

HOUSE No. 4013

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 18, 2016.

The committee on Economic Development and Emerging Technologies to whom was referred the petition (accompanied by bill, House, No. 301) of Joseph F. Wagner and Thomas M. McGee relative to charitable gaming, reports recommending that the accompanying bill (House, No. 4013) ought to pass.

For the committee,

JOSEPH F. WAGNER.

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to charitable gaming.

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

1 Notwithstanding any general or special law to the contrary:

2 SECTION 1. Clause 41 of section 4 of chapter 23K of the General Laws is hereby
3 repealed.

4 SECTION 2. Section 39A of chapter 10 of the General Laws is hereby repealed.

5 SECTION 3. Chapter 271 of the General Laws is hereby amended by striking section
6 7A, as appearing in the 2012 Official Edition, and inserting in place thereof the following
7 section:-

8 Section 7A:

9 (a) In this section the following words shall have the following meanings unless the
10 context clearly requires otherwise:-

11 “Raffle”, an arrangement for raising money by the sale of tickets, certain among which,
12 as determined by chance after the sale, entitle the holders to prizes of merchandise, of any value,

13 or cash awards, including a “50/50 raffle,” which is an arrangement whereby the prize is half the
14 amount of money raised by the sale of tickets.

15 “Bazaar”, an event, commonly referred to as a casino night or Las Vegas night, which is
16 promoted, operated, and conducted by the sponsoring organization for disposal by means of
17 chance of one or both of the following types of prizes: (1) merchandise, of any value, (2) cash
18 awards, not to exceed \$100 each.

19 (b) (1) Notwithstanding any general or special law to the contrary, raffles and bazaars
20 may be promoted, operated and conducted only under permits issued in accordance with the
21 provisions of this section.

22 (2) No organization issued a permit under this section shall conduct more than 3 bazaars
23 in any single calendar year nor shall the organization conduct more than 1 bazaar in any single
24 calendar day. The operation of a bazaar shall be limited to 5 consecutive hours.

25 (3) Notwithstanding any provision of this section, a city or town may elect to prohibit the
26 promotion and operation of raffles or bazaars, or both, by adoption of appropriate by-laws and
27 ordinances. Adoption of appropriate by-laws and ordinances in a town may occur by town
28 meeting action and in a city by city council action and in a town with no town meeting by town
29 council action.

30 (c) No raffle or bazaar shall be promoted, operated or conducted by any person or
31 organization, unless the same is sponsored and conducted exclusively by: (i) a veterans’
32 organization chartered by the Congress of the United States; (ii) a church or religious
33 organization; (iii) a fraternal or fraternal benefit society; (iv) an educational or charitable
34 organization; (v) a civic or service club or organization; or (vi) clubs or organizations organized

35 and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net
36 earnings of which inures to the benefit of any member or shareholder.

37 An organization shall be in compliance with the registration and filing requirements of
38 the public charities division of the department of the attorney general under sections 8E and 8F
39 of chapter 12 of the General Laws and section 19 of chapter 68 of the General Laws and have
40 been organized and actively functioning as a nonprofit organization in the commonwealth for a
41 period of not less than 2 years before it may apply for a permit.

42 (d) The promotion and operation of the raffle or bazaar shall be confined solely to the
43 qualified members of the sponsoring organization and no member shall receive remuneration in
44 any form for the time or effort devoted to the promotion or operation of the raffle or bazaar;
45 provided however, that this section shall not apply to employees of the sponsoring organization
46 who devote time or effort to the operation of the raffle or bazaar as part of their employment.

47 (e) All funds derived from any raffle or bazaar shall be used exclusively for the purposes
48 stated in the permit application of the sponsoring organization which purposes shall be limited to
49 educational, charitable, religious, fraternal or civic purposes or for veterans' benefits.

50 (f) An organization which meets the qualifications required by this section and which
51 desires to conduct or operate a raffle or bazaar within the commonwealth shall apply for a permit
52 to conduct raffles and bazaars from the clerk of the city or town in which the raffle will be drawn
53 or the bazaar held. The application form shall be approved by the commissioner of public safety
54 and shall include:

55 (1) the name and address of the applicant;

56 (2) a statement from the applicant affirming under the penalties of perjury that it meets all
57 of the requirements of this section including registration, reporting and operational requirements;

58 (3) the applicant's 6 digit attorney general account number, if any, assigned by the
59 division of public charities of the department of the attorney general;

60 (4) the names of 3 officers or members of the organization who shall be responsible for
61 the operation of the raffle or bazaar with affirmation that they will receive no remuneration for
62 the operation;

63 (5) the uses to which the net proceeds will be applied; and

64 (6) the \$10 application fee to be retained by the city or town. A fee in excess of \$10 may
65 be set in a town by town meeting action and in a city by city council action, and in a town with
66 no town meeting by town council action, by adoption of appropriate by-laws and ordinances to
67 set such fees, but in no event shall any fee be greater than \$50.

68 (g) Upon receipt of an application to conduct a raffle or bazaar, the clerk shall determine
69 whether it is in conformity with this section. If the clerk so determines, they shall forward the
70 application to the chief of police of the city or town, who shall determine whether the applicant is
71 qualified to operate raffles and bazaars under this section. If the chief of police so determines,
72 they shall endorse the application and return it to the clerk, who shall immediately issue a permit,
73 which shall be valid for 1 year from the date of its issuance.

74 The clerk shall give notice of issuance to the state lottery commission and the sponsoring
75 organization, along with notice of its tax obligations under this section and related tax form. The
76 notice and tax form shall be prepared by the state lottery commission. The clerk shall not issue a

77 permit to an organization found to have violated any provision of this section within 3 years from
78 the date of a violation.

79 (h) An organization holding a raffle or bazaar permit issued under this section shall
80 submit information and reports to the state lottery commission concerning raffles and bazaars
81 conducted by it as may be required by commission regulations, and the commission may
82 establish regulations governing the operation of raffles and bazaars conducted by organizations.

83 (i) If an application is not acted upon within 30 days after it is submitted, or if the
84 organization is refused a permit, or if a permit is revoked or suspended, any person named on the
85 application may obtain judicial review of the refusal, suspension or revocation by filing within
86 10 days of the refusal, suspension or revocation or within 10 days of the expiration of the 30-day
87 period a petition for review in the district court having jurisdiction in the city or town in which
88 the application was filed. A justice of the court, after a hearing, may direct that the permit be
89 issued or reinstated, if they are satisfied that there was no reasonable ground for refusing,
90 suspending or revoking the permit, and that the applicant was not prohibited by law from holding
91 raffles or bazaars.

92 A permit may be suspended or revoked at the discretion of the director of the state lottery
93 commission and shall be suspended or revoked upon written request to the director by the city or
94 town approving authority as set forth above in this section; provided however, that any permit
95 which is suspended or revoked may be appealed pursuant to this section. The action of the
96 director in suspending or revoking a permit shall be final, and the permittee shall not have a right
97 of appeal.

98 (j) An organization issued a permit under this section shall within 30 days of the
99 expiration of its permit submit a report on a form to be approved by the commissioner of public
100 safety. A form shall require information concerning the number of raffles and bazaars held, the
101 amount of money received, the expenses connected with the raffle or bazaar, the names of the
102 winners of prizes exceeding \$25 in value, the net proceeds of the raffles and bazaars, and the
103 uses to which the net proceeds were applied.

104 The organization shall maintain and keep books and records as may be necessary to
105 substantiate the particulars of a report, which books shall be preserved for at least 3 years from
106 the date of a report and shall be available for inspection. A report shall be certified by the 3
107 persons designated in the permit application as being responsible for the raffle or bazaar and by
108 an accountant. Three copies of the report shall be filed with the city or town clerk that issued the
109 permit. The clerk shall send 1 copy to the commissioner of public safety and 1 copy to the state
110 lottery commission. Failure to file the report shall constitute sufficient grounds for refusal to
111 renew a permit to conduct raffles or bazaars. The fee for renewal of a permit shall be \$10.

112 (k) Any organization conducting or operating a raffle or bazaar under this section shall
113 file a tax return with the state lottery commission, on a form prepared by it, within 10 days after
114 the raffle or bazaar is held and shall pay therewith a tax of 5 per cent of the gross proceeds
115 derived from the raffle or bazaar.

116 All sums received by the state lottery commission from the tax imposed by this section as
117 taxes, interest thereon, fees, penalties, forfeitures, costs of suits or fines, less all amounts
118 refunded thereon, together with any interest or costs paid on account of the refunds, shall be paid
119 into the treasury of the commonwealth and shall be credited as follows:

120 (1) Three-fifths of all sums received shall be credited to the State Lottery Fund
121 established under the provisions of section 35 of chapter 10 of the General Laws and, subject to
122 appropriation, the state lottery commission may expend such sums for the expenses incurred in
123 the administration of this section;

124 (2) Two-fifths of all sums received shall be credited to the General Fund; and

125 (3) Any unappropriated balance remaining in the State Lottery Fund from the sums
126 credited under subsection (1), as determined by the comptroller as of June first and December
127 first of each year, shall be credited to the Local Aid Fund.

128 (l) Whoever violates any provision of this section or submits false information on an
129 application or report required under this section shall be punished by a fine of not more than
130 \$10,000 or by imprisonment in the house of correction for not more than 2 ½ years, or both.
131 Whoever violates this section shall be deemed to have engaged in an unfair and deceptive trade
132 practice in violation of chapter 93A of the General Laws; provided, however, that no
133 organization, society, church or club which conducts a raffle or bazaar under the provisions of
134 this section shall be deemed to have set up and promoted a lottery and nothing in this chapter
135 shall authorize the prosecution, arrest or conviction of any person connected with the operation
136 of any raffle or bazaar; provided further, that nothing contained in this section shall be construed
137 as permitting the game commonly known as “beano” or any similar game regardless of name.

138 (m) No person who prints or produces tickets, cards or any similar article used in the
139 conduct of a bazaar or raffle pursuant to a permit issued under the provisions of this section shall
140 be subject to any penalty, provided that a certified copy of the permit was presented to them prior
141 to his undertaking to print or produce the tickets or cards.

142 (n) Nothing in this section shall limit the attorney general's authority over public charities
143 under the General Laws.