

SENATE No. 254

The Commonwealth of Massachusetts

PRESENTED BY:

Michael D. Brady

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 relative to sports betting.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	
<i>Marc R. Pacheco</i>	<i>First Plymouth and Bristol</i>	<i>2/20/2021</i>

SENATE No. 254

By Mr. Brady, a petition (accompanied by bill, Senate, No. 254) of Michael D. Brady and Marc R. Pacheco for legislation relative to sports betting. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to sports betting.

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. This chapter shall be known and may be cited as the “Massachusetts Sports
2 Wagering Act”.

3 Section 2. Notwithstanding any provision of law to the contrary, the operation of sports
4 wagering and ancillary activities are lawful when conducted in accordance with the provisions of
5 this chapter and the rules and regulations of the commission.

6 Section 3. As used in this chapter the following words shall, unless the context clearly
7 requires otherwise, have the following meanings:-

8 “Adjusted gross sports wagering receipts”, an operator’s total gross receipts from sports
9 wagering, excluding sports wagers made with promotional gaming credits, less the total of all
10 winnings paid to wagerers in such games, which shall include the cash equivalent of any
11 merchandise or thing of value awarded as a prize, and all excise taxes paid pursuant to federal
12 law.

13 “Category 1 license”, a license issued by the commission that permits the operation of
14 sports wagering through a mobile application and other digital platforms approved by the
15 commission and in person at a gaming establishment as defined in section 2 of chapter 23K.

16 “Category 2 license”, a license issued by the commission that permits the operation of
17 sports wagering through a mobile application and other digital platforms approved by the
18 commission and in person at a race track or simulcast wagering facility that was licensed under
19 Chapter 128A or 128C during a calendar year 2019

20 “Category 3 license”, a license issued by the commission that permits the operation of
21 sports wagering through a mobile application and other digital platforms approved by the
22 commission.

23 “Collegiate sport or athletic event”, a sport or athletic event offered or sponsored by, or
24 played in connection with, a public or private institution that offers educational services beyond
25 the secondary level.

26 “Commission”, the Massachusetts gaming commission established in section 3 of chapter
27 23K.

28 “Governmental authority”, any governmental unit of a national, state or local body
29 exercising governmental functions, other than the United States government.

30 “License”, any license, applied for or issued by the commission under this chapter,
31 including, but not limited to: (i) an operator license; or (ii) an occupational license.

32 “National criminal history background check system”, the criminal history record system
33 maintained by the Federal Bureau of Investigation, based on fingerprint identification or any
34 other method of positive identification.

35 “Occupational license”, a license required by an employee of an operator when the
36 employee performs duties directly related to the operation of sports wagering in the
37 commonwealth in a supervisory role.

38 “Operator” or “sports wagering operator”, any entity permitted under this chapter to offer
39 sports wagering to persons in the commonwealth through a category 1 license, category 2 license
40 or category 3 license.

41 “Operator license”, a category 1 license, category 2 license or category 3 license to
42 operate sports wagering.

43 “Official league data”, statistics, results, outcomes and other data relating to a sporting
44 event that is obtained pursuant to an agreement with the relevant sports governing body, or with
45 an entity expressly authorized by the relevant sports governing body to provide such data to
46 sports wagering operators, which authorizes the use of such data for determining the outcome of
47 tier 2 sports wagers on such sporting event.

48 “Professional sport or athletic event”, an event at which 2 or more persons participate in a
49 sports event and receive compensation in excess of actual expenses for their participation in such
50 event.

51 “Promotional gaming credit”, a sports wagering credit or other item issued by an operator
52 to a patron to enable the placement of a sports wager.

53 “Qualified gaming entity”, an entity that: (i) holds a gaming license as defined in section
54 2 of chapter 23K; (ii) holds a license to conduct a racing meeting as defined in section 1 of
55 chapter 128A; or (iii) has offered fantasy sports contests in the commonwealth pursuant to 940
56 C.M.R. 34.00 for at least 1 year at the time of enactment of this act and has been permitted to
57 offer sports wagering in at least 2 other jurisdictions in the United States by the relevant
58 regulatory body in those jurisdictions.

59 “Sports event” or “sporting event”, any professional sport or athletic event, collegiate
60 sport or athletic event, motor race event, electronic sports event, competitive video game event
61 or any other event authorized by the commission under this chapter.

62 “Sports governing body”, an organization that is headquartered in the United States and
63 prescribes final rules and enforces codes of conduct with respect to a sporting event and
64 participants therein.

65 “Sports wagering”, the business of accepting wagers on sporting events or portions of
66 sporting events, other events, the individual performance statistics of athletes in a sporting event
67 or other events or a combination of any of the same by any system or method of wagering
68 approved by the commission including, but not limited to, mobile applications and other digital
69 platforms; provided, that sports wagering shall not include the acceptance of any wager with an
70 outcome dependent on the performance of an individual athlete in any collegiate sport or athletic
71 event, including but not limited, to in-game or in-play wagers; provided, further that sports
72 wagering shall not include any acceptance of wagers on a high school or youth sporting event;
73 provided further, that sports wagering shall not include fantasy contests as defined in section 135
74 of chapter 219 of the acts of 2016. Sports wagering shall include, but is not limited to, single-

75 game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game
76 wagering, in-play bets, proposition bets and straight bets.

77 “Sports wagering account”, a financial record established by an operator for an individual
78 patron in which the patron may deposit by any method approved by the commission and
79 withdraw funds for sports wagering and other authorized purchases, and to which the operator
80 may credit winnings or other amounts due to or authorized by that patron. Such account may be
81 established and funded by the patron electronically through an approved mobile application or
82 digital platform.

83 “Tier 1 sports wager”, a sports wager that is determined solely by the final score or
84 outcome of a sporting event and is placed before the sporting event has begun.

85 “Tier 2 sports wager”, a sports wager that is not a tier 1 sports wager.

86 “Wager”, a sum of money or thing of value risked on an uncertain occurrence.

87 Section 4. (a) The commission shall have the authority to regulate the conduct of sports
88 wagering under this chapter.

89 (b) The commission shall examine the rules and regulations implemented in other states
90 where sports wagering is authorized and shall, as far as practicable, adopt a similar regulatory
91 framework through promulgation of rules and regulations.

92 (c) The commission shall have the authority to promulgate rules and regulations
93 necessary for the implementation, administration and enforcement of this chapter. The
94 commission may promulgate emergency rules and regulations in accordance with applicable
95 procedures for the promulgation of emergency rules and regulations.

96 (d) The commission may promulgate rules and regulations including, but not limited to,
97 those governing the acceptance of wagers on a sports event, other event or a series of sports
98 events; types of wagering receipts which may be used; methods of issuing receipts; methods of
99 accounting to be used by operators; types of records to be kept; types of systems for wagering;
100 protections for patrons placing wagers; and promotion of social responsibility and responsible
101 gambling; provided, that such regulations shall include a requirement that all mobile applications
102 and digital platforms authorized for sports wagering include prominently upon each entry into
103 the application or platform, the following statement: “If you or someone you know has a
104 gambling problem and wants help, call the Massachusetts Council on Compulsive Gambling
105 hotline at 1-800-426-1234.”

106 (e) The commission shall determine the eligibility of a person to hold or continue to hold
107 a license, shall issue all licenses and shall maintain a record of all licenses issued under this
108 chapter. The commission may accept applications, evaluate qualifications of applicants,
109 undertake initial review of licenses and issue temporary licenses upon the effective date of this
110 chapter.

111 (f) The commission shall levy and collect all fees, surcharges, civil penalties and taxes on
112 adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided
113 under this chapter.

114 (g) The commission shall have the authority to enforce this chapter and any rule or
115 regulation of the commission and may request that the attorney general bring an action to enforce
116 this chapter or any rule or regulation of the commission by civil action or petition for injunctive
117 relief.

118 (h) The commission may hold hearings, administer oaths and issue subpoenas or
119 subpoenas duces tecum in order to enforce this chapter and the rules and regulations of the
120 commission.

121 (i) The commission may exercise any other powers necessary to effectuate this chapter
122 and the rules and regulations of the commission.

123 Section 5. (a) No person shall engage in any activity in connection with sports wagering
124 in the commonwealth unless all necessary licenses or temporary licenses have been obtained in
125 accordance with this chapter and rules and regulations of the commission.

126 (b) The commission shall not grant an operator license, other than a temporary license
127 pursuant to subsection (c) of section 6, until it determines that each person who has control of the
128 applicant meets all qualifications for licensure. The following persons are considered to have
129 control of an applicant:

130 (1) Each person who owns 10 per cent or more of a corporate applicant and who has the
131 ability to control the activities of the corporate applicant; provided, however, that a bank or other
132 licensed lending institution which holds a mortgage or other lien acquired in the ordinary course
133 of business shall not be considered to have control of an applicant;

134 (2) Each person who holds a beneficial or proprietary interest of 10 per cent or more of a
135 non-corporate applicant's business operation and who has the ability to control the activities of
136 the non-corporate applicant; and

137 (3) At the commission's discretion, any executive, employee or agent having the power
138 to exercise significant influence over decisions concerning the applicant's sports wagering
139 operations in the commonwealth.

140 (c) Each controlling person pursuant to subsection (b) shall submit to the commission an
141 application in a form determined by the commission, and each such controlling person who is a
142 natural person shall submit to the commission: (i) fingerprints for a national criminal records
143 check by the department of the state police and the Federal Bureau of Investigation; and (ii) a
144 signed authorization for the release of information by the department of the state police and the
145 Federal Bureau of Investigation; provided, however, that a controlling person who is a natural
146 person that has submitted to a national criminal records check in any jurisdiction within the
147 previous year shall not be required to submit to another national criminal records check if such
148 person submits to the commission the results of such previous national criminal records check.
149 Any applicant convicted of any disqualifying offense shall not be licensed.

150 (d) Each person licensed under this chapter shall give the commission written notice
151 within 30 days of any change to any material information provided in the application for a
152 license or renewal.

153 (e) No commission employee shall be an applicant for any license issued under this
154 chapter.

155 Section 6. (a) A licensed qualified gaming entity may operate sports wagering upon the
156 approval of the commission.

157 (b)(1) The commission shall issue a category 1 license to any holder of a gaming license,
158 as defined in section 2 of chapter 23K, that meets the requirements of this chapter and the rules
159 and regulations of the commission.

160 (2) The commission shall issue a category 2 license to those licensees located in
161 Raynham and Boston that were previously licensed pursuant to chapter 128 or chapter 128c
162 during calendar year 2019, and such category 2 licenses shall include as a license condition that
163 the licensees meet the requirements of this chapter and the rules and regulations of the
164 commission.

165 (3) The commission shall issue a category 3 license to any entity that has offered fantasy
166 sports contests in the commonwealth pursuant to 940 C.M.R. 34.00 for at least 1 year at the time
167 of enactment of this act, has been permitted to offer sports wagering in at least 2 other
168 jurisdictions in the United States by the relevant regulatory body in those jurisdictions and meets
169 the requirements of this chapter and the rule and regulations of the commission.

170 (c)(1) A qualified gaming entity may submit to the commission a request for a temporary
171 license for the immediate commencement of sports wagering operations. Such request shall
172 include an initial license fee of \$50,000 payable to the commission.

173 (2) Upon receiving a request for a temporary license, the executive director of the
174 commission shall review the request. If the executive director determines that the entity
175 requesting the temporary license is a qualified gaming entity and has paid the sports wagering
176 initial license fee, the commission shall authorize the qualified gaming entity to conduct sports
177 wagering for a period of 2 years under a temporary license or until a final determination on its
178 operator license application is made.

179 (3) All sports wagering conducted under authority of a temporary license shall comply
180 with the house rules adopted under section 9.

181 (d) Upon application by a qualified gaming entity and payment of a \$250,000 application
182 fee, the commission shall grant an operator license to a qualified gaming entity that provides for
183 the right to conduct sports wagering; provided, that the qualified gaming entity meets the
184 requirements for licensure under this chapter and the rules and regulations of the commission.
185 Such license shall be issued for a 5-year period, and may be renewed for 5-year periods upon
186 payment of a \$100,000 renewal fee; provided, that an operator continues to meet all requirements
187 under this chapter and the rules and regulations of the commission.

188 (e) An operator shall submit to the commission such documentation or information as the
189 commission may require demonstrating that the operator continues to meet the requirements of
190 this chapter and the rules and regulations of the commission. An operator shall submit required
191 documentation or information no later than 5 years after issuance of its operator license and
192 every 5 years thereafter, or within lesser periods based on circumstances specified by the
193 commission.

194 Section 7. (a) All persons employed by an operator to perform duties directly related to
195 the operation of sports wagering in Massachusetts in a supervisory role shall maintain a valid
196 occupational license issued by the commission. The commission shall issue such occupational
197 license to a person who meets the requirements of this section.

198 (b) An occupational license authorizes the licensee to be employed in the capacity
199 designated by the commission while the license is active. The commission may establish, by rule

200 or regulation, job classifications with different requirements based on the extent to which a
201 particular job impacts, or has the potential to impact, the lawful operation of sports wagering.

202 (c) An applicant for an occupational license shall submit any required application forms
203 established by the commission and shall pay a nonrefundable application fee of \$100. An
204 employer may pay an application fee on behalf of an applicant.

205 (d) Each occupational license holder shall annually pay to the commission a license fee of
206 \$100 by March 1 and submit a renewal application on the form required by the commission. An
207 employer may pay an application fee on behalf of the licensed employee.

208 Section 8. (a) The commission may deny a license to any applicant, reprimand any
209 licensee or suspend or revoke a license, if the applicant or licensee:

210 (1) has knowingly made a false statement of a material fact to the commission;

211 (2) has had a license revoked by any governmental authority responsible for regulation of
212 gaming activities;

213 (3) has been convicted of a crime of moral turpitude, a gambling-related offense or a theft
214 or fraud offense;

215 (4) has not demonstrated to the satisfaction of the commission financial responsibility
216 sufficient to adequately meet the requirements of the proposed enterprise; or

217 (5) is not the true owner of the business or is not the sole owner and has not disclosed the
218 existence or identity of other persons who have an ownership interest in the business.

219 (b) The commission may deny, suspend or revoke an operator license or reprimand any
220 licensee if the applicant or licensee has not met the requirements of this chapter.

221 Section 9. (a) Each operator shall adopt comprehensive house rules for game play
222 governing sports wagering transactions with its patrons. The house rules shall specify the
223 amounts to be paid on winning wagers and the effect of sports event schedule changes. The
224 commission shall approve house rules prior to implementation.

225 (b) The house rules, together with any other information the commission deems
226 appropriate, shall be accessible to any patrons of the sports wagering system. The operator shall
227 make copies readily available to patrons.

228 Section 10. (a) Sports wagering operators shall employ commercially reasonable methods
229 to:

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

232 (2) prohibit athletes, coaches, referees, team owners, employees of a sports governing
233 body or its member teams and player and referee union personnel from wagering on any sporting
234 event of their sport's governing body; provided, that in determining which persons are excluded
235 from placing wagers under this subsection, operators shall use lists of such persons that the
236 sports governing body may provide to the commission;

237 (3) prohibit any individual with access to non-public confidential information held by the
238 operator from placing wagers with the operator;

239 (4) prohibit persons from placing wagers as agents or proxies for others; and

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

244 (b) A sports governing body may submit to the commission in writing, by providing
245 notice in such form and manner as the commission may require, a request to restrict, limit or
246 exclude a certain type, form or category of sports wagering with respect to sporting events of
247 such body, if the sports governing body believes that such type, form or category of sports
248 wagering with respect to sporting events of such body is contrary to public policy, unfair to
249 consumers, may undermine the perceived integrity of such body or sporting events of such body
250 or affects the integrity of such body or sporting events of such body. The commission shall
251 request comment from sports wagering operators on all such requests. After giving due
252 consideration to all comments received, the commission shall, upon a demonstration of good
253 cause from the requestor, grant the request. The commission shall respond to a request
254 concerning a particular event before the start of the event, or if it is not feasible to respond before
255 the start of the event, no later than 7 days after the request is made; provided, that if the
256 commission determines that the requestor is more likely than not to prevail in successfully
257 demonstrating good cause for its request, the commission may provisionally grant the request of
258 the sports governing body until the commission makes a final determination as to whether the
259 requestor has demonstrated good cause. Absent such a provisional grant by the commission,
260 sports wagering operators may continue to offer sports wagering on sporting events that are the
261 subject of such a request during the pendency of the consideration of the applicable request.

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

266 (d) The commission and sports wagering operators shall use commercially reasonable
267 efforts to cooperate with investigations conducted by sports governing bodies or law
268 enforcement agencies, including but not limited to, using commercially reasonable efforts to
269 provide or facilitate the provision of anonymized account-level betting information and audio or
270 video files relating to persons placing wagers. All disclosures under this section are subject to the
271 obligation of a sports wagering operator to comply with all federal, state and local laws and
272 regulations, including but not limited to, laws and regulations relating to privacy and personally
273 identifiable information.

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

276 (1) criminal or disciplinary proceedings commenced against the sports wagering operator
277 in connection with its operations;

278 (2) abnormal betting activity or patterns that may indicate a concern with the integrity of
279 a sporting event or events;

280 (3) any potential breach of the internal rules and codes of conduct pertaining to sports
281 wagering of a relevant sports governing body;

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

284 (5) suspicious or illegal wagering activities, including use of funds derived from illegal
285 activity, wagers to conceal or launder funds derived from illegal activity, using agents to place
286 wagers and using false identification.

287 Sports wagering operators shall immediately report information relating to conduct
288 described in paragraphs (2), (3) and (4) of this subsection to the relevant sports governing body.

289 (f) The commission and sports wagering operators shall maintain the confidentiality of
290 information provided by a sports governing body for purposes of investigating or preventing the
291 conduct described in paragraphs (2), (3) and (4) of subsection (e), unless disclosure is required
292 by this chapter, the commission, other law or court order or unless the sports governing body
293 consents to disclosure.

294 (g) With respect to any information provided by a sports wagering operator to a sports
295 governing body relating to conduct described in paragraphs (2), (3) and (4) of subsection (e), a
296 sports governing body:

297 (1) shall only use such information for integrity purposes and shall not use the
298 information for any commercial or other purpose; and

299 (2) shall maintain the confidentiality of such information, unless disclosure is required by
300 this chapter, the commission, other law or court order or unless the sports wagering operator
301 consents to disclosure; provided, that the sports governing body may make disclosures necessary
302 to conduct and resolve integrity-related investigations and may publicly disclose such

303 information if required by its integrity policies or if deemed by the sports governing body in its
304 reasonable judgment to be necessary to maintain the actual or perceived integrity of its sporting
305 events, and subject in all cases to the sports governing body's compliance with federal, state and
306 local laws and regulations, including but not limited to, laws and regulations relating to privacy
307 and personally identifiable information. Prior to any such public disclosure that would identify
308 the sports wagering operator by name, the sports governing body shall provide such sports
309 wagering operator with notice of such disclosure and an opportunity to object to such disclosure.

310 (h) Sports wagering operators shall maintain records of all wagers placed by its patrons,
311 including personally identifiable information of the patron, amount and type of the bet, the time
312 the bet was placed, the location of the bet, including the IP address if applicable, the outcome of
313 the bet and records of abnormal betting activity for 3 years after a sporting event occurs and
314 video camera recordings in the case of in-person wagers for at least 1 year after a sporting event
315 occurs, and shall make such data available for inspection upon request of the commission or as
316 required by court order.

317 (i) A sports wagering operator shall use commercially reasonable efforts to maintain in
318 real time and at the account level, anonymized information for each patron, including the amount
319 and type of bet, the time the bet was placed, the location of the bet, including the IP address if
320 applicable, the outcome of the bet and records of abnormal betting activity. The commission may
321 request such information in the form and manner as it requires. Nothing in this section shall
322 require a sports wagering operator to provide any information prohibited by federal, state or local
323 laws or regulations, including but not limited to, laws and regulations relating to privacy and
324 personally identifiable information.

325 (j) If a sports governing body has notified the commission and demonstrated a need for
326 access to the information described in subsection (i) for wagers placed on sporting events of such
327 sports governing body for integrity monitoring purposes, and demonstrated the capability to use
328 such data for the purpose of effectively monitoring the integrity of sporting events of such sports
329 governing body, a sports wagering operator shall share, in a commercially reasonable frequency,
330 form and manner, with the sports governing body or its designee the same information the sports
331 wagering operator is required to maintain under subsection (i) with respect to sports wagers on
332 sporting events of such sports governing body. A sports governing body and its designee shall
333 only use information received under this section for integrity-monitoring purposes and shall not
334 use information received under this section for any commercial or other purpose. Nothing in this
335 section shall require a sports wagering operator to provide any information that is prohibited by
336 federal, state or local laws or regulations, including but not limited to, laws and regulations
337 relating to privacy and personally identifiable information.

338 (k) A sports wagering operator shall conduct a background check on each newly hired
339 employee, and a single background check on any employee hired prior to the effective date of
340 this act. Background checks shall search for criminal history, charges or convictions involving
341 corruption or manipulation of sporting events and association with organized crime.

342 Section 11. (a) All operators licensed under this chapter to conduct sports wagering shall:

343 (1) employ a monitoring system utilizing software to identify irregularities in volume or
344 changes in odds that could signal suspicious activities and promptly report such information to
345 the commission for further investigation. System requirements and specifications shall be

346 developed according to industry standards and implemented by the commission as part of the
347 minimum internal control standards;

348 (2) promptly report to the commission any facts or circumstances related to the operation
349 of a sports wagering licensee which constitute a violation of state or federal law and promptly
350 report to the appropriate state or federal authorities any suspicious betting over a threshold set by
351 the operator that has been approved by the commission;

352 (3) conduct all sports wagering activities and functions in a manner that does not pose a
353 threat to the public health, safety or welfare of the residents of the commonwealth;

354 (4) keep current in all payments and obligations to the commission;

355 (5) prevent any person from tampering with or interfering with the operation of any
356 sports wagering;

357 (6) ensure that mobile sports wagering occurs only using a commission-approved mobile
358 application or other digital platform to accept wagers initiated within the commonwealth;

359 (7) maintain sufficient cash and other supplies to conduct sports wagering at all times;

360 and

361 (8) maintain daily records showing the gross sports wagering receipts and adjusted gross
362 sports wagering receipts of the licensee from sports wagering and shall timely file with the
363 commission any additional reports required by rule, regulation or this chapter.

364 (b) Sports wagering operators may use any data source for determining:

365 (1) the results of any and all tier 1 sports wagers on any and all sporting events; and

366 (2) the results of any and all tier 2 sports wagers on sporting events of an organization
367 that is not headquartered in the United States.

368 (c) A sports governing body may notify the commission that it desires sports wagering
369 operators to use official league data to settle tier 2 sports wagers on sporting events of such
370 sports governing body. Such notification shall be made in the form and manner as the
371 commission may require. Within 5 days of receipt of such notification, the commission shall
372 notify each sports wagering operator of the requirement to use official league data to settle tier 2
373 sports wagers. If a sports governing body notifies the commission of its desire to supply official
374 league data, a sports wagering operator may use any data source for determining the results of
375 tier 2 sports wagers on sporting events of such sports governing body.

376 (d) Within 60 days of the commission notifying a sport wagering operator of the
377 requirement to use official league data to settle tier 2 sports wagers pursuant to subsection (c), or
378 such longer period as may be agreed between the sports governing body and the applicable
379 sports wagering operator, a sports wagering operator shall use only official league data to
380 determine the results of tier 2 sports wagers on sporting events of that sports governing body,
381 unless:

382 (1) the sports governing body or its designee cannot provide a feed of official league data
383 to determine the results of a particular type of tier 2 sports wager, in which case a sports
384 wagering operator may use any data source for determining the results of the applicable tier 2
385 sports wager until such time a data feed becomes available from the sports governing body on
386 commercially reasonable terms and conditions; or

387 (2) a sports wagering operator can demonstrate to the commission that the sports
388 governing body or its designee will not provide a feed of official league data to the sports
389 wagering operator on commercially reasonable terms and conditions.

390 (e) In evaluating whether official league data is offered on commercially reasonable
391 terms and conditions for purposes of paragraphs (1) and (2) of subsection (d), the commission
392 may consider factors, including but not limited to:

393 (1) the availability of official league data to a sports wagering operator from more than 1
394 authorized source;

395 (2) market information, including but not limited to, price and other terms and conditions
396 regarding the purchase by sports wagering operators of comparable data for the purpose of
397 settling sports wagers in the commonwealth and other jurisdictions;

398 (3) the nature and quantity of data, including the quality and complexity of the process
399 used for collecting such data; and

400 (4) the extent to which a sports governing body or its designee has made data used to
401 settle tier 2 wagers available to sports wagering operators and any terms and conditions relating
402 to the use of that data.

403 (f) Notwithstanding anything to the contrary set forth herein, including but not limited to,
404 subsection (d), during the pendency of the determination of the commission as to whether a
405 sports governing body or its designee may provide official league data on commercially
406 reasonable terms, a sports wagering operator may use any data source to determine the results of
407 tier 2 sports wagers. The determination shall be made within 120 days of the sports wagering

408 operator notifying the commission that it requests to demonstrate that the sports governing body
409 or its designee will not provide a feed of official league data to the sports wagering operator on
410 commercially reasonable terms.

411 (g) A sports governing body may enter into commercial agreements with a sports
412 wagering operator or other entity in which such sports governing body may share in the amount
413 bet or revenues derived from sports wagering on sporting events of such sports governing body.
414 A sports governing body shall not be required to obtain a license or any other approval from the
415 commission to lawfully accept such amounts or revenues.

416 Section 12. (a) Holders of category 1 and category 2 licenses may accept wagers on
417 sports events and other events authorized under this chapter in person at authorized facilities.

418 (b) Holders of category 1 and category 3 licenses may accept wagers on sports events and
419 other events authorized under this chapter from individuals physically located within the
420 commonwealth using mobile applications or digital platforms approved by the commission,
421 through the patron's sports wagering account. The branding for each mobile application or
422 digital platform shall be determined by the operator. All bets authorized under this section must
423 be initiated, received and otherwise made within the commonwealth. Consistent with the intent
424 of the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to
425 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager
426 authorized under this chapter shall not determine the location or locations in which the wager is
427 initiated, received or otherwise made.

428 (c) An operator may accept wagers placed by other operators, and may place wagers with
429 other operators; provided, that any operator that places a wager with another operator shall

430 inform the operator accepting the wager that the wager is being placed by an operator and shall
431 disclose its identity.

432 (d) A person placing a wager shall be at least 21 years of age.

433 (e)(1) The commission or operator may ban any person from participating in the play or
434 operation of any sports wagering consistent with rules and regulations promulgated by the
435 commission. A list of all excluded patrons shall be kept by the commission and provided to each
436 licensee, and no patron on the exclusion list shall be permitted to conduct sports wagering under
437 this chapter.

438 (2) The commission shall establish a list of self-excluded persons from sports wagering.
439 A person may request such person's name to be placed on the list of self-excluded persons by
440 filing a statement with the commission acknowledging that the person is a problem gambler and
441 by agreeing that, during any period of voluntary exclusion, the person shall not collect any
442 winnings or recover any losses resulting from any sports wagering. The commission shall adopt
443 further regulations for the self-excluded persons list including procedures for placement, removal
444 and transmittal of such list to sports wagering operators. The commission may revoke, limit,
445 condition, suspend or fine a sports wagering operator if the operator knowingly or recklessly
446 fails to exclude or eject from its premises any person placed on the list of self-excluded persons.

447 (f) No licensed employee may place a sports wager through any mobile application or
448 digital platform owned or operated by their employer.

449 (g) No licensed employee may place a sports wager at any facility owned or operated by
450 their employer.

451 (h) Sections 24, 24A and 27 of chapter 10 of the General Laws shall not apply to an
452 operator conducting sports wagering in accordance with this chapter.

453 Section 13. (a)(1) For the privilege of holding a license to operate sports wagering under
454 this chapter, the commonwealth shall impose and collect an excise equal to 15 per cent of the
455 operator's adjusted gross sports wagering receipts from the operation of sports wagering,
456 hereinafter "privilege tax". The accrual method of accounting shall be used for purposes of
457 calculating the amount of the tax owed by the licensee.

458 (2) Annually not later than October 15, each sports wagering operator shall submit to the
459 commission the number of sports events or other events that took place at sports stadiums or
460 other sports facilities physically located in the commonwealth and the adjusted gross sports
461 wagering receipts collected from each such event. The commission shall impose and collect an
462 excise equal to 1 per cent of the operator's adjusted gross sports wagering receipts from such
463 events. Annually, no later than December 31, the commission shall proportionately distribute the
464 amounts received to each sports facility based on the amount collected at each such facility
465 during the previous calendar year. A sports facility shall use such funds only for the purpose of
466 sports wagering security and integrity and shall report annually to the commission the amounts
467 spent and purposes of such spending in a form prescribed by the commission.

468 (b)(1) The tax levied and collected pursuant to paragraph (1) of subsection (a) shall be
469 due and payable to the commission in monthly installments on or before the 15th calendar day
470 following the calendar month in which the adjusted gross sports wagering receipts were received.

471 (2) The operator shall complete and submit the return for the preceding month by
472 electronic communication to the commission, on or before the 15th of each month, in the form
473 prescribed by the commission that provides:

474 (i) the total gross sports wagering receipts and adjusted gross sports wagering receipts
475 from operation of sports wagering during that month;

476 (ii) the tax amount for which the sports wagering licensee is liable; and

477 (iii) any additional information necessary in the computation and collection of the tax on
478 adjusted gross sports wagering receipts required by the commission.

479 (3) The tax amount shown to be due shall be remitted by electronic funds transfer
480 simultaneously with the filing of the return.

481 (4) When adjusted gross receipts for a month is a negative number because the winnings
482 paid to patrons wagering on the operator's sports wagering exceed the operator's total gross
483 receipts from sports wagering by patrons, the commission shall allow the operator to carry over
484 the negative amount to returns filed for subsequent months. The negative amount of adjusted
485 gross receipts shall not be carried back to an earlier month and taxes previously received by the
486 commission will not be refunded, except if the operator surrenders its license and the operator's
487 last return reported negative adjusted gross receipts.

488 (c) The tax on adjusted gross sports wagering receipts imposed by this section shall be in
489 lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from
490 operation of sports wagering.

491 Section 14. There shall be established and set up on the books of the commonwealth a
492 Sports Wagering Fund which shall receive revenues collected pursuant to sections 6 and 13. The
493 commission shall be the trustee of the fund and shall transfer monies in the fund as follows:

494 (1) 40 per cent to the Workforce Investment Trust Fund established in section 2IIIII of
495 chapter 29;

496 (2) 30 per cent to the Distressed Restaurant Trust Fund;

497 (3) 10 per cent to the Youth Development and Achievement Fund established in section
498 15;

499 (4) 10 per cent to the Gaming Local Aid Fund established in section 63 of section 23K;

500 (5) 9 per cent to the Public Health Trust Fund established in section 58 of section 23K;
501 and

502 (6) 1 per cent to the Players' Benevolence Fund established in section 2JJJJJ of chapter
503 29.

504 Section 15. There shall be established and set up on the books of the commonwealth a
505 fund to be known as the Youth Development and Achievement Fund. The fund shall be credited
506 any monies transferred under section 14 and all monies credited to or transferred to the fund
507 from any other fund or source. Expenditures from the fund shall be subject to appropriation and
508 shall be expended equally for the following purposes:

509 (1) For the purposes of providing financial assistance to students from the commonwealth
510 enrolled in and pursuing a program of higher education in any approved public or independent

511 college, university, school of nursing or any other approved institution furnishing a program of
512 higher education; and

513 (2) For the purposes after school and out of school activities including, but not limited to,
514 youth athletics and other activities that improve student health, literacy programs, academic
515 tutoring, art, theater and music programs and community service programs.

516 Section 16. The commission may impose on any person who violates this chapter a civil
517 penalty not to exceed \$2,000 for each violation or \$5,000 for violations arising from the same
518 series of events. Such penalty shall be imposed on all individuals and is not limited to individuals
519 licensed under this chapter.

520 Section 17. (a) Any person, other than an operator under this chapter, who engages in
521 accepting, facilitating or operating a sports wagering operation is guilty of a misdemeanor and,
522 upon conviction thereof, shall be fined not more than \$10,000 or confined in jail for not more
523 than 90 days, or both fined and confined.

524 (b) Any person convicted of a second violation of subsection (a) is guilty of a
525 misdemeanor and, upon conviction thereof, shall be fined not more than \$50,000, or confined in
526 jail for not more than 6 months, or both fined and confined.

527 (c) Any person convicted of a third or subsequent violation of subsection (a) is guilty of a
528 felony, and upon conviction thereof, shall be fined not less than \$25,000 nor more than \$100,000
529 or imprisoned in a state correctional facility for not less than 1 year nor more than 5 years, or
530 both fined and confined.