

SENATE No. 2440

Senate, July 14, 2016 – Text of amendment (200) (offered by Senator Boncore) to the Ways and Means amendment (Senate, No. 2423) to the House Bill relative to job creation, workforce development and infrastructure investment.

The Commonwealth of Massachusetts

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

1 at the end thereof by adding the following new section:-

2 “SECTION A4. Section 7 of chapter 4 of the General Laws, as appearing in the 2014
3 Official Edition, is hereby amended by striking out clause Tenth and inserting in place thereof
4 the following clause:-

5 Tenth, “Illegal gaming”, a banking or percentage game played with cards, dice, tiles or
6 dominoes or an electronic, electrical or mechanical device or machine for money, property,
7 checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the
8 state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted
9 under chapter 23K; (iii) pari-mutuel wagering on horse races and greyhound races under chapter
10 128D; (iv) a game of bingo conducted under chapter 271; and (v) charitable gaming conducted
11 under said chapter 271.; and by inserting after section 24 the following 3 sections:-

12 “SECTION 24A. Section 7 of chapter 23K of the General Laws is hereby repealed.

13 SECTION 24B. Section 60 of chapter 23K of the General laws is hereby repealed.

14 SECTION 24C. Chapter 29 of the General Laws is hereby amended by striking out
15 section 2III, as appearing in the 2014 Official Edition, and inserting in place thereof the
16 following section:-

17 Section 2III. There shall be an Agricultural Resolve and Security Fund. The
18 money in the fund shall be expended to foster agriculture as defined in section 1A of chapter 128
19 and for furthering other purposes and programs of the department of agricultural resources as set
20 forth in any general or special law including, but not limited to: (i) agricultural education; (ii)
21 support for sustainable agriculture and pollution prevention; (iii) agricultural integrated pest
22 management programs; (iv) agricultural land preservation; (v) control of animal diseases; (vi)
23 emergency preparedness; (vii) agricultural innovation and education; (viii) the agricultural food
24 safety improvement program; (ix) the farm viability enhancement program; and (x) the urban
25 agriculture program.

26 The fund may receive money from: (i) gifts, grants and donations from public or
27 private sources; (ii) federal reimbursements and grants-in-aid; (iii) amounts credited to the fund
28 from the Horse Racing Development Fund pursuant to section 8 of chapter 128D; (iv) any
29 appropriations authorized by the general court and specifically designated to be credited to the
30 fund; and (v) any interest earned from the fund. The state treasurer shall be the custodian of the
31 fund and shall receive, deposit and invest all money transmitted under this section to ensure the
32 highest interest rate available consistent with the safety of the fund. The books and records of the
33 fund shall be subject to an annual audit by the state auditor. The department of agricultural
34 resources may expend money in the fund and no expenditure from the fund shall cause it to be in
35 deficiency at the close of a fiscal year. The commissioner of agricultural resources shall report
36 annually to the house and senate committees on ways and means and the joint committee on

37 environment, natural resources and agriculture on income received into the fund and sources of
38 that income, any expenditure from the fund and the purpose of that expenditure and the fund's
39 balance. Money in the fund at the end of a fiscal year shall not revert to the General Fund and
40 shall be available for expenditure in the subsequent year and shall not be subject to section 5C of
41 chapter 29.”; and

42 by inserting after section 40 the following 4 sections:-

43 “SECTION 40A. Chapter 128A of the General Laws is hereby repealed.

44 SECTION 40B. Section 6 of chapter 128C of the General Laws, as appearing in the
45 2014 Official Edition, is hereby amended by striking out the words “two and one-half percent”,
46 wherever appearing, and inserting in place thereof the following words: “three-eighths of one
47 percent”.

48 SECTION 40C. Said chapter 128C is hereby repealed.”; and

49 SECTION 40D. The General Laws are hereby amended by inserting after chapter 128C
50 the following chapter:-

51 CHAPTER 128D.

52 HORSE RACING AND WAGERING

53 Section 1. The following words shall have the following meanings unless the context
54 clearly requires otherwise:

55 “Advance deposit wagering”, a form of pari-mutuel wagering in which an individual may
56 deposit money into an account established through an agreement with a holder of a racing

57 meeting license or simulcasting license and use the account balance to make and pay for wagers
58 by the holder of the account to the licensee either in person, by direct telephone call or by
59 communication through electronic media.

60 "Breaks", in the case of live horse racing meetings conducted by a racing meeting
61 licensee, the odd cents over any multiple of \$.10 of winnings per \$1 wagered; provided,
62 however, that in the case of a live horse racing meeting conducted at a race track outside the
63 commonwealth, the amount of the breaks shall be determined in accordance with the laws of the
64 state in which the race track is located.

65 "Commission", the Massachusetts gaming commission established in chapter 23K.

66 "Exotic wager", a bet on the speed or ability of more than 1 horse in a single race.

67 "Guest track", a racing meeting licensee or an out-of-state pari-mutuel wagering facility
68 which accepts a simulcast wager on a live race conducted at another track which is presented by
69 simulcast at the facility of the racing meeting licensee or the out-of-state pari-mutuel wagering
70 facility.

71 "Host track", a racing meeting licensee or an out-of-state track which conducts a live race
72 which is the subject of intertrack simulcasting and simulcast wagering.

73 "Pari-Mutuel wagering", a form of wagering on the outcome of an event in which all
74 wagers are pooled and held by an association for distribution of the total amount, less the
75 deductions authorized by law, to holders of tickets on the winning contestants.

76 "Premium", the amount paid to a racing meeting licensee in addition to a host track fee
77 for purposes of providing a simulcast signal.

78 "Race track", a track where live horse racing meetings are held including, but not limited
79 to, grounds, auditoriums, amphitheaters and bleachers, if any, and adjacent places used in
80 connection therewith.

81 "Racing license", an authorization awarded by the commission under specified conditions
82 to accept wagers on live horse racing meetings conducted on licensed premises in the
83 commonwealth.

84 "Rebate", a portion of pari-mutuel wagers, otherwise payable to a racing licensee, that is
85 paid to a holder of a pari-mutuel wagering ticket and that reduces the amount otherwise payable
86 to the licensee.

87 "Simulcast", the broadcast, transmission, receipt or exhibition, by any medium or manner,
88 of a live race conducted live at a race track other than the 1 at which it is being exhibited at,
89 whether inside or outside the commonwealth, including, but not limited to, a system, network or
90 programmer which transmits or receives television or radio signals by wire, satellite or
91 otherwise.

92 "Simulcasting license", an authorization awarded by the commission under specified
93 conditions to accept simulcast wagers.

94 "Takeout", money deducted from a pari-mutuel wager as required by the commission
95 prior to the payment of winnings.

96 Section 2. The commission shall have all powers necessary or convenient to effectively
97 regulate horse racing, simulcasting and pari-mutuel wagering including, but not limited to, the
98 power to adopt, amend or repeal regulations for the implementation, administration and

99 enforcement of this chapter. The commission shall not issue a prohibition on horse racing or
100 simulcasting, or related wagering thereon; provided, however, that the commission may use its
101 powers to act on each individual licensing decision or in all other decisions in the best interest of
102 horse racing with the object of promoting its efficient operation and the honesty and integrity of
103 the wagering process related to it.

104 The commission shall administer and enforce any general and special law related to pari-
105 mutuel wagering and simulcasting. The commission shall serve as a host racing commission and
106 an off-track betting commission for purposes of 15 U.S.C. 3001, et seq. The commission shall
107 have all requisite powers afforded in accordance with section 4 of chapter 23K. The power and
108 authority granted to the commission shall be construed as broadly as necessary for the
109 implementation, administration and enforcement of this chapter.

110 Section 3. (a) The commission shall promulgate regulations for the implementation,
111 administration and enforcement of this chapter including, without limitation, regulations that:

112 (i) prescribe the application process and criteria for evaluation of the application and
113 renewal for a racing license; provided, however, that in determining whether to award or renew a
114 racing license, the commission shall take into consideration the physical location of the race
115 track as it relates to other proposed or licensed race tracks, whether the race track will maximize
116 benefits to the commonwealth, the support or opposition to each applicant from the public and
117 any other considerations deemed relevant by the commission;

118 (ii) prescribe the process and criteria for evaluation of the application and renewal of
119 a simulcasting license; provided, however, that a simulcasting license shall be limited to a racing
120 meeting licensee, a gaming licensee licensed pursuant to chapter 23K at a gaming establishment,

121 and an entity licensed as of June 1, 2016 and, in granting a simulcasting license to a gaming
122 licensee, the commission shall take into consideration the impact on horse racing or simulcasting
123 facilities licensed as of June 1, 2016;

124 (iii) prescribe the minimum number of live racing days required to be held by a racing
125 meeting licensee;

126 (iv) prescribe rules governing live horse racing, pari-mutuel wagering, simulcasting
127 and simulcast wagering;

128 (v) prescribe requirements that may direct a percentage of wagering received on in-
129 state and out-of-state thoroughbred and harness races to the Race Horse Development Fund
130 established in section 8 to support purse assistance and breeding programs;

131 (vi) prescribe the amount and manner that premiums will be assessed upon a racing
132 meeting and simulcasting licensee;

133 (vii) prescribe the amount and manner of takeouts;

134 (viii) prescribe procedures and requirements for the use of breaks and unclaimed
135 wagers;

136 (ix) establish uniform standards and requirements for horse racing including, but not
137 limited to, safety standards for horses, jockeys, drivers and other participants and drug testing;

138 (x) prescribe the types of allowable wagers;

139 (xi) prescribe procedures for the use of advance deposit wagering accounts, rebates
140 and rewards;

141 (xii) prescribe the manner in which judges, stewards and race officials shall be
142 qualified and appointed;

143 (xiii) develop procedures for the voluntary and involuntary exclusion of patrons from a
144 race track in a manner consistent with section 45 of said chapter 23K;

145 (xiv) require racing meeting licensees and simulcasting licensees to develop protocols
146 to prevent underage wagering and establish security procedures for ensuring the safety of minors
147 at race tracks;

148 (xv) prescribe the minimum internal control procedures for racing meeting licensees
149 and simulcasting licensees, including those for effective control over the internal fiscal affairs of
150 a licensee and including provisions for implementation of a uniform standard of accounting, the
151 safeguarding of assets and revenues, the recording of cash and evidence of indebtedness and the
152 maintenance of reliable records, accounts and reports of transactions, operations and events,
153 including reports by the commission;

154 (xvi) establish licensure and registration procedures for employees of racing meeting
155 licensees and simulcasting licensees not working at a gaming establishment pursuant to said
156 chapter 23K;

157 (xvii) establish licensure and registration provisions for veterinarians performing work
158 at race tracks, blacksmiths, owners, trainers, jockeys and stable employees;

159 (xviii) require that all employees of a racing meeting licensee and simulcasting licensee
160 who have racing responsibilities, including financial responsibilities, to be properly trained in
161 their respective professions;

162 (xix) establish procedures governing the operation of the Race Horse Development
163 Fund established in section 8;

164 (xx) prescribe grounds and procedures for the revocation, suspension and discipline of
165 all licenses and registrations issued by the commission;

166 (xxi) prescribe the allocation of funds from racing meeting licensees and simulcast
167 licensees for the purpose of funding the activities of the commission relative to racing; and

168 (xxii) prescribe any other rules related to the honest conduct of horse racing,
169 simulcasting and wagering related to horse racing and simulcasting.

170 Section 4. The commission may inspect and shall have access to the entire race track and
171 premises associated therewith upon which activity is conducted pursuant to a racing meeting
172 license or a simulcasting license issued in accordance with this chapter and chapter 23K,
173 including all records, documents, systems, equipment and supplies on the premises.

174 Section 5. The commission shall audit, as often as the commission determines necessary,
175 the accounts, programs, activities and functions of all racing meeting licensees and simulcasting
176 licensees. To conduct the audit, authorized officers and employees of the commission shall have
177 access to all accounts at reasonable times and the commission may require the production of
178 books, documents, vouchers and other records relating to any matter within the scope of the
179 audit.

180 Section 6. Each racing meeting licensee and simulcasting licensee shall make readily
181 available to the commission all documents, materials, equipment, personnel and any other items
182 requested during an investigation; provided, however, that material that a racing meeting licensee

183 or simulcasting licensee considers a trade secret may, with the commission's approval, be
184 protected from public disclosure and the licensee may require nondisclosure agreements with the
185 commission before disclosing such material.

186 Section 7. The commission shall establish application fees for all licenses, approvals and
187 renewals awarded under this chapter which may include costs incurred for conducting a
188 background investigation into an applicant. The commission may seek reimbursement from an
189 applicant for any costs of investigation in excess of the initial application or renewal fee.

190 Section 8. (a) There shall be a Race Horse Development Fund to be administered by the
191 commission which shall be used to support the best interest of the horse racing industry, its
192 participants and the agricultural and equine economy. The fund shall consist of money deposited
193 pursuant to subsection (c) of section 55 of chapter 23K, subclause (1) of clause (2) of section 59
194 of said chapter 23k and any money credited to or transferred to the fund from any other fund or
195 source, including grants, gifts and donations. Amounts credited to the fund shall be expended:

196 (i) to fund purses for licensed live horse racing meetings;

197 (ii) to support the general welfare of the race horsing and race simulcasting industry in
198 the commonwealth;

199 (iii) for a commission program that supports health, pension, life insurance and other
200 benefits deemed appropriate by the commission for owners, trainers, breeders, jockeys, drivers
201 and others associated with horse racing;

202 (iv) in consultation with the equine advisory committee established in section 6B of
203 chapter 20, to support the equine economy which shall include, but not be limited to,

204 commonwealth-bred thoroughbred and standardbred horses and veterinary medicine including,
205 but not limited to Tufts University School of Veterinary Medicine, equine care, open space
206 preservation and equestrian sport and therapeutic programs; and

207 (v) to support the Agricultural Reserve and Security Fund established in section 2III of
208 chapter 29; and

209 (v) to support the department of public health for assistance with problem gambling
210 research, prevention, and treatment programs.

211 The commission shall ensure that not less than 50 per cent of amounts credited to the
212 fund are available for purses under clause (i) in any year when the live race horse industry is
213 sufficient to sustain those purse funds. No expenditure from the fund shall cause it to be in
214 deficiency at the close of a fiscal year.

215 Section 9. (a) A racing meeting licensee that conducts pari-mutuel betting on horse races
216 that it conducts on a licensed race track shall distribute all sums deposited in a pari-mutuel pool
217 to the holders of winning tickets therein, less any takeouts as determined by the commission.

218 (b) A simulcasting licensee acting as a guest track shall return to the winning patrons
219 wagering on simulcast races all sums so deposited as an award or dividend, less any takeouts as
220 determined by the commission.

221 Section 10. Notwithstanding this chapter or any other general or special law to the
222 contrary, no live dog racing meeting where any form of betting or wagering on the speed or
223 ability of dogs occurs shall be conducted or permitted and the commission shall not accept or
224 approve an application or request for racing dates for dog racing.

225 Any person who violates this section relative to dog racing shall be subject to a civil
226 penalty of not less than \$20,000 which shall be payable to the commission and used for
227 administrative purposes of the commission.

228 Section 11. Any person who accepts or pays out a wager or bet on the results of any
229 horse race or dog race or aids or abets any of the foregoing types of wagering or betting, except
230 as authorized by this chapter, shall, for a first offense be punished by a fine of not more than
231 \$2,000 or imprisonment in the house of correction for not more than 1 year, or both such fine and
232 imprisonment and, for a second or subsequent offense, by a fine of not more than \$10,000 or
233 imprisonment in the house of correction for not more than 2 years, or both such fine and
234 imprisonment.

235 Section 12. The gaming commission shall provide an annual report of activity conducted
236 pursuant to this chapter. The report shall include, but not be limited to, an analysis of
237 commission activities designed to further the race horse industry and equine economy; a full and
238 complete statement of revenues, expenditures, and the balance of the Race Horse Development
239 Fund; an accounting of funds received from racing licensees and simulcast licensees for the
240 purpose of funding the activities of the commission; and an accounting of projected expenditures
241 from the Race Horse Development Fund in the next year. The report shall be made available on
242 the commission's website and filed annually with the clerks of the house of representatives and
243 the senate, the chairs of the house and senate committees on ways and means and the chairs of
244 the joint committee on economic development and emerging technologies not later than March
245 1."; and by inserting after section 77 the following 5 sections:-

246 “SECTION 77A. All monies in the Race Horse Development Fund on the effective date
247 of this act pursuant to section 60 of chapter 23K of the General Laws shall be transferred to the
248 Race Horse Development Fund established in section 8 of chapter 128D of the General Laws.
249 On and after the effective date of this act, all funds directed by any general or special law to be
250 deposited in the Race Horse Development Fund established in said section 60 of said chapter
251 23K shall be deposited into the Race Horse Development Fund established in said section 8 of
252 said chapter 128D.

253 SECTION 77B. Notwithstanding any general or special law to the contrary, facilities
254 licensed pursuant to chapters 128A and 128C as of June 30, 2016 shall be considered licensed
255 and upon applying for continuation of a license to conduct operations shall be subject to the
256 process and criteria for evaluation developed by the commission for a renewal of the license.

257 SECTION 77C Notwithstanding any general or special law to the contrary the
258 Massachusetts Gaming Commission shall consider licensees requests for additional race days
259 during calendar year 2016.

260 SECTION 77D. Notwithstanding section 80A, the payment required by section 40B
261 shall not be increased.

262 “SECTION 77E. Section 77D is hereby repealed.”; and

263 by inserting after section 79 the following section:-

264 “SECTION 79A. Sections A4, 24A to 24C, inclusive, 40A and 40C shall take effect on
265 July 31, 2016.”; and

266 by inserting after section 80 the following section:-

“SECTION 80D. Section 77E shall take effect on December 31, 2016.”