

**HOUSE . . . . . No.****The Commonwealth of Massachusetts**

PRESENTED BY:

*Andres X. Vargas and Liz Miranda*

*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 placing a healthy bet on universal early education and care.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/19/2021</i>
<i>Liz Miranda</i>	<i>5th Suffolk</i>	<i>2/19/2021</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>2/23/2021</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/26/2021</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>2/26/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/26/2021</i>
<i>Christina A. Minicucci</i>	<i>14th Essex</i>	<i>2/26/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/23/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/24/2021</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/24/2021</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/26/2021</i>
<i>Maria Duaine Robinson</i>	<i>6th Middlesex</i>	<i>2/25/2021</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/26/2021</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>2/26/2021</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/26/2021</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/26/2021</i>

<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/26/2021</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>3/2/2021</i>

# HOUSE . . . . . No.

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[Pin Slip]

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## The Commonwealth of Massachusetts

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

An Act placing a healthy bet on universal early education and care.

*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 1A of chapter 15D of the General Laws is hereby amended by  
2     inserting, in alphabetical order among the terms defined in this section the following term and  
3     definition: -

4           “Caregiver”, a person living with and exercising parental control over at least one child  
5     whose parents are not living in the home with them.

6           “Department’s agents”, includes individuals and entities carrying out the purposes of this  
7     chapter, including regional child care resource and referral agencies and early education and care  
8     providers.

9           “Early education and care”, early education and child care services for infants, toddlers,  
10    and pre-school age children, and out-of-school child care for school-aged children.

11          “Early education and care provider”, an entity providing direct early education and care  
12    to children, subject to the requirements of this chapter.

“Family”, one or two parents or one or two caregivers living with at least one child.

“High needs”, needs that may render an individual or family more costly to serve, including needs related to any physical, mental, emotional, intellectual, cognitive, or behavioral disability or condition; adverse health conditions; exposure to domestic violence; trauma history; limited English proficiency; low reading level; experiencing homelessness or housing instability; extremely little or no income; involvement with the department of children and families; or risk of involvement with the department of children and families.

“Infant,” a person younger than the age of 1 year and 3 months.

“Spaces”, increments representing the number of children that an early education and care provider has the physical capacity to enroll and is licensed or approved to enroll, as distinct from the number of children actually enrolled or attending.

“Toddler”, a person between the age of 1 year and 3 months and the age of 2 years and 9 months.

SECTION 2. Chapter 15D of the General Laws is hereby amended by inserting after section 2 the following section: -

Section 2A. Early education and care department; additional duties.

The department shall establish a revised funding structure under which the costs to early education and care providers of providing high quality early education and care services, as determined under subsection (e) of this section will be met fully by the combination of: (1) payment by the department ; (2) any direct funding paid by a source other than the department to

providers, including under federal Head Start programs, 42 U.S.C. §§ 9831-9852a; and (3) direct funding to providers under section 13A of this chapter.

With respect to funding provided under sections 13A of this chapter, the department shall:

(a) Ensure that the department, its agents, and early education and care providers that receive funding under section 13A of this chapter comply with all federal and state requirements relating to accommodating individuals with disabilities, including parents and caregivers with disabilities who apply for or receive services from an early education and care provider, and children with disabilities, whose parents or caregivers request to enroll the child with or receive services from the provider.

The department shall establish and maintain a full-time director of disability access, responsible for:

(1) establishing procedures to (i) screen for the need for accommodations, (ii) engage with families regarding the specific accommodations needed, and (iii) provide these accommodations;

(2) ongoing assessment and implementation of the measures needed to ensure that the department's and its agents' methods of administration do not tend to result in lack of new or ongoing access to early education and care services due to the disabilities of parents and caregivers or the disabilities of children;

(3) assisting the department to annually assess the costs to the department, its agents, and early education and care providers of compliance; and

(4) coordinating with the department of elementary and secondary education, the department of public health, and other agencies of the commonwealth that provide resources for individuals with disabilities, as needed to ensure consistent access to high quality early education and care.

(b) Ensure that (1) all oral communications with parents and caregivers by the department and its agents are conducted in a language that they are able to fully comprehend and communicate; (2) all written communications are provided in at least the 8 most prevalent non-English languages in the commonwealth, in addition to English; (3) oral translation of documents is provided to parents and caregivers with limited English proficiency in a language that they are able to fully comprehend and communicate, if their language is one for which written translation is not available; (4) parents and caregivers are permitted to meet verification requirements with documents that are in the parent's or caregiver's language; (5) the parent or caregiver shall not be responsible for translating any documents into English; and (6) the parent or caregiver shall not be required to use English versions of forms that are available in their language.

(c) Ensure that the department, through its agents and employees, promptly responds to communications by parents and caregivers, including communications requesting information regarding available and open early education and care spaces, and any other matters;

(d) EEC shall ensure that families with children with high needs are informed of openings with providers that focus on serving such families and children.

(e) Adopt regulations, after providing the opportunity for public comment, to be accepted through both testimony at public hearings and written comments, and after consideration of these comments, establishing a validated methodology that the department will use for assessing and

updating the full costs of high quality early education and care throughout the commonwealth, taking into account all aspects of providers' operations and responsibilities and costs that vary with location, type of provider, age ranges of the children served, and service to children with high needs. The methodology shall include the following components:

(1) Base costs

(i) Pay and benefits to all staff, including directors, consistent with section 13C of this chapter, taking into account staff-to-child ratios needed depending on age ranges and service to children with high needs, as well as necessary non-educational staff activities, such as communications with families and EEC staff;

(ii) Professional development and instructional coaching for staff involved in the direct education and care of children;

(iii) Occupancy, including rent, utilities, maintenance, and improvements;

(iv) Office supplies and administration, including internet, telephone, insurance, permits, and taxes or fees;

(v) Educational supplies and curricula, observational tools, and toys;

(vi) Nutritional meals and snacks; and

(vii) Furnishings, appliances, and equipment.

(2) Costs of services to children and families with high needs, including:

(i) Consultants and staff to conduct health, dental, and mental health screening and provide referrals;

(ii) Social work services, including assisting families in accessing financial and other resources to meet basic needs;

(iii) Free transportation services for children to, from, and between early education and care providers, schools, and home;

(iv) Staff and staff training needed for accommodating children with disabilities or other high needs;

(v) Staff and interpreter services for communication with parents and caregivers and serving children with limited English proficiency;

(vi) Staff time and services required to provide intensive or remedial educational and social-emotional programming; and

(vii) Staff time and services required to provide comprehensive family engagement and services to ensure effective early education and promote multi-generational success.

(3) Costs of compliance with all applicable federal and state requirements for receiving funding related to early education and care.

(4) Costs of addressing policy goals, including:

(i) Filling gaps in the availability of early education and care services spaces in locations within the commonwealth that have insufficient numbers of spaces for infants and toddlers, insufficient numbers of spaces for children of any age, or insufficient numbers of providers;

(ii) Meeting the need for early education and care services during nonstandard hours;



(f) Determine and annually update the full costs of high quality early education and care throughout the commonwealth, using the methodology required under subsection (e) of this section and after providing the opportunity for public comment, to be accepted through both testimony at public hearings and written comments, and after consideration of these comments. Until cost calculations are updated in accordance with this chapter, costs shall be increased annually at the rate of inflation as determined by the Consumer Price Index of the U.S. Bureau of Labor Statistics.

(g) Comply with all requirements related to applying for and receiving federal funding that is currently available or may become available to the commonwealth for use related to early education and care, including any applicable federal requirements for determining payment rates for the provision of federally-funded early education and care services, including under the Child Care and Development Block Grant Act, 42 U.S.C. § 9858c(c)(2)(M) and (c)(4). Such determinations, if required, shall be made in addition to the determinations required under subsection (f) of this section.

(h) Annually assess the costs of fully implementing subsections (a), (b), and (c) of this section and sections 13A, 13B, and 13C of this chapter, including the costs of high-quality early education and care under subsection (e) of this section, broken out by infant, toddler, preschool, and school-aged care, and taking into account relevant differences among locations within the commonwealth.

(i) Annually collect from early education and care providers that receive funding from the department under section 13A of this chapter, data on: (1) number of employees by race and ethnicity, (2) the pay rates and employer-paid benefits that they provide to their employees,

broken out by job position, and within that, broken out by part-time and full-time employee designation, and (3) the fee rates charged for full-day and partial day early education and care services by age group, (4) numbers of children enrolled by age group, family income range, race, ethnicity, and country-of-origin, (5) the provider's desired enrollment by age group, as distinct from actual current enrollment.

(j) Within 60 days after the end of the first 12-month period following the effective date of this act and after the end of each 12-month period thereafter, unless a different time frame is specified, report regarding each 12-month period to the board, the secretary, the joint committee on education, and the house and senate committees on ways and means:

(2) The cost and use of all allocations of direct funding to early education and care providers under section 13B of this chapter, including identifying the providers funded, the amount the provider received, and the uses for which the funding was provided.

(3) For early education and care providers that receive funding from the department under section 13A of this chapter, data from the 12-month period on: (i) the number of employees by race and ethnicity, (ii) the pay rates and employer-paid benefits provided to employees, broken out by job position, and within that, broken out by part-time and full-time employee designation, race and ethnicity, and job location within the commonwealth; (iii) the levels of pay rates and employer-paid benefits compared to levels reported in the previous three reporting years; (iv) the degree of deviation between actual reported pay and pay guidance developed under section 13C of this chapter, including levels of deviation from their previous three reporting years; and (v) the cost and use of all allocations of direct funding to early

education and care employees under section 13B of this chapter, including the amount employees received and the uses for which the funding was provided.

(4) By February 1 of each year, the results of the determinations made under subsection (f) of this section, the assessments made under subsections (h) of this section, and the results of calculations used in the determination of the full costs of high quality care under subsections (e) and (f) of this section, including: (i) the average cost of providing early education and care per child broken out by infant, toddler, preschool, and school-aged care, taking into account staff-to-child ratios; (ii) details regarding the effect on the per-child cost of providing early education and care to children and families with high needs; and (iii) details regarding the effect on per-child cost of providing early education and care during nonstandard hours or in locations where there are insufficient numbers of spaces.

(l) Publish all reports issued under this section on the department's website, in accordance with subsection (b) of section 19 of chapter 66.

SECTION 3. Section 3 of chapter 15D of the General Laws is hereby amended by inserting after subsection (c) the following paragraph: -

(13) to ensure, jointly with the commissioner, that the department complies with its obligations under this chapter.

SECTION 4. Section 4 of chapter 15D of the General Laws is hereby amended by striking out the sixth paragraph and inserting in place thereof the following paragraphs: -

The commissioner shall be responsible for ensuring that the department and its agents, including regional child care resource and referral agencies, complies with all requirements of

179 this chapter. The department's agents shall comply with any requests from the commissioner for  
180 information or corrective action that is necessary for the commissioner to carry out this  
181 responsibility, as determined by the commissioner.

182 The commissioner shall propose a budget to the board. The budget shall reflect the goals  
183 and objectives of this chapter and shall include:

184 (a) The costs of compliance with section 2A of this chapter, including fully  
185 accommodating: (1) children with disabilities; (2) families in which the parent or caregiver or the  
186 child has limited English proficiency; (3) families in need of nonstandard hours of care or care  
187 for certain age groups in specific locations; and (4) children and families with high needs  
188 through voluntary supplemental services, such as social work services, health and disability-  
189 related services, and support to parents and caregivers; and

190 (b) The costs of fully implementing sections 13A, 13B, and 13C of this chapter, such that  
191 the costs to early education and care providers of providing high quality early education and care  
192 services, as determined under subsection (e) of section 2A of this chapter, would be fully met by  
193 the combination of: (1) payment by the department; (2) any direct funding paid by a source other  
194 than the department to providers, including under the federal Head Start programs, 42 U.S.C. §§  
195 9831-9852c; and (3) direct funding to providers under section 13A of this chapter.

196 The board shall review the budget proposed by the commissioner and, if determined to  
197 meet the requirements of this section, recommend it to the secretary.

198 SECTION 5. Chapter 15D of the General Laws is hereby amended by inserting after  
199 section 13 the following sections:

Section 13A. Early education and care provider funding program

(a) The department shall establish a program of funding to early education and care providers to meet the full range of costs of high quality early education and care. This funding shall be used to address the following priorities:

(1) Expanding affordability of early education and care to families by reducing the percentage of early education and care costs that must be covered by fees charged for children receiving early education and care, whether subsidized or unsubsidized.

(2) Enabling early education and care providers to provide high-quality early education and care and to comply fully with all applicable health, safety, educational, quality-assurance, and other requirements of this chapter and requirements imposed by the department consistent with this chapter.

(3) Maintaining and increasing the supply of early education and care spaces in ways that address shortages in available spaces related to: location within the commonwealth, child age range, ability to serve children with disabilities, and ability to provide care during nonstandard hours.

(4) Compensating early education and care provider staff in accordance with the criteria set forth in section 13C of this chapter.

(5) Enabling early education and care providers to address emergency situations, during which the cost of care significantly increases due to additional federal, state, or department requirements, or the loss of fees due to absence or unenrollment jeopardizes early education and care providers' ability to retain their facilities and staff.

(6) Enabling early education and care providers to maintain or increase capacity to provide voluntary supplemental services to enrolled children and their families, such as social work services, health and disability-related services, and support to parents and caregivers.

(b) The department shall require early education and care providers, as a condition for receiving funding under this section, to:

(1) Enter into and comply with contractual agreements with the department, which shall be developed by the department;

(2) Comply with the compensation structure, as established and updated under section 13D of this chapter or if the funding the provider receives is insufficient, increase compensation to the extent possible; and

(3) Provide data that the department requires, as needed to carry out the department's assessment and reporting requirements under this chapter.

(c) The department shall allocate funds to be paid under this section to early education and care providers pursuant to the existing school funding formula established under Chapter 70 and shall take into account the following factors:

(d) In the event of insufficient funding for all eligible early education and care providers, the department shall select providers based on the following criteria:

(1) The numbers of children with high needs currently enrolled with the provider;

(2) Whether the provider, if funded, would have the capacity and expertise to serve children with disabilities, or children with limited English proficiency or whose parents or caregivers have limited English proficiency;

(3) Whether the provider, if funded, would have the capacity and expertise to serve children and families with high needs, including the provision of the services listed in paragraph (2) of subsection (e) of section 2A of this chapter;

(4) Whether the provider, if funded, would increase services in locations within the commonwealth that have shortages of spaces for particular age groups, such as infants and toddlers, or that have overall shortages of early education and care spaces or unmet needs for nonstandard hours care; and

(5) Whether the provider, if funded, would implement proposed innovations that increase the quality of its early education and care services.

(e) The department shall accord to the early education and care providers to which the department allocates funding under this section a presumption of annual renewal if the provider has complied with all requirements and the appropriations for this section are not reduced such that renewal of all providers is not possible.

(f) The department shall use, for funding the purposes of the section, all funding from any source that is appropriated or otherwise provided to it for direct funding to early education and care providers.

(g) The department shall adopt regulations implementing the provisions of the section, after providing the opportunity for public comment, to be accepted through both testimony at public hearings and written comments, and after consideration of these comments.

Section 13B. Professional Development Grant Program

To assist with recruitment and retention and increase instructional and managerial quality in the early education and care field, the department shall establish a professional development grant program for individuals who are employed by an early education and care provider, working as a family child care provider, or seeking to work in the early education and care field. Under this program, the department shall provide scholarships, loan forgiveness, and other financial aid to enable individuals to achieve early education and care skills and credentials through relevant training and post-secondary certificate and degree programs. The board shall provide relevant information, if any, that it developed and updated as directed by section 5 of this chapter.

The department shall adopt regulations implementing this section, after providing the opportunity for public comment, to be accepted through both testimony at public hearings and written comments, and after consideration of these comments.

#### Section 13C. Early Education and Care Compensation to Individuals

(a) The department shall establish a compensation structure for provider staff involved in the direct education and care of children that is commensurate with annual pay scales for equivalent teacher positions in the public school system administered by the department of elementary and secondary education under chapter 69 of the General Laws, taking into account: job responsibilities; contractual requirements; and the skills, experience, and credentials of the individual.

(b) The department shall establish compensation guidelines for other provider staff not involved in the direct education or care of children that are competitive in the labor market for such staff, enabling providers to maintain stable staffing.



(c) The department shall establish guidelines for the minimum required benefits, and for recommended additional benefits, for provider staff, including but not limited to health insurance, retirement benefits, paid vacation, and other leave time.

(d) The compensation structure and guidelines under this section shall not preclude provider staff from exercising any rights they may have to collective bargaining about pay and benefits.

(e) The department shall review the compensation structure and benefits guidelines annually and update them, as needed, based on increased cost of living.

(f) The department shall adopt regulations implementing the provisions of this section, after providing the opportunity for public comment, to be accepted through both testimony at public hearings and written comments, and after consideration of these comments.

SECTION 6. Within 180 days following passage of this act, the department shall report to the house and senate committees on ways and means the steps required to implement this Act and a preliminary assessment of the funding and administrative resources that would aid the department in implementing section 5 of this act, such as technological resources, technical expertise, and staffing of the department and its. The department shall hold no fewer than three public meetings and incorporate feedback from families and advocates for families, early education and care providers and advocates for these providers, employers, and other stakeholders from across the commonwealth before the submission of this report. This report shall be made publicly available on the department's website in accordance with section 19 of chapter 66 of the General Laws.

305           SECTION 7. Nothing in this act shall be construed as altering the provisions in  
306 subsection (j) of section 110 of chapter 5 of the acts of 1995, as amended by section 523 of  
307 chapter 151 of the actions of 1996, as further amended by section 156 of chapter 43 of the acts of  
308 1997, for early education and care for current recipients of transitional aid to families with  
309 dependent children or the provisions in subsection (f) of section 110 of chapter 5 of the acts of  
310 1995, as amended by section 155 of chapter 43 of the acts of 1997, for early education and care  
311 for former recipients of transitional aid to families with dependent children.

312           SECTION 8. Nothing in this act shall be construed as altering the provisions of section 2  
313 of chapter 18B of the General Laws for early education and care for children whose families  
314 have an open case with the department of children and families.

315           SECTION 9. This act shall be implemented notwithstanding any provisions of chapter  
316 15D of the General Laws or any other general or special law to the contrary.

317           SECTION 10. The department shall fully implement this act within 5 years from the date  
318 of passage.

319           SECTION 11. This act shall take effect upon its passage.

320           SECTION 12. The Massachusetts General Laws, as appearing in the 2020 Official  
321 Edition, are hereby amended by inserting after chapter 64N the following new chapter:-

322           Chapter 64O. SUGARY DRINK TAX

323           Section 1. Definitions.

324           For the purposes of this section, the following words shall have the following meanings:

"Beverage for medical use" means a beverage suitable for human consumption and manufactured for use as an oral nutritional therapy for persons who cannot absorb or metabolize dietary nutrients from food or beverages, or for use as an oral rehydration electrolyte solution for infants and children formulated to prevent or treat dehydration due to illness. "Beverage for medical use" shall also mean a "medical food" as defined in section 5(b)(3) of the Orphan Drug Act (21

U.S.C. 360ee(b)(3)); this Act defines medical food as "a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation." "Beverage for medical use" shall not include drinks commonly referred to as "sports drinks" or any other common names that are derivations thereof.

"Bottle" means any closed or sealed container regardless of size or shape, including, without limitation, those made of glass, metal, paper, plastic or any other material or combination of materials.

"Bottled sugary drink" means any sugary drink contained in a bottle that is ready for consumption without further processing such as, without limitation, dilution or carbonation.

"Commissioner" means the commissioner of revenue and his or her authorized agents and employees.

"Commonwealth" means the commonwealth of Massachusetts.

345 "Consumer" means a person who purchases a sugary drink for consumption and not for  
346 sale to another.

347 "Department" means the department of public health.

348 "Distributor" means any person, including manufacturers and wholesale dealers, who  
349 receives, stores, manufactures, bottles and/or distributes bottled sugary drinks, syrups or  
350 powders, for sale to retailers doing business in the commonwealth, whether or not that person  
351 also sells such products to consumers.

352 "Milk" means natural liquid milk regardless of animal or plant source or butterfat  
353 content; natural milk concentrate, whether or not reconstituted; or dehydrated natural milk,  
354 whether or not reconstituted.

355 "Natural fruit juice" means the original liquid resulting from the pressing of fruits, or the  
356 liquid resulting from the dilution with water of dehydrated natural fruit juice.

357 "Natural vegetable juice" means the original liquid resulting from the pressing of  
358 vegetables, or the liquid resulting from the dilution with water of dehydrated natural vegetable  
359 juice.

360 "Non-nutritive sweetener" means any non-nutritive substance suitable for human  
361 consumption that humans perceive as sweet and includes, without limitation, aspartame,  
362 acesulfame-K, neotame, saccharin, sucralose and stevia. "Non-nutritive sweetener" excludes  
363 sugars. For purposes of this definition, "non-nutritive" means a substance that contains fewer  
364 than 5 calories per serving.

365 "Person" means any natural person, partnership, cooperative association, limited liability  
366 company, corporation, personal representative, receiver, trustee, assignee or any other legal  
367 entity.

368 "Place of business" means any place where sugary drinks, syrups or powders are  
369 manufactured or received for sale in the commonwealth.

370 "Powder" means any solid mixture of ingredients used in making, mixing, or  
371 compounding sugary drinks by mixing the powder with any one or more other ingredients,  
372 including without limitation water, ice, syrup, simple syrup, fruits, vegetables, fruit juice,  
373 vegetable juice, carbonation or other gas.

374 "Retailer" means any person who sells or otherwise dispenses in the commonwealth a  
375 sugary drink to a consumer whether or not that person is also a distributor as defined in this  
376 section.

377 "Sale" means the transfer of title or possession for valuable consideration regardless of  
378 the manner by which the transfer is completed.

379 "Sugars" means any monosaccharide or disaccharide nutritive sweetener such as glucose,  
380 fructose, lactose, and sucrose. Examples include, without limitation, cane sugar, beet sugar, high-  
381 fructose corn syrup, honey, fruit juice concentrate, and other caloric sweeteners. For purposes of  
382 this definition, "nutritive" means a substance that contains 5 or more calories per serving.

383 "Sugary drink" means any nonalcoholic beverage, carbonated or noncarbonated, which is  
384 intended for human consumption and contains any added sugars. As used in this definition,

385 "nonalcoholic beverage" means any beverage that contains less than one-half of one percent  
386 alcohol per volume.

387 "Syrup" means a liquid mixture of ingredients used in making, mixing, or compounding  
388 sugary drinks using one or more other ingredients including, without limitation, water, ice, a  
389 powder, simple syrup, fruits, vegetables, fruit juice, vegetable juice, carbonation or other gas.

390 "Water", means no-calorie liquid water, which is either non-flavored or flavored without  
391 the use of sugars. "Water" may be carbonated (including club soda and seltzer), still, distilled  
392 and/or purified.

## 393 Section 2. Tax imposed.

394 There is hereby imposed an excise tax on every distributor for the privilege of selling the  
395 products governed by this chapter in the commonwealth, calculated as follows:

396 The tax shall be calculated using the following tiered system.

397 (i.) Beverages with 7.5 grams of sugars or less per 12 fluid ounces will not be taxed.

398 (ii.) Beverages with more than 7.5 grams but less than 30 grams of sugars per 12 fluid  
399 ounces will be taxed at a rate of \$0.01 per ounce.

400 (iii.) Beverages with 30 grams of sugars or more per 12 fluid ounces will be taxed at a  
401 rate of

402 \$0.02 per ounce.

Syrups and powders sold or offered for sale to a retailer for sale in the State to a consumer, either as syrup or powder or as a sugary drink derived from that syrup or powder, are taxable. Syrups and powders shall be taxed using the following tiered system:

(i.) If the beverages made from the syrup or powder have 7.5 grams of sugars or less per 12 fluid ounces, the syrup or powder will not be taxed.

(ii.) If the beverages made from the syrup or powder have more than 7.5 grams but less than 30 grams of sugars per 12 fluid ounces, the syrup or powder will be taxed at a rate equal to \$0.01 per ounce of sugary drink produced from that syrup or powder.

(iii.) If the beverages made from the syrup or powder have 30 grams of sugars or more per 12 fluid ounces, the syrup or powder will be taxed at a rate equal to \$0.02 per ounce of sugary drink produced from that syrup or powder.

For purposes of calculating the tax, the volume of sugary drink produced from syrups or powders shall be the larger of (i) the largest volume resulting from use of the syrups or powders according to any manufacturer's instructions, or (ii) the volume actually produced by the retailer, as reasonably determined by the commissioner;

The Nutrition Facts product label, as required by the Food and Drug Administration, shall be used to determine the amount of sugars per 12 ounces of sugary drink by referencing the "Serving Size" and "Sugars" or "Total Sugars" lines on the label.

The tax amounts set forth in this section shall be adjusted annually by the commissioner in proportion with the Consumer Price Index: All Urban Consumers for All Items for the

423 Northeast Region Statistical Area as reported by the United States Bureau of Labor Statistics or  
424 any successor to that index.

425 Manufacturers, bottlers, wholesalers or distributors shall add the amount of the tax  
426 imposed by this section to the retail price of sugary drinks.

427 A retailer who sells bottled sugary drinks, syrups, or powders in the commonwealth to a  
428 consumer, on which the tax imposed by this section has not been paid by a distributor, is liable  
429 for the tax imposed in subsection (a) at the point of sale to a consumer.

430 The taxes imposed by this section are in addition to any other taxes that may apply to  
431 persons or products subject to this chapter.

432 Section 3. Report of Sales and Tax Remittances.

433 Any distributor or retailer liable for the tax imposed by this chapter shall, on or before the  
434 last day of March, June, October, and December of each year, return to the commissioner under  
435 oath of a person with legal authority to bind the distributor or retailer, a statement containing his  
436 or her name and place of business, the quantity of sugary drinks, syrups and powders subject to  
437 the excise tax imposed by this chapter sold or offered for sale in the 3 months immediately  
438 preceding the month in which the report is due, and any other information required by the  
439 commissioner, along with the tax due.

440 Section 4. Records of Distributors

441 Every distributor, and every retailer subject to this chapter, shall maintain for not less  
442 than 2 years accurate records, showing all transactions that gave rise, or may have given rise, to



443 tax liability under this chapter. Such records are subject to inspection by the commissioner at all  
444 reasonable times during normal business hours.

445 Section 5. Exemptions.

446 The following shall be exempt from the tax imposed by this chapter:

447 Bottled sugary drinks, syrups, and powders sold to the United States Government and  
448 American Indian Tribal Governments;

449 Bottled sugary drinks, syrups, and powders sold by a distributor to another distributor  
450 that holds a permit issued pursuant to this chapter if the sales invoice clearly indicates that the  
451 sale is exempt. If the sale is to a person who is both a distributor and a retailer, the sale shall also  
452 be tax exempt and the tax shall be paid when the purchasing distributor or retailer resells the  
453 product to a retailer or a consumer. This exemption does not apply to any other sale to a retailer;

454 Beverages sweetened solely with non-nutritive sweeteners;

455 Beverages consisting of 100 per cent natural fruit or vegetable juice with no added  
456 sugars;

457 Beverages in which milk, or soy, rice or similar milk substitute, is the primary ingredient  
458 or the first listed ingredient on the label of the beverage;

459 Coffee or tea without added sugars;

460 Infant formula;

461 Beverages for medical use;

462 Water without added sugars.;

463 Unsweetened drinks to which a purchaser can add, or can request that a seller add, sugar  
464 or a sweetener at the point of sale.

465 Section 6. Unpaid Taxes and Debt.

466 All taxes imposed under the provisions of this chapter remaining due and unpaid shall  
467 constitute a debt to the commonwealth, which may be collected from the person owing same by  
468 suit or otherwise.

469 Section 7. Records of commissioner.

470 At the end of each month, the auditor of the commonwealth shall carefully check the  
471 books and records of the commissioner and his accounts with any bank or banks, and shall verify  
472 the amounts collected pursuant to this chapter and paid into the Early education and care  
473 provider funding program established pursuant to Section 13A of Chapter 15D, to fund universal  
474 early education programs. Any duty herein required of the auditor of the commonwealth may be  
475 performed by any duly trained clerk in his office, designated by the auditor of the commonwealth  
476 for that purpose.

477 Section 8. Exercise of Powers and Duties.

478 Whenever in this chapter any reference is made to any power or duty of the  
479 commissioner, the reference is construed to mean that the power or duty shall be exercised by the  
480 commissioner, under the supervision and direction of the commissioner.

481 Section 9. Rules and Regulations.

The commissioner is hereby empowered to make such rules and regulations, and provide such procedural measures, in cooperation with the auditor of the commonwealth, as may be reasonably necessary to accomplish the purposes of this chapter.

#### Section 10. Grant of Local Authority

Nothing in this chapter shall preempt or prohibit adoption and implementation of any policy related to sugary drinks, including taxation, by a municipal government or political subdivision of the commonwealth.

#### Section 11. Severability.

If any provision of this chapter, any rule or regulation made under this chapter, or the application of this chapter to any person or circumstance is held invalid by any court of competent jurisdiction, the remainder of the chapter, rule, or regulation, and the application of the provision to other persons or circumstances shall not be affected. The invalidity of any section or sections or parts of any section of this chapter shall not affect the validity of the remainder of the chapter.

SECTION 13. All revenues from the commonwealth generated from the tax imposed by Chapter 64O, section 2 shall be deposited into the Early education and care provider funding program established pursuant to Section 13A of Chapter 15D, to fund universal early education programs.

SECTION 13. Chapter 4 of the general laws, as so appearing in the 2018 official edition, is hereby amended by striking out lines 67-76, in section 7, and inserting in place thereof the following:-

Tenth, “illegal gaming,” a banking or percentage game played with cards, dice, tiles or dominoes, or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission, under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) a sports wager conducted under chapter 23N; (iv) pari-mutuel wagering on horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (v) a game of bingo conducted under chapter 271; and (vi) charitable gaming conducted under said chapter 271.

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

#### Chapter 23N: Authorization and Regulation of Sports Wagering

Section 1. Notwithstanding any provision or law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with this chapter and chapter 23K.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise have the following meanings:--

“Category S license”, a category S1, S2, SH or SM license issued by the commission.

“Category S licensee”, an operator who holds a category S license.

“Category S1 license”, a license issued by the commission pursuant to this chapter that permits the licensee to operate a sports pool at a category 1 gaming establishment under chapter 23K and operate up to 3 online sports pools.

524 “Category S2 license”, a license issued by the commission pursuant to this chapter that  
525 permits the licensee to operate a sports pool at a category 2 gaming establishment under 23K and  
526 operate up to 2 online sports pools.

527 “Category SH license”, a license issued by the commission pursuant to this chapter that  
528 permits the licensee to operate a sports pool at a live horse racing track under chapter 128A.

529 “Category SM license”, a license issued by the commission pursuant to this chapter that  
530 permits the licensee to operate an online sports pool.

531 “Collegiate sporting event”, a sporting event in which a postsecondary athletic team or  
532 teams or an individual on behalf of a postsecondary institution competes.

533 “Commission”; the Massachusetts gaming commission established in section 3 of chapter  
534 23K.

535 “Electronic sports”, a single or multiplayer video game played competitively by  
536 professional gamers.

537 “Gross sports wagering revenues”, the total gross receipts derived from sports wagers.

538 “In-play sports wager”, a sports wager on a sporting event after the sporting event has  
539 commenced and before it concludes; provided that the commission shall approve all in-play  
540 sports wagering in a manner it prescribes; provided further that this definition does not include  
541 in-play sports wagers on the sole performance or nonperformance of any individual participating  
542 in a collegiate sporting event or events.

“Online sports pool”, a sports pool operation, operating pursuant to a proper category S license issued by the commission, in which wagers on sporting events are made over the internet through computers, mobile applications or mobile devices.

“Online sports pool operator”, an entity that holds a license issued by the commission to operate an online sports pool or is licensed under section 31 of chapter 23K as a gaming vendor to operate an online sports pool.

“Personal biometric data”, an athlete’s personal and medical information including, but not limited to: DNA, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density, and sleep patterns.

“Sports wager”, a cash or cash equivalent paid by an individual to participate in sports wagering.

“Professional sport”, a sport in which professional athletes compete or an event designated by the commission.

“Prohibited conduct”, any statement, action, and other communication intended to unduly or unlawfully influence, manipulate, or control a betting outcome of a sporting contest or of any individual occurrence or performance in a sporting contest in exchange for financial gain or to avoid financial or physical harm.

“Prohibited sporting event” includes:

(a) Any amateur sporting event where the participants are primarily under the age of 18;

563 (b)Any collegiate sporting event not involving Division I teams and athletes, as defined  
564 by the National Collegiate Athletic Association, and

565 (c)Any fantasy contest as defined in section 135 of chapter 219 of the acts of 2016.

566 “Prohibited sports bettor” means:

567 (a)Any member or employee of the commission and any spouse, child, sibling, or parent  
568 residing in the same household as a member or an employee of the commission;

569 (b)Any contractor of the commission or its agents when such contract relates to the  
570 conduct of sports wagering;

571 (c)Any contractor or employee of an entity that conducts sports wagering in another  
572 jurisdiction when the bettor possesses confidential nonpublic information as a result of his or her  
573 contract or employment relating to the wager being placed;

574 (d)Any amateur or professional athlete if the sports wager is based in whole or in part on  
575 a sport or athletic event overseen by the athlete’s sports governing body;

576 (e)Any sports agent, owner, or employee of a team, player, umpire, referee, coach, union  
577 official, or official of a sports governing body if the sports wager is based in whole or part on a  
578 sport or athletic event overseen by the governing sports body which oversees the individual’s  
579 sport;

580 (f)Any individual placing a wager as an agent of or proxy for a prohibited sports bettor;

581 (g)Any person under the age of 21;

(h)Any individual who has an ownership interest in, control of, or is otherwise employed by a Category S licensee;

(i)The directors, officers, owners, and employees of the operator, and any relative living in the same household as such persons; and

(j)Persons who hold a position of authority or influence sufficient to exert influence over the participants in a sporting event;

(k)Persons physically located outside of the commonwealth.

“Sporting event”, any professional sport or athletic event, or a collegiate sport or athletic event;

“Sports governing body”, a sports organization that has a regulatory, sanctioning or organizing function for a specific sport or athletic event; provided that this definition shall include, but not be limited to, a professional sports organization as defined in 28 U.S.C. section 3701(3) and national governing body as defined in 36 U.S.C. section 220501(b)(8).

“Sports pool”, the business of accepting wagers on a sporting event by any system or method of wagering approved by the commission.

“Sports wager”, a cash or cash equivalent paid by an individual to participate in sports wagering.

“Sports wagering”, the act of betting or wagering on sporting events or portions of sporting events, the individual performance statistics of athletes in a sporting event, or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to in person bets, or mobile applications and other digital



platforms; provided that this definition includes, but is not limited to: single-game bets, teaser bets, parlays, over-under, money line, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets; provided further, that this definition does not include:

(a)Pari-mutuel betting on the outcome of thoroughbred or harness horse racing as authorized under chapter 128A;

(b)Lottery games of the Massachusetts state lottery as authorized under section 37 of chapter 10;

(c)Bingo as authorized under section 22B of chapter 271;

(d)Keno as authorized under section 27A of chapter 10;

(e)Fantasy contests as defined in section 135 of chapter 219 of the acts of 2016;

“Student athlete”, an eligible participant in a collegiate sporting event.

### Section 3. Massachusetts Gaming Commission Regulatory Powers

Except as otherwise provided by this chapter, the commission shall have the authority to regulate sports pools, online sports pools, and the conduct of sports wagering under this chapter and chapter 23K to the extent that the commission regulates casino games. In developing rules and regulations applicable to sports wagering, the commission may examine the regulations implemented in other states where sports wagering is conducted and may, as far as practicable, adopt a similar regulatory framework. The commission shall promulgate regulations necessary to facilitate sports wagering, including, but not limited to, regulations governing the:

(a)amount of cash reserves to be maintained by operators to cover winning wagers;

- 623 (b)permitted wagers and eligible sporting events;
- 624 (c)maximum wagers which may be accepted by an operator from any one individual on
- 625 any one sporting event;
- 626 (d)type of wagering tickets which may be used;
- 627 (e)method of issuing tickets;
- 628 (f)method of accounting to be used by operators;
- 629 (g)types of records which shall be kept;
- 630 (h)yearly review for all Category S licensees;
- 631 (i)protections for a person placing a wager, including age verification and geo-location;
- 632 (j)security of servers, software and hardware;
- 633 (k)inspection procedures for any devices, equipment, and accessories related to sports
- 634 wagering;
- 635 (l)procedures for handling suspected cheating and sports-wagering irregularities;
- 636 (m)procedures for investigating complaints related to sports wagering;
- 637 (n)security mechanisms to ensure the confidentiality of personal and financial
- 638 information;
- 639 (o)procedures that allow a category S licensee, a professional sports team, league,
- 640 association, or sports governing body to submit to the commission in writing a request to prohibit
- 641 a type or form of wagering if the sports pool licensee, professional sports team, league,

642 association, or sports governing body believes that such wagering is contrary to public policy,  
643 unfair to consumers, or affects the integrity of a particular sport or the sports betting industry.  
644 The commission shall promulgate regulations to determine the criteria for assessing and acting  
645 on the request.

#### 646 Section 4. Prohibitions

647 (a) The following persons shall not be permitted to have ownership interest in, control of,  
648 or otherwise be employed by a Category S licensee or place a wager on a sporting event that is  
649 overseen by that person's sports governing body:

650 (1) Any person who is an athlete, coach, trainer, referee, or employee of a sports  
651 governing body or any of its member teams;

652 (2) A sports governing body or any of its member teams;

653 (b) No commission member or employee may be an applicant for any license issued  
654 under this chapter.

#### 655 Section 5. Category S1 Licenses

656 (a) The commission may issue a request for Category S1 licenses.

657 (1) The commission shall establish deadlines for the receipt of all applications for a  
658 Category S1 license. Applications received after the deadline shall not be reviewed by the  
659 commission;

660 (2) The commission shall prescribe the form of the application pursuant to sections 9 and  
661 12 of chapter 23K;

(3)The commission has the discretion to waive any or all portions of the suitability requirements if said applicant has already met the qualifications of suitability during a prior chapter 23K application process and has been awarded a gaming license. Said applicant still must submit an application and provide an application fee prior to the exercise of any determination or exercise of discretion made by the commission;

(4)The commission shall not grant a license to a gaming establishment that is currently or previously has contracted with any type of illegal offshore betting;

(5)Applications for licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets or other proprietary information provided in the course of an application for a gaming establishment license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.

(b) Category S1 applicants:

(1)shall submit an application to the commission in a manner prescribed by the commission and this chapter to verify the applicant's eligibility;

(2)shall have a continuing duty to provide any assistance or information required by the commission and to cooperate in any inquiry or investigation conducted by the commission or any other lawful investigation agency. Refusal to answer or produce information, evidence or testimony by an applicant may result in the denial of the license by the commission;

(3)shall not wilfully withhold information or knowingly give false or misleading information to the commission or any other lawful investigation agency;

683 (4)shall pay an application fee of \$500,000.

684 (c) Category S1 licensees:

685 (1)shall pay an initial licensing fee of \$500,000 within 30 days after the award of the  
686 license;

687 (2)shall pay a renewal fee of the greater of \$500,000 or the inflation adjusted equivalent  
688 of \$500,000 in January of the year 2020, as calculated by the Consumer Price Index of the  
689 Bureau of Labor Statistics for January of the current year if available; or the most recent month  
690 of the prior year for which statistics are available, every five years after the date of issuance of  
691 the initial license;

692 (3)shall offer sports wagering in person at said licensed facility;

693 (4)may conduct up to three online sports pools or may authorize up to three online sports  
694 pool operators licensed as gaming vendors under section 31 of 23K to operate an online sports  
695 pool on its behalf;

696 Section 6. Category S2 licenses

697 (a)The commission may issue a request for Category S2 licenses.

698 (1)The commission shall establish deadlines for the receipt of all applications for a  
699 Category S2 license. Applications received after the deadline shall not be reviewed by the  
700 commission;

701 (2)The commission shall prescribe the form of the application pursuant to sections 9 and  
702 12 of chapter 23K;

(3)The commission has the discretion to waive any or all portions of the suitability requirements if said applicant has already met the qualifications of suitability during a prior chapter 23K application process and has been awarded a gaming license. Said applicant still must submit an application and provide an application fee prior to the exercise of any determination or exercise of discretion made by the commission;

(4)The commission shall not grant a license to a gaming establishment that is currently or previously has contracted with any type of illegal offshore betting;

(5)Applications for licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets or other proprietary information provided in the course of an application for a gaming establishment license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.

(b) Category S2 applicants:

(1)shall submit an application to the commission in a manner prescribed by the commission and this chapter to verify the applicant's eligibility;

(2)shall have a continuing duty to provide any assistance or information required by the commission and to cooperate in any inquiry or investigation conducted by the commission or any other lawful investigation agency. Refusal to answer or produce information, evidence or testimony by an applicant may result in the denial of the license by the commission;

(3)shall not wilfully withhold information or knowingly give false or misleading information to the commission or any other lawful investigation agency;

724 (4)shall pay an application fee of \$500,000.

725 (c) Category S2 licensees:

726 (1)shall pay an initial licensing fee of \$500,000 within 30 days after the award of the  
727 license;

728 (2)shall pay a renewal fee of the greater of \$500,000 or the inflation adjusted equivalent  
729 of \$500,000 in January of the year 2020, as calculated by the Consumer Price Index of the  
730 Bureau of Labor Statistics for January of the current year if available; or the most recent month  
731 of the prior year for which statistics are available, every five years after the date of issuance of  
732 the initial license;

733 (3)shall offer sports wagering in person at said licensed facility;

734 (4)may conduct up to two online sports pools or may authorize up to two online sports  
735 pool operators licensed as gaming vendors under section 31 of 23K to operate an online sports  
736 pool on its behalf;

737 Section 7. Category SH licenses

738 (a)The commission may issue a request for Category SH licenses.

739 (1)The commission shall establish deadlines for the receipt of all applications for a  
740 Category SH license. Applications received after the deadline shall not be reviewed by the  
741 commission;

742 (2)The commission shall prescribe the form of the application pursuant to sections 9 and  
743 12 of chapter 23K;

(3) Upon receipt of an application for a Category SH license the commission shall commence an investigation into the suitability of the applicant pursuant to section 12 of chapter 23K;

(4) The commission shall not grant a license to a gaming establishment that is currently or previously has contracted with any type of illegal offshore betting;

(5) Applications for licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets or other proprietary information provided in the course of an application for a gaming establishment license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.

(b) Category SH applicants:

(1) shall submit an application to the commission in a manner prescribed by the commission and this chapter to verify the applicant's eligibility;

(2) shall have a continuing duty to provide any assistance or information required by the commission and to cooperate in any inquiry or investigation conducted by the commission or any other lawful investigation agency. Refusal to answer or produce information, evidence or testimony by an applicant may result in the denial of the license by the commission;

(3) shall not wilfully withhold information or knowingly give false or misleading information to the commission or any other lawful investigation agency;

(4) shall pay an application fee of \$50,000.

(c) Category SH licensees:



765 (1)shall pay an initial licensing fee of 100,000 within 30 days after the award of the  
766 license;

767 (2)shall pay an annual license renewal fee of the greater of \$25,000 or the inflation  
768 adjusted equivalent of \$25,000 in January of the year 2020, as calculated by the Consumer Price  
769 Index of the Bureau of Labor Statistics for January of the current year if available; or the most  
770 recent month of the prior year for which statistics are available;

771 (3)shall offer sports wagering in person at said licensed facility;

#### 772 Section 8. Category SM Licenses

773 (a)The commission may issue a request for Category SM licenses and shall issue no more  
774 than five category SM licenses.

775 (1)The commission shall establish deadlines for the receipt of all applications for a  
776 Category SM license. Applications received after the deadline shall not be reviewed by the  
777 commission;

778 (2)The commission shall prescribe the form of the application pursuant to sections 9 and  
779 12 of chapter 23K;

780 (3)Upon receipt of an application for a Category SM license the commission shall  
781 commence an investigation into the suitability of the applicant pursuant to section 12 of chapter  
782 23K;

783 (4)The commission shall not grant a license to a gaming establishment that is currently or  
784 previously has contracted with any type of illegal offshore betting;

(5) Applications for licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets or other proprietary information provided in the course of an application for a gaming establishment license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.

(b) Category SM applicants:

(1) shall submit an application to the commission in a manner prescribed by the commission and this chapter to verify the applicant's eligibility;

(2) shall have a continuing duty to provide any assistance or information required by the commission and to cooperate in any inquiry or investigation conducted by the commission or any other lawful investigation agency. Refusal to answer or produce information, evidence or testimony by an applicant may result in the denial of the license by the commission;

(3) shall not wilfully withhold information or knowingly give false or misleading information to the commission or any other lawful investigation agency;

(4) shall pay an application fee of \$500,000;

(c) Category SM licensees:

(1) shall pay an initial licensing fee of \$500,000 within 30 days after the award of the license;

(2) shall pay a renewal fee of the greater of \$500,000 or the inflation adjusted equivalent of \$500,000 in January of the year 2020, as calculated by the Consumer Price Index of the Bureau of Labor Statistics for January of the current year if available; or the most recent month

806 of the prior year for which statistics are available, every five years after the date of issuance of  
807 the initial license;

808 (3)shall conduct one online sports pool;

809 (4)shall hold in escrow the amount equal to deposits and unsettled bets. No escrow assets  
810 shall be commingled;

811 Section 9. The following regulations shall apply to Category S licensees:

812 (a) Category S licensees shall verify that a person placing a wager is twenty-one years  
813 of age;

814 (b)Category S licensees shall prohibit the use of credit cards in placing sports wagers on  
815 its premises, website or online application, however this provision does not exclude the use of  
816 debit cards;

817 (c)Category S licensees shall allow individuals to restrict themselves from placing wagers  
818 with the operator;

819 (d)Category S licensees shall maintain records in accordance with regulations  
820 promulgated by the commission;

821 (e)Category S licensees shall not accept wagers on prohibited sporting events or from  
822 prohibited bettors as defined in this chapter;

823 (f)Category S licensees shall implement responsible gaming programs that include  
824 comprehensive employee trainings on responding to circumstances in which individuals present  
825 signs of a gambling addiction;

826 (g)Category S licensees shall not purchase or otherwise use any personal biometric data  
827 of an athlete for the purpose of sports wagering;

828 (h)Category S licensees shall verify that a person is not a prohibited sports bettor as  
829 defined in this chapter; and

830 (i)Category S licensees shall maintain the security of wagering data, customer data, and  
831 other confidential information from unauthorized access and dissemination.

832 (j)Category S licensees shall be required to maintain all hardware and servers in the  
833 commonwealth;

834 (k)Category S licensees shall have a continuing duty to provide any assistance or  
835 information required by the commission and to cooperate in any inquiry or investigation  
836 conducted by the commission or any other lawful investigation agency. Refusal to answer or  
837 produce information, evidence or testimony by an applicant may result in a fine, or a suspension,  
838 revocation or non-renewal of said license;

839 (l)Category S licensees shall not wilfully withhold information or knowingly give false or  
840 misleading information to the commission or any other lawful investigation agency;

841 (m) Category S licensees shall be subject to a yearly review as described by the  
842 commission. If said operator violates any section of this act or Chapter 23K it will be at the  
843 discretion of the commission whether to renew, suspend or revoke said license;

844 Section 10. The commission shall promulgate regulations for the implementation,  
845 administration and enforcement of this chapter including, without limitation, advertising  
846 regulations that:

(a) Prohibit the targeting of minors, students, schools or colleges, problem gamblers, or other vulnerable persons, and which may include limitations on the form, content, quantity, timing, and location of advertisements.

(b) Prohibit the depiction of minors, students, schools or colleges, or school or college settings; provided that incidental depiction of non-featured minors will not be a violation of this subsection;

(c) Establish criteria to ensure advertisements do not state or imply endorsement by minors, collegiate athletes, colleges, or college athletic associations;

(d) Require the disclosure of the sports pool operator;

(e) Provide information about links to resources relating to gambling addiction.

(f) Require the prohibition of the following advertising, marketing, and branding activities:

(1) Advertisements, marketing, and branding in such a manner that it is deemed to be deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression whether directly, or by ambiguity or omission;

(2) Advertising, marketing and branding by means of television, radio, internet, mobile applications, social media, or other electronic communication, billboard or other outdoor advertising, or print publication, unless at least 85% of the audience is reasonably expected to be 21 years of age or older as determined by reliable and current audience composition data;

(3) Advertising, marketing, and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old;

868           (4)Advertising, marketing, and branding including, but not limited to, mascots, cartoons,  
869   brand sponsorships and celebrity endorsements, that is deemed to appeal to a person younger  
870   than 21 years old;

871           (5)Advertising on any billboards, or any other public signage, which fails to comply with  
872   all state and local ordinances and requirements;

873           (6)Use of unsolicited pop-up advertisements on the internet or text message;

874           (7)Advertising, marketing or branding, on or in public or private vehicles and at bus  
875   stops, taxi stands, transportation waiting areas, train stations, airports, or other similar  
876   transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on  
877   transportation vehicles or company cars;

878           (8)Any other advertising, marketing, or branding that the commission otherwise deems  
879   unacceptable or disruptive to viewer experience.

880           (g) Require all representations concerning winnings to be accurate, not misleading, and  
881   capable of substantiation at the time the representation is made; an advertisement is misleading if  
882   it makes representations about average winnings without representing the average net winnings  
883   of all players.

884           (h) Prohibit licensees under this chapter from advertising in publications or other media  
885   in Massachusetts that are aimed at minors;

886           Section 11. Pursuant to section 71 of chapter 23K, the commission shall study issues  
887   including, but not limited to: 1) an assessment of whether problem sports wagering is comorbid  
888   with problem gambling or gaming; 2) an assessment as to whether the individuals participating

in sports wagering are different than those who participate in other forms of gaming or gambling;  
3) an assessment of the impact of sports wagering on youth under the age of 25; and 4) an  
assessment of the impact of sports wagering on college athletics and professional sports.

Section 12. The commission shall establish and facilitate a confidential integrity helpline  
for players, athletes, coaches, employees of a sports organization, employees of a sports pool  
operator, and members of the general public to report allegations of potential violations of this  
act. There shall be a helpline phone number prominently displayed on the commission website  
and incorporated into public service announcements, displays and marketing mediums to ensure  
widest dissemination and availability.

Section 13. A sports pool operator or sports organization may not discharge, demote,  
suspend, threaten, harass, or in any other manner discriminate against an employee because of  
any lawful act done by the employee to provide information, cause information to be provided,  
or otherwise assist in an investigation regarding any conduct which the employee reasonably  
believes constitutes a violation of this act.

Section 14. Enforcement and penalties under this section shall be pursuant to sections 6  
and 35, 36, 37, 38, 39, 40, 41, 42 and 43 of chapter 23K.

Section 15. Winnings from sports wagering shall be subject to sections 51 and 52 of  
chapter 23K.

Section 16.

(a) All Category S licensees shall pay a monthly tax of 10 percent on gross sports  
wagering revenue on sports wagers received in person at a licensed facility;

910 (b)All Category S licensees shall pay a monthly tax of 12 percent on gross sports  
911 wagering revenue on sports wagers received through electronic means not on site at a licensed  
912 facility;

913 (c)The operator of fantasy contests as defined in section 135 of chapter 219 of the acts of  
914 2016 shall pay a tax of 12 percent on revenue from fantasy contests that shall be remitted to the  
915 commission no less frequently than monthly by the operator;

916 (d)There shall be established a separate fund to be known as the Collegiate Health,  
917 Wellness and Education Fund. Five percent of sports wagering revenue shall be deposited into  
918 the Collegiate Health, Wellness and Education Fund annually to educate student athletes on  
919 relevant sports wagering regulations, the procedures for reporting a violation of those  
920 regulations, and for the protection of the student athletes reporting such violations..

921 (e) There shall be established a separate fund to be known as the Distressed Restaurant  
922 Trust Fund. The secretary of the executive office of housing and economic development shall be  
923 trustee of the fund and shall expend money in the fund to address the financial impacts of the  
924 COVID-19 emergency on distressed restaurants in the commonwealth. Thirty percent of sports  
925 wagering revenue shall be deposited in the Distressed Restaurant Trust Fund. Money deposited  
926 in the fund that is unexpended at the end of the fiscal year shall not revert to the General Fund  
927 and shall be available for expenditure in the subsequent fiscal year. The Distressed Restaurant  
928 Trust Fund shall exist for no longer than 2 years after the first initial deposit into the fund.

929 (f) No less than sixty percent of sports wagering revenue shall be deposited into the Early  
930 education and care provider funding program, established pursuant to Section 13A of Chapter  
931 15D, to fund universal early education programs.



932 (g) All remaining funds under this section shall be deposited into the Gaming Revenue  
933 Fund established in section 59 of Chapter 23K.

934 SECTION 14. Section 2 of chapter 271 of the general laws is hereby amended in line 4,  
935 by striking out “except as permitted under chapter 23k” and inserting in its place thereof the  
936 following:- “except as permitted under chapters 23K or 23N”.

937 SECTION 15. Section 3 of chapter 271 of the general laws is hereby amended, in line 1,  
938 by striking out “Except as permitted under chapter 23K” and inserting in its place thereof the  
939 following:- “Except as permitted under chapters 23K or 23N.”

940 SECTION 16. Section 5 of chapter 271 of the general laws is hereby amended, in line 1,  
941 by striking out “except as permitted under chapter 23K” and inserting in its place thereof the  
942 following:- “except as permitted under chapters 23K or 23N.”

943 SECTION 17. Section 5B of chapter 271 of the general laws is hereby amended, in  
944 line584, by striking out “under chapter 23K” and inserting in its place thereof the following:-  
945 “under chapters 23K or 23N.”

946 SECTION 18. Section 8 of chapter 271 of the general laws is hereby amended, by  
947 striking out lines 10-11 and inserting in its place thereof the following:- “other gaming or  
948 wagering that is not being conducted pursuant to chapters 23K or 23N.”

949 SECTION 19. Section 17A of Chapter 271 of the general laws is hereby amended by  
950 striking line 16 and inserting in its place the following:- “authorized pursuant to the provisions of  
951 chapters 23K, 23N or section 5C of chapter 128A.”