

AMENDED IN SENATE JULY 6, 2011  
AMENDED IN SENATE MAY 16, 2011  
AMENDED IN SENATE MARCH 31, 2011

**SENATE BILL**

**No. 40**

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**Introduced by Senator Correa**

December 6, 2010

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An act to add Chapter 5.2 (commencing with Section 19990) to Division 8 of the Business and Professions Code, relating to Internet gambling, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 40, as amended, Correa. Internet poker.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. Existing law provides for the enforcement of those regulations by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

This bill would establish a framework to authorize intrastate Internet poker, as specified. The bill would require the ~~department~~ *commission* to adopt *emergency* regulations, in consultation with the ~~California Gambling Control Commission~~, *department*, *providing for the issuance of licenses to operate intrastate Internet poker Web sites and governing the intrastate play of poker games on the Internet, and would provide for licensed entities to operate up to 5 intrastate Internet poker Web sites, as described below.* The bill would make it a misdemeanor for any person or entity to offer or participate in any form of illegal Internet

gambling, as defined, or to *knowingly* process any financial transaction arising out of participation in illegal Internet gambling. *The bill would authorize the seizure of any money or property used in or derived from illegal Internet gambling, as specified, and would provide for any money or property that has been seized to be forfeited to the Internet Gambling Fund, as established by this bill.* By creating new crimes, this bill would impose a state-mandated local program.

This bill would permit these Internet Web sites to conduct a live online nonbanked, nonpercentage version of the card game poker within the borders of the State of California under the same rules, and with the same manner of compensation, as apply to poker games currently conducted in licensed gambling establishments and tribal class II gaming facilities. The bill would require the ~~department~~ *commission* to issue ~~up to 3~~ licenses to own and operate intrastate Internet poker Web sites to eligible entities, as specified. ~~The bill would require the department to report to the Legislature within 3 years if it has the capacity to regulate up to 2 additional Internet poker Web sites, and would authorize the department to issue licenses for up to 2 additional Internet poker Web sites upon subsequent legislative authorization.~~

The bill would authorize the ~~department~~ *commission* to assess fees on licensed entities in an amount reasonably necessary to reimburse the ~~department~~ *commission* for its costs in implementing and administering these provisions, including a registration fee. The bill also would require a licensed entity to pay a license fee equal to 10% of the fees collected by the licensed entity from players participating in poker games conducted on its Internet Web site. The bill would provide for all fees to be remitted to the Internet Gambling Fund, as established by this bill and administered by the Controller, subject to annual appropriation by the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Leading gaming consultants estimate that in 2005, United  
4 States citizens illegally wagered four billion dollars  
5 (\$4,000,000,000) online at off-shore, non-United States Internet  
6 gambling Web sites, and that every week more than 1,000,000  
7 California citizens play poker on the Internet.

8 (b) Currently, 2,300 Internet gambling Web sites operate outside  
9 the United States, unregulated by any United States governmental  
10 entity and in violation of United States laws. Questions often arise  
11 about the honesty and the fairness of the games played on these  
12 Internet Web sites, and about the true purpose for, and use of,  
13 proceeds generated by these unregulated Internet Web sites.

14 (c) In 2006, Congress passed, and the President signed, the  
15 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA).  
16 While UIGEA prohibits the use of banking instruments such as  
17 credit cards, checks, or fund transfers for interstate Internet  
18 gambling, the statute has not eliminated illegal, unregulated Internet  
19 gambling, nor has it provided any increased protection for  
20 participants from game operators and others who would impair  
21 the integrity of online gambling activity.

22 (d) Congress included specific provisions in the UIGEA for  
23 individual states to permit intrastate Internet gambling, provided  
24 that state laws permitting and regulating that activity could impose  
25 reasonable protections against participation by underage persons  
26 or by persons located outside the boundaries of the states  
27 authorizing that activity.

28 (e) It is in the best interest of the state and its citizens to permit  
29 operation of government-regulated intrastate Internet poker  
30 wagering Web sites because only through that authorization and  
31 regulation can Californians be ensured that the games they are  
32 playing are honest, that winners are paid when and in amounts  
33 due, and that the state and its citizens, rather than illegal off-shore  
34 companies operating outside the reach of, and contrary to, state  
35 and federal laws, will benefit from economic activity in the state.  
36 Further, it is in the interest of the state to adopt a statutory basis  
37 for the regulation of intrastate Internet poker adequate to shield  
38 the state and players from organized crime and other corrupting

1 influences, ensure that intrastate Internet poker is conducted fairly  
 2 and honestly by both licensed entities and the players, confirm the  
 3 integrity of all activities conducted pursuant to this act, and protect  
 4 the public health, welfare, and safety of all Californians.

5 (f) The California Constitution provides that “slot machines”  
 6 can only be played if located on Indian lands and offered by an  
 7 Indian tribe pursuant to a tribal-state gaming compact, and thus,  
 8 the use of the devices connected to the Internet for gambling would  
 9 violate the California Constitution unless those devices are solely  
 10 used for the conveyance of information related to the play of  
 11 nonbanked, nonpercentage poker games.

12 (g) The only practical and economically feasible way to ensure  
 13 that Internet poker conducted entirely within California’s borders  
 14 receives governmental oversight adequate to ensure that the Internet  
 15 Web site offering the gaming remains honest, safe, and in  
 16 compliance with all applicable state and federal laws, and that the  
 17 State of California receives the economic benefits from that activity  
 18 to which the state is entitled, would be to limit that activity to ~~up~~  
 19 ~~to five~~ intrastate Internet Web sites owned and operated by entities  
 20 formed under the laws of this state, or otherwise qualified to do  
 21 business in this state, and owned and operated by ~~business (1)~~  
 22 ~~persons or~~ entities licensed under the Gambling Control Act to  
 23 own and operate gambling establishments in this state ~~as of January~~  
 24 ~~1, 2011, and~~ (2) the governments or wholly owned subentities of  
 25 federally recognized ~~California tribal governments~~. Because  
 26 California law permits the operation of poker and other  
 27 nonbanking, nonpercentage card games, those tribal governments  
 28 are entitled under the federal Indian Gaming Regulatory Act  
 29 (IGRA), to operate poker and other nonbanking and nonpercentage  
 30 card games without having to enter into class III gaming compacts  
 31 with the State of California. *California tribal governments that*  
 32 *have adopted a tribal gaming ordinance approved by the National*  
 33 *Indian Gaming Commission (NIGC) under the federal Indian*  
 34 *Gaming Regulatory Act (25 U.S.C. Sec. 2701 et seq.) (IGRA), (3)*  
 35 *any combination of persons or entities licensed under the Gambling*  
 36 *Control Act to own and operate gambling establishments in this*  
 37 *state or the governments or wholly owned subentities of federally*  
 38 *recognized California tribal governments that have adopted a*  
 39 *tribal gaming ordinance approved by the NIGC under IGRA, or*  
 40 *(4) any person or entity determined to be eligible for licensure*

1 *under the Gambling Control Act to own and operate a gambling*  
2 *establishment in this state.*

3 (h) There is statutory precedent for the state to authorize existing  
4 entities to form associations or corporations to offer simulcast  
5 wagering and advance deposit wagering over the Internet on live  
6 horse racing meetings.

7 (i) Because the game of poker will be played live over the  
8 Internet pursuant to this act, it is the intent of the Legislature that  
9 similar authorization be given to California's existing poker  
10 industry to form business entities that may be licensed to conduct  
11 the live online play of poker under this act.

12 (j) There are 109 federally recognized tribal governments in  
13 California and 91 California licensed gambling establishments.  
14 To provide the broadest distribution of these Internet poker licenses  
15 *within a geographic area confined within the borders of this state*  
16 *to comply with UIGEA*, recognize the large number of *licensed*  
17 *gambling* establishments and tribal governments *currently* offering  
18 or authorized to offer the game of poker in land-based operations,  
19 and *maximize and expedite the receipt of* revenue to the State of  
20 California, ~~the eligible entities that include the greatest numbers~~  
21 ~~of licensed gambling establishments and federally recognized~~  
22 ~~California tribal governments shall be selected for licensure to~~  
23 ~~own and operate intrastate Internet poker Web sites pursuant to~~  
24 ~~this act.~~ *California, entities formed under the laws of this state, or*  
25 *otherwise qualified to do business in this state, and owned and*  
26 *operated by (1) persons or entities licensed under the Gambling*  
27 *Control Act to own gambling establishments in this state, (2) the*  
28 *governments or wholly owned subentities of federally recognized*  
29 *California tribal governments that have adopted a tribal gaming*  
30 *ordinance approved by the NIGC under IGRA, or (3) any*  
31 *combination of persons or entities licensed under the Gambling*  
32 *Control Act to own gambling establishments in this state, or the*  
33 *governments or wholly owned subentities of federally recognized*  
34 *California tribal governments that have adopted a tribal gaming*  
35 *ordinance approved by the NIGC under IGRA, shall be presumed*  
36 *suitable for immediate licensure under this chapter. All other*  
37 *applicants for licensure under this chapter shall first complete a*  
38 *full background investigation, in accordance with the Gambling*  
39 *Control Act and the requirements of this chapter, and shall not be*  
40 *eligible to receive a temporary or provisional license pending the*

1 completion of the investigation. A person or entity that has  
 2 accepted wagers from persons in the United States on any form  
 3 of Internet gaming that has not been affirmatively authorized by  
 4 the laws of this state or the United States subsequent to the effective  
 5 date of UIGEA, or is or has been the holder of a direct or indirect  
 6 financial interest in such a person or entity, shall not be eligible  
 7 for either a license to operate an intrastate Internet poker Web  
 8 site or to be found suitable to provide goods or services to an entity  
 9 licensed under this chapter.

10 (k) The purpose of this act is to provide persons over 21 years  
 11 of age who are physically present within the State of California  
 12 and desire to use the Internet to play poker games that are not  
 13 prohibited by California law, and in a manner consistent with  
 14 existing law, with a lawful, highly regulated means of doing so in  
 15 conformity with all applicable laws and regulations. Therefore,  
 16 nothing in this act, which authorizes the intrastate use of the  
 17 Internet to conduct poker games, shall be construed to expand the  
 18 term “gambling,” as used in Article 13 (commencing with Section  
 19 19960) of Chapter 5 of Division 8 of the Business and Professions  
 20 Code.

21 (l) It is in the interest of the state and its citizens to increase  
 22 sources of nontax, nonstate revenue for tribal governments to  
 23 enhance their ability to provide services to their communities.

24 (m) By enacting this act, the Legislature is expressly authorizing  
 25 intrastate Internet poker within the State of California only in the  
 26 limited and regulated form provided herein. This express  
 27 authorization does not authorize any other form or type of gambling  
 28 over the Internet.

29 SEC. 2. Chapter 5.2 (commencing with Section 19990) is added  
 30 to Division 8 of the Business and Professions Code, to read:

31

32 CHAPTER 5.2. INTRASTATE INTERNET POKER

33

34 19990. The following terms shall have the following meanings:

35 (a) “Commission” means the California Gambling Control  
 36 Commission.

37 (a)

38 (b) “Department” means the Department of Justice and the entity  
 39 within the department that is responsible for fulfilling the  
 40 obligations imposed upon the department by this chapter.

1     ~~(b)~~

2     ~~(c) “Eligible entity” means a business entity formed under the~~  
3 ~~laws of this state, or qualified to do business in this state, that is~~  
4 ~~owned by persons or entities licensed by the California Gambling~~  
5 ~~Control Commission to own gambling establishments as of January~~  
6 ~~1, 2011, or by the government or governments of federally~~  
7 ~~recognized California Indian tribes, or the wholly owned subsidiaries~~  
8 ~~of those tribes, or by any combination of those gambling~~  
9 ~~establishment licensees and California tribal governments or wholly~~  
10 ~~owned subsidiaries of those tribes. owned by any of the following:~~

11     ~~(1) Persons or entities licensed under Chapter 5 (commencing~~  
12 ~~with Section 19800) to own gambling establishments.~~

13     ~~(2) The governments or wholly owned subsidiaries of federally~~  
14 ~~recognized California tribal governments that have adopted a~~  
15 ~~tribal gaming ordinance approved by the National Indian Gaming~~  
16 ~~Commission (NIGC) under the Indian Gaming Regulatory Act (25~~  
17 ~~U.S.C. Sec. 2701 et seq.) (IGRA).~~

18     ~~(3) Any combination of persons or entities licensed under~~  
19 ~~Chapter 5 (commencing with Section 19800) to own and operate~~  
20 ~~gambling establishments in this state or the governments or wholly~~  
21 ~~owned subsidiaries of federally recognized California tribal~~  
22 ~~governments that have adopted a tribal gaming ordinance~~  
23 ~~approved by the NIGC under IGRA.~~

24     ~~(4) Any person or entity determined to be eligible for licensure~~  
25 ~~under Chapter 5 (commencing with Section 19800) to own and~~  
26 ~~operate a gambling establishment in this state.~~

27     ~~(e)~~

28     ~~(d) “Gambling” has the same meaning as set forth in subdivision~~  
29 ~~(l) of Section 19805.~~

30     ~~(d)~~

31     ~~(e) “Gambling establishment” has the same meaning as set forth~~  
32 ~~in subdivision (o) of Section 19805.~~

33     ~~(e)~~

34     ~~(f) “Illegal gambling” means participating in, or engaging in~~  
35 ~~conduct that materially aids, any form of gambling that is not~~  
36 ~~conducted pursuant to a tribal-state gaming compact or not~~  
37 ~~otherwise authorized by the laws of this state or the laws of the~~  
38 ~~United States.~~

39     ~~(f)~~

1 (g) “Illegal Internet gambling” means illegal gambling  
2 conducted over the Internet.

3 ~~(g)~~

4 (h) “Internet” means the international computer network of  
5 interoperable packet switched data networks.

6 ~~(h)~~

7 (i) “Intrastate” means within the geographical borders of the  
8 State of California.

9 ~~(i)~~

10 (j) “Intrastate Internet poker” means any nonbanked,  
11 nonpercentage poker game *lawfully* approved for play through use  
12 of the Internet within the state by the ~~department~~ *commission*, and  
13 that is conducted in accordance with this chapter.

14 ~~(j)~~

15 (k) “Licensed entity” means an eligible entity to which the  
16 ~~department~~ *commission* has issued a license pursuant to this chapter  
17 for the purpose of operating an Internet Web site offering persons  
18 over 21 years of age who are physically present within the State  
19 of California the opportunity to play ~~approved poker games on the~~  
20 ~~Internet~~ *intrastate Internet poker* within the geographical  
21 boundaries of the State of California.

22 ~~(k)~~

23 (l) “Person” means an individual, partnership, corporation,  
24 limited liability company, or other business entity, including a  
25 federally recognized California Indian tribe or a subentity of such  
26 a tribe that is wholly owned by the tribe.

27 (m) “*Subcontractor*” means any person providing goods or  
28 services to a licensed entity in connection with the operation of  
29 *intrastate Internet poker*.

30 ~~(m)~~

31 (n) “Web site” means the unique Uniform Resource Locator of  
32 a licensed entity through which the licensed entity is authorized  
33 to operate intrastate Internet poker games.

34 19991. (a) No person or other entity may operate, for  
35 consideration, poker games over the Internet in California unless  
36 licensed to provide those games by the ~~department~~ *commission*  
37 pursuant to this chapter and any regulations adopted thereunder.  
38 Intrastate Internet poker is hereby authorized, but only to the extent,  
39 and in the manner, prescribed in this chapter.

1 (b) Any person or entity that offers or participates in illegal  
2 Internet gambling, or *knowingly* processes any financial  
3 transactions arising out of, or in connection with, participation in  
4 illegal Internet gambling, is guilty of a misdemeanor, and shall be  
5 punished by a fine of up to ten thousand dollars (\$10,000) and  
6 imprisonment in a county jail for up to one year.

7 (c) *Any money, other representative of value, or real or personal*  
8 *property used in, or derived from, illegal Internet gambling shall*  
9 *be subject to seizure by the commission or by any peace officer.*  
10 *Upon a finding by the court that the money, other representative*  
11 *of value, or real or personal property was used in, or derived from,*  
12 *illegal Internet gambling, that money or property shall be forfeited*  
13 *to the Internet Gambling Fund established in Section 19998.*

14 ~~19992. (a) Within 90 days of the effective date of the act~~  
15 ~~adding this chapter, the department shall adopt regulations, in~~  
16 ~~consultation with the California Gambling Control Commission,~~  
17 ~~governing the intrastate play of poker games on the Internet to~~  
18 ~~provide persons over 21 years of age who are physically present~~  
19 ~~in California with the same protections enjoyed by persons playing~~  
20 ~~in gambling establishments or in tribally owned gaming facilities.~~  
21 ~~The department may issue licenses and promulgate regulations as~~  
22 ~~it determines may be necessary to implement the provisions of this~~  
23 ~~chapter, protect that gaming from criminal influences, and protect~~  
24 ~~the public health, welfare, and safety of the people of California,~~  
25 ~~but shall give priority in the adoption of regulations to the licensing~~  
26 ~~of the three categories of entities enumerated in paragraph (1) of~~  
27 ~~subdivision (b). However, persons licensed by the California~~  
28 ~~Gambling Control Commission to own or operate a gambling~~  
29 ~~establishment, the governments of California Indian tribes~~  
30 ~~recognized by the United States Department of the Interior, Bureau~~  
31 ~~of Indian Affairs, or the wholly owned subentities of those tribal~~  
32 ~~governments shall not be required to apply for or obtain licenses~~  
33 ~~to own interests in a licensed entity.~~

34 ~~(b) The regulations adopted pursuant to subdivision (a) shall~~  
35 ~~provide both of the following:~~

36 ~~(1) Procedures by which an entity may apply for a license to~~  
37 ~~operate an Internet Web site through which persons over 21 years~~  
38 ~~of age and physically present within the state may play intrastate~~  
39 ~~Internet poker, with the objective of facilitating the commencement~~  
40 ~~of operation of the licensed entity's authorized Internet Web site~~

1 as quickly as possible, thereby accelerating the receipt of revenues  
2 by the state.

3 ~~(2) Procedures by which persons over 21 years of age who are~~  
4 ~~physically present in the state may register to lawfully engage in~~  
5 ~~intrastate Internet poker games through an Internet Web site owned~~  
6 ~~and operated by a licensed entity.~~

7 *19992. (a) Within 90 days of the effective date of the act adding*  
8 *this chapter, the commission shall adopt emergency regulations,*  
9 *in consultation with the department, providing for the issuance of*  
10 *licenses to operate Internet Web sites for the operation of intrastate*  
11 *Internet poker and governing the play of intrastate Internet poker*  
12 *to provide persons over 21 years of age who are physically present*  
13 *in California with the same protections enjoyed by persons playing*  
14 *in gambling establishments or in tribally owned gaming facilities.*  
15 *The commission may issue licenses and promulgate regulations*  
16 *as it determines may be necessary to implement the provisions of*  
17 *this chapter, protect that gaming from criminal influences, and*  
18 *protect the public health, welfare, and safety of the people of*  
19 *California. The regulations shall include the same licensing criteria*  
20 *as apply to applicants for licensure under Chapter 5 (commencing*  
21 *with Section 19800) and regulations thereunder, including the*  
22 *licensure of persons or entities with a direct or indirect financial*  
23 *interest in an eligible entity.*

24 *(1) To avoid delays in implementing this chapter in order to*  
25 *provide much needed revenues to meet the state's budget*  
26 *emergency, the Legislature finds and declares that it is necessary*  
27 *to provide the commission with a limited exception from the*  
28 *procedural requirements normally applicable to the commission's*  
29 *rulemaking. The commission shall adopt appropriate emergency*  
30 *regulations as soon as possible, the initial regulatory action to be*  
31 *filed with the Office of Administrative Law no later than 90 days*  
32 *after the effective date of this chapter. Notwithstanding the*  
33 *adoption of appropriate emergency regulations, the commission*  
34 *shall complete the normal public notice and comment process,*  
35 *giving careful consideration to the comments of all interested*  
36 *parties. It is the intent of the Legislature to provide the commission*  
37 *with full authority and sufficient flexibility to adopt all needed*  
38 *regulations. These regulations may be adopted in a series of*  
39 *regulatory actions. Subsequent regulatory actions may amend or*  
40 *repeal earlier regulatory actions, as necessary, to reflect program*

1 *experience and concerns of the regulated public. However, any*  
2 *later amendment or repeal shall not have the effect of amending*  
3 *or repealing the Legislative intent under this chapter that*  
4 *emergency regulations be promulgated and remain effective as*  
5 *provided in this chapter.*

6 *(2) The commission shall adopt emergency regulations*  
7 *concerning intrastate Internet poker no later than 90 days after*  
8 *the effective date of this chapter. The adoption, amendment, repeal,*  
9 *or readoption of a regulation authorized by this section is deemed*  
10 *to address an emergency, for purposes of Sections 11346.1 and*  
11 *11349.6 of the Government Code, and the commission is hereby*  
12 *exempted for this purpose from the requirements of subdivision*  
13 *(b) of Section 11346.1 of the Government Code, but shall otherwise*  
14 *be subject to the review and approval of the Office of*  
15 *Administrative Law.*

16 *(3) The emergency regulations adopted pursuant to this section*  
17 *shall be effective initially for a period of 180 days from the date*  
18 *the regulations are filed with the Secretary of State by the Office*  
19 *of Administrative Law or upon any later date specified by the*  
20 *commission in a written instrument filed with, or as part of, the*  
21 *regulation. Notwithstanding subdivision (h) of Section 11346.1 of*  
22 *the Government Code, the regulations may be readopted only once*  
23 *pursuant to this section for a period of not more than 180 days.*  
24 *This exemption from the rulemaking provisions of the*  
25 *Administrative Procedure Act (Chapter 3.5 (commencing with*  
26 *Section 11340), Chapter 4 (commencing with Section 11370),*  
27 *Chapter 4.5 (commencing with Section 11400), and Chapter 5*  
28 *(commencing with Section 11500) of Part 1 of Division 3 of Title*  
29 *2 of the Government Code) applies only to regulations that are*  
30 *submitted to the Office of Administrative Law no later than 24*  
31 *months after the effective date of this chapter.*

32 *(b) Notwithstanding any other provision of this chapter, persons*  
33 *or entities licensed under Chapter 5 (commencing with Section*  
34 *19800) to own gambling establishments in this state and the*  
35 *governments or wholly owned subentities of federally recognized*  
36 *California tribal governments that have adopted a tribal gaming*  
37 *ordinance approved by the NIGC under IGRA shall not be required*  
38 *to apply for or obtain licenses to own interests in a licensed entity.*  
39 *Any licensed entity consisting of persons or entities licensed under*  
40 *Chapter 5 (commencing with Section 19800) to own gambling*

1 establishments in this state and the governments or wholly owned  
2 subentities of federally recognized California tribal governments  
3 that have adopted a tribal gaming ordinance approved by the  
4 NIGC under IGRA shall be presumed suitable for licensing. All  
5 other applicants for licensure under this chapter shall first  
6 complete a full background investigation, in accordance with  
7 Chapter 5 (commencing with Section 19800) and the requirements  
8 of this chapter, and shall not be eligible to receive a temporary or  
9 provisional license pending the completion of the investigation. A  
10 person or entity that has accepted wagers from persons in the  
11 United States on any form of Internet gaming that has not been  
12 affirmatively authorized by the laws of this state or the United  
13 States subsequent to the effective date of the federal Unlawful  
14 Internet Gambling Enforcement Act of 2006 (UIGEA), or is or has  
15 been the holder of a direct or indirect financial interest in such a  
16 person or entity, shall not be eligible for either a license to operate  
17 an intrastate Internet poker Web site or to be found suitable to  
18 provide goods or services to an entity licensed under this chapter.

19 (c) The regulations adopted pursuant to subdivision (a) shall  
20 provide all of the following:

21 (1) Procedures by which (A) an eligible entity may apply for  
22 and receive a license to operate an Internet Web site through which  
23 persons over 21 years of age and physically present within the  
24 state may play intrastate Internet poker, and (B) subcontractors  
25 may apply for and be found suitable in accordance with the  
26 suitability requirements of Chapter 5 (commencing with Section  
27 19800) and ensuring that all financial arrangements between a  
28 licensed entity and any subcontractor are on an arms-length,  
29 commercially reasonable basis. A subcontractor licensed by a  
30 governmental jurisdiction within the United States shall be  
31 presumed suitable for the issuance of a temporary license by the  
32 commission under this chapter pending completion of a full  
33 background investigation and issuance of a permanent license,  
34 with the objective of facilitating the commencement of operation  
35 of licensed entities authorized intrastate Internet poker Web sites  
36 at the earliest possible date, thereby accelerating the receipt of  
37 revenues by the state and helping to alleviate the state's current  
38 budget crisis. The commission may engage the services of a  
39 nationally recognized gaming test laboratory for the purpose of  
40 validating software and equipment pending the development of

1 *the commission's own validating and testing capability. A*  
2 *subcontractor shall not receive more than 12 percent of the gross*  
3 *revenues for services provided to an intrastate Internet poker Web*  
4 *site.*

5 *(2) Procedures by which persons over 21 years of age who are*  
6 *physically present in the state may register to lawfully engage in*  
7 *intrastate Internet poker games through Internet Web sites owned*  
8 *and operated by licensed entities.*

9 *(d) Each license issued under this chapter shall permit the*  
10 *operation of a single intrastate Internet poker Web site.*

11 *(e) No person shall have an ownership interest in more than*  
12 *one license issued under this chapter.*

13 ~~(e)~~

14 *(f) The intrastate Internet poker games shall be honestly and*  
15 *fairly run.*

16 ~~(d)~~

17 *(g) A licensed entity may offer intrastate Internet poker games*  
18 *pursuant to this chapter only on a network approved by the*  
19 ~~department~~ *commission containing an Internet Web site that is*  
20 ~~registered with the department~~ *commission to offer that service.*  
21 *A licensed entity shall not offer, for consideration, any form of*  
22 *Internet poker game independent of that network.*

23 ~~(e)~~

24 *(h) A person desiring to play intrastate Internet poker shall*  
25 *register with a licensed entity by presenting documentation, upon*  
26 *logging on to the licensed entity's intrastate Internet poker Web*  
27 *site, that the person is at least 21 years of age and is physically*  
28 *present within the state. After verifying the validity of the proffered*  
29 *documentation and confirming the person's physical presence*  
30 *within this state, the person may be permitted to play any intrastate*  
31 *Internet poker game provided by the licensed entity, subject to the*  
32 *licensed entity's right, in its sole and absolute discretion and*  
33 *without liability, to exclude from participation in intrastate Internet*  
34 *poker games any person reasonably determined to be unsuitable*  
35 *to participate in those games, or whose participation would be*  
36 *contrary to requests concerning self-exclusion or limits on losses,*  
37 *amounts wagered, or playing time.*

38 ~~(f)~~

39 *(i) A licensed entity's intrastate Internet poker Web site shall*  
40 *use the services of an independent third party licensed by the*

1 ~~department~~ *commission* to perform identification, physical presence  
2 in the state, and age verification services for persons registering  
3 to play intrastate Internet poker games.

4 ~~(g)~~

5 (j) A licensed entity’s intrastate Internet poker Web site shall  
6 use personal identification numbers and other technology so that  
7 only the registered person has access to his or her wagering  
8 account, and that games can be played only from within the  
9 geographical borders of the state.

10 ~~(h)~~

11 (k) A licensed entity shall provide for withdrawals from the  
12 wagering account only by check, made payable to the account  
13 holder and sent to the address of the account holder in the state,  
14 or by an electronic transfer to an account held by the verified  
15 account holder at a financial institution located within the state.  
16 The account holder also may withdraw funds from the wagering  
17 account at a licensed gambling establishment or tribal gaming  
18 facility participating in a licensed entity by presenting valid  
19 identification and verifiable personal and account information.

20 ~~(i)~~

21 (l) A licensed entity’s intrastate Internet poker Web site shall  
22 provide information on problem gambling, including a problem  
23 gambling hotline telephone number that a person may call to seek  
24 information and assistance for a potential gambling addiction, and  
25 shall offer responsible gambling services, such as self-exclusion,  
26 limits on losses, amounts wagered, and playing time, and other  
27 services as the ~~department~~ *commission* reasonably may determine  
28 are appropriate.

29 ~~(j)~~

30 (m) A licensed entity shall allow the ~~department~~ *commission*  
31 access to its operating premises at any time and without notice to  
32 visit, investigate, and place expert accountants and other persons  
33 it deems necessary to ensure strict compliance with its regulations  
34 concerning game integrity, credit authorization, account access,  
35 and other security provisions, if those activities do not interfere  
36 with the normal lawful functioning of the licensed entity’s  
37 operations. *To maximize the commission’s ability to exercise its*  
38 *regulatory authority at minimum cost, a licensed entity’s operating*  
39 *premises shall be located within the geographical limits of this*  
40 *state.*

1     ~~(k)~~

2     (n) A licensed entity shall offer, at the time of registration, the  
3 option to place a limitation on the amount of funds that may be  
4 transferred into a wagering account within any 24-hour period.  
5 The licensed entity shall adopt procedures to ensure that the player  
6 may not deposit more funds into the account than the amount  
7 specified. If, after the wagering account is opened, a person wishes  
8 to increase the amount of funds that may be transferred, the  
9 licensed entity may increase the amount after obtaining and  
10 verifying the validity of identification and personal information.  
11 However, that increase shall not be effective until at least 48 hours  
12 after the change is requested.

13     ~~(l)~~

14     (o) A licensed entity shall conduct intrastate Internet poker  
15 games in the same manner as those games are *lawfully* conducted  
16 in licensed gambling establishments or tribally owned gaming  
17 facilities in the state, except that the games shall be played with  
18 computers, rather than with tangible cards and chips, and the virtual  
19 cards shall be shuffled and dealt by the licensed entity's computer  
20 system, rather than by a natural person. Only nonbanked,  
21 nonpercentage poker games *lawfully* approved for play within the  
22 state by the ~~department~~ *commission* may be offered for play on a  
23 licensed entity's intrastate Internet Web site. A licensed entity's  
24 intrastate Internet Web site may collect fees from players in  
25 authorized poker games pursuant to the same player fee collection  
26 methods approved by the ~~department~~ *commission* under state law  
27 for use within nontribal licensed gambling establishments in  
28 California.

29     ~~(m) The department~~

30     (p) *The commission* shall assess fees on licensed entities in the  
31 amounts reasonably necessary to reimburse the ~~department~~  
32 *commission* for its costs in implementing and administering this  
33 chapter, protecting that gaming from criminal influences, and  
34 protecting the public health, welfare, and safety of the people of  
35 California.

36     19992.5. (a) There shall be authorized ~~up to five~~ *an unlimited*  
37 *number of* Internet Web sites to conduct a live online nonbanked,  
38 nonpercentage version of the card game poker pursuant to this  
39 chapter within the borders of the State of California under the same  
40 rules, and with the same manner of compensation, as apply to

1 poker games currently conducted in licensed gambling  
2 establishments and tribal class II gaming facilities.

3 ~~(b) The department shall issue up to three~~ *commission shall*  
4 *issue* licenses to own and operate intrastate Internet poker Web  
5 sites pursuant to this chapter to eligible entities consisting of any  
6 of the following:

7 ~~(1) Licensed gambling establishments and federally recognized~~  
8 ~~California tribal governments.~~

9 ~~(2) Federally recognized California tribal governments.~~

10 ~~(3) Licensed gambling establishments.~~

11 ~~(e) The department shall select the eligible entities that include~~  
12 ~~the greatest numbers of individual entities as specified in~~  
13 ~~subdivision (b).~~

14 ~~(d) Notwithstanding Section 10231.5 of the Government Code,~~  
15 ~~within three years of commencing the play of live online Internet~~  
16 ~~poker pursuant to this chapter, the department shall report to the~~  
17 ~~Legislature if it has the capacity to regulate up to two additional~~  
18 ~~Internet poker Web sites. The department may issue licenses for~~  
19 ~~up to two additional Internet poker Web sites upon subsequent~~  
20 ~~legislative authorization.~~

21 ~~(1) Persons or entities licensed under Chapter 5 (commencing~~  
22 ~~with Section 19800) to own gambling establishments.~~

23 ~~(2) The governments or wholly owned subentities of federally~~  
24 ~~recognized California tribal governments that have adopted a~~  
25 ~~tribal gaming ordinance approved by the NIGC under IGRA.~~

26 ~~(3) Any combination of persons or entities licensed under~~  
27 ~~Chapter 5 (commencing with Section 19800) to own and operate~~  
28 ~~gambling establishments in this state or the governments or wholly~~  
29 ~~owned subentities of federally recognized California tribal~~  
30 ~~governments that have adopted a tribal gaming ordinance~~  
31 ~~approved by the NIGC under IGRA.~~

32 ~~(4) Any person or entity determined to be eligible for licensure~~  
33 ~~under Chapter 5 (commencing with Section 19800) to own and~~  
34 ~~operate a gambling establishment in this state.~~

35 19993. After the regulations required by subdivision (a) of  
36 Section 19992 are adopted ~~pursuant to the Administrative~~  
37 ~~Procedure Act (Chapter 3.5 (commencing with Section 11340) of~~  
38 ~~Part 1 of Division 3 of Title 2 of the Government Code), an entity,~~  
39 *an eligible entity* seeking to be licensed to offer intrastate Internet  
40 poker games shall apply to the ~~department~~ *commission* for licensure

1 to engage in that activity. ~~The department shall charge the entity~~  
2 ~~a registration fee sufficient~~ *The commission shall charge the*  
3 *eligible entity a nonrefundable registration fee of five million*  
4 *dollars (\$5,000,000) to cover all costs associated with the issuance*  
5 *of the license, including any necessary background investigation.*  
6 *Any remaining amount shall be credited toward the licensed*  
7 *entity's license fees payable under Section 19994.*

8 19994. (a) In addition to any licensing or other administrative  
9 fees that the ~~department~~ *commission* may assess as reimbursement  
10 for the costs of implementing this chapter, a licensed entity shall  
11 pay to the state a license fee equal to 10 percent of the fees  
12 collected by the licensed entity from players participating in poker  
13 games conducted on its Internet Web ~~site~~. *site, payable quarterly*  
14 *in arrears.*

15 (b) *An eligible entity that applies for licensure within 30 days*  
16 *after the effective date of the emergency regulations promulgated*  
17 *pursuant to Section 19992 of this chapter and receives a license*  
18 *shall pay an initial deposit of fifty million dollars (\$50,000,000)*  
19 *on or before the date that the licensed entity's Internet Web site*  
20 *becomes operational for real money poker games, which shall be*  
21 *a credit against future license fees payable under subdivision (a).*  
22 *If more than five eligible entities apply for licensure within that*  
23 *30-day period, then additional eligible entities shall be permitted*  
24 *to apply for licensure following the 30-day period; however, an*  
25 *eligible entity that applies for licensure more than 30 days after*  
26 *the effective date of the emergency regulations promulgated*  
27 *pursuant to Section 19992 of this chapter and receives a license*  
28 *shall pay an initial deposit of one hundred million dollars*  
29 *(\$100,000,000) on or before the date that the licensed entity's*  
30 *Internet Web site becomes operational for real money poker games,*  
31 *which shall be a credit against future license fees payable under*  
32 *subdivision (a).*

33 (c) *Notwithstanding subdivision (b), each licensed entity shall*  
34 *have until July 1, 2012, to activate its license by making its Internet*  
35 *Web site operational for ongoing real money poker games. If the*  
36 *total amount of initial deposits paid by licensed entities to the state*  
37 *as of July 1, 2012, is less than two hundred fifty million dollars*  
38 *(\$250,000,000), then the initial deposits paid by all licensed entities*  
39 *as of July 1, 2012, shall be increased equally so that the total*  
40 *amount of the initial deposits paid to the state equals two hundred*

1 *fifty million dollars (\$250,000,000). A licensed entity shall pay*  
2 *the full amount of any increased initial deposit within 60 days*  
3 *following receipt of notice by the commission of the amount owed.*  
4 *If a licensed entity is required to increase its initial deposit in*  
5 *excess of fifty million dollars (\$50,000,000) pursuant to this*  
6 *subdivision, the commission shall not, as of July 1, 2012, issue*  
7 *any additional licenses under this chapter until July 1, 2016, in*  
8 *order to allow the licensed entity an opportunity to reasonably*  
9 *recoup the initial deposit.*

10 *(d) If the implementation of this chapter is temporarily,*  
11 *preliminarily, or permanently enjoined by the order of a court of*  
12 *competent jurisdiction, all license fees paid shall be refunded*  
13 *pending entry of a final and nonappealable judgment concerning*  
14 *the validity of the implementation of this chapter. If implementation*  
15 *of this chapter is validated, each licensed entity to which fees were*  
16 *refunded shall remit to the state the full amount of those fees as a*  
17 *condition precedent to offering real money poker games on its*  
18 *Internet Web site. For purposes of ensuring that license fees are*  
19 *refunded by the state as required by this subdivision, the state*  
20 *hereby waives its sovereign immunity from suit for this limited*  
21 *purpose and consents to the jurisdiction of the Superior Court for*  
22 *the County of Sacramento.*

23 19995. In the event that any federal statute now in effect or  
24 hereafter enacted either affirmatively authorizes, or repeals existing  
25 prohibitions against, the interstate or international play on the  
26 Internet of house-banked or percentage games of chance, or games  
27 such as poker in which there is an element of chance but a player's  
28 skill predominates over the element of chance in determining the  
29 outcome of the game, and the federal statute allows a state to be  
30 excluded from application of that statute, the Governor and the  
31 Legislature shall take any action necessary to opt out of the  
32 application of that statute to persons physically present within the  
33 geographical borders of the state. *Failure to take that action within*  
34 *the time allowed under the federal statute shall entitle any licensee*  
35 *that requests a refund of its license fee to receive a refund of that*  
36 *portion of its license fee on which an unused credit remains.*

37 19996. Nothing in this chapter shall be interpreted to authorize  
38 the play of intrastate Internet poker in a manner that circumvents  
39 the limitation on gambling establishments, or the limitation on  
40 gambling tables, pursuant to Chapter 5 (commencing with Section

1 19800), and related state and local laws, or to authorize the  
2 operation of public or private facilities the primary purpose of  
3 which is the online play for consideration of poker or other forms  
4 of gaming.

5 19997. If a court of competent jurisdiction determines that the  
6 enactment or implementation of this chapter entitles any California  
7 Indian tribe that is a party to a class III tribal-state gaming compact  
8 with the state to terminate or reduce payments to the Indian Gaming  
9 Revenue Sharing Trust Fund required by the compact on the ground  
10 that the state has breached the compact by enacting or  
11 implementing this chapter, all funds then on deposit in the Indian  
12 Gaming Revenue Trust Fund shall continue to be distributed  
13 quarterly in equal shares to all federally recognized California  
14 Indian tribes entitled to receive disbursements from the fund until  
15 all funds on deposit in the fund have been disbursed.

16 19998. (a) The state's percentage of player fees collected by  
17 licensed entities, and any other fees paid by licensed entities, shall  
18 be remitted to the Controller for deposit in the Internet Gambling  
19 Fund, which is hereby created in the State Treasury. The fund shall  
20 be administered by the Controller for the purposes of this chapter,  
21 subject to annual appropriation by the Legislature.

22 (b) On or before March 31 of each year, each state agency with  
23 responsibilities imposed under this chapter shall submit a revenue  
24 needs request to fulfill those duties for the next fiscal year to the  
25 Senate Committee on Budget and Fiscal Review, the Assembly  
26 Committee on Budget, the Senate and Assembly Committees on  
27 Governmental Organization, and the Department of Finance. Each  
28 submission of revenue needs shall specify the justification for  
29 those costs.

30 (c) On or before March 31 of each year, the State Department  
31 of Alcohol and Drug Programs, Office of Problem Gambling shall  
32 submit a revenue needs request for programs to address problem  
33 gambling that results from the offering of authorized games for  
34 the next fiscal year to the Senate Committee on Budget and Fiscal  
35 Review, the Assembly Committee on Budget, the Senate and  
36 Assembly Committees on Governmental Organization, the Senate  
37 and Assembly Committees on Human Services, and the Department  
38 of Finance. Each submission of revenue needs shall specify the  
39 justification for those costs.

1 (d) All remaining proceeds not allocated pursuant to subdivisions  
 2 (b) and (c) shall remain in the Internet Gambling Fund, subject to  
 3 appropriation by the Legislature for purposes related to this chapter  
 4 *or for those other purposes as the Legislature may deem*  
 5 *appropriate.*

6 19999. A city, county, or city and county shall not regulate,  
 7 tax, or enter into a contract with respect to any matter related to  
 8 this chapter.

9 *SEC. 3. Fees collected by the state in connection with this act*  
 10 *are General Fund revenues for purposes of Section 3.94 of the*  
 11 *Budget Act of 2011.*

12 *SEC. 4. The provisions of this act are severable. If any*  
 13 *provision of this act or its application is held invalid, that invalidity*  
 14 *shall not affect other provisions or applications that can be given*  
 15 *effect without the invalid provision or application.*

16 ~~SEC. 3.~~

17 *SEC. 5. No reimbursement is required by this act pursuant to*  
 18 *Section 6 of Article XIII B of the California Constitution because*  
 19 *the only costs that may be incurred by a local agency or school*  
 20 *district will be incurred because this act creates a new crime or*  
 21 *infraction, eliminates a crime or infraction, or changes the penalty*  
 22 *for a crime or infraction, within the meaning of Section 17556 of*  
 23 *the Government Code, or changes the definition of a crime within*  
 24 *the meaning of Section 6 of Article XIII B of the California*  
 25 *Constitution.*

26 ~~SEC. 4.~~

27 *SEC. 6. This act is an urgency statute necessary for the*  
 28 *immediate preservation of the public peace, health, or safety within*  
 29 *the meaning of Article IV of the Constitution and shall go into*  
 30 *immediate effect. The facts constituting the necessity are:*

31 In order to ensure that California is able to provide consumer  
 32 gaming protections from illegal operators, it is necessary for this  
 33 act to take effect immediately.