit of a national, state or local body
108 exercising governmental functions; provided, however, that “governmental authority” shall not
109 include the United States government.

110 “License”, a license applied for or issued under this chapter including, but not limited to:
111 (i) an operator license; or (ii) an occupational license.

112 “National criminal history background check”, a criminal history background check
113 conducted using the criminal history record system maintained by the Federal Bureau of
114 Investigation and based on fingerprint identification or any other method of positive
115 identification.

116 “Occupational license”, a license required to be held by an employee of an operator when
117 the employee performs supervisory duties directly related to the operation of sports wagering.

118 “Operator”, an entity under this chapter that is authorized to offer sports wagering to
119 persons in the commonwealth through a category 1 license or category 2 license.

120 “Operator license”, a category 1 license or category 2 license to operate sports wagering.

121 “Person”, an individual, corporation, association, operation, firm, partnership, trust or
122 other form of business association.

123 “Personal biometric data”, any information about an athlete that is derived from that
124 athlete’s physical or physiological characteristics including, but not limited to, deoxyribonucleic
125 acid, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone
126 levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density or sleep
127 patterns.

128 “Players association”, a professional sports association recognized by a sports governing
129 body that represents professional athletes.

130 “Professional sport or athletic event”, an event at which 2 or more persons participate in a
131 sport or athletic event and receive compensation in excess of actual expenses for their
132 participation in the event.

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

135 “Sporting event”, a professional sport or athletic event, motor race event or other event
136 authorized by the commission under this chapter; provided, however, that “sporting event” shall
137 not include: (i) electronic sports; or (ii) amateur sports or athletic events including, but not
138 limited to, collegiate, high school and youth sports or athletic events or Olympic sports or
139 athletic events.

140 “Sports governing body”, a sports organization that has a regulatory, sanctioning or
141 organizing function for a specific sporting event including, but not be limited to, a professional

142 sports organization as defined in 28 U.S.C. 3701(3) and a national governing body as defined in
143 36 U.S.C. 220501(b)(9).

144 “Sports wager”, a wager on a sporting event or a portion of a sporting event.

145 “Sports wagering”, the business of accepting wagers on sporting events or portions of
146 sporting events, the individual performance statistics of athletes in a sporting event or any
147 combination thereof by any system or method of wagering approved by the commission
148 including, but not limited to, a mobile application or other digital platform; provided, however,
149 that “sports wagering” shall include, but not be limited to, single-game bets, teaser bets, parlays,
150 over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition
151 bets and straight bets; provided further, that “sports wagering” shall not include the acceptance
152 of a wager on injuries, penalties, player discipline or replay review; and provided further, that
153 “sports wagering” shall not include fantasy contests as defined in section 11M½ of chapter 12.

154 “Sports wagering account”, a financial record established by an operator for a patron in
155 which the patron may deposit by any method approved by the commission and withdraw funds
156 for sports wagering and other authorized purchases and to which the operator may credit
157 winnings or other amounts due to or authorized by that patron; provided, however, that such
158 account may be established and funded by the patron electronically through an approved mobile
159 application or digital platform; and provided further, that a deposit into a sports wagering
160 account shall not be made using a credit card or a third-party payment method providing funds
161 through the use of a credit card.

162 “Wager”, a sum of money or thing of value risked on an uncertain occurrence.

163 Section 3. (a) The commission shall regulate the conduct of sports wagering under this
164 chapter.

165 (b) The commission shall promulgate rules and regulations necessary for the
166 implementation, administration and enforcement of this chapter.

167 (c) The commission shall promulgate regulations to prohibit: (i) the purchase or other use
168 of any personal biometric data of an athlete for sports wagering or aiding a patron in placing a
169 wager with sports wagering operators; (ii) advertising, marketing or branding in a manner that is
170 deceptive, false, misleading or untrue or that tends to deceive or create a misleading impression
171 whether directly or by ambiguity or omission; (iii) the use of unsolicited pop-up advertisements
172 on the internet or by text message; (iv) any form of advertising, marketing or branding that is
173 determined by the commission to disrupt the ability of a viewer, at a sporting event or remotely,
174 to watch, listen to or otherwise experience a sporting event; (v) advertising, marketing and
175 branding deemed to appeal directly to a person younger than 21 years old; (vi) advertising,
176 marketing or branding, including statements by an operator, that makes any false or misleading
177 statements concerning other operators and the conduct and products of such other operators; (vii)
178 advertising, marketing and branding through certain identified promotional items that, as
179 determined by the commission, tend to increase the likelihood of problem gambling, which may
180 include giveaways, coupons or promotional gaming credits; (viii) advertising on billboards or
181 any other public signage that does not comply with federal, state or local law; (ix) advertising on
182 television during the live broadcast or online streaming of a sporting event, to the extent
183 practicable, including the period beginning 5 minutes before the start of the sporting event and
184 ending 5 minutes after the end of the sporting event; and (x) advertising, marketing and branding
185 by means of television, radio or internet, to the extent practicable, unless at least 85 per cent of

186 the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-
187 to-date audience composition data.

188 (d)(1) The commission may promulgate rules and regulations regarding: (i) the
189 acceptance of wagers on a sporting event or series of sporting events; (ii) types of wagering
190 receipts that may be used; (iii) methods of issuing receipts; (iv) methods of accounting to be used
191 by operators; (v) types of records that shall be kept; (vi) types of systems for wagering; and (vii)
192 any other sports wagering-related issues.

193 (2) The commission shall promulgate rules and regulations regarding protections for
194 patrons placing wagers and the promotion of social responsibility and responsible gambling that
195 shall include, but not be limited to, a requirement that an operator: (i) implement responsible
196 gaming programs that include comprehensive employee trainings on responding to
197 circumstances in which individuals present signs of a gambling addiction; (ii) assess, prevent and
198 address problem gaming by an operator's consumers; (iii) permit a consumer to permanently
199 close an account registered to the consumer on any or all platforms owned or operated by the
200 operator at any time and for any reason; (iv) offer consumers access to their account history and
201 account details; (v) refrain from making claims as to a consumer's winnings or money earned
202 that is not net of wagers placed; (vi) allow a consumer to withdraw funds without further
203 solicitation or promotion in the manner in which the funds were deposited; (vii) annually submit
204 a problem gaming plan for approval by the commission, in consultation with the department of
205 public health, that includes the objectives of and timetables for implementing the plan,
206 identification of the persons responsible for implementing and maintaining the plan, procedures
207 for identifying consumers with suspected or known problem gaming behavior, procedures for
208 providing information to consumers concerning problem gaming identification and resources,

209 procedures to prevent gaming by minors and self-excluded persons and any other information the
210 commission may require; and (viii) shall not offer or provide a line of credit to any consumer.

211 (3) The commission shall promulgate regulations that require mobile applications and
212 digital platforms authorized for sports wagering to prominently display upon each entry into the
213 application or platform the telephone number and website for a problem gambling hotline
214 overseen by the department of public health.

215 (e) The commission shall: (i) determine the eligibility of a person to hold or continue to
216 hold a license; (ii) issue all licenses; and (iii) maintain a record of all licenses issued under this
217 chapter.

218 (f) The commission shall levy and collect all fees, surcharges, civil penalties and taxes on
219 adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided in
220 this chapter. All such fees, surcharges, civil penalties and taxes shall revert to the General Fund
221 unless otherwise specified in this chapter; provided however, that 9 per cent of said fees,
222 surcharges, civil penalties and taxes shall be deposited in the public health trust fund established
223 under section 58 of chapter 23K.

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

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

230 (i) The commission may exercise any other powers necessary or convenient to carry out
231 and effectuate the commission's purposes including, but not limited to, the power to: (i) develop
232 criteria, in addition to those outlined in this chapter, to assess which applications for an operator
233 license will provide the highest and best value to the commonwealth and the region in which in-
234 person sports wagering is to be operated; and (ii) demand access to and inspect, examine,
235 photocopy and audit all papers, books and records of any affiliate of an operator that the
236 commission suspects is involved in the financing, operation or management of the operator;
237 provided, however, that the inspection, examination, photocopying or audit shall take place on
238 the affiliate's premises or elsewhere, as practicable, and in the presence of the affiliate or the
239 affiliate's agent.

240 Section 4. (a) A person shall not engage in any activity in connection with sports
241 wagering in the commonwealth unless all required licenses have been obtained in accordance
242 with this chapter and the rules and regulations of the commission.

243 (b) The commission shall not grant an operator license until it determines that each
244 person who has control of the applicant meets all qualifications for licensure. For the purposes of
245 this chapter, the following shall be considered to have control of an applicant:

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

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

253 (iii) at the commission's discretion, an executive, employee or agent having the power to
254 exercise significant influence over decisions concerning the applicant's sports wagering
255 operations in the commonwealth.

256 (c) A person having control of an applicant pursuant to subsection (b) shall submit to the
257 commission an application in a form determined by the commission. Each such person who is a
258 natural person shall also submit to the commission: (i) fingerprints for a national criminal records
259 check by the department of state police and the Federal Bureau of Investigation; and (ii) a signed
260 authorization for the release of the person's information by the department of state police and the
261 Federal Bureau of Investigation; provided, however, that a person having control of an applicant
262 who is a natural person that has submitted to a national criminal records check in any jurisdiction
263 within the previous year shall not be required to submit to another national criminal records
264 check if such person submits to the commission the results of the previous national criminal
265 records check.

266 (d) Each person licensed under this chapter shall give the commission written notice not
267 more than 30 days after any change to any material information provided in the application for a
268 license or renewal.

269 (e) A commission employee shall not be an applicant for any license issued under this
270 chapter.

271 Section 5. (a) A person with a category 1 license or category 2 license may operate sports
272 wagering.

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

276 (2)(A) The commission may issue not more than 6 category 2 licenses based on the
277 applications and competitive bids submitted to the commission; provided, however, that at least
278 1 category 2 license shall be made available in each region established in subsection (a) of
279 section 19 of chapter 23K. If the commission is not convinced that there is an applicant that has
280 both met the eligibility criteria and provided convincing evidence that the applicant will provide
281 value to the commonwealth and promote responsible sports wagering, a category 2 license shall
282 not be awarded. In selecting the locations of the category 2 licensed facilities, the commission
283 shall take into consideration how the location would maximize benefits to the commonwealth.

284 (B) The commission shall establish a competitive application process for the issuance of
285 category 2 licenses. As a part of the application process, the commission shall require applicants
286 to submit a proposal. Each proposal shall be scored on the following factors: (i) economic
287 development, which shall include, but not be limited to: (A) capital investments, or commitments
288 for capital investments, made prior to or after the receipt of the license, which may include new
289 construction or improvements to existing infrastructure for the operation of sports wagering in
290 person at a facility and ancillary activities; (B) an estimate of the applicant's projected taxable
291 revenues from ancillary activities at the facility; (C) an estimate of the number of long-term
292 employees to be hired to support the operation of sports wagering and ancillary activities at the

293 facility and an estimate of the projected wages of such employees; (ii) specific efforts
294 demonstrating a commitment to responsible sports wagering and the mitigation of negative
295 economic and public health outcomes for consumers including, but not limited to, self-exclusion
296 functionality, bet limits, wellness checks, financial health checks and cooling-off periods; (iii)
297 the promotion of diversity, equity and inclusion, which shall include, but not be limited to, the
298 inclusion of an affirmative action program of equal opportunity and an affirmative marketing
299 program that are consistent with the requirements for gaming licensees under clauses (20) to
300 (22), inclusive, of section 21 of chapter 23K; (iv) community support for the proposed in person
301 sports wagering facility demonstrated in a manner established by the commission; and (v) any
302 other factor the commission determines is necessary to maximize the benefits to the
303 commonwealth or to promote responsible sports wagering. The commission shall set
304 requirements concerning the size, furnishings and equipment of an in person sports wagering
305 facility and the minimum capital investment made or to be made in a sports wagering facility that
306 is necessary to ensure strong economic development; provided, however, that all sports wagering
307 at a sports wagering facility shall be done in person and not through an automated kiosk or other
308 computer terminal that is owned or operated by the operator unless the automated kiosk or
309 computer terminal is in the gaming area of a category 1 licensee or located in a portion of a
310 sports wagering facility limited to persons 21 years of age or older; provided further, that the
311 automated kiosk shall collect the same customer data that is required to be collected through a
312 mobile application or other digital platform under this chapter; and provided further, that an
313 automated kiosk shall only be used when an authorized sports wagering employee is on site to
314 resolve any consumer or technology issue that may arise with the use of the kiosk.

315 (C) The commission shall provide public notice of its intent to solicit applications and
316 competitive bids for category 2 licenses by posting the notice, application instructions and
317 materials on its website not less than 120 calendar days before the applications are due. Failure
318 by an applicant to submit all required information may result in the application being
319 disqualified. The commission may notify an applicant that the applicant's application is
320 incomplete and provide an opportunity to cure. Application instructions shall include a brief
321 overview of the selection process and how applications are scored.

322 (c) Prior to issuing an operator license, the commission shall commence an investigation
323 into the suitability of the applicant. The commission may use information obtained from the
324 applicant pursuant to chapter 23K, chapter 128A or chapter 128C or information from other
325 jurisdictions where the applicant is authorized to conduct sports wagering. In evaluating the
326 suitability of the applicant, the commission shall consider the overall reputation of the applicant
327 including, but not limited to:

328 (i) the integrity, honesty, good character and reputation of the applicant;

329 (ii) the financial stability, integrity and background of the applicant;

330 (iii) the business practices and the business ability of the applicant to establish and
331 maintain a successful sports wagering operation;

332 (iv) whether the applicant has a history of compliance with gaming or sports wagering
333 licensing requirements in other jurisdictions;

334 (v) whether the applicant, at the time of application, is a defendant in litigation involving
335 its business practices; and

336 (vi) the suitability of all parties in interest to the license, including affiliates and close
337 associates, and the financial resources of the applicant.

338 (d) The commission shall consider the rehabilitation of an applicant for a license and
339 shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by
340 clear and convincing evidence, that the applicant has financial responsibility, character,
341 reputation, integrity and general fitness as such to warrant belief by the commission that the
342 applicant will act honestly, fairly, soundly and efficiently as a licensee under this chapter. The
343 commission may deny an application, if the commission determines during its investigation that
344 an applicant has failed to: (i) establish the applicant's integrity or the integrity of any of the
345 applicant's affiliates, close associates or financial resources; (ii) demonstrate responsible
346 business practices in any jurisdiction; or (iii) overcome any other reason, as determined by the
347 commission, as to why it would be injurious to the interests of the commonwealth to award the
348 applicant an operator license.

349 (e) (1) The commission shall grant a category 1 license to a qualified applicant after the
350 applicant pays a \$5,000,000 licensing fee; provided, however, that the applicant shall meet the
351 requirements for licensure under this chapter and the rules and regulations of the commission.
352 The license shall be issued for a 5-year period and may be renewed for additional 5-year periods
353 upon payment of a \$5,000,000 renewal fee; provided, however, that the operator shall continue
354 to meet all requirements under this chapter and the rules and regulations of the commission.

355 (2) The commission may issue a category 2 license after the competitive application
356 process described in subparagraph (B) of paragraph (2) of subsection (b) and after the selected
357 applicant makes a payment of a \$5,000,000 licensing fee; provided, however, that the applicant

358 meets the requirements for licensure under this chapter and the rules and regulations of the
359 commission. The license shall be issued for a 5-year period and may be renewed for additional 5-
360 year periods upon payment of a \$5,000,000 renewal fee; provided, however, that an operator
361 continues to meet all requirements under this chapter and the rules and regulations of the
362 commission.

363 (3) The commission shall have full discretion as to whether to issue a license. Applicants
364 shall have no legal right or privilege to an operator license and shall not be entitled to any further
365 review if denied by the commission

366 (f) An operator shall submit to the commission such documentation or information as the
367 commission may require to demonstrate that the operator continues to meet the requirements of
368 this chapter and the rules and regulations of the commission.

369 (g) An operator shall not transfer an operator license, or any direct or indirect interest in
370 the operator license, without the majority approval of the commission. A person seeking to
371 acquire an operator license through a transfer shall qualify and otherwise be determined by the
372 commission to be eligible for licensure under this chapter. The commission may reject a
373 proposed license transfer or a proposed transfer of interest in the license to an unsuitable person,
374 as determined by the commission, and may reject a proposed transfer that, in the determination
375 of the commission, would be disadvantageous to the interests of the commonwealth. The
376 commission may promulgate regulations governing this process that may include the assessment
377 of a fee to reflect the cost associated with reviewing the proposed transfer. The commission may
378 also require the transferor, transferee or both to pay to the commission an amount representing
379 the commonwealth's share of the increased value for the transferred licenses or interest;

380 provided, however, that the commission shall consider the market value of the license or interest,
381 at the time the license or interest was acquired and at the time of the transfer, as a factor in
382 determining the amount of the payment. The commission may place additional conditions or
383 restrictions on a transfer that the commission considers suitable. Any payment collected by the
384 commission on behalf of the commonwealth based on the transfer shall be deposited in the same
385 manner as license fees are deposited.

386 (h) An application for an operator license and records and information provided to the
387 commission as part of the commission's regulatory oversight function shall be a public record
388 under clause twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66; provided,
389 however, that trade secrets, competitively-sensitive or other proprietary information provided in
390 the course of an application for an operator license or as part of the commission's regulatory
391 oversight function under this chapter, the disclosure of which would place the applicant at a
392 competitive disadvantage, may be withheld from disclosure.

393 (i) No person shall hold, or have a controlling interest in, more than 1 operator license.
394 The commission shall not issue an operator license or permit the transfer of an operator license,
395 or a controlling interest therein, to a person that already has an operator license or a controlling
396 interest therein.

397 (j) An operator may enter into an agreement, subject to the approval of the commission,
398 with another person to operate sports wagering in person or through a mobile application or other
399 digital platform on behalf of the operator; provided, however, that the person who operates the
400 sports wagering shall be subject to any requirement imposed upon the operator under this chapter

401 that the commission determines is necessary to effectuate this chapter and the rules and
402 regulations of the commission.

403 Section 6. (a) An applicant for an operator license shall pay to the commission a
404 nonrefundable processing fee of \$200,000 for the costs associated with the processing of the
405 application and investigation of the applicant; provided, however, that if the costs of the
406 investigation exceed the initial application fee, the applicant shall pay the additional amount to
407 the commission not more than 30 days after notification of insufficient fees or the application
408 shall be rejected.

409 (b) All fees in this section shall be deposited into the Sports Wagering Control Fund
410 established in section 14.

411 Section 7. (a) All persons employed by an operator to perform supervisory duties directly
412 related to the operation of sports wagering in the commonwealth shall maintain a valid
413 occupational license issued by the commission. The commission shall issue such occupational
414 license to a person who meets the requirements of this section.

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

419 (c) The commission shall not grant or renew an occupational license to a person who
420 holds a position of authority or influence sufficient to exert influence over the participants in a
421 sporting event including, but not limited to, coaches, managers, handlers and athletic trainers.

422 (d) An applicant for an occupational license shall submit any required application form
423 established by the commission and shall pay a nonrefundable application fee of \$100. An
424 employer may pay the application fee on behalf of an applicant.

425 (e) Not later than March 1 of the third calendar year following the issuance or renewal of
426 an occupational license, an occupational license holder shall pay a nonrefundable license renewal
427 fee of \$100 and submit a renewal application on a form established by the commission. An
428 employer may pay the license renewal fee on behalf of the licensed employee.

429 (f) All fees in this section shall be deposited into the Sports Wagering Control Fund
430 established in section 14.

431 Section 8. (a) The commission may deny a license to any applicant, reprimand any
432 licensee or suspend or revoke a license if the applicant or licensee:

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

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

436 (iii) has been convicted of a felony or other crime involving embezzlement, theft, fraud,
437 perjury or a gambling-related offense;

438 (iv) has not demonstrated to the satisfaction of the commission financial responsibility
439 sufficient to adequately meet the requirements of the proposed enterprise;

440 (v) has affiliates or close associates that would not qualify for a license or whose
441 relationship with the applicant may pose an injurious threat to the interests of the commonwealth
442 in awarding an operator license to the applicant; or

443 (vi) in the case of an operator or an applicant for an operator license, is not the true owner
444 of the business or is not the sole owner and has not disclosed the existence or identity of other
445 persons who have an ownership interest in the business.

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

448 Section 9. (a) An operator shall adopt comprehensive house rules for game play
449 governing sports wagering transactions with the operator's patrons. The house rules shall specify
450 the amounts to be paid on winning wagers and the effect of sports event schedule changes. An
451 operator shall not conduct sports wagering until the commission has approved the house rules
452 and an operator shall not conduct sports wagering in a manner inconsistent with approved house
453 rules.

454 (b) The house rules, together with any other information the commission deems
455 appropriate, shall be accessible to any patrons of the sports wagering operator. The operator shall
456 make copies readily available to patrons and shall post the house rules as required by the
457 commission, including on a prominent place on the operator's public website and mobile
458 application or other digital platform.

459 Section 10. (a) An operator shall:

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

462 (ii) prohibit athletes, coaches, referees, team owners, employees of a sports governing
463 body or its member teams and player and referee union personnel from wagering on any sporting

464 event of their sport's governing body; provided, however, that the operator shall use lists of such
465 persons that a sports governing body may provide to the commission to determine which persons
466 are excluded from placing wagers under this subsection; and provided further, that the
467 commission may use the list of barred employees from the operator and may work directly with a
468 member team to determine the risk posed by certain employees for obtaining nonpublic
469 confidential information on a sporting event and may remove an employee without knowledge of
470 team strategy or game operations from such a list if the commission determines any such risk is
471 de minimis;

472 (iii) prohibit any individual with access to nonpublic confidential information held by the
473 operator from placing wagers with the operator;

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

475 (v) employ commercially reasonable methods to maintain the security of wagering data,
476 customer data and other confidential information from unauthorized access and dissemination;
477 provided, however, that nothing in this chapter shall preclude the use of internet or cloud-based
478 hosting of such data and information or disclosure as required by court order, other law or this
479 chapter; and provided further, that such data and information shall be hosted in the United States.

480 (b) A sports governing body or players association representing athletes who participate
481 in sporting events of the sports governing body may submit to the commission, in writing, by
482 providing notice in a form and manner as the commission may require, a request to restrict, limit
483 or exclude a certain type, form or category of sports wagering with respect to sporting events of
484 the sports governing body, if the sports governing body or players association believes that such
485 type, form or category of sports wagering with respect to sporting events of the sports governing

486 body: (i) is contrary to public policy; (ii) unfair to consumers; (iii) may undermine the perceived
487 integrity of the sports governing body, sporting events of the sports governing body or the
488 athletes participating therein; or (iv) affects the integrity of the sports governing body or sporting
489 events of the sports governing body or the athletes participating therein.

490 The commission shall request comment from operators on all such requests. After giving
491 due consideration to all comments received, the commission shall, upon a demonstration of good
492 cause from the requestor, grant the request. The commission shall respond to a request
493 concerning a particular event before the start of the event or, if it is not feasible to respond before
494 the start of the event, not later than 7 days after the request is made; provided, however, that if
495 the commission determines that the requestor is more likely than not to prevail in successfully
496 demonstrating good cause for its request, the commission may provisionally grant the request
497 until the commission makes a final determination as to whether the requestor has demonstrated
498 good cause. Absent a provisional grant by the commission, an operator may continue to offer
499 sports wagering on sporting events that are the subject of a request during the pendency of the
500 consideration of the applicable request.

501 (c) The department of state police shall have primary responsibility for conducting, or
502 assisting the commission in conducting, investigations into abnormal betting activity, match
503 fixing and other conduct that corrupts a betting outcome of a sporting event for purposes of
504 financial gain.

505 (d) The commission and operators shall use commercially reasonable efforts to cooperate
506 with investigations conducted by sports governing bodies or law enforcement agencies including,
507 but not limited to, using commercially reasonable efforts to provide or facilitate the provision of

508 anonymized account-level betting information and audio or video files relating to persons
509 placing wagers. All disclosures under this section are subject to the obligation of an operator to
510 comply with all federal, state and local laws and regulations including, but not limited to, laws
511 and regulations relating to privacy and personally identifiable information.

512 (e) An operator shall immediately report to the commission any information relating to:

513 (i) criminal or disciplinary proceedings commenced against the operator in connection
514 with its operations;

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

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

519 (iv) any prohibited conduct including, but not limited to, match fixing; or

520 (v) suspicious or illegal wagering activities including, but not limited to: (A) use of funds
521 derived from illegal activity; (B) wagers to conceal or launder funds derived from illegal activity;
522 (C) use of agents to place wagers; and (D) use of false identification.

523 An operator shall immediately report information relating to conduct described in clauses
524 (ii), (iii) and (iv) of this subsection to the relevant sports governing body.

525 (f) The commission and operators shall maintain the confidentiality of information
526 provided by a sports governing body for purposes of investigating or preventing the conduct
527 described in clauses (ii), (iii) and (iv) of subsection (e), unless disclosure is required by this

528 chapter, the commission, other law or court order or unless the sports governing body consents to
529 disclosure.

530 (g) With respect to any information provided by an operator to a sports governing body
531 relating to conduct described in clauses (ii), (iii) and (iv) of subsection (e), a sports governing
532 body shall:

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

535 (ii) maintain the confidentiality of such information, unless disclosure is required by this
536 chapter, the commission, other law, court order or a collective bargaining agreement with a
537 players association or unless the operator consents to disclosure; provided, however, that the
538 sports governing body may make any disclosure necessary to conduct and resolve integrity-
539 related investigations and may publicly disclose such information if required by its integrity
540 policies or if deemed by the sports governing body in its reasonable judgment to be necessary to
541 maintain the actual or perceived integrity of its sporting events, and subject in all cases to the
542 sports governing body's compliance with federal, state and local laws and regulations including,
543 but not limited to, laws and regulations relating to privacy and personally identifiable
544 information; and provided further, that prior to any such public disclosure that would identify the
545 operator by name, the sports governing body shall provide the operator with notice of such
546 disclosure and an opportunity to object to such disclosure.

547 (h) An operator shall maintain records of all wagers placed by its patrons, including: (i)
548 personally identifiable information of a patron who places a sports wager through a mobile
549 application or other digital platform or a patron who places an in-person sports wager that

550 exceeds an amount determined by the commission; (ii) amount and type of the bet; (iii) the time
551 the bet was placed; (iv) the location of the bet, including the Internet Protocol address if
552 applicable; (v) the outcome of the bet; and (vi) records of abnormal betting activity for 3 years
553 after a sporting event occurs and video camera recordings in the case of in-person wagers for at
554 least 1 year after a sporting event occurs. An operator shall make these records available for
555 inspection upon request of the commission or as required by court order.

556 (i) An operator shall use commercially reasonable efforts to maintain, in real time and at
557 the account level, anonymized information for each patron, including: (i) the amount and type of
558 bet; (ii) the time the bet was placed; (iii) the location of the bet, including the internet protocol
559 address if applicable; (iv) the outcome of the bet; and (v) records of abnormal betting activity.
560 The commission may request the information in the form and manner as it requires. Nothing in
561 this section shall require an operator to provide any information prohibited by federal, state or
562 local laws or regulations including, but not limited to, laws and regulations relating to privacy
563 and personally identifiable information.

564 (j) If a sports governing body has notified the commission and demonstrated a need for
565 access to the information described in subsection (i) for wagers placed on sporting events of the
566 sports governing body for integrity monitoring purposes and demonstrated the capability to use
567 the data for the purpose of effectively monitoring the integrity of sporting events of the sports
568 governing body, an operator shall share, in a commercially reasonable frequency, form and
569 manner, with the sports governing body or its designee the same information the operator is
570 required to maintain pursuant to said subsection (i) with respect to sports wagers on sporting
571 events of the sports governing body. A sports governing body and its designee shall only use
572 information received pursuant to this section for integrity-monitoring purposes and shall not use

573 information received pursuant to this section for any commercial or other purpose. Nothing in
574 this section shall require an operator to provide any information that is prohibited by federal,
575 state or local law or regulation including, but not limited to, laws and regulations relating to
576 privacy and personally identifiable information.

577 (k)(1) An operator shall conduct a background check on each prospective employee.
578 Background checks shall search for criminal history, charges or convictions involving corruption
579 or manipulation of sporting events and association with organized crime.

580 (2) An operator shall conduct a single background check on any employee hired before
581 the operator was issued an operator license. Background checks shall search for criminal history,
582 charges or convictions involving corruption or manipulation of sporting events and association
583 with organized crime.

584 Section 11. An operator shall:

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

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

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

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

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

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

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

602 (viii) maintain daily records showing the gross sports wagering receipts and adjusted
603 gross sports wagering receipts of the operator from sports wagering;

604 (ix) timely file with the commission any additional reports required by this chapter or by
605 any rule or regulation; and

606 (x) use commercially reasonable efforts to prevent a person under 21 years old from
607 placing a wager.

608 Section 12. (a) An operator may accept wagers on sporting events in person at a facility
609 approved by the commission.

610 (b) An operator may accept wagers on sporting events from individuals physically
611 located within the commonwealth using mobile applications or digital platforms approved by the
612 commission through the patron's sports wagering account. The branding for each mobile
613 application or digital platform shall be determined by the operator. A bet authorized pursuant to

614 this section shall be initiated, received and otherwise made within the commonwealth. Consistent
615 with the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. 5361, et seq.,
616 the intermediate routing of electronic data related to a lawful intrastate wager authorized
617 pursuant to this chapter shall not determine the location or locations in which the wager is
618 initiated, received or otherwise made.

619 (c) An operator may: (i) accept wagers placed by other operators; and (ii) place wagers
620 with other operators; provided, however, that any operator that places a wager with another
621 operator shall inform the operator accepting the wager that the wager is being placed by an
622 operator and shall disclose the operator's identity.

623 (d) An operator shall not accept: (i) a wager from a person who is less than 21 years of
624 age; or (ii) a credit card or payment through a third-party payment method providing funds
625 through the use of a credit card for the purpose of placing a sports wager or depositing credit into
626 the person's account; provided, however, that this clause shall not exclude the use of debit cards.

627 (e)(1) The commission may establish a list of persons who are to be excluded from the
628 play or operation of any sports wagering in a manner and to an extent that is consistent with the
629 process for establishing a list of excluded persons under section 45 of chapter 23K. A list of all
630 excluded persons shall be kept by the commission and provided to each operator. A person on
631 the exclusion list shall not be permitted to participate in sports wagering pursuant to this chapter.

632 (2) The commission shall establish a list of self-excluded persons from sports wagering.
633 A person may request that their name be placed on the list of self-excluded persons by filing a
634 statement with the commission acknowledging that they are a problem gambler and by agreeing
635 that, during any period of voluntary exclusion, they shall not collect any winnings or recover any

636 losses resulting from any sports wagering or from any gaming activity at a gaming
637 establishment, as defined in section 2 of chapter 23K; provided, however, that any person that is
638 on the list of self-excluded persons from gaming establishments required in section 45 of said
639 chapter 23K shall be included on the list of self-excluded persons from sports wagering, subject
640 to the rules and regulations of the commission. The commission shall adopt regulations for the
641 self-excluded persons list including procedures for placement, removal and transmittal of the list
642 to operators; provided, however, that the list may include substantially similar rules,
643 requirements or procedures promulgated pursuant to said section 45 of said chapter 23K. The
644 commission may revoke, limit, condition, suspend or fine an operator if the operator knowingly
645 or recklessly fails to exclude or eject from its premises any person placed on the list of self-
646 excluded persons. The list of self-excluded persons from sports wagering shall not be open to
647 public inspection.

648 (3) An operator that operates sports wagering through a mobile application or other
649 digital platform shall require patrons to set self-imposed limitations on sports wagering when the
650 patron joins the mobile application or digital platform. The commission shall establish the
651 limitations, which may include, but shall not be limited to: (i) setting daily, weekly or monthly
652 limits on the size of deposits; (ii) setting a system-wide or product-based limit on the amount of
653 time or money spent on the mobile application or digital platform; (iii) the ability to self-block
654 from a particular game or game types; and (iv) setting a self-imposed time-out. Notwithstanding
655 the forgoing, when a patron's lifetime deposits exceed \$2,500, the operator shall prevent any
656 further sports wagering until: (A) the patron acknowledges that the patron has met the deposit
657 threshold; (B) the patron is given the opportunity to establish self-imposed limitations on sports
658 wagering or to close the account; and (C) the patron has received problem gaming resources

659 from the operator. Once a patron has reached the \$2,500 lifetime deposit threshold, the patron
660 shall annually make the acknowledgement required by in clause (A).

661 (f) An employee shall not place a sports wager at any facility or through any mobile
662 application or digital platform owned or operated by the employee's employer.

663 (g) Sections 24, 24A and 27 of chapter 10 shall not apply to an operator conducting
664 sports wagering in accordance with this chapter.

665 Section 13. (a) An excise is hereby imposed upon sports wagering operators in the
666 commonwealth at the rate of: (i) 20 per cent of an operator's adjusted gross sports wagering
667 receipts from the operation of in-person sports wagering; (ii) 35 per cent of an operator's
668 adjusted gross sports wagering receipts from the operation of sports wagering through a mobile
669 application or other digital platform approved by the commission; and (iii) 35 per cent of the
670 adjusted gross fantasy wagering receipts of a person or entity that offers fantasy contests, as
671 defined in section 11M½ of chapter 12; provided, however, that the cash method of accounting
672 shall be used for purposes of calculating the amount of the tax owed by the operator. The excise
673 shall be paid to the commission at the time provided for filing the return pursuant to subsection
674 (b).

675 (b)(1) The excise imposed and collected pursuant to subsection (a) shall be due and
676 payable to the commission in monthly installments on or before the fifteenth calendar day
677 following the calendar month in which the adjusted gross sports wagering receipts or adjusted
678 gross fantasy wagering receipts were received.

679 (2) On or before the fifteenth calendar day of each month, the operator shall complete and
680 submit the return for the preceding month by electronic communication to the commission in a
681 form prescribed by the commission that provides:

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

684 (ii) the total gross fantasy wagering receipts and adjusted gross fantasy wagering receipts
685 from the offering of fantasy contests, as defined in section 11M½ of chapter 12, during that
686 month;

687 (iii) the tax amount for which an operator or a person or entity that offers fantasy
688 contests, as defined in said section 11M½ of said chapter 12, is liable; and

689 (iv) any additional information necessary in the computation and collection of the tax on
690 adjusted gross sports wagering receipts and adjusted gross fantasy wagering receipts required by
691 the commission.

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

694 (d) Annually, not later than July 1, the commission shall publish on its website a report
695 stating the amount in fees, surcharges and civil penalties received from operators and taxes
696 received from operators and from people or entities that offer fantasy contests, as defined in
697 section 11M½ of chapter 12.

698 Section 14. (a) There shall be established and set up on the books of the commonwealth a
699 separate fund to be known as the Sports Wagering Control Fund. The commission shall be the

700 trustee of the fund and shall expend money to finance operational activities of the commission
701 pertaining to sports wagering. The fund shall be credited with: (i) any appropriation, bond
702 proceeds or other monies authorized by the general court and specifically designated to be
703 credited thereto; (ii) the proceeds of any fees collected pursuant to this section unless otherwise
704 specified; (iii) fees collected pursuant to sections 6 and 7; and (iv) such additional funds as are
705 subject to the direction and control of the commission. All available money in the fund that are
706 unexpended at the end of each fiscal year shall not revert to the General Fund and shall be
707 available for expenditure in the subsequent fiscal year.

708 (b) The commission shall establish fees for any investigation into a violation of this
709 chapter or regulation promulgated hereunder by a sports wagering operator to be paid by the
710 sports wagering operator including, but not limited to, billable hours by commission staff
711 involved in the investigation and the costs of services, equipment or other expenses that are
712 incurred by the commission during the investigation.

713 (c) Any remaining costs of the commission necessary to maintain regulatory control over
714 sports wagering operator that are not covered by: (i) the fees set forth in subsection (b); (ii) any
715 other fees assessed pursuant to this chapter; or (iii) any other designated sources of funding, shall
716 be annually assessed on sports wagering operator pursuant to this chapter in proportion to each
717 operator's share of the commonwealth's total adjusted gross sports wagering receipts. Each
718 operator shall pay the amount assessed against the operator not more than 30 days after the date
719 of the notice of assessment from the commission.

720 (d) If the fees collected pursuant to subsections (b) and (c) exceed the cost required to
721 maintain regulatory control, the surplus funds shall be credited in proportional shares against
722 each sports wagering operator's next assessment.

723 (e) The commission shall annually assess and collect a \$1,000,000 fee collected from
724 among all operators divided in a manner to be determined by the commission. The fee collected
725 pursuant to this subsection shall be deposited into the Public Health Trust Fund established in
726 section 58 of chapter 23K and shall be used for the costs of services and public health programs
727 provided for in said section 58 of said chapter 23K.

728 Section 15. (a) The commission may assess a civil administrative penalty on an operator
729 who fails to comply with any provision of this chapter, house rules or any regulation or order
730 adopted by the commission; provided, however, that the noncompliance shall have occurred after
731 the commission has given such operator written notice of the noncompliance and the time stated
732 in the notice for coming into compliance has elapsed; provided further, that the commission may
733 assess a penalty without providing written notice if the failure to comply: (i) was part of a pattern
734 of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of
735 error; (iii) resulted in a significant breach to the integrity of the operator or the sports wagering
736 laws of the commonwealth; or (iv) consisted of failure to promptly report to the commission any
737 knowledge of evidence or circumstances that would cause a reasonable person to believe that a
738 violation of this chapter had been committed. The civil administrative penalty shall be in
739 addition to any other civil penalty that may be prescribed by law.

740 (b) For the purpose of determining whether such noncompliance was part of a pattern of
741 noncompliance and not an isolated instance, the commission shall consider, but not be limited to:

742 (i) whether the commission had previously notified the operator of such noncompliance on more
743 than 1 occasion during the previous month or of any noncompliance with the same provision of a
744 law, regulation, order, license or approval as the current noncompliance during the previous 6–
745 month period; or (ii) whether the current and previous instances of noncompliance, considered
746 together, indicate a potential threat to the integrity of the operator and sports wagering in the
747 commonwealth or an interference with the commission's ability to efficiently and effectively
748 regulate sports wagering in the commonwealth and enforce any regulation, license or order. If an
749 operator that has received a notice of noncompliance fails to come into compliance within the
750 time period stated in the notice, the civil administrative penalty may be assessed by the
751 commission upon the operator from the date of receipt of such notice.

752 (c) If the commission seeks to assess a civil administrative penalty on an operator, the
753 commission shall cause to be served upon the operator, by service in hand or by certified mail,
754 return receipt requested, a written notice of its intent to assess a civil administrative penalty that
755 shall include: (i) a concise statement of the alleged act or omission for which such civil
756 administrative penalty is sought to be assessed; (ii) each law, regulation, order, license or
757 approval that has not been complied with as a result of such alleged act or omission; (iii) the
758 amount that the commission seeks to assess as a civil administrative penalty for each alleged act
759 or omission; (iv) a statement of the operator's right to an adjudicatory hearing on the proposed
760 assessment; (v) the requirements the operator shall comply with to avoid being deemed to have
761 waived the right to an adjudicatory hearing; and (vi) the manner of payment thereof if the
762 operator elects to pay the penalty and waive an adjudicatory hearing. After written notice of
763 noncompliance or intent to assess a civil administrative penalty has been given, each day
764 thereafter during which noncompliance occurs or continues shall constitute a separate offense

765 and shall be subject to a separate civil administrative penalty if reasonable efforts have not been
766 made by the operator to promptly come into compliance.

767 (d) If the commission seeks to assess a civil administrative penalty on an operator, the
768 operator shall have the right to an adjudicatory hearing under chapter 30A, the provisions of
769 which shall apply except when they are inconsistent with the provisions of this chapter.

770 (e) An operator shall be deemed to have waived its right to an adjudicatory hearing
771 unless, not more than 21 days after the date of the commission's notice that the commission
772 seeks to assess a civil administrative penalty, the operator files with the commission a written
773 statement denying the occurrence of any of the acts or omissions alleged by the commission in
774 the notice or asserting that the amount of the proposed civil administrative penalty is excessive.
775 In an adjudicatory hearing authorized under chapter 30A, the commission shall be required to
776 prove, by a preponderance of the evidence, the occurrence of each act or omission alleged by the
777 commission in the notice.

778 (f) If an operator waives the right to an adjudicatory hearing, the proposed civil
779 administrative penalty shall be final immediately upon such waiver. If a civil administrative
780 penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty
781 shall be final upon the expiration of 30 days unless an action for judicial review of the decision is
782 commenced under chapter 30A.

783 (g) An operator who institutes proceedings for judicial review of the final assessment of a
784 civil administrative penalty shall place the full amount of the final assessment in an interest-
785 bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The
786 establishment of an interest-bearing escrow account shall be a condition precedent to the

787 jurisdiction of the reviewing court unless the party seeking judicial review demonstrates, in a
788 preliminary hearing held not more than 20 days after the filing of the complaint, the presence of
789 a substantial question for review by the court or the operator's inability to pay. Upon such a
790 demonstration, the court may grant an extension or waiver of the interest-bearing escrow account
791 requirement or may require, in lieu of such interest-bearing escrow account, the posting of a
792 bond payable directly to the commonwealth in the amount of 125 per cent of the assessed
793 penalty.

794 If, after judicial review, in a case where the escrow account requirement has been waived,
795 and in cases where a bond has been posted in lieu of such requirement, the court affirms, in
796 whole or in part, the assessment of a civil administrative penalty, the commission shall be paid
797 the amount thereof together with interest at the rate provided in section 6C of chapter 231. If,
798 after judicial review in a case where an interest-bearing escrow account has been established, the
799 court affirms the assessment of such penalty, in whole or in part, the commission shall be paid
800 the amount thereof together with the accumulated interest in the interest-bearing escrow account.
801 If the court sets aside the assessment of a civil administrative penalty in a case where the amount
802 of such penalty has been deposited in an interest-bearing escrow account, the operator on whom
803 the civil administrative penalty was assessed shall be repaid the amount so set aside, together
804 with the accumulated interest thereon.

805 (h) Each operator who fails to timely pay a civil administrative penalty and each operator
806 who issues a bond under this section and fails to timely pay to the commission the amount
807 required for the bond, shall be liable to the commonwealth for up to 3 times the amount of the
808 civil administrative penalty, together with costs, plus interest accrued from the time the civil
809 administrative penalty became final and attorneys' fees, including all costs and attorneys fees

810 incurred directly in the collection of the penalty. The rate of interest shall be the rate provided in
811 section 6C of chapter 231. The commission may require that the amount of a civil administrative
812 penalty imposed under this section exceed any economic benefit realized by a person.

813 (i) The commission may impose conditions on, suspend or revoke an operator's license or
814 reprimand or assess a fine on an operator upon a finding that the operator: (i) has committed a
815 criminal or civil offense under this chapter or under any other law; (ii) is not in compliance with
816 sports wagering regulations promulgated pursuant to this chapter; (iii) is under criminal
817 investigation in another jurisdiction; (iv) has breached a condition of licensure; (v) has affiliates,
818 close associates or employees that are not qualified or licensed under this chapter with whom the
819 operator continues to conduct business or employ; (vi) is no longer capable of maintaining
820 operations as a sports wagering operator; or (vii) whose business practice, upon a determination
821 by the commission, is injurious to the policy objectives of this chapter.

822 Section 16. (a) A person, other than an operator under this chapter, who engages in
823 accepting, facilitating or operating a sports wagering operation shall be punished by
824 imprisonment in the house of correction for not more than 90 days or by a fine not to exceed
825 \$10,000 or both such fine and imprisonment.

826 (b) A person convicted of a second violation of subsection (a) shall be punished by
827 imprisonment in the house of correction for not more than 6 months or by a fine of not more than
828 \$50,000 or both such fine and imprisonment.

829 (c) A person convicted of a third or subsequent violation of subsection (a) shall be
830 punished by imprisonment in the state prison for not more than 5 years or by a fine of not more
831 than \$100,000 or both such fine and imprisonment.

832 Section 17. An operator shall not discharge, demote, suspend, threaten, harass or in any
833 other manner discriminate against an employee because of any lawful act done by the employee
834 to provide information, cause information to be provided or otherwise assist in an investigation
835 regarding any conduct that the employee reasonably believes constitutes a violation of this
836 chapter.

837 Section 18. (a) Prior to disbursement of cash or a prize in excess of \$5,000, an operator
838 shall review information made available by the IV–D agency, as set forth in chapter 119A and by
839 the department of revenue to determine if the winner of the cash or prize owes any past-due: (i)
840 child support to the commonwealth or to an individual to whom the IV–D agency is providing
841 services; or (ii) tax liability to the commonwealth.

842 (b)(1) If an operator determines that the winner of the cash or prize owes past-due child
843 support or past-due tax liability, the operator shall notify the IV–D agency or the commonwealth,
844 as applicable, of the winner’s name, address and social security number.

845 (2) Subsequent to statutory state and federal tax withholding, the operator shall first
846 disburse to the IV–D agency the full amount of the cash or prize or such portion of the cash or
847 prize that satisfies the winner's past-due child support obligation.

848 (3) If funds remain available after the disbursement to the IV–D agency or if no such
849 obligation to the IV–D agency is owed, the operator shall disburse to the department of revenue
850 the full amount of the cash or prize or such portion of the cash prize that satisfies the winner’s
851 past-due tax liability.

852 (4) The operator shall disburse to the winner only that portion of the prize, if any,
853 remaining after the holder's past-due child support obligation and the winner's past-due tax
854 liability have been satisfied.

855 Section 19. (a) Annually, not later than February 28, each operator shall submit a report
856 to the commission that shall include: (i) the total amount of sports wagers received; (ii) the total
857 amount of winning wagers and prizes awarded to consumers; (iii) the total amount of sports
858 wagering gross revenue received by the operator; (iv) the total amount of sports wagers received
859 on each sporting event; (v) the total number of accounts held by consumers; (vi) the total number
860 of new accounts established in the preceding year, as well as the total number of accounts
861 permanently closed in the preceding year; (vii) the total number of consumers that requested to
862 exclude themselves in a prior year who participated in sports wagering; (viii) the total dollar
863 amounts that the operator contracted for and paid to minority business enterprises, women
864 business enterprises and veteran business enterprises, as defined in section 58 of chapter 7, in:
865 (A) design contracts; (B) construction contracts; and (C) contracts for every good and service
866 procured by the operator; provided, however, that the report shall also identify the amounts so
867 contracted as a percentage of the total dollar amounts contracted for and actually paid to all
868 businesses by the operator; (ix) any diversity, equity and inclusion initiatives the operator has
869 implemented to support and encourage hiring and employment opportunities; and (x) any
870 additional information that the commission deems necessary. The commission shall publish the
871 reports on its website after redacting any confidential or proprietary business information and
872 any personal information as required by law.

873 Section 20. Nothing in this chapter shall authorize any person or entity that offers fantasy
874 contests for a cash prize to members of the public pursuant to and in accordance with regulations

875 promulgated by the attorney general to conduct sports wagering unless the person or entity
876 separately qualifies for and obtains an operator license under this chapter.

877 Section 21. (a) The commission shall develop an annual research agenda in order to
878 understand the social and economic effects of sports wagering in the commonwealth and to
879 obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology
880 and etiology of sports wagering. The secretary of health and human services, with the advice and
881 consent of the commission, may expend funds from the Public Health Trust Fund established in
882 section 58 of chapter 23K to implement the objectives of the sports wagering research agenda;
883 provided, however, that the objectives of the sports wagering research agenda shall, to the extent
884 practicable, be substantially similar to the objectives of the research agenda established under
885 section 71 of said chapter 23K. The sports wagering research agenda shall also include, but not
886 be limited to: (i) an assessment of whether problem sports wagering is comorbid with problem
887 gambling; (ii) an assessment as to whether the individuals participating in sports wagering are
888 different than those who participate in other forms of gaming or gambling; (iii) an assessment of
889 the impact of sports wagering on youth under the age of 25; (iv) an assessment of the impacts of
890 sports wagering on college athletics and professional sports; and (v) the costs of implementing
891 this chapter.

892 (b) Annually, the commission shall make scientifically-based recommendations that
893 reflect the results of the research under clause (a) to the clerks of the senate and house of
894 representatives, the senate and house committees on ways and means, the joint committee on
895 economic development and emerging technologies, the joint committee on mental health,
896 substance use and recovery and the joint committee on public health. The commission shall
897 consider any such recommendations, research and findings in all decisions related to enhancing

898 responsible gambling and mitigating problem sports wagering. The recommendations shall be
899 posted on the commission's website.

900 Section 22. Notwithstanding any general or special law to the contrary, a federally
901 recognized Indian tribe that has entered into a compact with the commonwealth in accordance
902 with the Indian Gaming Regulatory Act and section 91 of chapter 194 of the acts of 2011 may
903 conduct sports wagering in the same manner and to the same extent as a person with a category 1
904 license; provided, however, that sports wagering conducted by such an Indian tribe through a
905 mobile application or other digital platform shall be governed as a form of internet gaming as
906 defined in the existing compact.

907 Section 23. Notwithstanding any general or special law or rule or regulation to the
908 contrary, an operator shall supply the commission with customer tracking data collected or
909 generated by loyalty programs, player tracking software, player card systems, online gambling or
910 sports wagering transactions or any other information system. The commission shall contract
911 with an experienced nonprofit research entity to develop an anonymizing system that
912 automatically removes from the data personally identifying information, including consumer
913 name, street address, bank or credit information and the last 4 digits of a player's zip code, in
914 compliance with section 2 of chapter 93H. The data shall retain information on consumer
915 characteristics including, but not limited to, gender, age and region of residence, consumer
916 behavior including, but not limited to, frequency of play, length of play, speed of play,
917 denomination of play, amounts wagered. The commission shall convey the anonymized data to a
918 research facility which shall make the data available to qualified researchers for the purposes of:
919 (1) conducting analyses that improve understanding of how gambling addiction develops and
920 progresses; (2) developing evidence-based harm minimization strategies; and (3) developing

921 evidence-based systems to monitor, detect and intervene in high-risk gambling. The commission
922 shall request reports on researcher analyses of the behavioral data, which may provide informed
923 recommendations to the general court relative to more effective regulation of gambling
924 operations. The commission may directly initiate studies assessing the effectiveness of any
925 specific measures, programs or interventions which the commonwealth has implemented in
926 gaming operations and which might be illuminated through the behavioral data in question. Any
927 researcher report received by the commission under this section shall be posted on the
928 commission's website.

929 Section 24. Annually, not later than February 28, each operator shall prepare and submit
930 a report on the demographic data of new employees hired in the preceding calendar year. The
931 report shall include, but not be limited to: (i) a breakdown of new employees hired, by race,
932 ethnicity and gender; (ii) the retention rate of minority employees; (iii) any perceived barriers or
933 challenges to hiring minority employees; (iv) any diversity, equity and inclusion initiatives that
934 the operator has implemented to support and encourage the hiring and retention of minority
935 employees; and (v) any additional information that the commission deems necessary. The report
936 shall be submitted to the commission and filed with the clerks of the senate and house of
937 representatives, the house and senate committees on ways and means and the joint committee on
938 economic development and emerging technologies.

939 SECTION 9. Chapter 128C of the General Laws is hereby amended by adding the
940 following section:-

941 Section 9. Notwithstanding sections 1 to 8, inclusive, or any other general or special law
942 to the contrary, no racing meeting licensee, including licensees holding racing meetings in

943 connection with a state or county fair as defined in section 1 of chapter 128A, shall simulcast or
944 accept a simulcast wager on greyhound dog racing.

945 SECTION 10. Section 1 of chapter 137 of the General Laws, as appearing in the 2020
946 Official Edition, is hereby amended by inserting after the figure “23K”, in line 3, the following
947 words:- or sports wagering conducted pursuant to chapter 23N.

948 SECTION 11. Section 2 of said chapter 137, as so appearing, is hereby amended by
949 inserting after the figure “23K”, in line 3, the following words:- or an operator who offers sports
950 wagering pursuant to chapter 23N.

951 SECTION 12. Section 3 of said chapter 137, as so appearing, is hereby amended by
952 inserting after the figure “23K”, in line 7, the following words:- or sports wagering conducted
953 pursuant to chapter 23N.

954 SECTION 13. Section 1 of chapter 271 of the General Laws, as so appearing, is hereby
955 amended by striking out, in line 4, the words “chapter 23K” and inserting in place thereof the
956 following words:- chapters 23K and 23N.

957 SECTION 14. Section 2 of said chapter 271, as so appearing, is hereby amended by
958 striking out, in line 4, the words “chapter 23K” and inserting in place thereof the following
959 words:- chapters 23K and 23N.

960 SECTION 15. Section 3 of said chapter 271, as so appearing, is hereby amended by
961 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following
962 words:- chapters 23K and 23N.

963 SECTION 16. Section 5 of said chapter 271, as so appearing, is hereby amended by
964 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following
965 words:- chapters 23K and 23N.

966 SECTION 17. Section 5A of said chapter 271, as so appearing, is further amended by
967 inserting after the words “chapter 23K”, in line 32, the following words:- or sports wagering
968 conducted pursuant to chapter 23N.

969 SECTION 18. Section 5B of said chapter 271, as so appearing, is hereby amended by
970 striking out, in line 58, the words “chapter 23K” and inserting in place thereof the following
971 words:- chapters 23K and 23N.

972 SECTION 19. Section 8 of said chapter 271, as so appearing, is hereby amended by
973 striking out, in lines 10 and 11, the words “of chance that is not being conducted in a gaming
974 establishment licensed under chapter 23K” and inserting in place thereof the following words:-
975 that is not being conducted pursuant to chapter 23K or any other sports wagering that is not
976 being conducted pursuant to chapter 23N.

977 SECTION 20. Section 17 of said chapter 271, as so appearing, is hereby amended by
978 inserting after the figure “23K”, in line 27, the following words:- or for the purpose of sports
979 wagering conducted in accordance with chapter 23N.

980 SECTION 21. Said chapter 271 is hereby further amended by striking out section 17A, as
981 so appearing, and inserting in place thereof the following section:-

982 Section 17A. Except as authorized under chapter 23N, whoever uses a telephone, internet
983 or other communications technology or whoever being the occupant in control of premises where

984 a telephone, internet or other communications technology is located or whoever is a subscriber
985 for such communications technology, knowingly permits another to use a telephone, internet or
986 other communications technology so located or for which such person subscribes, as the case
987 may be, for the purpose of accepting wagers or bets, or for the buying or selling of pools, or for
988 placing all or any portion of a wager with another, upon the result of a trial or contest of skill,
989 speed or endurance of man, beast, bird or machine or upon the result of an athletic game or
990 contest or upon the lottery called the numbers game or for the purpose of reporting the same to a
991 headquarters or booking office or who under another name or otherwise falsely or fictitiously
992 procures telephone, internet or other communications technology service for oneself or another
993 for such purposes shall be punished by a fine of not more than \$2,000 or by imprisonment for not
994 more than 1 year.

995 SECTION 22. Section 19 of said chapter 271, as so appearing, is hereby amended by
996 inserting after the figure “23K”, in line 19, the following words:- and shall not apply to
997 advertising of sports wagering conducted pursuant to chapter 23N.

998 SECTION 23. Section 20 of said chapter 271, as so appearing, is hereby amended by
999 adding the following sentence:- Nothing in this section shall prohibit an operator licensed under
1000 chapter 23N from posting, advertising or displaying materials relevant to its sports wagering
1001 operations.

1002 SECTION 24. Section 23 of said chapter 271, as so appearing, is hereby amended by
1003 inserting after the figure “23K”, in line 31, the following words:- and shall not apply to sports
1004 wagering conducted pursuant to chapter 23N.

1005 SECTION 25. Section 27 of said chapter 271, as so appearing, is hereby amended by
1006 inserting after the word “thereto”, in line 15, the following words:- ; provided, however, that this
1007 section shall not apply to sports wagering conducting pursuant to chapter 23N.

1008 SECTION 26. Section 28 of said chapter 271, as so appearing, is hereby amended by
1009 inserting after the word “prescribed”, in line 12, the following words:- ; provided, however, that
1010 this section shall not apply to sports wagering conducted pursuant to chapter 23N.

1011 SECTION 27. Section 42 of said chapter 271, as so appearing, is hereby amended by
1012 inserting after the word “both”, in line 4, the following words:- ; provided, however, that this
1013 section shall not apply to sports wagering conducted pursuant to chapter 23N.

1014 SECTION 28. Section 135 of chapter 219 of the acts of 2016 is hereby repealed.

1015 SECTION 29. Notwithstanding any general or special law to the contrary, a person shall
1016 not operate sports wagering through a mobile application or other digital platform under chapter
1017 23N of the General Laws until the Massachusetts gaming commission completes an initial
1018 competitive application process pursuant to paragraph (2) of subsection (a) of section 5 of said
1019 chapter 23N; provided, however, that the initial competitive application process shall be
1020 complete upon the issuance of a category 2 license or upon the certification from the commission
1021 that none of the applications were accepted; provided further, that any such certification shall be
1022 posted on the commission’s website.

1023 SECTION 30. The Massachusetts gaming commission, in consultation and cooperation
1024 with the trial court of the commonwealth, shall report on court activity related to illegal gaming,
1025 as defined in section 7 of chapter 4 of the General Laws, based on actions that constitute sports
1026 wagering as defined in section 2 of chapter 23N of the General Laws, as reasonably practicable,

1027 but for a period of not less than 10 years prior to the effective date of this act. The report shall
1028 include, but not be limited to: (i) the incarceration rates of those convicted of illegal gaming
1029 based on actions that constitute sports wagering; (ii) fines assessed to individuals found guilty of
1030 illegal gaming based on actions that constitute sports wagering; (iii) the number of indictments
1031 and arrests related to illegal gaming based on actions that constitute sports wagering; and (iv)
1032 where possible, a demographic breakdown including, but not limited to, the income, race,
1033 ethnicity and gender of individuals who are or have been incarcerated, fined, indicted or arrested
1034 for activity related to illegal gaming based on actions that constitute sports wagering. Personally
1035 identifiable information shall be redacted from the report. The report shall be submitted to the
1036 clerks of the senate and house of representatives, the senate and house committees on ways and
1037 means and the joint committee on the judiciary not later than August 31, 2023.

1038 SECTION 31. The Massachusetts gaming commission shall conduct a study on the
1039 participation by minority business enterprises, women business enterprises and veteran business
1040 enterprises in the sports wagering industry in the commonwealth. The study shall include, but not
1041 be limited to, an analysis of: (i) participation in activities related to the regulation, licensing and
1042 promotion of sports wagering operators; (ii) the level of participation of women, minority and
1043 veteran employees working for sports wagering licensees and employers; (iii) the level of
1044 participation by minority-owned and women-owned businesses that contract with or provide
1045 services to sports wagering licensees and employers; (iv) any barriers to employment of women
1046 and minorities in the sports wagering industry; and (v) methods for increasing racial and gender
1047 diversity in the workforce in the sports wagering industry, including whether to set reasonable
1048 and appropriate goals and procedures for increasing the number of minority business enterprises
1049 providing sports wagering industry-related services to sports wagering licensees and employers.

1050 The commission shall report on its findings and submit any recommendations to the clerks of the
1051 senate and house of representatives, the house and senate committees on ways and means, the
1052 joint committee on racial equity, civil rights, and inclusion and the joint committee on economic
1053 development and emerging technologies not later than December 31, 2022.

1054 SECTION 32. Section 6 shall take effect on January 1, 2025.

1055 SECTION 33. Section 7 shall take effect on January 1, 2027.