

SENATE No. 201

The Commonwealth of Massachusetts

PRESENTED BY:

Brendan P. Crighton

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

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

An Act to regulate sports wagering.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	
<i>Peter Capano</i>	<i>11th Essex</i>	<i>1/17/2019</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>	<i>1/31/2019</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>2/1/2019</i>

SENATE No. 201

By Mr. Crighton, a petition (accompanied by bill, Senate, No. 201) of Brendan P. Crighton, Peter Capano, Paul R. Feeney and Jeffrey N. Roy for legislation to regulate sports wagering. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to regulate sports wagering.

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

1 Preamble: In 2018 the United States Supreme court struck down the law barring sports
2 (28 U. S. C. §3702(1))betting outside of the state Nevada, therefore allow other states to partake
3 in it. Therefore the Commonwealth of Massachusetts enacts the following to allow sports betting
4 to fall under the supervision of the Massachusetts Gaming Commission authority provided under
5 Chapter 23K.

6 SECTION 1: Chapter 4 of the general laws, as so appearing, is hereby amended by
7 striking out lines 67-76, in section 7, and inserting in place thereof the following:-

8 Tenth, “illegal gaming,” banking or percentage game played with cards, dice, tiles or
9 dominoes, an electronic, electrical or mechanical device or machine for money, property, checks,
10 credit or any representative of value, but excluding: (i) a lottery game conducted by the state
11 lottery commission, under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under
12 chapter 23K; (iii) a sports wager conducted under chapter 23N; (iv) pari-mutuel wagering on

13 horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (v) a
14 game of bingo conducted under chapter 271; and (vi) charitable gaming conducted under said
15 chapter 271.

16 SECTION 2: The general laws, as so appearing, are hereby amended by inserting after
17 chapter 23M, the following chapter:-

18 Chapter 23N: Regulation of Sports Wagering.

19 Section 1. Definitions.

20 As used in this chapter, unless the context requires otherwise:

21 (a) "Gaming Establishment" means a licensee offering gaming at a facility in this state or
22 applicant as defined in section 2 of chapter 23K

23 (b) "Interactive sports wagering platform" or "platform" means a person or entity that
24 offers sports wagering over the internet, including on websites and mobile devices, in
25 conjunction with a gaming establishment, or as a separate online platform

26 (c) "Sports governing body" means the organization that prescribes final rules and
27 enforces codes of conduct with respect to a sporting event and participants therein.

28 (d) "Sporting event" means a professional sports or athletic event or a motor race event.

29 (e) "Sports wagering" means accepting wagers on sporting events or portions of sporting
30 events, or on the individual performance statistics of athletes in a sporting event or combination
31 of sporting events, by any system or method of wagering, including but not limited to in-person,
32 or over the internet through websites and on mobile devices. The term includes, but is not

33 limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange
34 wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

35 (f) “Sports wagering operator” or “operator” means a gaming establishment that offers
36 sports wagering or an interactive sports wagering platform that offers sports wagering.

37 (g) “Tier one sports wager” means a sports wager that is determined solely by the final
38 score or final outcome of the sporting event and is placed before the sporting event has begun;

39 (h) “Tier two sports wager” means a sports wager that is not a tier one sports wager;

40 (i) “Wager” or “bet” means the staking or risking by a person of something of value upon
41 an agreement or understanding that the person or another person will receive something of value
42 in the event of a certain outcome. The term does not include:

43 (i) any activity governed by the securities laws of the United States or this state;

44 (ii) any contract of indemnity or guarantee;

45 (iii) any contract for insurance; or

46 (iv) participation in any game or contest in which the participants do not stake or risk
47 anything of value other than personal efforts of the participants in playing the game or contest or
48 obtaining access to the internet, or points or credits that the sponsor of the game or contest
49 provides to participants free of charge and that can be used or redeemed only for participation in
50 games or contests offered by the sponsor.

51 Section 2. Sports wagering by gaming establishments.

52 (a) Sports wagering may not be offered in this state except by an establishment pursuant
53 to this Act.

54 (b) Establishments may offer sports wagering:

55 (i) in-person at the licensed facility; and

56 (ii) over the internet via an interactive sports wagering platform to persons physically
57 located in this state.

58 (iii) pay an initial fee of \$500,000 imposed under this section shall be remitted to the
59 department of revenue by the registered game operator.

60 (c) There shall be licences for either gaming establishments currently licensed under Ch.
61 23K or Racing License Holders.

62 (d) No license shall be granted to a gaming establishment that is currently or previously
63 has been partnered with any type of illegal offshore betting.

64 (e) A gaming establishment may contract with interactive sports wagering platforms to
65 administer sports wagering over the internet on its behalf or engage in sports wagering over the
66 internet if it owns technology to do so.

67 (f) No sports wagering license shall be granted to a gaming establishment until an
68 investigation pursuant to Ch.23K section 12 is completed. However, if the gaming establishment
69 is already licensed under 23K said investigation will be at the discretion of the Gaming
70 Commission.

71 (g) A registered sports wagering operator shall pay a tax of 12.5 per cent gross revenue.
72 Taxes imposed under this section shall be remitted to the department of revenue quarterly by the
73 registered game operator.

74 (h) Each year on or before the anniversary date of the payment of the initial fee made
75 under subsection (b)(ii), if such sports betting license has been issued, a licensee shall pay to the
76 commission an annual license renewal fee of \$100,000.

77 Section 3. Licensing of interactive sports wagering platforms.

78 (a) An interactive sports wagering platform may offer sports wagering on behalf of a
79 gaming establishment only if it holds a platform license issued by the Massachusetts gaming
80 commission.

81 (b) Applicants for interactive sports wagering platform licenses shall:

82 (i) submit an application to the commission in the manner prescribed by the commission
83 to verify the platform's eligibility under this chapter, and

84 (ii) pay an initial fee of \$1,000,000. Fees imposed under this section shall be remitted to
85 the department of revenue by the registered game operator.

86 (c) Each year on or before the anniversary date of the payment of the initial fee made
87 under subsection (b)(ii), if such platform license has been issued, a platform shall pay to the
88 commission an annual license renewal fee of \$100,000.

89 (d) Notwithstanding contrary law, a platform license application and all documents,
90 reports, and data submitted by an interactive sports wagering platform to the commission
91 containing proprietary information, trade secrets, financial information, or personal information

92 about any person shall be treated by the commission as closed records and shall not to be
93 disclosed to the public unless required by court order, this chapter, or other law.

94 (e) An interactive sports wagering platform may enter into agreements to offer sports
95 wagering on behalf of one or more gaming establishments without limitation. Such agreements
96 are not prerequisites to obtaining an interactive sports wagering platform license.

97 (f) No license shall be granted to interactive sports wagering platforms that are currently
98 or previously have been partnered with any type of illegal offshore betting.

99 Section 4. Sports wagering operators; consumer protections.

100 (a) Sports wagering operators shall verify that a person placing a wager, including with
101 respect to online or mobile betting, is twenty-one years of age.

102 (b) Sports wagering operators shall allow individuals to restrict themselves from placing
103 wagers with the operator, as defined, but not limited to section 45 of chapter 23K.

104 (c) Sports wagering operators shall not make contributions of money or value by
105 applicant, etc., for sports betting license to municipal, county or state office holder, candidates
106 for public office or groups organized in support of such candidates

107 (d) The commission shall promulgate regulations that require an operator to implement
108 responsible gaming programs that include comprehensive employee trainings on responding to
109 circumstances in which individuals present signs of a gambling addiction.

110 (e) The commission shall promulgate regulations to ensure that an operator's
111 advertisements for sports wagering:

112 (i) do not target minors or other persons who are ineligible to place wagers, problem
113 gamblers, or other vulnerable persons, which may include limitations on the form, content,
114 quantity, timing, and location of advertisements;

115 (ii) disclose the identity of the sports wagering operator;

116 (iii) provide information about or links to resources relating to gambling addiction; and

117 (iv) are not false, misleading, or deceptive to a reasonable consumer.

118 Section 5. Integrity requirements.

119 (a) Sports wagering operators shall conduct background checks on newly hired
120 employees, and annual background checks on all existing employees. Background checks shall
121 search for criminal history, and any charges or convictions involving corruption or manipulation
122 of sporting events and association with organized crime.

123 (b) Sports wagering operators shall employ commercially reasonable methods to:

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

126 (ii) prohibit athletes, coaches, referees, team owners, employees of a sports governing
127 body or its member teams, and player and referee union personnel from wagering on any
128 sporting event overseen by their sport's governing body. In determining which persons are
129 excluded from placing wagers under this subsection, operators shall use publicly available
130 information and any lists of such persons that the sports governing body may provide to the
131 commission;

132 (iii) prohibit any individual with access to non-public confidential information held by
133 the operator from placing wagers with the operator;

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

135 (v) maintain the security of wagering data, customer data, and other confidential
136 information from unauthorized access and dissemination; provided, however, that nothing in this
137 chapter shall preclude the use of internet or cloud-based hosting of such data and information or
138 disclosure as required by court order, other law, or this chapter.

139 (c) The commission shall designate a state law-enforcement entity to have primary
140 responsibility for conducting, or assisting the commission in conducting, investigations into
141 abnormal betting activity, match fixing, and other conduct that corrupts a betting outcome of a
142 sporting event or events for purposes of financial gain.

143 (d) The commission and sports wagering operators shall cooperate with investigations
144 conducted by sports governing bodies or law enforcement agencies, including but not limited to
145 providing or facilitating the provision of account-level betting information and audio or video
146 files relating to persons placing wagers.

147 (e) Sports wagering operators shall immediately report to the commission any
148 information relating to:

149 (i) criminal or disciplinary proceedings commenced against the sports wagering operator
150 in connection with its operations;

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

153 (iii) any potential breach of the relevant sports governing body's internal rules and codes
154 of conduct pertaining to sports wagering;

155 (iv) any other conduct that corrupts a betting outcome of a sporting event or events for
156 purposes of financial gain, including match fixing; and

157 (v) suspicious or illegal wagering activities, including use of funds derived from illegal
158 activity, wagers to conceal or launder funds derived from illegal activity, using agents to place
159 wagers, and using false identification.

160 Sports wagering operators shall also immediately report information relating to conduct
161 described in subsections (ii), (iii), and (iv) to the relevant sports governing body.

162 (f) Sports wagering operators shall maintain the confidentiality of information provided
163 by a sports governing body to the sports wagering operator, unless disclosure is required by this
164 chapter, the commission, other law, or court order.

165 (g) The commission and sports wagering operators shall maintain the confidentiality of
166 all information relating to conduct described in subsections (e)(ii), (e)(iii), and (e)(iv) unless
167 disclosure is required by this chapter, other law, or court order, or authorized by the relevant
168 sports governing body. Nothing herein prohibits the commission or a sports wagering operator
169 from making a confidential disclosure to another sports wagering operator, a sports governing
170 body, sports betting regulating entity, law enforcement entity or other party for the purpose of
171 preventing or investigating conduct that corrupts or could corrupt the outcome of a sporting
172 event, including match fixing.

173 Section 6. Recordkeeping; information sharing

174 (a) Sports wagering operators shall maintain records of all bets and wagers placed,
175 including personally identifiable information of the bettor, amount and type of bet, time the bet
176 was placed, location of the bet, including IP address if applicable, the outcome of the bet, records
177 of abnormal betting activity, and video camera recordings in the case of in-person wagers for at
178 least three years after the sporting event occurs and make such data available for inspection upon
179 request of the commission or as required by court order.

180 (b) If a sports governing body has notified the commission that real-time information
181 sharing for wagers placed on its sporting events is necessary and desirable, sports wagering
182 operators shall share in real time, at the account level, and in pseudonymous form, the
183 information required to be retained pursuant to Section 6(a) (other than video files) with the
184 sports governing body or its designee with respect to wagers on its sporting events. Such
185 information may be used by a sports governing body solely for integrity purposes.

186 (c) The commission shall annually publish a report stating the amount received from
187 sports wagering operators in fees.

188 (iv) Any unclaimed fees shall be distributed to the sports wagering operators that timely
189 remitted the fees required under this subsection to the commission. Such fees shall be distributed
190 to the eligible sports wagering operators on a pro rata basis.

191 (d) The commission shall cooperate with a sports governing body and sports wagering
192 operators to ensure the timely, efficient, and accurate sharing of information.

193 Section 7. Prohibitions

194 No person shall be able to place a sports wager on a National Collegiate Athletic
195 Association team from the Commonwealth of Massachusetts.

196 Section 8. Study of Expansion of Sports Betting

197 The Gaming Commision shall study the feasibility, and offer recommendations on how to
198 implement sports betting at professional sports stadiums, retail shops not licensed currently
199 under Ch. 23K, and how in-game betting will be affected by integrated broadcasts of sporting
200 events.

201 Section 9. Civil penalty.

202 Any person, firm, corporation, association, agent, or employee who knowingly violates
203 any procedure implemented under this Act shall be liable for a civil penalty of not more than
204 \$10,000 for each violation, not to exceed \$100,000 for violations arising out of the same
205 transaction or occurrence, which shall accrue to the state and may be recovered in a civil action
206 brought by the commission.

207 Section 10. Criminal liability.

208 (a) Whoever:

209 (i) places, or causes to be placed, a bet or wager on the basis of material nonpublic
210 information relating to that bet or wager, while knowing that the information is material
211 nonpublic information; or

212 (ii) knowingly engages in, facilitates, or conceals conduct that intends to improperly
213 influence a betting outcome of a sporting event for purposes of financial gain, in connection with
214 betting or wagering on a sporting event—

215 shall be fined not more than \$5,000,000 or imprisoned not more than ten years, or both.

216 (b) A bet or wager is “on the basis of” material nonpublic information relating to that bet
217 or wager if the person placing the bet or wager, or causing it to be placed, was aware of the
218 material nonpublic information when such person placed the bet or wager or caused it to be
219 placed.

220 (c) Any person or gaming establishment who violates subsection (a)(ii) shall be liable to
221 the relevant sports governing body, which sports governing body may sue either at law or in
222 equity in any court of competent jurisdiction.

223 Section 11. Reconciliation with federal law.

224 Sports wagering may not be offered in this state under this Act until the commission
225 determines that federal law does not prohibit such sports wagering.

226 SECTION 3. Sections 24, 24A and 27 of chapter 10 of the general laws, as so appearing,
227 shall not apply to a gaming establishment conducting sports wagering in accordance with this
228 chapter.

229 SECTION 4. Section 2 of chapter 271 of the general laws, as so appearing, is hereby
230 amended, in line 4, by striking out “except as permitted under chapter 23 K” and inserting in its
231 place thereof the following:- “except as permitted under chapters 23K or 23N.”

232 SECTION 5. Section 3 of chapter 271 of the general laws, as so appearing, is hereby
233 amended, in line 1, by striking out “Except as permitted under chapter 23K” and inserting in its
234 place thereof the following:- “Except as permitted under chapters 23K or 23N.”

235 SECTION 6. Section 5 of chapter 271 of the general laws, as so appearing, is hereby
236 amended, in line 1, by striking out “except as permitted under chapter 23K” and inserting in its
237 place thereof the following:- “except as permitted under chapters 23K or 23N.”

238 SECTION 7. Section 5B of chapter 271 of the general laws, as so appearing, is hereby
239 amended, in line 58, by striking out “under chapter 23K” and inserting in its place thereof the
240 following:- “under chapters 23K or 23N.”

241 SECTION 8. Section 8 of chapter 271 of the general laws, as so appearing, is hereby
242 amended, by striking out lines 10-11 and inserting in its place thereof the following:- “other
243 illegal gaming that is not being conducted pursuant to chapters 23K or 23N.”

244 SECTION 9. Chapter 271 of the general laws, as so appearing, is hereby amended by
245 striking section 17A and inserting in its place thereof the following section:-

246 271:17A. Telephones, internet or other communications technology; use for
247 gaming purposes

248 Section 17A. Except as permitted under chapter 23N, whoever uses a telephone, internet
249 or other communications technology or, being the occupant in control of premises where a
250 telephone, internet or other communications technology is located or a subscriber for a
251 telephone, knowingly permits another to use a telephone, internet or other communications
252 technology so located or for which he subscribes, as the case may be, for the purpose of
253 accepting wagers or bets, or buying or selling of pools, or for placing all or any portion of a
254 wager with another, upon the result of a trial or contest of skill, speed, or endurance of man,
255 beast, bird, or machine, or upon the result of an athletic game or contest, or upon the lottery
256 called the numbers game, or for the purpose of reporting the same to a headquarters or booking

257 office, or who under a name other than his own or otherwise falsely or fictitiously procures
258 telephone, internet or other communications technology service for himself or another for such
259 purposes, shall be punished by a fine of not more than two thousand dollars or by imprisonment
260 for not more than one year.