SENATE DOCKET, NO. FILED ON: 1/13/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Joan M. Menard**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to control gaming in Massachusetts.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Stephen J. Buoniconti | Hampden |
| Stephen R. Canessa | 12th Bristol |
| Michael R. Knapik | Second Hampden and Hampshire |
| Joan M. Menard | First Bristol and Plymouth |
| Marc R. Pacheco | First Plymouth and Bristol |
| Rosemary Sandlin | 3rd Hampden |
| Christine E. Canavan | 10th Plymouth |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00191 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act to control gaming in Massachusetts.

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

 SECTION 1. Section 48 of Chapter 6 of the General Laws, as appearing in the 2002 official edition, is amended by adding the following:

SECTION 2. (a)Notwithstanding the provisions of G.L. c. 137, G.L. c. 271, or any other general or special law to the contrary, each racing meeting licensee is eligible to be licensed, subject to all terms and conditions imposed by the Lottery Commission, to operate a gaming establishment; and shall have the right to operate a total of fifteen hundred (1500) slot machines, video gaming devices or combination of, not to exceed fifteen hundred, at a racing meeting licensee's premises only; and, provided, further, that each of said licensees shall have the right to operate an equal number of slot machines, video gaming devices or combination of.  No person, entity or shareholder that owns a pari-mutual racing license shall be allowed to possess more than one gaming license.  Gaming licenses issued to pari-mutual racing licensees shall be limited to slot machines, video gaming devices or combination of.

Prior to the issuance of the gaming license, a plan must be submitted by each licensee to the commission for approval that details the construction, operation, and maintenance necessary to accommodate the operation of VLTs/Slot Machines on the premises. There shall be a one time $25 million licensing fee to be paid by the licensee to the General Fund within 30 days of the approval of said licensee’s plan.

SECTION 3.   The lottery commission may also impose a civil fine of up to $50,000 dollars upon any person per entity licensed, registered or otherwise approved under this act, for any violation of this act or of any general or special law related to gambling.

SECTION 4.   The lottery commission may by regulation approve or disapprove transactions, events, and processes as provided in this act, take actions reasonably designed to ensure that no unsuitable persons are associated with controlled gambling activities.

SECTION 5.   The minimum age for a person to work at a gaming facility is 21 years of age.  The minimum age for a person to engage in a gaming activity is 21 years of age.

SECTION 6.   So-called licensees shall pay weekly to the lottery commission, on behalf of the Commonwealth, a sum equal to sixty-five (65%) percent of gaming revenues derived from a pari-mutual gaming facility. Further, the lottery commission shall collect all fees, fines and gaming revenues from the gaming licensees and activities associated with the gaming licensees. The Lottery Commission, in conjunction with the House and Senate Ways and Means Committees, shall set revenue expectations annually for local aid distribution. Should these projections, including expected growth, not be met, then the lottery commission shall retain a portion of the fees, fines, and revenues collected from pari-mutual gaming facilities for the purpose of replenishing losses in local aid revenue. The Lottery Commission shall further retain a portion of the fees, fines, and revenues collected for the purpose of executing its duties as required under the law. Of the 65% of the gaming revenues that the commission shall receive, 10% will be distributed for the following:

(1)   mitigation to the municipality where the facility is located,

(2)   assistance to the purses of pari-mutual licensees in conjunction with current racing commission standards

(3)   assistance for human services related to gaming, which includes addressing       gambling addiction

The remainder shall be deposited into the General Fund.  The lottery commission shall set a schedule of when fees and gaming revenues are to be collected.  The lottery commission shall provide a quarterly report to the state auditor and the house and senate committees on ways and means on all monies collected from the gaming licensees.  The remaining thirty-five percent (35%) of gaming revenues shall be distributed to the licensee. The licensee shall be solely responsible for the continued maintenance, operation, including utilities, any other appropriate costs associated with the general upkeep of the facility, and any applicable taxes.

SECTION 7.   The Massachusetts Lottery Commission shall provide to the senate and house committees on ways and means a copy of all regulations for their records. It shall determine the compensation/payouts/winnings from slots/video gaming devices.

SECTION 8.   The lottery commission shall promulgate and execute regulations pertaining to proper law enforcement and security for all pari-mutual licenses.

SECTION 9.   The lottery commission or a gaming licensee shall be permitted to deny access to the gaming facilities persons who have in the past violated gaming state law or gaming regulation, or had behaved unreasonably causing disruption to the proper operation of a gaming facility.

SECTION 10. All licenses issued and regulated by the commission shall not be transferred to another entity without the approval of the commission.

SECTION 11. There shall be an additional two (2) gubernatorial appointments added to said commission. The attorney general or his designee, and the state auditor or his designee, shall also be granted one (1) seat each on the lottery commission. These appointment shall be made within 30 days of the passage of this act.

SECTION 12. The Massachusetts Lottery Commission shall make specific findings on the performance of the tracks, and applicable revenue distribution structuresand the feasibility of terminating greyhound racing in the Commonwealth within 5 years after the passage of this actThe commission shall consider the economic impact to the region where the greyhound racetrack is located, job loss and growth, the impact on gaming in the commonwealth, and the impact of revenue to the commonwealth and municipalities where the racetrack is located. The commission shall report its’ finding and submit these findings to the joint committee on government regulations, and the house and senate committees on ways and means within 1 year after the passage of this act.

SECTION 13. The lottery commission shall choose slot machines/video gaming devices vendors per a request for proposal (RFP) and shall set guidelines for approval of said request and set rate of payment to vendors. Said vendors shall be solely responsible for repair and maintenance of all slot machines. In addition to general maintenance, vendors shall provide relevant data on daily performance of all machines to the lottery commission.

SECTION 14.  There shall be established a Massachusetts Gaming Commission consisting of seven members.  Each member shall be a citizen of the United States and a resident of the commonwealth.  No person who was formerly a licensee or an unlicensed employee of a gaming licensee within the five years prior to any appointment shall be eligible for appointment to the commission.  The commission shall be composed of the most qualified persons available; but no person actively engaged or having a direct pecuniary interest in gaming activities shall be a member of the commission.  The governor shall appoint four members of the commission, one of which will serve as its chair, and one of which shall be the Inspector General or his designee. The attorney general or his designee shall be a member of the commission. The treasurer of the commonwealth or his designee shall be a member of the commission, and the state auditor or his designee shall be a member of the commission.

In the occurrence of a vacancy, the original appointing authority shall fill any vacancies within 45 days.  Any commissioner may be removed by the original appointing authority for just cause, and shall be removed immediately upon conviction of any felony.

The term of office of each member of the commission shall be 5 years except that, of the members initially appointed, 1 shall be appointed by the governor for a term of 2 years, 1 shall be appointed by the secretary of state for a term of 4 years, 1 shall be appointed by the attorney general for a term of 3 years, 1 shall be appointed by the state treasurer for a term of 5 years, and 1 shall be appointed by the auditor for a term of 5 years.  After the initial term the term of office for each member of the commission is 5 years, provided that no member serve more than 3 consecutive terms.

The commission members shall devote that time to the business of the commission as may be necessary to the discharge of their duties.  The members of the commission shall be compensated at $500 per meeting; commission members shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.  Before entering upon the duties of his or her office each member shall swear that he or she does not have a pecuniary interest in any business or organization holding a gaming license under this act, or doing business with any gaming service industry, as defined by this act and shall submit to the governor, attorney general and state auditor, a statement of financial interest required by chapter 286B the General Laws listing all assets and liabilities, property and business interests, and sources of income of said commissioner and his spouse.  Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.  No commission member shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office.

Regular and special meetings of the commission may be held, at the discretion of the commission, at such times and places as it may deem to be convenient, but a minimum of 6 regular meetings must be held over the course of 1 year.  A public record of every vote and meeting minutes shall be maintained at the commission's general office.  The commission may maintain any other files and records as it deems appropriate.  Said records shall be available and open to the public for review.  A quorum of 4 members is necessary for the commission to meet and a majority vote of the commission shall be 3 members.

SECTION 15. There shall be no more than two commercial gaming licenses issued to separate entities that are not licensed to conduct pari-mutual racing in the commonwealth.  The said licenses are limited to one (1) in Hampden County and one (1) in Bristol County.  Should there be more than one entity seeking a gaming license in a single location, the gaming commission shall choose the best proposal possible.  No single gaming entity, including its shareholders, shall have more than one gaming license.

SECTION 16. The commission shall have the power to issue licenses to persons or entities seeking to engage in the business of gambling in the Commonwealth with the exception of lottery, keno, and games associated with a charity such as beano and casino nights, so-called.

            The commission shall have public hearings when reviewing an applicant’s gaming licensee application, when having an administrative hearing on suspension, revocation, transfer or limitation of any of the commercial gaming licensee’s licenses.

For each commercial gaming license there shall be a onetime fee of $150 million. The commission shall have a public hearing regarding each of these licenses and solicit testimony as to whether to provide any of these licenses.  The commission may set limits and restrictions on licenses, which can include specific operating functions of a gaming facility.

SECTION 17. The Massachusetts Gaming Control Commission shall select and appoint an executive director of said Commission.  The executive director shall serve at the pleasure of the commission, shall devote his entire time and attention to the duties of his office, and shall receive such salary that the commission may determine.  The executive director shall supervise and administer the operation of the commission in accordance to the commission’s provisions of the law and regulations.  The executive director shall employ employees necessary to the execution of the goals of the commission.  The executive director, subject to the approval of the commission and the applicable laws relating to public contracts, may enter into contracts for the operation of the commission, or any part thereof.   No contract awarded or entered into by the executive director shall be assigned by the holder thereof except with the specific approval of the commission.

The executive director, with the approval of the commission, may expend for legal, investigative, clerical and other assistance such as may be appropriated therefor.  Investigators employed by the commission shall have access to all records maintained by the all licensees and registrants hereunder, whether maintained at the licensed gambling establishment or other location as may be pertinent to the investigator powers of the commission.

The commission shall promulgate regulations for the certification and licensing of gaming employees.  The information to be furnished by a licensee relating to his gaming employees; the fingerprinting of an applicant or licensee or employee of a licensee or other methods of identification.

The commission shall be authorized to issue, limit or revoke alcohol licenses to a gaming entity, collect annual alcohol licensing fees, and said gaming entity shall be inspected on a regular basis by the alcohol beverage control commission. The commission shall enter into a contract with the state police, the alcohol beverage control commission, and the division of inspections or the local inspector to carry out the regulations prescribed by the commission.  The commission shall set fines and collect fines for the violation of its regulations.  It shall investigate complaints made by any persons regarding any possible violation of law, record or other deficiencies at any gaming facility that the commission licenses.

The commission shall promulgate regulations for violations of regulations, which may include fines, suspension of licenses and revocation of license.  The commission is authorized to suspend any licenses created under this section immediate; provided that, an administrative hearing is conducted within 5 days of the suspension.

The commission shall randomly audit the revenues of all gaming facilities.  The commission shall establish regulations to set the method and operation of gambling operations including the type and manner of gambling, record keeping, accounting, audit requirements and safeguarding of assets.  The commission shall establish minimum security and safety requirements at a gaming facility, including regular meetings with federal, state and local law enforcement. The commission may investigate, civilly or criminally, fraud, deceit, misrepresentation or violations of law by any person licensed or registered under this act, or the occurrence of any such activity within or involving any licensed gambling establishment or gambling operation.  The commission shall inspect and or investigate a licensed gaming facility on a regular basis.  Should the commission discover any illegal act committed by a gaming licensee or its agents, the commission shall report such illegal activity to the state attorney general and the appropriate district attorney.

The commission shall determine the types of games allowed at a gaming facility pursuant to the law.  The commission shall set regulations to ensure that the gaming is fair and reasonable to the consumers, including the manner in which winnings, compensation from games and gaming devices, and gross revenue must be computed and reported by the licensee.  The compensation/payouts from slots or video gaming devices will be set by the commission.

The Governor shall not concur in a determination that a gaming establishment on newly acquired lands would be in the best interest of an Indian tribe, pursuant to 25 U.S.C. § 2719 (b)(1)(A), unless the House and Senate each have authorized, by majority vote, the Governor to so concur.  The Governor shall not transfer or concur in the transfer of any real property located in the commonwealth into a trust for the benefit of an Indian tribe, pursuant to 25 U.S.C. § 2719, without the approval, by vote, of the House and Senate.  The commission shall have all powers necessary to undertake the commonwealth’s responsibilities and rights under the terms of any compact entered into between the Commonwealth of Massachusetts and any federally recognized tribe under the provisions of IGRA.

SECTION 18. There shall be a sum equal to 17% of net revenues, post payout and pre-expenses, from all table games, slot machines or video gaming devices at the commercial gaming facilities to be paid by the licensee to the commission. The commission shall retain a portion of the fees, fines, and revenue collected for the purpose of executing its duties as required under the law and the remainder shall be deposited in the general fund.  The commission shall set a schedule of when fees and gaming revenues are to be collected.  The commission shall provide a quarterly report to the state auditor and the house and senate committees on ways and means on all monies collected from gaming licensees.

In addition to other provisions of this section, the commission must consider the following when making a determination of issuing a gaming license. ,

(1)   demonstrate that the applicant is able to and will invest no less than $300 million into the facility and property, which shall not include the purchase or lease price of the land where the facility will be located,

(2)   the applicant must have a certified vote from the city or town where the gaming facility will be located, including those gaming entities located on public land.

(3)   the applicant must have an agreement with the city or town and gaming facility.  Said agreement shall include all stipulations of responsibilities between the city or town and the gaming facility and said agreement must be determined as reasonable by the commission,

(4)   the applicant must enter into an agreement with the cities and towns that share borders with the municipality where the casino is to be located to provide for mitigation at a rate that will be determined by the commission.

(5)   the applicant must demonstrate to the commission that it will maintain hospitality industry employment standards that meets or exceeds those in the state of California;

(6)   Meet the licensee bonding requirement as set by the commission.

(7)   The applicant must meet the qualifications to be a lottery reseller and must be a lottery reseller for the purpose of lottery and keno games

SECTION 19. Section 283 of chapter 94 of the General Laws, as appearing in the 2000 official edition, is amended in line 1 after the word “person” by inserting the words “except persons or entities licensed under chapter 10,”

SECTION 20. Section 5A of chapter 271 of the General Laws, as appearing in the 2000 official edition, is amended at the end thereof with the following sentence:- “Persons or entities licensed under chapter 10 shall be exempt from this section.”

SECTION 21: Chapter 12B of the Massachusetts General Laws as appearing in the 2002 edition is hereby stricken in its entirety.

SECTION 22: Section 23 of chapter 10 of the General Laws, as appearing in the 2000 official edition is hereby amended by striking the following words: “No more than four members of the commission shall be of the same political party.”

SECTION 22A: Section 24 of said Chapter 10 of the General Laws is hereby amended by inserting after the word “sold” in line 25, the following words:- , provided, however, the commission paid to sellers of on line games and instant games shall not be less than seven per cent.

SECTION 23: All gaming revenue percentages as defined in this act shall remain in effect for not less than ten years.  The commission shall every ten years upon the issuance of each gaming license conduct a review of the licensees. Should they, in the opinion of the commission, be in good standing, they shall re-issue both gaming licenses upon receipt of a re-licensing fee to be determined of the commission.

SECTION 24. This act shall take effect upon its passage.