

**Commonwealth of Massachusetts
STATE ETHICS COMMISSION**

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**The Massachusetts Conflict of Interest Law – General Information for
Gaming License Applicants**

Q: What is the Massachusetts conflict of interest law?

A: M.G.L. c. 268A, the conflict of interest law, regulates what public employees in Massachusetts may do on the job, after hours and after they leave public service. Certain provisions of the law also regulate the conduct of persons who have dealings with public employees. The conflict of interest law carries civil and criminal penalties for violations of the law. The State Ethics Commission is the primary civil enforcement agency for the conflict law.

Q: To whom does the Massachusetts conflict of interest law apply?

A: It applies to all state, county, and municipal employees in Massachusetts. It also applies to private consultants working for public agencies in some circumstances. For example, attorneys from a private law firm providing services to a municipality in connection with gaming-related issues will generally be subject to the Massachusetts conflict of interest law.

Q: Does the Massachusetts conflict of interest law apply to me, as an employee of a private company that is applying for a gaming license in Massachusetts?

A: Some provisions of the law apply to you. Other provisions apply only to public employees.

Q: What parts of the Massachusetts conflict of interest law apply to me?

A: The sections of the Massachusetts conflict of interest law that apply to you are the prohibition against giving bribes; the prohibition against giving gifts worth \$50 or more to public employees; and the prohibitions against paying public employees in relation to matters in which their governmental employers have an interest. The provisions that apply to public employees may affect you, in that they place restrictions on what current and former public employees may do in their dealings with you.

Q: If I have a working lunch with several municipal officials from a town that is a possible casino location, may I pay for their lunch?

A: Public employees in Massachusetts are prohibited by the conflict of interest law from accepting gifts worth \$50 or more that are given to them because of the position they hold. A public employee would violate this rule by allowing you to buy him lunch worth \$50 or more, or by allowing you to buy him lunch several times if the amounts you paid for each lunch added up to \$50 or more. The law would not prohibit him from accepting a single lunch worth less than \$50 from you but would require him to file a written disclosure with his boss before accepting it to dispel the appearance of a conflict of interest. The disclosure would be a publicly available document. Practically speaking, public employees who are doing business with someone from a private firm are better off buying their own lunches. Also, some public agencies have stricter gift rules, and he should check to see if that is the case before accepting anything.

Q: My company would like to fly some municipal officials out to visit a gaming establishment owned by the company in another state. May we do so?

A: A public employee may not accept gifts worth \$50 or more, including payment of their travel expenses. The only exception to this rule is if the public employee discloses the offer to pay in writing and in advance to his boss, and the boss makes a determination, also in writing and before any travel has occurred, that the travel will serve a public purpose that outweighs any personal benefit to the public employee. The disclosure and the determination are maintained as public records.

Q: I have had extensive business dealings with a private attorney in her capacity as a consultant to a municipality that may be the site of a gaming establishment. She has been extremely helpful, and I would like to give her two tickets to a concert. May I do so?

A: She will not be able to accept the tickets if the combined value of both tickets is \$50 or more. The State Ethics Commission considers value to be the fair market value, face value or cost, whichever is greater. If the tickets are worth less than \$50, she could only accept them after first making a written disclosure to dispel the appearance of a conflict of interest. That disclosure would be made to the municipal official responsible for hiring her as a consultant. As noted above, she should also check to see if the municipality has stricter gift rules before accepting anything.

Q: My company would like to hire a former legislative staffer who worked on the Massachusetts gaming legislation to help us understand the details of the Massachusetts gaming law. May we do so?

A: The conflict of interest law places specific restrictions on former state employees who worked on the Massachusetts gaming legislation. A former legislative staffer who worked on the gaming legislation will have a one-year cooling off period after leaving state employment before he can go to work for your company.

Q: My company would like to hire a former town counsel who has some familiarity with gaming issues to advise us on the license application process. May we do so?

A: The conflict of interest law restricts former municipal employees who have worked on particular matters for their town from working on the same matters for anyone else. You cannot hire a former town counsel to work for you on the same matters he worked on for the town. The former town counsel should call the State Ethics Commission for advice about what he can and cannot do for you.

Q: Where can I get more information about the Massachusetts conflict of interest law?

A: Anyone who needs advice about how to comply with the law can call the Legal Division of the State Ethics Commission at (617) 371-9500 and ask to speak with the Attorney of the Day. Information is also available on the State Ethics Commission's website, www.mass.gov/ethics.

This document is intended to provide general information about the conflict of interest law, and is not intended to constitute advice. You are encouraged to seek advice from the State Ethics Commission on how the conflict of interest law would apply to your own prospective conduct.
