

HOUSE 4619:

AN ACT ESTABLISHING EXPANDED GAMING IN THE COMMONWEALTH

(summary reflects text as redrafted)

SPONSORS:

Representative Dempsey

LEGISLATIVE HISTORY:

04/05/10 Reported from the Joint Committee on Economic Development and Emerging Technologies
04/05/10 New draft of S174, S2038, S2039, S2040, S2042, H330, H334, H640, H4063, H4064, H4065, H4066, H4068, H4069, H4081 and H4082
04/05/10 Bill reported favorably by Committee and referred to the Joint Committee on Rules
04/05/10 Committee recommended ought to pass and referred to the House Committee on Ways & Means
04/07/10 For order adopted, see H4604
04/07/10 Committee recommended ought to pass and referred to the House Committee on Steering, Policy and Scheduling
04/12/10 Committee reported that the matter be placed in the Orders of the Day for the next sitting for a second reading
04/13/10 Rules suspended; read second and ordered to a third reading; rules suspended; read third
04/14/10 H4591, published as amended
04/20/10 Read; and referred to the Senate Committee on Ways & Means

EXISTING LAWS

AFFECTED:

Chapter 4 § 7; c. 6 § 48; c. 10 §§ 35, 39, 64 and 65; c. 12; c. 12B; c. 13 §§ 9 and 9B; c. 22C § 38; c. 29 §§ 1 and 38; c. 32 §1; c. 32A § 2; c. 41 §94; c. 58 §§ 18C and 18D; c. 62 § 2 and 5A; c. 62B §§ 2 and 5; c. 62C § 8; c. 63 § 38; c. 70 § 2; c. 128 § 2; c. 128A § 1; c. 128C § 1; c. 137 §§ 1-3; c. 139 § 18; c. 180 § 26A; c. 266 § 75A; c. 270 § 22; c. 271 §§ 1-3, 5, 5A, 6, 7, 8, 14, 16A, 17, 19, 20, 22, 23, 28 and 31; c. 272 §§ 39 and 99; and section 13 of chapter 494 of the acts of 1978

PROPOSED

LEGISLATION:

- This legislation creates legalized gaming in the Commonwealth and establishes the Massachusetts Gaming Commission and the Massachusetts Gaming Control Board to regulate the industry.
- This legislation establishes the Massachusetts Gaming Commission. The Commission would consist of 5 commissioners appointed the governor, attorney general and treasurer for 5 year terms. Commissioners must be approved by a majority vote of the governor, attorney general, and treasurer, and a chairman appointed by the governor. Commissioners would be subject to a background check prior to appointment. Members and employees of the Commission would be

prohibited from gambling at any establishment in the Commonwealth.

- Under this legislation, the powers and duties of the Commission include, developing additional criteria to assess the value of applications for gaming licenses and to determine which applicants shall be awarded gaming licenses, gaming vendor licenses and other licenses required under the chapter.
- This legislation establishes the Massachusetts Gaming Control Board. The Board consists of 3 members appointed by the governor for 4 year terms. Board members would be subject to a background check prior to appointment and would be prohibited from gambling at any establishment in the Commonwealth.
- Under this legislation, the powers and duties of the Board include, monitoring the conduct of all licensees and other persons involved with a licensee; to make recommendations to the Commission regarding applications for licenses; to investigate the qualifications of all applicants and to levy and collect all assessments, fees, fines and taxes established in the chapter.
- This legislation establishes the prerequisites for any applicant for a gaming establishment license, including setting the minimum capital investments for regions 1 and 2 at \$600M and for region 3 at \$400M and requiring a debt to equity ratio of not more than 4:1.
- This legislation further requires a referendum vote from the host community and the payment of community impact fees to the host community.
- This legislation allows the Board to set out the terms of the application for a gaming establishment license, and sets out certain requirements for that application.
- Under this legislation, the application requirements include detailed descriptions of timelines, location and hiring practices. As well as plans to identify, evaluate and mitigate social, economic, cultural and public safety impacts on surrounding communities.
- This legislation requires the Board to investigate the background, reputation and character of any applicant for a gaming establishment license. If the Board does not find the applicant suitable, the application will be denied.

- This legislation requires the Board to hold a public hearing on all gaming establishment applications. After reviewing the application, the Board will make a recommendation to the Commission as to whether to grant or deny the license. The Commission will then make a final decision on the application.
- This legislation establishes certain criteria that the Commission would use to evaluate gaming establishment applications. These criteria include the stability of the gaming market and revenues received by the Commonwealth; mitigation factors; the distance between proposed gaming establishments; protecting the lottery from adverse impact and the use of local businesses.
- Under this legislation, the Commission may grant 3 licenses for casinos, divided by regions of the Commonwealth. The licenses are renewable every 10 years.
- Under this legislation, if multiple qualified applications are received within a region, the Commission may hold an auction to allow applicants to bid up their license fees and other areas of the application. However, the auction would not be the sole determining factor; the Commission would look to the overall value of the license to the region and the Commonwealth.
- Under this legislation, all gaming and non-gaming vendors are required to be licensed or registered with the Board every 3 years and to pay a fee for the license or registration as set by the Board.
- This legislation requires labor organizations, unions, and affiliates representing casino employees to register with the Board and prohibits these organizations from holding a financial interest in a casino with employees they represent.
- This legislation authorizes the Board to assess civil administrative penalties for any violations under the chapter.
- This legislation establishes criminal penalties for violations of this chapter. These criminal penalties include: operating a game or gaming device in violation of this chapter; employing unlicensed or unregistered individuals; working without a license or registration; conducting gaming after a licensee has expired; knowingly failing to exclude those placed on the exclusion list; and willfully failing to report, evade or pay fees and/or taxes.
- This legislation establishes a list of persons to be banned from

gaming establishments, including persons identified as criminal threats and persons placing themselves on a self-exclusion list. Family members, doctors and law enforcement officers could also petition the court to have problem gamblers placed on the exclusion list.

- This legislation establishes a 13-member Gaming Policy Advisory Committee to discuss and make recommendations on matters of gaming policy.
- This legislation establishes a code of ethics for all gaming officials.
- This legislation requires the Board to submit a monthly report on its activities, including gaming revenue and expenses, to the Governor, Attorney General, Treasurer, and the Senate and House Committees on Ways and Means.
- This legislation establishes a division of gaming enforcement within the Office of the Attorney General. The division will have the authority to investigate and prosecute allegations of criminal activity related to the operation of gaming establishments or games.
- This legislation authorizes the colonel of the state police to establish a gaming enforcement unit to investigate criminal violations related to gaming.
- This legislation establishes an Investigations and Enforcement Bureau within the Board to be the primary enforcement agent for regulatory matters and to work in conjunction with the state police unit of gaming enforcement, local law enforcement and the division of gaming enforcement in the office of the attorney general.
- This legislation further grants the state police unit with exclusive enforcement of any gaming related criminal violations occurring inside a licensed gaming establishment and concurrent jurisdiction with local law enforcement for all other criminal violations. It also requires the state police, in consultation with the Board, to enter into a memorandum of understanding with local law enforcement.
- This legislation requires live entertainment in venues at gaming establishments with more than 1,000 seats to receive approval from the Board.
- This legislation requires the Massachusetts Gaming Control

Board to consider current employees of the state racing commission for employment with the board.

- This legislation further requires a gaming licensee under Chapter 23K to show a hiring preference for any qualified employees permanently employed, as of June 1, 2010, at a facility authorized to conduct simulcasting if the facility terminates operation within 1 year of the granting of a license.
- This legislation establishes a new Chapter 276A, creating the crime of money laundering in the Commonwealth. Under this legislation, those found guilty of the crime of money laundering will be punished by imprisonment in state prison for not more than 6 years or a maximum fine of \$250,000 or twice the value of the property transacted (whichever is greater) or both imprisonment and fine. For subsequent offenses, the punishment will be imprisonment in a state prison for 2 to 8 years or a maximum fine of \$500,000 or three times the value of the property transacted (whichever is greater) or both imprisonment and fine.
- This legislation establishes a new Chapter 271A, creating the crime of enterprise crime in connection with gaming related crimes in the Commonwealth. Under this legislation, those found guilty of enterprise crime will be punished by imprisonment in state prison for up to 15 years or a maximum fine of \$25,000 or both imprisonment and fine.
- This legislation gives the Governor authorization to enter into a contract with a federally recognized Native American Tribe with the power to give a permanent license and regional exclusivity if the tribe is granted a gaming license and agrees to abide by all other requirements of Chapter 23K. This authorization will expire June 30, 2011.
- This legislation repeals the enabling statute for the State Racing Commission, the State Gambling Advisory Commission, Retired Greyhound Care and Adoption Council and the Greyhound Adoption Trust Fund.
- This legislation creates a central marketing organization, the Massachusetts Marketing Partnership, which would oversee executive agencies responsible for travel/tourism and trade, and oversee the Massachusetts Film Office and the Massachusetts Sports Partnership.
- This legislation makes various updates to the tax code to reflect the expansion of legalized gaming in the Commonwealth and

the creation of a new gaming industry.

- This legislation makes various technical changes to the General Laws relative to the expansion of legalized gaming in the Commonwealth.
- This legislation makes various technical changes to the General Laws relative to the elimination of greyhound racing in the Commonwealth.

**AGENCY
COMMENTS:**

None

**ESTIMATED
COST:**

The legislation establishes one time licensing fees of \$75 M for gaming establishments located in the East and Southeast Regions, and \$50 M for the West. The legislation establishes a daily tax rate of 25% on gross gaming revenues. Revenues collected will be distributed to a number of funds. Primary uses of the revenue include Economic Development, Local Aid, Debt Repayment, Mitigation of Gaming Impacts and rebuilding the Stabilization Fund. The Gaming Control Board will be loaned \$20 M from the Stabilization fund for start-up costs, which will be repaid as soon as sufficient funds from licensing fees have been received. All future costs for regulating the industry will be paid via a separate assessment on the gaming operators.

(LG)