

SENATE No. 2038

The Commonwealth of Massachusetts

PRESENTED BY:

Joan M. Menard

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.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joan M. Menard	First Bristol and Plymouth
Stephen J. Buoniconti	Hampden
Stephen R. Canessa	12th Bristol
Michael R. Knapik	Second Hampden and Hampshire
Marc R. Pacheco	First Plymouth and Bristol
Rosemary Sandlin	3rd Hampden
Christine E. Canavan	10th Plymouth
Gale D. Candaras	First Hampden and Hampshire
David B. Sullivan	6th Bristol
Richard J. Ross	9th Norfolk
Benjamin Swan	11th Hampden

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

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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:

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

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

13 Prior to the issuance of the gaming license, a plan must be submitted by each licensee to the
14 commission for approval that details the construction, operation, and maintenance necessary to
15 accommodate the operation of VLTs/Slot Machines on the premises. There shall be a one time
16 \$25 million licensing fee to be paid by the licensee to the General Fund within 30 days of the
17 approval of said licensee's plan.

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

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

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

26 SECTION 6. So-called licensees shall pay weekly to the lottery commission, on behalf
27 of the Commonwealth, a sum equal to sixty-five (65%) percent of gaming revenues derived from
28 a pari-mutual gaming facility. Further, the lottery commission shall collect all fees, fines and
29 gaming revenues from the gaming licensees and activities associated with the gaming licensees.
30 The Lottery Commission, in conjunction with the House and Senate Ways and Means
31 Committees, shall set revenue expectations annually for local aid distribution. Should these
32 projections, including expected growth, not be met, then the lottery commission shall retain a
33 portion of the fees, fines, and revenues collected from pari-mutual gaming facilities for the

34 purpose of replenishing losses in local aid revenue. The Lottery Commission shall further retain
35 a portion of the fees, fines, and revenues collected for the purpose of executing its duties as
36 required under the law. Of the 65% of the gaming revenues that the commission shall receive,
37 10% will be distributed for the following:

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

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

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

43 The remainder shall be deposited into the General Fund. The lottery commission shall set a
44 schedule of when fees and gaming revenues are to be collected. The lottery commission shall
45 provide a quarterly report to the state auditor and the house and senate committees on ways and
46 means on all monies collected from the gaming licensees. The remaining thirty-five percent
47 (35%) of gaming revenues shall be distributed to the licensee. The licensee shall be solely
48 responsible for the continued maintenance, operation, including utilities, any other appropriate
49 costs associated with the general upkeep of the facility, and any applicable taxes.

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

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

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

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

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

65 SECTION 12. The Massachusetts Lottery Commission shall make specific findings on
66 the performance of the tracks, and applicable revenue distribution structures. The commission
67 shall report its' finding and submit these findings to the joint committee on government
68 regulations, and the house and senate committees on ways and means within 1 year after the
69 passage of this act.

70 SECTION 13. The lottery commission shall choose slot machines/video gaming devices
71 vendors per a request for proposal (RFP) and shall set guidelines for approval of said request and
72 set rate of payment to vendors. Said vendors shall be solely responsible for repair and

73 maintenance of all slot machines. In addition to general maintenance, vendors shall provide
74 relevant data on daily performance of all machines to the lottery commission.

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

86 In the occurrence of a vacancy, the original appointing authority shall fill any vacancies within
87 45 days. Any commissioner may be removed by the original appointing authority for just cause,
88 and shall be removed immediately upon conviction of any felony.

89 The term of office of each member of the commission shall be 5 years except that, of the
90 members initially appointed, 1 shall be appointed by the governor for a term of 2 years, 1 shall
91 be appointed by the secretary of state for a term of 4 years, 1 shall be appointed by the attorney
92 general for a term of 3 years, 1 shall be appointed by the state treasurer for a term of 5 years, and
93 1 shall be appointed by the auditor for a term of 5 years. After the initial term the term of office

94 for each member of the commission is 5 years, provided that no member serve more than 3
95 consecutive terms.

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

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

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

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

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

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

132 SECTION 17. The Massachusetts Gaming Control Commission shall select and appoint
133 an executive director of said Commission. The executive director shall serve at the pleasure of
134 the commission, shall devote his entire time and attention to the duties of his office, and shall
135 receive such salary that the commission may determine. The executive director shall supervise
136 and administer the operation of the commission in accordance to the commission's provisions of

137 the law and regulations. The executive director shall employ employees necessary to the
138 execution of the goals of the commission. The executive director, subject to the approval of the
139 commission and the applicable laws relating to public contracts, may enter into contracts for the
140 operation of the commission, or any part thereof. No contract awarded or entered into by the
141 executive director shall be assigned by the holder thereof except with the specific approval of the
142 commission.

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

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

152 The commission shall be authorized to issue, limit or revoke alcohol licenses to a gaming entity,
153 collect annual alcohol licensing fees, and said gaming entity shall be inspected on a regular basis
154 by the alcohol beverage control commission. The commission shall enter into a contract with the
155 state police, the alcohol beverage control commission, and the division of inspections or the local
156 inspector to carry out the regulations prescribed by the commission. The commission shall set
157 fines and collect fines for the violation of its regulations. It shall investigate complaints made by

158 any persons regarding any possible violation of law, record or other deficiencies at any gaming
159 facility that the commission licenses.

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

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

176 The commission shall determine the types of games allowed at a gaming facility pursuant to the
177 law. The commission shall set regulations to ensure that the gaming is fair and reasonable to the
178 consumers, including the manner in which winnings, compensation from games and gaming

179 devices, and gross revenue must be computed and reported by the licensee. The
180 compensation/payouts from slots or video gaming devices will be set by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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