



DATE

The Honorable Karen E. Spilka
President of the Senate
(VIA EMAIL: Karen.Spilka@masenate.gov)

The Honorable Ronald Mariano
Speaker of the House
(VIA EMAIL: Ronald.Mariano@mahouse.gov)

The Honorable Michael J. Rodrigues
Chair, Joint Committee on Ways and Means
(VIA EMAIL: Michael.Rodrigues@masenate.gov)

The Honorable Aaron Michlewitz
Chair, Joint Committee on Ways and Means
(VIA EMAIL: Aaron.M.Michlewitz@mahouse.gov)

The Honorable John J. Cronin
Chair, Joint Committee on Consumer Protection and Professional Licensure
(VIA EMAIL: John.Cronin@masenate.gov)

The Honorable Tackey Chan
Chair, Joint Committee on Consumer Protection and Professional Licensure
(VIA EMAIL: Tackey.Chan@mahouse.gov)

RE: Amendments to Gaming, Sports Wagering, and Horse Racing laws

Dear Senate President Spilka, Speaker Mariano, Chair Rodrigues, Chair Michlewitz, Chair Cronin, and Chair Chan:

The Massachusetts Gaming Commission (“Commission”) is grateful for the Legislature’s continuous support and its efforts to ensure that the Commission is well-positioned to carry out its mission effectively. To that end, the Commission has performed a comprehensive review of existing statutes within its purview (G.L. c. 23K, G.L. c. 23N, G.L. c. 128A, and G.L. c. 128C), and proposes the statutory amendments that follow. These proposals are collectively intended to help ensure that the Commission is able to efficiently, fairly, and transparently execute its mandate while at the same time ensuring that it has a clear, modern, and flexible statutory base from which to regulate. The following proposals are intended to serve those ends:

Align Sports Wagering Oversight with Gaming Oversight



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- Amend G.L. c. 23K, 23N, and 128A to create a statutory exemption under the Massachusetts Public Records Law for records received by the Commission from its licensees that, in its discretion, are determined to contain trade secrets, competitively-sensitive or other proprietary information, the public disclosure of which would place the subject licensee at a competitive disadvantage (Rationale- It is difficult for the Commission to engage in robust oversight of the regulated entities in the sports wagering or racing space without being able to access certain sensitive information [e.g.- unaudited financial reports] that are otherwise not subject to an exemption to the public records law. While there is some ability to protect certain information from public disclosure on the casino gaming side, language more clearly outlining that authority would be beneficial.);
- Amend G.L. c. 23K, § 21(a)(7) to clarify the authority of the Commission to enter into nondisclosure agreements with gaming licensees and the types of materials that may be covered by such agreements (Rationale- Similar to the previous point, it is imperative that the Commission be afforded the ability to receive sensitive information from its licensees in order to ensure robust regulatory oversight. While there is some ability to do so at present, a clearer outline of such authority would be beneficial.);
- Amend G.L. c. 23N to allow the Commission and the Investigations and Enforcement Bureau (“IEB”) to obtain or provide pertinent information regarding applicants or licensees from or to law enforcement entities or sports wagering regulatory authorities and other domestic, federal or foreign jurisdictions, including the Federal Bureau of Investigation, and to transmit such information to each other electronically. See G.L. c. 23K, § 6(e) (Rationale- While this authority exists on the casino gaming side and is a beneficial tool allowing a cooperative and efficient approach across regulatory jurisdictions, no such authority exists in the context of sports wagering and may hinder the Commission’s ability to secure information relative to its licensed entities or applicants.);
- Add language to G.L. c. 23N affording the Commission the ability to direct sports wagering licensees to provide to the Commission customer tracking data collected or generated by loyalty programs, player tracking software, player card systems, or online transactions similar to that required of gaming establishments under Section 97 of Chapter 194 of the Acts of 2011 (Rationale- The inclusion of this requirement in the casino gaming law was an important step towards understanding gambling habits and related issues. Similar authority to require such information should be afforded to the Commission in the sports wagering space.);



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Enhanced Operational Flexibility

- Amend G.L. c. 23K, § 61(b) to afford the Commission greater discretion to distribute funds in the Community Mitigation Funds for the overall enhancement of host, surrounding, and nearby communities to a gaming establishment (Rationale- At present, the Commission may only distribute monies from the Fund for the narrow purpose of assisting the host community and surrounding communities in offsetting costs related to the construction and operation of a gaming establishment. By broadening the scope for which funds may be distributed, greater benefit may be achieved in the communities in some way affected by the operation of a casino.);

Racing Modifications

- Add language to G.L. c. 23K, § 60 authorizing the Commission to allocate a limited percentage of funds annually from the Race Horse Development Fund for the administration of the Commission's Racing Division (Rationale- The funding sources for the operation of the Commission's Division of Racing are generally insufficient to support the sort of robust regulatory oversight expected of the Commission. Broadening the allowable use of monies from the Fund will benefit the entire industry.);
- Amend G.L. c. 23K, § 60 to afford the Commission greater discretion to distribute funds in the Race Horse Development Fund as may be deemed necessary to enhance the interests of the racing industry and its participants (Rationale- At present, monies from the Fund may only be distributed for three specific purposes: purses, breeding, and health and welfare benefits. By affording the Commission greater discretion, funds may be awarded for other beneficial uses including the development of a new race track.);
- Amend G.L. 128A, § 2 to afford the Commission the ability to set a deadline for the filing of an application for a horse racing license for the following calendar year in lieu of the existing October 1 date. Similarly, remove the November 15 deadline by which a decision to grant or dismiss the application must be made by the Commission (Rationale- By prescribing artificial dates in the statute, the Commission is forced to adjust its review to these artificial dates instead of setting out a reasonable time period by which to effectively review a particular application. Affording the Commission discretion to set the dates would be a benefit to all involved parties.);
- Amend G.L. c. 128A, § 5(h) to modernize the purposes and order of priority the distribution of pari-mutuel taxes and other revenues collected by the Commission relative to horse



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racing are expended. Similarly, amend G.L. c. 128A § 5B in conjunction with section 5(h) to ensure a cohesive method of funding the Commission is established (Rationale- Given the changes in the racing industry over the past decade, many of the expenditures identified in the statute are outdated. Further, the Commission should be afforded discretion to expend the subject funds in the best interests of the racing industry including for purposes of ensuring rigorous regulatory oversight.);

Responsible Gaming Considerations

- Amend G.L. c. 23K, § 29 to reflect the use of modern technology and responsible gaming principles relevant to providing patrons of a gaming establishment monthly access to their total bets, win, and loss figures (Rationale- The statute does not address the use of modern technology, like e-mail, and does not contemplate responsible gaming related consequences of mailing a notice to a person's home. While the principles underlying this section of the statute are sound, the particulars should be modernized to ensure the intended outcome.)

We appreciate your consideration of these important matters. The Commissioners and team are available to discuss these proposals at your convenience.

Respectfully submitted,

MASSACHUSETTS GAMING COMMISSION

By:

Cathy Judd-Stein, Chair

Nakisha L. Skinner, Commissioner

Eileen M. O'Brien, Commissioner

Jordan Maynard, Commissioner

Bradford R. Hill, Commissioner



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