

**ASSEMBLY BILL**

**No. 2291**

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**Introduced by Assembly Member Jones-Sawyer**

February 21, 2014

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An act to add Chapter 5.2 (commencing with Section 19990.01) to Division 8 of, and to repeal Section 19990.86 of, the Business and Professions Code, and to add Section 330d to the Penal Code, relating to gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2291, as introduced, Jones-Sawyer. Gambling: Internet poker: unlawful gambling activity.

(1) 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. The Department of Justice has related investigatory and enforcement duties under the act. 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 authorize eligible entities to apply to the commission for a 10-year nontransferable license to operate an intrastate Internet poker Web site offering the play of authorized Internet poker games to registered players within California, as specified. The bill would require that the license be automatically renewed every 10 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker game permitted by the state pursuant to this bill. The bill would prohibit, among others, a federally recognized

California Indian tribe that operates a gaming facility that accepts bets from players within the state but who are not physically present on Indian lands when making bets from operating an Internet poker Web site. The bill also would provide that it is unlawful for a person to patronize, or to own or operate, a place of public accommodation within this state in which computer terminals, laptop computers, hand-held devices, or similar devices are made available for accessing Internet Web sites to play gambling games, or where those devices are otherwise empowered or enabled to access Internet Web sites to play gambling games. The bill would provide that it is unlawful for a person to aggregate computers or other access devices in a public setting within this state for the purpose of playing a gambling game on the Internet, or to promote, facilitate, or market that activity. The bill would provide that any violation of these provisions is punishable as a misdemeanor. By creating new crimes, the bill would impose a state-mandated local program.

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, to adopt regulations within 270 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes, to implement these provisions, and to facilitate the operation of intrastate Internet poker Web sites and expedite the state's receipt of revenues. The bill would require a license applicant to apply to the commission and pay a registration fee sufficient to cover all costs associated with the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts reasonably necessary to investigate and evaluate the suitability of the licensee's subcontractors. An applicant that is a federally reorganized Indian tribe also would be required to submit a limited waiver of its sovereign immunity.

This bill would require the payment of an unspecified annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, problem gambling programs, and other purposes related to this bill. The bill would require each licensee to pay a one-time license fee in the amount of \$5,000,000 for deposit in the General Fund. The license fee would be credited against quarterly fees equivalent to 5% of the licensee's gross gaming revenue proceeds, as specified. The bill would require an applicant for an intrastate Internet Poker license to provide documentation establishing that the applicant

is qualified to pay the one-time license fee from its own assets, or its owner's assets, or through credit extended to the entity, as specified.

This bill would establish the Unlawful Gambling Enforcement Fund as a special fund within the General Fund for purposes of ensuring adequate resources for law enforcement charged with enforcing the prohibitions and protections of the provisions described above. The bill would authorize the Attorney General, and other public prosecutors, as specified, to bring a civil action to recover a civil penalty in an unspecified amount against a person who engages in those prohibited activities described above, or other specified unlawful gambling activities involving lotteries and slot machines. The bill would provide for an unspecified percentage of revenues from civil penalties collected to be deposited into the fund and used for law enforcement activities pursuant to these provisions, upon appropriation by the Legislature.

This bill would require the commission, in consultation with the department, the Treasurer, and the Franchise Tax Board, to issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this bill within one year of the operative date of this bill and, annually, thereafter. The bill would also require the Bureau of State Audits, at least 4 years after the issue date of any license by the state, but no later than 5 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

This bill would prohibit the state from affirmatively electing to be subject to a federal Internet gambling law, as specified, and would require the state to opt out of, or would prohibit the state from opting into, any federal Internet gambling scheme. The bill would provide that if the state violates these prohibitions, a licensee shall not be required to pay the one-time license fee or the quarterly fees described above and would require the state to refund within 30 days all unused license fees paid to the state, as specified. The bill would authorize a licensee to enforce this provision in state court. The bill also would prohibit the state from participating in any Internet gambling agreement between states or foreign jurisdictions.

This bill authorizes the department to revoke or suspend any license or work permit upon reaching a finding that the licensee or employee is in violation of the provisions described above, or any regulation adopted pursuant to these provisions. However, the bill would prohibit a tribal licensee from having its license suspended or revoked, or be fined or otherwise penalized for complying with any applicable federal law or regulation when operating an Internet poker Web site on Indian

lands. The bill would specify that to the extent that any state requirement is more strict than any applicable federal law requirement, the tribal licensee is required to comply with the state requirement.

(2) Existing law, subject to exceptions, generally prohibits the possession and use of a “slot machine or device,” as defined, and prohibits certain other acts and transactions pertaining to slot machines or devices. Existing law provides varying definitions of “slot machine or device” for these purposes. A violation of these provisions is punishable as a misdemeanor.

This bill would provide that an “electronic sweepstakes device,” as defined, is a slot machine or device within the meaning of these provisions. By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

(3) The bill would provide that its provisions are not severable.

(4) 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.

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

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Chapter 5.2 (commencing with Section 19990.01)  
2 is added to Division 8 of the Business and Professions Code, to  
3 read:

4  
5 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION  
6 ACT OF 2014

7  
8 Article 1. Title, Legislative Declarations, and Statement of  
9 Legislative Intent

10  
11 19990.01. This chapter shall be known and may be cited as the  
12 Internet Poker Consumer Protection Act of 2014.

13 19990.02. The Legislature hereby finds and declares all of the  
14 following:

1 (a) Since the development of the Internet, Web sites offering  
2 gambling have raised consumer protection and enforcement  
3 concerns for federal and state governments as these Web sites are  
4 often operated by unknown persons located in many different  
5 countries, subject to little or no oversight, and have sought to attract  
6 customers from the United States.

7 (b) Californians participate in illegal online gambling on  
8 unregulated Internet Web sites every week. Neither federal nor  
9 California laws provide any consumer protections for California  
10 players. California players assume all risks, any negative social or  
11 financial impacts are borne by the citizens of California, and the  
12 revenues generated from online gambling are being realized by  
13 offshore operators and do not provide any benefits to the citizens  
14 of California.

15 (c) The presence, operation, and expansion of offshore,  
16 unlicensed, and unregulated Internet gambling Web sites available  
17 to Californians endanger Californians because the current Internet  
18 gambling Web sites operate illegally and without regulation as  
19 demonstrated by criminal prosecutions of some Internet gambling  
20 purveyors, and questions often arise about the honesty and the  
21 fairness of the games played on these Internet gambling Web sites  
22 as well as the true purpose for, and use of, proceeds generated by  
23 these unregulated Internet gambling Web sites. In addition, some  
24 of the unlicensed and unregulated Internet gambling activity  
25 interferes with rights Californians preserved to federally recognized  
26 tribal governments when amending the state's Constitution, with  
27 that amendment providing federally recognized tribes the sole and  
28 exclusive right to engage in slot machine and house-banked  
29 casino-style gaming in California.

30 (d) These rights were separately guaranteed in 1999 and at  
31 various times thereafter, when the state negotiated and entered into  
32 compacts with tribes pursuant to the federal Indian Gaming  
33 Regulatory Act of 1988 (IGRA), under which signatory tribes  
34 possess the exclusive right within the state to operate "gaming  
35 devices," defined to include any slot machines, and specifically,  
36 among other things, any electronic device enabling a player to  
37 participate in games involving an element of chance for the possible  
38 delivery of a prize or something of value, as well as house-banked  
39 and percentage games. The authorization of certain types of online

1 gaming, including slot machine or house-banked casino-style  
2 games, could impinge upon these rights.

3 (e) Tribally owned and operated casinos have contributed to  
4 local economies, generated tens of thousands of jobs for  
5 Californians, and provided hundreds of millions of dollars in  
6 revenues for the state since the advent of Indian gaming, and are  
7 entitled to the full protection of the laws of this state. As such, the  
8 state is presently engaged in regulatory and enforcement efforts  
9 to combat the rise of illegal gambling activity that threatens not  
10 only protected rights, but the health and welfare of all Californians.

11 (f) In October 2006, Congress passed the SAFE Port Act (Public  
12 Law 109-347), to increase the security of United States ports.  
13 Embedded within the language of that act was a section entitled  
14 the Unlawful Internet Gambling Enforcement Act of 2006  
15 (UIGEA), which prohibits the use of banking instruments,  
16 including credit cards, checks, or fund transfers, for interstate  
17 Internet gambling. UIGEA includes exceptions, including, but not  
18 limited to, one that permits individual states to create a regulatory  
19 framework to enable intrastate Internet gambling, provided the  
20 bets or wagers are made exclusively within a single state whose  
21 state laws or regulations comply with all of the following:

22 (1) Contain certain safeguards regarding those transactions,  
23 including both of the following:

24 (A) Age and location verification requirements.

25 (B) Data security standards designed to prevent access to minors  
26 and persons located outside of that state.

27 (2) Expressly authorize the bet or wager and the method by  
28 which the bet or wager is made.

29 (3) Do not violate any federal gaming statutes, including all of  
30 the following:

31 (A) The Interstate Horseracing Act of 1978.

32 (B) The Professional and Amateur Sports Protection Act.

33 (C) The Gambling Devices Transportation Act.

34 (D) IGRA.

35 (g) State authorization to operate Internet poker consistent with  
36 federal law, and heightened regulation and enforcement regarding  
37 Internet gambling activity that goes beyond poker, provides  
38 California with the means to protect its citizens and consumers  
39 under certain conditions by providing a framework to ensure that,  
40 among other things, the state is not subject to an unnecessary and

1 unprecedented expansion of gambling, minors are prevented from  
2 gambling, citizens participating in Internet poker activities are  
3 protected, and the state is not deprived of income tax revenues to  
4 which it would otherwise be entitled from these activities.

5 (h) The Legislature recognizes that the regulation of gambling  
6 activities within the state’s jurisdiction is of particular concern to  
7 the public interest, particularly with the advent of the Internet, and  
8 inherent dangers associated with online gambling activities, and  
9 accordingly recognizes the need to protect Californians from an  
10 unprecedented expansion of gambling activities within the state.  
11 This chapter is a vehicle to generate additional resources to protect  
12 Californians from this increased illegal Internet gambling activity.

13 (i) At the same time, the Legislature recognizes that  
14 nonhouse-banked poker, as compared to other forms of gaming,  
15 poses less risk to the general public given the element of skill  
16 involved. Poker is unlike casino house-banked games or sports  
17 betting, in that poker operators are not participants in the games  
18 and only receive a set fee for hosting them. Poker players’ winnings  
19 come not from the house, but from the pool of other players. In  
20 addition, winning at poker involves some measure of skill. Skillful  
21 poker players can earn winnings in the long term, while players  
22 of house-banked games will always play against odds favoring the  
23 house.

24 (j) The state currently maintains and implements substantial  
25 regulatory and law enforcement efforts to protect thousands of  
26 Californians who gamble and play, among other things, real-money  
27 poker in licensed California card rooms.

28 (k) Federally recognized Indian tribes in California offer  
29 real-money poker, including electronically aided poker, on their  
30 Indian lands as a “class II” game under IGRA.

31 (l) While the state, federal government, and tribal governments  
32 exercise regulatory authority over various real-money poker games  
33 offered in California, none of those entities presently provide  
34 licensing requirements, regulatory structure, or law enforcement  
35 tools to protect millions of Californians who play the same games  
36 daily for money on the Internet.

37 (m) In order to protect Californians who gamble online, allow  
38 state law enforcement to ensure consumer protection, ensure  
39 compliance with the California Constitution and negotiated  
40 compacts, and keep the revenues generated from Internet gambling

1 in California, it is in the best interest of the state and its citizens  
2 to authorize, implement, and create a legal system for intrastate  
3 Internet gambling that is limited to the game of poker.

4 (n) The California Gambling Control Commission and the  
5 Department of Justice, in conjunction with other state agencies  
6 and tribal governmental gaming regulators, have the expertise to  
7 issue licenses to conduct intrastate Internet poker to existing  
8 operators of regulated gaming that are otherwise eligible to conduct  
9 real-money poker games in California.

10 (o) The state also possesses a legitimate interest in protecting  
11 the integrity of state-authorized intrastate Internet poker by  
12 licensing only those entities that are otherwise eligible to offer  
13 real-money poker games within the state that have significant  
14 experience operating in a regulated land-based gaming facility  
15 environment. The state's interests are best met, therefore, by  
16 licensing only those entities in California that have experience  
17 operating card rooms and tribal gaming facilities that are currently  
18 permitted to offer live real-money poker games and are in good  
19 standing with the appropriate state, federal, and tribal regulatory  
20 agencies.

21 (p) This chapter will permit a qualified card room to obtain a  
22 license from the state to operate poker games via the Internet for  
23 players within the jurisdiction of California. In addition, the chapter  
24 will permit a qualified federally recognized California Indian tribe  
25 to obtain a license from the state to operate poker games via the  
26 Internet for players located within the jurisdiction of California.

27 (q) Participation by tribes will further the interests of the state  
28 because tribes have significant experience operating and regulating  
29 real-money games.

30 (r) The authorization of intrastate Internet poker pursuant to this  
31 chapter does not violate any tribal-state compact or the California  
32 Constitution. Application of UIGEA in California, as set forth in  
33 this chapter, also does not violate federal Indian law by impinging  
34 upon protected tribal sovereignty. Accordingly, nothing in this  
35 chapter shall alter, diminish, or impact the rights and obligations  
36 of tribes in existing tribal-state compacts approved pursuant to  
37 IGRA, or require that those compacts be renegotiated. At the same  
38 time, a tribal licensee does not relinquish any rights under its  
39 compact with the state by virtue of participating in intrastate  
40 Internet poker pursuant to this chapter, which is intended to respect



1 the regulatory obligations and responsibilities of state, tribal, and  
2 federal authorities.

3 (s) The state can only protect Californians from the increased  
4 onslaught of unlawful Internet gambling activity through diligent  
5 and comprehensive enforcement efforts, and in particular, through  
6 heightened enforcement efforts against unauthorized slot machines,  
7 lotteries, sweepstakes cafés offering slot machine gambling and  
8 games that mimic slot machines under the guise of selling Internet  
9 usage, time, or other illusory items, and card rooms that play  
10 baccarat and other banked or percentage card games.

11 19990.03. It is the intent of the Legislature to create a licensing  
12 and regulatory framework and enforcement mechanisms to do all  
13 of the following:

14 (a) Ensure that authorized Internet poker games are offered for  
15 play only in a manner that is consistent with federal and state law.

16 (b) Ensure the state possesses sufficient resources to enforce  
17 prohibitions of illegal gambling activity, in part, by establishing  
18 a special regulatory enforcement fund and by empowering the  
19 department to retain a portion of receipts collected from illegal  
20 operations and, as necessary, receipts collected in accordance with  
21 this chapter.

22 (c) Authorize and direct the commission to issue a license to  
23 certain existing operators of regulated real-money poker games in  
24 California that meet the eligibility requirements and timely submit  
25 the required application and registration fees.

26 (d) Include all of the provisions in this chapter as terms of the  
27 license between the state and each licensee, subject to the  
28 enforcement provisions delineated in this chapter.

29 (e) Ensure that each licensee complies with applicable laws and  
30 regulations.

31 (f) Grant power to the state agencies authorized in this chapter  
32 to oversee the operations of each licensee and to enforce the  
33 provisions of this chapter to ensure that the interests of the state  
34 and registered players are protected.

35 (g) Establish a process that includes a background investigation  
36 and requires that each employee of each licensee or subcontractor  
37 receives all necessary work permits from the state and, in the case  
38 of a qualified Indian tribe, as applicable, from that tribe's gaming  
39 regulatory authority.

- 1 (h) Ensure that the state is able to collect income tax revenues  
2 from registered players participating in Internet poker activity in  
3 the state.
- 4 (i) Distribute regulatory fees collected by the state from each  
5 licensee to the Internet Poker Fund, as established in Section  
6 19990.75, which shall be administered by the Controller, subject  
7 to annual appropriation by the Legislature for the following:
- 8 (1) The actual costs of license oversight, consumer protection,  
9 state regulation, and problem gambling programs.
- 10 (2) Other purposes related to this chapter as the Legislature may  
11 decide, including, but not limited to, enforcement efforts related  
12 to illegal Internet gambling activities.
- 13 (j) Create systems to protect each registered player's private  
14 information and prevent fraud and identity theft.
- 15 (k) Ensure that registered players are able to have their financial  
16 transactions processed in a secure, timely, and transparent fashion.
- 17 (l) Require that each licensee provide registered players with  
18 accessible customer service.
- 19 (m) Require that each licensee's Internet poker Web site contain  
20 information relating to problem gambling, including a telephone  
21 number that an individual may call to seek information and  
22 assistance for a potential gambling addiction.
- 23 (n) Require that each licensee, or consortia of eligible licensees,  
24 be organized in California or be a federally recognized Indian tribe  
25 located in California. The licensee, its facilities, other than  
26 redundant servers, its bank accounts and accounting records related  
27 to its intrastate Internet poker operations, and its registered players'  
28 deposits, shall be located entirely within the state.
- 29 (o) Ensure that each licensee is the primary beneficiary and  
30 majority owner of the Internet poker business. The Internet poker  
31 Web site domain shall be owned by the licensee to ensure  
32 protection of players by readily identifying who is the actual  
33 licensee.
- 34 (p) Ensure that all employees of the licensee are physically  
35 present in the state when working on the licensee's Internet poker  
36 Web site or in its facilities connected to the play of Internet poker  
37 in this state, or when in contact with registered players. However,  
38 the licensee shall have discretion to use the expertise of personnel  
39 not physically present in the state when necessary to protect  
40 registered players and state interests, including, but not limited to,

1 for the purposes of diagnosing and addressing technological  
2 problems, investigating fraud and collusion, and developing and  
3 supervising software and configuration changes.

4 (q) Create an express exemption from disclosure, pursuant to  
5 the California Public Records Act under subdivision (b) of Section  
6 6253 of the Government Code, that exempts from public disclosure  
7 proprietary information of a license applicant or a licensee in order  
8 to permit disclosure of confidential information to state agencies  
9 while achieving the public policy goals of deploying secure systems  
10 that protect the interests of both the state and players.

11 (r) Require the state to opt out of, and decline to opt into, any  
12 federal framework for Internet gambling.

13 (s) As a matter of statewide concern, preempt any city, county,  
14 or city and county from enacting any law or ordinance regulating  
15 or taxing any matter covered in this chapter.

16  
17 Article 2. Definitions  
18

19 19990.05. For the purposes of this chapter, the following words  
20 have the following meanings:

21 (a) “Authorized Internet poker game” means any of several card  
22 games, duly authorized by the commission and played on an  
23 Internet poker Web site, that meets all of the following criteria:

24 (1) Commonly understood to be a “poker game” that is legal  
25 under state law as of the effective date of this chapter, including,  
26 but not limited to, all of the following:

- 27 (A) Hold'em.
- 28 (B) Stud.
- 29 (C) Omaha.
- 30 (D) Lowball.

31 (2) Not a percentage game or banked game in which a licensee,  
32 player, or combination of players operates as the bank or house at  
33 any time during the course of the game.

34 (3) Played by individual players against one another, and never  
35 by a field of players against one player, including, but not limited  
36 to, Pai Gow poker, Three Card poker, and other poker variants  
37 with similar rules.

38 (b) “Background investigation” means a process of reviewing  
39 and compiling personal and criminal history and financial  
40 information through inquiries of various law enforcement and

1 public sources to establish a person’s qualifications and suitability  
2 for any necessary license or employee work permit issued pursuant  
3 to this chapter.

4 (c) “Bet” means the placement of a wager in a game.

5 (d) “Card room” means a gambling establishment, as defined  
6 in subdivision (o) of Section 19805.

7 (e) “Commission” means the California Gambling Control  
8 Commission.

9 (f) “Core functions” and “core functioning” mean any of the  
10 following:

11 (1) The management, administration, or control of wagers on  
12 authorized Internet poker games.

13 (2) The management, administration, or control of the games  
14 with which those wagers are associated.

15 (3) The development, maintenance, provision, or operation of  
16 a gaming system.

17 (g) “Department” means the Department of Justice.

18 (h) (1) “Eligible Entity” includes only (A) a card room operated  
19 pursuant to Chapter 5 (commencing with Section 19800) whose  
20 owner or owners have been authorized, subject to oversight by,  
21 and in good standing with the applicable state regulatory  
22 authorities, or (B) a federally recognized California Indian tribe  
23 that operates a gaming facility pursuant to a facility license issued  
24 in accordance with a tribal gaming ordinance approved by the  
25 Chair of the National Indian Gaming Commission and that is  
26 eligible to conduct real-money poker at that facility. An entity  
27 identified in this paragraph shall have operated its gaming facility  
28 for at least five years immediately preceding its application to  
29 secure a license to operate an Internet poker Web site pursuant to  
30 this chapter, and shall be in good standing during that time period  
31 with the applicable federal, state, and tribal regulatory authorities.

32 (2) A group of federally recognized California tribes or  
33 California card rooms is eligible to jointly apply for a license  
34 pursuant to this chapter, through an entity organized under state  
35 or federal law, if each entity within the group independently  
36 satisfies the requisite eligibility requirements identified in this  
37 chapter.

38 (3) Subject to any applicable limited waiver of sovereign  
39 immunity as set forth in subdivision (c) of Section 19990.21, this  
40 chapter does not restrict a tribal licensee from participating as an

1 instrumentality of a tribal government or a political subdivision  
2 of a tribe, or from forming a separate business entity organized  
3 under federal, state, or tribal law.

4 (i) “Employee” means any natural person employed in, or  
5 serving as a consultant or independent contractor with respect to,  
6 the core functioning of the actual operation of an intrastate Internet  
7 poker Web site.

8 (j) “Employee work permit” means a permit issued to an  
9 employee of the licensee or a subcontractor by the commission or,  
10 if applicable, tribal gaming regulatory authority, after a background  
11 investigation.

12 (k) “Finding of suitability” means a finding by the commission  
13 that a subcontractor meets the qualification criteria described in  
14 Article 4 (commencing with Section 19990.20), and that the person  
15 would not be disqualified on any of the grounds specified in Article  
16 4 (commencing with Section 19990.20).

17 (l) “Gambling” means to deal, operate, carry on, conduct,  
18 maintain, or expose for play any game for money.

19 (m) “Game” means any gambling game.

20 (n) “Gaming system” means the technology, including hardware  
21 and software, used by a licensee to facilitate the offering of  
22 authorized Internet poker games to registered players.

23 (o) “Good standing” means that a person has not had a gambling  
24 license suspended or revoked by a final decision of the commission  
25 or been finally ordered by a court of competent jurisdiction to  
26 cease conducting gaming activities.

27 (p) “Gross gaming revenues” means the total amount of money  
28 paid to, and retained by, a licensee in connection with the operation  
29 of authorized Internet poker games under this chapter before  
30 deducting the cost of operating those authorized Internet poker  
31 games. Gross gaming revenues shall not include player account  
32 deposits, amounts wagered, except any portion of the amount  
33 wagered that is retained by the licensee as permitted by this chapter,  
34 discounts on goods or services, rebates or promotional discounts  
35 or stakes provided to players, or revenues from nongaming sources.

36 (q) “Internet access device” means a personal computer or  
37 mobile communications device used primarily for connection to  
38 the Internet, and incidentally used for the purpose of playing  
39 authorized Internet poker games offered by a licensee.

- 1 (r) “Internet Poker Fund” means the fund established pursuant  
2 to Section 19990.75 for annual appropriation by the Legislature.
- 3 (s) “Internet poker Web site” means an Internet Web site, or  
4 similar communications facility approved by the commission,  
5 through which a bet or wager is initiated, received, or otherwise  
6 made for an authorized Internet poker game.
- 7 (t) “Intrastate” means within the borders and jurisdiction of  
8 California.
- 9 (u) “Key employee” means any natural person employed by a  
10 licensee, subcontractor, or player recruiter, or by a holding or  
11 intermediary company of a licensee, subcontractor, or player  
12 recruiter, who is an officer or director of the licensee or certificate  
13 holder, or who, in the judgment of the commission, has the  
14 authority to exercise significant influence over decisions  
15 concerning the operation of the licensee or certificate holder as  
16 that operation relates to the Internet poker authorized by this  
17 chapter.
- 18 (v) “Land-based gaming facility” means a card room operated  
19 pursuant to Chapter 5 (commencing with Section 19800) or a  
20 casino operated by a federally recognized Indian tribe on Indian  
21 land in California.
- 22 (w) “Licensee” means an eligible entity licensed pursuant to  
23 this chapter to offer the play of authorized Internet poker games  
24 to registered players on an intrastate Internet poker Web site.
- 25 (x) “Online self-exclusion form” means a form on which an  
26 individual notifies a licensee that he or she must be excluded from  
27 participation in authorized Internet poker games for a stated period  
28 of time.
- 29 (y) “Owner” means any person that has a financial interest in,  
30 or control of, a subcontractor or other entity required to be found  
31 suitable under this chapter. An owner of a licensee shall include  
32 only those persons eligible to own a land-based gaming facility in  
33 California. Owner does not include the members or government  
34 officials of a federally recognized California Indian tribe.
- 35 (z) “Per hand charge” means the amount charged by the licensee  
36 for registered players to play in a per hand game.
- 37 (aa) “Per hand game” means an authorized Internet poker game  
38 for which the licensee charges the player for each hand played.
- 39 (ab) “Person” means an individual, corporation, business trust,  
40 estate, trust, partnership, limited liability company, association,

1 joint venture, government, governmental subdivision, agency, or  
2 instrumentality, public corporation, or any other legal or  
3 commercial entity, including any federally recognized California  
4 Indian tribe, or an entity that is wholly owned by the tribe.

5 (ac) “Play settings” means the options and default parameters  
6 made available by a licensee to a registered player in the play of  
7 authorized Internet poker games.

8 (ad) “Proprietary information” means and includes all  
9 information that, whether or not patentable or registerable under  
10 patent, copyright, trademark, or similar statutes, (1) can be  
11 protected as a trade secret under California law or any other  
12 applicable state law, federal law, or foreign law, or (2) derives  
13 independent economic value, actual or potential, from not being  
14 generally known to the public or to other persons that can obtain  
15 economic value from its disclosure or use. “Proprietary  
16 information” includes, but is not limited to, computer programs,  
17 databases, data, algorithms, formulae, expertise, improvements,  
18 discoveries, concepts, inventions, developments, methods, designs,  
19 analyses, drawings, techniques, strategies, new products, reports,  
20 unpublished financial statements, budgets, projections, billing  
21 practices, pricing data, contacts, client and supplier lists, business  
22 and marketing records, working papers, files, systems, plans, and  
23 all registrations and applications related thereto.

24 (ae) “Proxy player” means the use of a machine, device, or  
25 agent, other than the registered player, to play an authorized  
26 Internet poker game.

27 (af) “Registered player” means a player who has registered with  
28 a licensee to play authorized Internet poker games on the licensee’s  
29 intrastate Internet poker Web site.

30 (ag) “Registration information” means the information provided  
31 by a person to a licensee in order to become a registered player.

32 (ah) “Robotic play” means the use of a machine or software by  
33 a registered player or licensee to automate the next player action  
34 at any point in a game, including the use of a proxy player.

35 (ai) “State” means the State of California.

36 (aj) (1) “Subcontractor” means any person, other than an  
37 employee, that does any of the following:

38 (A) On behalf of a licensee, manages, administers, or controls  
39 wagers on authorized Internet poker games provided over the  
40 Internet by a licensee pursuant to this chapter.

1 (B) On behalf of a licensee, manages, administers, or controls  
2 the games with which those wagers are associated.

3 (C) On behalf of a licensee, develops, maintains, provides, or  
4 operates a gaming system.

5 (D) Sells, licenses, or otherwise receives compensation for  
6 selling or licensing information on individuals in California who  
7 made wagers on games over the Internet that were not licensed  
8 under this chapter via a database or customer lists.

9 (E) Provides any product, service, financing, or asset to a  
10 licensee and is paid a percentage of gaming revenue by the licensee,  
11 not including fees to financial institutions and payment providers  
12 for facilitating a deposit by a customer.

13 (F) Provides intellectual property, including the trademarks,  
14 trade names, service marks, or similar intellectual property under  
15 which a licensee identifies its games to its customers.

16 (G) Receives compensation as part of an affiliate marketing  
17 program for bringing players or potential players to a licensee's  
18 intrastate Internet poker Web site.

19 (2) "Subcontractor" shall not include a provider of goods or  
20 services that provides similar goods or services to the public for  
21 purposes other than the operation of Internet gambling activities,  
22 and is not otherwise directly or indirectly involved in the operation  
23 of an Internet poker Web site pursuant to a license issued under  
24 this chapter.

25 (ak) "Terms of Use Registered Player's Agreement" means the  
26 agreement offered by a licensee and accepted by a registered player  
27 delineating, among other things, permissible and impermissible  
28 activities on an intrastate Internet poker Web site and the  
29 consequences of engaging in impermissible activities.

30 (al) "Tournament" means a commission-approved competition  
31 in which registered players play a series of authorized Internet  
32 poker games to decide the winner.

33 (am) "Tournament charge" means the amount charged by the  
34 licensee for registered players to play in a tournament.

35 (an) "Tournament winnings" means the amount of any prize  
36 awarded to a registered player in a tournament.

37 (ao) "Tribal gaming regulatory authority" means the gaming  
38 regulatory authority of a federally recognized California Indian  
39 tribe that has the authority to regulate gaming on the tribe's Indian



1 lands pursuant to the federal Indian Gaming Regulatory Act of  
2 1988.

3 (ap) “Tribe” means a federally recognized California Indian  
4 tribe, including, but not limited to, the governing body of that tribe  
5 or any entity that is wholly owned by the tribe.

6 (aq) “Unlawful Gambling Enforcement Fund” means the special  
7 fund established pursuant to Section 19990.77, the revenue of  
8 which are dedicated to enforcing the prohibitions of this chapter.

9

10 Article 3. Legal Authorized Internet Poker Games Offered Over  
11 the Internet in California

12

13 19990.10. Under the federal Unlawful Internet Gambling  
14 Enforcement Act of 2006, California is permitted to authorize  
15 games played via the Internet as long as all players and the online  
16 wagering is located within the jurisdiction of the state and the  
17 games are not played by minors.

18 19990.11. Notwithstanding any other law, a person in  
19 California 21 years of age or older is hereby permitted to participate  
20 as a registered player in an authorized Internet poker game provided  
21 over the Internet by a licensee on an approved intrastate Internet  
22 poker Web site as described in this chapter.

23 19990.12. (a) A person shall not offer any game of poker on  
24 the Internet in this state, other than a game operated pursuant to  
25 federal law that is confined to Indian lands with all players  
26 physically present on the Indian lands within this state, unless that  
27 person holds a valid license issued by the state to offer the play of  
28 authorized Internet poker games on an intrastate Internet poker  
29 Web site pursuant to this chapter. A federally recognized California  
30 Indian tribe that operates a gaming facility that accepts bets from  
31 players within this state but who are not physically present on  
32 Indian lands when making the bet shall not be eligible to operate  
33 an Internet poker Web site pursuant to this chapter.

34 (b) It is unlawful for any person to offer or play any gambling  
35 game provided on the Internet that is not authorized by the state  
36 pursuant to this chapter.

37 (c) It is unlawful for any person to use a device other than an  
38 Internet access device to play any authorized Internet poker game.

39 (d) A violation of this chapter is punishable as a misdemeanor.

1 19990.13. Chapter 5 (commencing with Section 19800) does  
2 not apply to this chapter.

3 19990.14. Only poker games consistent with the definition in  
4 Section 19990.05, and approved by the commission for play on  
5 an intrastate Internet poker Web site, may be offered for play on  
6 an intrastate Internet poker Web site pursuant to this chapter. All  
7 other forms of Internet gambling other than Internet poker played  
8 in this state pursuant to this chapter, are prohibited and subject to  
9 penalty as provided in this chapter. This prohibition includes, but  
10 is not limited to, any game offered in Nevada or New Jersey other  
11 than poker, sports betting, any banked or percentage game, and  
12 any game that would be considered class III gaming as that term  
13 is used in the federal Indian Gaming Regulatory Act of 1988 if  
14 played on Indian lands.

15 19990.15. (a) It is unlawful for a person to patronize, or to  
16 own or operate, a place of public accommodation within this state,  
17 including a club or association limited to dues-paying members  
18 or similar restricted groups, or similar establishments, in which  
19 computer terminals, laptop computers, hand-held devices, or similar  
20 devices are made available for accessing Internet Web sites to play  
21 gambling games, or where those devices are otherwise empowered  
22 or enabled to access Internet Web sites to play gambling games.

23 (b) It is unlawful for a person to aggregate computers or other  
24 access devices in a public setting within this state for the purpose  
25 of playing a gambling game on the Internet, or to promote,  
26 facilitate, or market that activity.

27 (c) This chapter does not restrict a federally recognized Indian  
28 tribal government, or its wholly owned tribal entities, from  
29 participating in activities described in subdivision (a) exclusively  
30 within Indian lands as defined by the federal Indian Gaming  
31 Regulatory Act.

32 19990.16. (a) To protect Californians from an unprecedented  
33 and unwanted expansion of gambling activity on the Internet, and  
34 also to protect California’s investments in land-based gaming  
35 facilities, which generate thousands of jobs for Californians and  
36 hundreds of millions of dollars for the state every year, the state  
37 shall not affirmatively elect to be subject to a federal Internet  
38 gambling law that would permit persons, other than tribes operating  
39 under tribal-state gaming compacts, to operate “gaming devices.”

1 as that term is defined by state law and tribal-state gaming  
2 compacts, or to operate house-banked games.

3 (b) If a federal law authorizing Internet gambling in the state is  
4 enacted, and if that federal law provides that states may opt out of  
5 the federal Internet gambling scheme, the state shall opt out of that  
6 federal Internet gambling scheme in the manner and time frame  
7 provided by that federal law. In the event the federal law allows  
8 states to affirmatively opt into any federal Internet gambling  
9 scheme, this state shall decline to do so. If the state violates this  
10 subdivision, a licensee shall not be required to pay the fees set  
11 forth in Section 19990.47 and the state shall refund within 30 days  
12 all unused license fees paid to the state to each licensee as follows:

13 (1) The state shall provide any refund owed to licensees from  
14 the Internet Poker Fund.

15 (2) In the event that there are insufficient funds in the Internet  
16 Poker Fund to provide these refunds, the state shall provide the  
17 remaining amount from the General Fund.

18 (c) A licensee may bring suit to enforce subdivision (b) in state  
19 court.

20 (d) If a federal law authorizes Internet gambling agreements  
21 between states or foreign jurisdictions, this state shall not  
22 participate in any such agreement.

23

#### 24 Article 4. Licensing of Intrastate Internet Poker Web Sites

25

26 19990.20. (a) (1) Within 270 days after the effective date of  
27 this chapter, the commission, and any other state agency with a  
28 duty pursuant to this chapter, shall adopt regulations pursuant to  
29 the Administrative Procedure Act (Chapter 3.5 (commencing with  
30 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
31 Code), in consultation with the department and federally recognized  
32 California Indian tribes, to implement this chapter, and to facilitate  
33 the operation of intrastate Internet poker Web sites and expedite  
34 the state's receipt of revenues in compliance with this chapter. The  
35 initial adoption, amendment, or repeal of a regulation authorized  
36 by this section is deemed to address an emergency, for purposes  
37 of Sections 11346.1 and 11349.6 of the Government Code, and  
38 the commission and those other state agencies are hereby exempted  
39 for that purpose from the requirements of subdivision (b) of Section  
40 11346.1 of the Government Code. After the initial adoption,

1 amendment, or repeal of an emergency regulation pursuant to this  
2 section, the commission and those other state agencies shall not  
3 request approval from the Office of Administrative Law to readopt  
4 the regulation as an emergency regulation pursuant to Section  
5 11346.1 of the Government Code, but shall promulgate permanent  
6 regulations in accordance with all applicable law.

7 (2) The regulations adopted by the commission shall address  
8 underage gambling and problem gambling.

9 (3) The regulations of the commission also shall provide for  
10 temporary or provisional approvals, licenses, or certificates for  
11 heirs, executors, receivers, trustees, conservators, key employees,  
12 and other persons where an approval, license, or certificate is  
13 required.

14 (b) (1) Each state agency with a duty pursuant to this chapter  
15 shall identify a contact person at that agency and describe the  
16 responsibility of the contact with respect to the state agency's duty.

17 (2) Any notice provided by a licensee to a state agency pursuant  
18 to this chapter shall be addressed to the contact identified by the  
19 state agency pursuant to paragraph (1).

20 (3) Unless otherwise provided by this chapter, notice by a  
21 licensee to the state shall be deemed effectively given upon  
22 personal delivery, three days after deposit in the United States mail  
23 by certified or registered mail, return receipt requested, one  
24 business day after its deposit with any return receipt express  
25 courier, prepaid, or one business day after electronically confirmed  
26 transmission by facsimile.

27 19990.21. (a) An entity seeking to be licensed to offer  
28 authorized Internet poker games shall apply to the commission for  
29 a license to engage in that activity. The commission shall charge  
30 the license applicant a registration fee sufficient to cover the  
31 reasonable costs associated with the issuance of the license.

32 (b) An applicant for an intrastate Internet poker license pursuant  
33 to this chapter shall provide documentation establishing that if the  
34 license is granted, the license applicant is qualified to pay the  
35 license fee required by subdivision (a) of Section 19990.47 from  
36 its own assets, its owner's assets, or through credit extended to the  
37 entity in an amount not to exceed the entity's own assets, or its  
38 owner's assets.

39 (c) An applicant for an intrastate Internet poker license pursuant  
40 to this chapter that is a federally recognized California Indian tribe

1 shall include with its license application a limited waiver of the  
2 applicant's sovereign immunity exclusively to the state and no  
3 other party solely for the limited purpose of enforcing this chapter  
4 and any regulations promulgated thereunder, and with regard to  
5 any claim, sanction, or penalty arising therefrom against the  
6 licensee by the state, and for no other purpose.

7 (d) The commission shall issue a license to operate an intrastate  
8 Internet poker Web site to an applicant determined by the  
9 commission to qualify as an eligible entity under this chapter within  
10 90 days of receiving an application, if the applicant submits a  
11 completed application form and pays the required registration fee  
12 within the time frame specified in subdivision(a).

13 (e) The state may only issue licenses to eligible entities identified  
14 within this chapter. Any of the eligible entities may jointly apply  
15 for a license, either as a consortium or by forming an entity  
16 comprised entirely of eligible entities. Each eligible entity may  
17 have an interest in only a single license.

18 (f) A license to operate an intrastate Internet poker Web site  
19 pursuant to this chapter shall be issued for a term of 10 years.  
20 Subject to the power of the commission to revoke, suspend,  
21 condition, or limit any license, as provided in this chapter, a license  
22 shall be automatically renewed every 10 years thereafter upon  
23 application. Failure of a licensee to file an application for renewal  
24 may be deemed a surrender of the license.

25 (g) All licenses issued pursuant to this chapter before January  
26 1, 2015, shall thereafter take effect on the same date, and in  
27 particular, on January 1, 2015, absent good cause for all of those  
28 licenses to take effect in unison on a subsequent date, as determined  
29 by the commission. Subject to those conditions, all licenses issued  
30 after January 1, 2015, shall take effect on the date issued.

31 (h) If commercial infeasibility develops as a result of a change  
32 in federal law rendering the provision of intrastate Internet poker  
33 services illegal, or some other event, a licensee may abandon its  
34 operations after providing the commission with 90 days' advance  
35 notice of its intent and a statement explaining its interpretation  
36 that continuing to operate the intrastate Internet poker Web site is  
37 commercially infeasible. In response to that notice, the state may  
38 file an action in the Superior Court of the County of Sacramento  
39 as it deems necessary to protect any state interests, including, but  
40 not limited to, the interests of registered players.

1 19990.22. (a) All facilities, with the exception of redundant  
2 servers, bank accounts, and accounting records of the license  
3 applicant related to intrastate Internet poker shall be located in  
4 California.

5 (b) All subcontractors of a licensee are subject to this  
6 subdivision. If a licensee desires to enter into an agreement with  
7 a subcontractor to provide goods or services in connection with  
8 the operation of authorized Internet poker games, that subcontractor  
9 is subject to this subdivision and investigation and a finding of  
10 suitability as set forth in Section 19990.23.

11 (c) In addition to any other confidentiality protections afforded  
12 to license applicants, the state and its agencies shall treat the  
13 proprietary information of a license applicant as confidential to  
14 protect the license applicant and to protect the security of any  
15 prospective intrastate Internet poker Web site. This chapter does  
16 not prohibit the exchange of confidential information among state  
17 agencies considering a license application. The confidentiality  
18 provisions of this chapter exempt proprietary information supplied  
19 by a license applicant to a state agency from public disclosure  
20 consistent with subdivision (b) of Section 6253 of the Government  
21 Code.

22 (d) A license applicant shall submit to the commission, together  
23 with its application, a registration fee as specified in subdivision  
24 (a) of Section 19990.21. All moneys collected by the state pursuant  
25 to this subdivision shall be deposited into the Internet Poker Fund.

26 19990.23. (a) The department shall review the suitability of  
27 a subcontractor providing goods or services in connection with a  
28 licensee's operation of an intrastate Internet poker Web site.

29 (b) The department may establish a process to conduct a  
30 preliminary determination of suitability based on a partial  
31 investigation of a subcontractor along with a determination of  
32 which subcontractors may be subject to a partial investigation. A  
33 partial investigation is intended to screen out applicants that do  
34 not meet the suitability requirements of this chapter. A partial  
35 investigation shall include fingerprint-based state and federal  
36 criminal history checks and clearances, and inquiries into various  
37 public databases regarding credit history and any civil litigation.  
38 A partial investigation shall also include a review of the  
39 subcontractor's financial status, which shall include the required  
40 submission of a report prepared on behalf of the subcontractor by

1 a department-approved forensic accounting, audit, or investigative  
2 firm, in a format developed by the department, and at the  
3 subcontractor's expense. The report shall include the financial  
4 information necessary for the department to make a preliminary  
5 determination of suitability. The department may specify additional  
6 requirements regarding the contents of the report and any other  
7 financial information or documentation required to be submitted.  
8 A full investigation shall be conducted of only those subcontractors  
9 that pass the partial investigation and that will undergo a full  
10 investigation pursuant to subdivision (c). Those subcontractors  
11 that do not pass the partial investigation may appeal the decision  
12 to the commission.

13 (c) The department shall conduct a full investigation into the  
14 suitability of any subcontractor of a licensee. The investigation  
15 shall include all of the following persons:

16 (1) All officers of the subcontractor.

17 (2) The owner or owners of the following:

18 (A) The subcontractor.

19 (B) Any affiliate of the subcontractor.

20 (C) Any persons otherwise providing goods to, or performing  
21 services for, the subcontractor related to core functions.

22 (D) Any person deemed by the department to have significant  
23 influence over the license applicant or its subcontractors or their  
24 respective operations.

25 (3) In the case of a tribe or a wholly owned tribal entity that is  
26 a subcontractor, the investigation shall be limited to the business  
27 officers of the tribal entity that will serve as the subcontractor.

28 (d) A full investigation shall include a review and evaluation  
29 of the subcontractor's qualifications and experience to provide the  
30 services anticipated, which shall include the required submission  
31 of a report prepared on each subcontractor by an outside firm  
32 contracted and supervised by the department, in a format developed  
33 by the department, and at the subcontractor's expense. The report  
34 shall include information necessary for the department to make a  
35 determination of suitability, as specified in regulation, consisting  
36 of, but not limited to, personal history, prior activities and  
37 associations, credit history, civil litigation, past and present  
38 financial affairs and standing, and business activities. The  
39 department may specify additional requirements regarding the

1 contents of the report and other information or documentation  
2 required to be submitted.

3 (e) A subcontractor shall not be deemed suitable if the  
4 subcontractor, or any affiliate of the subcontractor, accepted a  
5 wager from any person in California on any form of Internet  
6 gaming prior to \_\_\_\_.

7

8 Article 5. Requirements for the Operation of an Intrastate  
9 Internet Poker Web Site

10

11 19990.30. (a) A licensee shall ensure that registered players  
12 are eligible to play authorized Internet poker games and implement  
13 appropriate data security standards to prevent access by a person  
14 whose age and location have not been verified in accordance with  
15 this chapter.

16 (b) A registered player shall be physically located within the  
17 State of California at the time of gambling.

18 (c) A registered player shall not be less than 21 years of age.

19 (d) Each licensee shall do all of the following:

20 (1) Prior to registering a person as a registered player or  
21 permitting a person to play an authorized Internet poker game, the  
22 licensee shall verify that the person is 21 years of age or older.  
23 The licensee shall attempt to match the name, address, and date  
24 of birth provided by the person to information contained in records  
25 in a database of individuals who have been verified to be 21 years  
26 of age or older by reference to an appropriate database of  
27 government records. The licensee also shall verify that the physical  
28 billing address on the check or credit card offered for payment by  
29 the person seeking to be a registered player matches the address  
30 listed in the database.

31 (2) If the licensee is unable to verify that the person is 21 years  
32 of age or older pursuant to subparagraph (1), the licensee shall  
33 require the person to submit age-verification documents consisting  
34 of an attestation signed by the person that he or she is 21 years of  
35 age or older and a copy of a valid form of government  
36 identification. For the purposes of this section, a valid form of  
37 government identification includes a driver’s license, state  
38 identification card, passport, official naturalization or immigration  
39 document, such as an alien registration receipt card or an immigrant  
40 visa, or United States military identification. The licensee also



1 shall verify that the physical billing address on the check or credit  
2 card provided by the person matches the address listed in the  
3 government identification.

4 (3) The licensee shall not permit registered players to make  
5 payments or withdrawals by money order or cash, except at a  
6 land-based gaming facility operated by the licensee. The licensee  
7 shall submit to each credit card company with which it has credit  
8 card sales information in an appropriate form and format so that  
9 the words “Internet poker” may be printed on the purchaser’s credit  
10 card statement when a payment to a licensee is made by credit  
11 card.

12 (e) If a licensee complies with the requirements of paragraphs  
13 (1) and (2) of subdivision (d), and a person under 21 years of age  
14 participates in an authorized Internet poker game provided by the  
15 licensee, the licensee is not in violation of this section.

16 (f) The department may assess civil penalties against a person  
17 who violates this section, whether a licensee, owner, subcontractor,  
18 or player, according to the following schedule:

19 (1) Not less than one thousand dollars (\$1,000) and not more  
20 than two thousand dollars (\$2,000) for the first violation.

21 (2) Not less than two thousand five hundred dollars (\$2,500)  
22 and not more than three thousand five hundred dollars (\$3,500)  
23 for the second violation.

24 (3) Not less than four thousand dollars (\$4,000) and not more  
25 than five thousand dollars (\$5,000) for the third violation.

26 (4) Not less than five thousand five hundred dollars (\$5,500)  
27 and not more than six thousand five hundred dollars (\$6,500) for  
28 the fourth violation.

29 (5) Ten thousand dollars (\$10,000) for a fifth or subsequent  
30 violation.

31 (g) The commission shall, by regulation, provide a process for  
32 a licensee to exclude from play any person who has filled out an  
33 online self-exclusion form.

34 (1) The commission shall develop an online self-exclusion form  
35 within six months of the effective date of this chapter.

36 (2) The commission shall deliver the form to each licensee.

37 (3) A licensee shall prominently display a link to the  
38 department’s Responsible Gambling Internet Web page and the  
39 online self-exclusion form on the Internet Web site that is displayed  
40 when either of the following occurs:

1 (A) A person registers as a registered player.

2 (B) Each time a registered player accesses the intrastate Internet  
3 poker Web site prior to playing.

4 (4) A licensee shall retain the online self-exclusion form to  
5 identify persons who want to be excluded from play. A licensee  
6 shall exclude those persons from play.

7 (5) A licensee that has made commercially reasonable efforts  
8 to comply with this subdivision shall not be held liable in any way  
9 if a person who has filled out an online self-exclusion form plays  
10 despite that person's request to be excluded.

11 19990.31. A licensee shall offer only authorized Internet poker  
12 games and process bets in accordance with the specified game and  
13 betting rules established by the licensee and approved by the  
14 commission pursuant to Sections 19990.14 and 19990.32.

15 19990.32. (a) In order to propose a game for play, a licensee  
16 shall provide the commission with both of the following:

17 (1) Game rules and betting rules it proposes to offer to registered  
18 players.

19 (2) Documentation relating to development and testing of the  
20 game's software.

21 (b) A licensee shall not offer a game for play until the  
22 commission has approved the game rules and betting rules.

23 19990.33. (a) A licensee shall ensure that games are fair.

24 (b) A licensee shall display a link on its Internet poker Web site  
25 that includes the following information for each game offered:

26 (1) The name of the game.

27 (2) Any restrictions on play.

28 (3) The rules of the game.

29 (4) All instructions on how to play.

30 (5) The unit and total bets permitted.

31 (6) The registered player's current account balance, which shall  
32 be updated in real time.

33 (7) Any other information that a licensee determines is necessary  
34 for the registered player to have in real time to compete fairly in  
35 the game.

36 (c) Data used to create game results shall be unpredictable so  
37 that it is infeasible to predict the next occurrence in a game, given  
38 complete knowledge of the algorithm or hardware generating the  
39 sequence and all previously generated numbers.

1 (d) A licensee shall deploy controls and technology to minimize  
2 fraud or cheating through collusion, including external exchange  
3 of information between different players, or any other means.

4 (1) If a licensee becomes aware that fraud or cheating is taking  
5 place or has taken place, it shall take steps to stop those activities  
6 immediately and inform the department of all relevant facts.

7 (2) The department shall not impose a fine against a licensee to  
8 prevent fraud or cheating if the licensee can demonstrate that it  
9 acted responsibly to prevent those activities as soon as the licensee  
10 became aware of them.

11 (e) In a per hand game, if the gaming server or software does  
12 not allow a game to be completed, the game shall be void and all  
13 funds relating to the incomplete game shall be returned to the  
14 registered player's account.

15 (f) In a tournament, if the gaming server or software does not  
16 allow the tournament to be completed, all prize money shall be  
17 distributed among players in accordance with the procedure  
18 published by the licensee prior to the commencement of the  
19 tournament.

20 (g) A licensee shall not display or allow the results from any  
21 authorized Internet poker game, including the redemption of  
22 winnings from any game, to be displayed or represented through  
23 any means other than showing the card faces of the winning hand  
24 and the dollar amount won. No casino game graphics, themes, or  
25 titles may be used, including, but not limited to, depictions of slot  
26 machine-style symbols, banked or banking card games, craps,  
27 roulette, keno, lotto, or bingo.

28 (h) A licensee shall not permit the use of robotic play at any  
29 time by itself, a subcontractor, or a player.

30 (i) A licensee shall not permit the use of poker game outcomes  
31 to be used in a manner that mimics a slot machine or any other  
32 casino style game.

33 19990.34. (a) A licensee shall register players and establish  
34 player accounts prior to play.

35 (b) A person shall not participate in any game provided by a  
36 licensee unless the person is a registered player and holds an  
37 account.

38 (c) Accounts may be established in person, or by United States  
39 mail, telephone, or by any electronic means.

- 1 (d) To register and establish an account, a person shall provide  
2 the following registration information:  
3 (1) First name and surname.  
4 (2) Principal residence address.  
5 (3) Telephone number.  
6 (4) Social security number.  
7 (5) Identification or certification to prove that person is at least  
8 21 years of age.  
9 (6) Valid e-mail address.
- 10 (e) A licensee shall provide registered players with the means  
11 to update the registration information provided to the licensee, and  
12 shall require that registered players keep registration information  
13 current.
- 14 (f) This section does not prevent a licensee from entering into  
15 a marketing agreement with a third party, who has been determined  
16 to be suitable as a subcontractor, to recruit people to become  
17 registered players if the registration process described in this  
18 section is under the sole control of the licensee.
- 19 19990.35. (a) A licensee shall provide a means for registered  
20 players to put funds into a registered player account and transfer  
21 funds out of that account.
- 22 (b) A registered player shall identify the source of funds to be  
23 used to put money into the account established once the registration  
24 process is complete, and a licensee shall provide a means for a  
25 registered player to transfer money into and out of the player's  
26 intrastate Internet poker Web site account.
- 27 (c) At the time of establishing an intrastate Internet poker Web  
28 site account, a registered player shall designate the bank account  
29 into which funds from the registered player's intrastate Internet  
30 poker Web site account are to be transferred.
- 31 (d) A registered player shall establish only one account on any  
32 intrastate Internet poker Web site.
- 33 (e) While playing an authorized Internet poker game, the game  
34 system shall not permit a registered player to increase the amount  
35 of money that player has available at a game table while a hand is  
36 in play. Any increase to the funds available to a player during a  
37 hand shall not take effect until the following hand.
- 38 (f) A licensee shall maintain records on the balance of each  
39 registered player's account.

1 (g) A licensee shall not permit a registered player to place a  
2 wager unless the registered player's account has sufficient funds  
3 to cover the amount of the wager.

4 (h) A licensee shall not provide credit to a registered player's  
5 account or act as agent for a credit provider to facilitate the  
6 provision of funds.

7 (i) No interest shall be paid by a licensee with respect to  
8 registered player accounts.

9 (j) A licensee shall segregate funds it holds in all registered  
10 player accounts from all of its other assets.

11 (k) A licensee shall not commingle funds in the segregated  
12 account containing funds paid by registered players with any other  
13 funds held by the licensee, including, but not limited to, operating  
14 funds of the licensee. Both the accounts of the licensee and its  
15 segregated registered player accounts shall be held in financial  
16 institutions located in the state.

17 (l) Funds held in a registered player's account shall only be used  
18 for the following purposes:

19 (1) To pay per hand or tournament charges owed by a registered  
20 player to the licensee for play of authorized Internet poker games.

21 (2) To transfer funds from one registered player's account to  
22 the account of another registered player to reconcile the result of  
23 a loss in the play of an authorized Internet poker game.

24 (3) To transfer funds from a registered player's account to a  
25 temporary account to be held by a licensee pending the outcome  
26 of an authorized Internet poker game.

27 (4) To remit tax proceeds due and owing from a registered player  
28 to the Franchise Tax Board.

29 (5) To transfer funds from a registered player's account with  
30 the licensee to an account specified by that registered player upon  
31 that registered player's request.

32 19990.36. Prior to completing the registration process, a  
33 licensee shall explain to the person who is registering in a  
34 conspicuous fashion the privacy policies of the intrastate Internet  
35 poker Web site, and the person shall assent to the following  
36 policies:

37 (a) No personally identifiable information shall be shared with  
38 any nongovernment third parties except as provided in subdivision  
39 (j) of Section 19990.41.

1 (b) All personally identifiable information about registered  
2 players shall be shared with state agencies, including, but not  
3 limited to, the department, the commission, the Franchise Tax  
4 Board, and the Department of Child Support Services as necessary  
5 to assist them in fulfilling their obligations.

6 (c) Personally identifiable information may be shared with  
7 government agencies only as set forth in subdivision (b) or subject  
8 to court order as provided in subdivision (j) of Section 19990.41.

9 19990.37. A licensee may require that a registered player, or  
10 a person registering as a player, agree to a Terms of Use Registered  
11 Player’s Agreement.

12 19990.38. A licensee may suspend or revoke the account of a  
13 registered player for any of the following reasons:

14 (a) A person or registered player provided false information to  
15 the licensee, including, but not limited to, in the registration  
16 process.

17 (b) The registered player has not updated registration  
18 information to keep it current.

19 (c) The registered player has violated the intrastate Internet  
20 poker Web site’s Terms of Use Registered Player’s Agreement.

21 (d) The person has already been registered.

22 (e) The licensee suspects that the registered player has  
23 participated in an illegal or unauthorized activity on the intrastate  
24 Internet poker Web site.

25 (f) The licensee is directed by a state agency to suspend or  
26 revoke the registered player’s account.

27 19990.39. Upon registration, and each time a registered player  
28 logs into an intrastate Internet poker Web site, the licensee shall  
29 permit a registered player to adjust his or her play settings to:

30 (a) Set a limit on the deposits that can be made per day.

31 (b) Set a limit on the aggregate losses in a registered player’s  
32 account within a specified period of time.

33 (c) Set a limit on the amount of time that a registered player can  
34 play.

35 19990.40. A licensee shall offer customer support that shall  
36 be available to registered players 24 hours per day, 365 days a  
37 year. All employees shall be physically present in the state while  
38 in contact with registered players. However, the licensee shall have  
39 discretion to use the expertise of personnel not physically present  
40 in the state when necessary to comply with this chapter and protect

1 registered players and state interests, including, but not limited to,  
2 for the purposes of diagnosing and addressing technological  
3 problems, investigating fraud and collusion, and supervising  
4 software and configuration changes. The licensee shall give notice  
5 to the commission when using personnel who are out of state.

6 19990.41. (a) A licensee shall protect the privacy of registered  
7 players and their personally identifiable information.

8 (b) A licensee shall comply with all applicable state and federal  
9 privacy and data protection laws.

10 (c) At the time of registration with a licensee as a registered  
11 player, and at least once a year thereafter, a licensee shall provide  
12 notice in the form of a separate, written statement, delivered via  
13 the United States Postal Service or electronic mail, to the registered  
14 player that clearly and conspicuously informs the registered player  
15 of all of the following:

16 (1) The nature of personally identifiable information collected  
17 or to be collected with respect to the registered player and the  
18 nature of the use of that information.

19 (2) The nature, frequency, and purpose of any disclosure that  
20 may be made of personally identifiable information, including an  
21 identification of the types of persons to whom the disclosure may  
22 be made.

23 (3) The period during which personally identifiable information  
24 will be maintained by the licensee.

25 (4) The times and place at which the registered player may have  
26 access to personally identifiable information in accordance with  
27 subdivision (h).

28 (5) The limitations provided by this section with respect to the  
29 collection and disclosure of personally identifiable information by  
30 a licensee.

31 (d) A licensee shall not collect personally identifiable  
32 information concerning any registered player without the prior  
33 written or electronic consent of the registered player.

34 (e) A licensee may collect personally identifiable information  
35 in order to do both of the following:

36 (1) Obtain information necessary to operate the intrastate  
37 Internet poker Web site and offer authorized Internet poker games  
38 to registered players pursuant to this chapter.

1 (2) Detect unauthorized play, activities contrary to a licensee’s  
2 Terms of Use Registered Player’s Agreement, or activities contrary  
3 to state or federal law.

4 (f) Except as provided in subdivision (g), a licensee shall not  
5 disclose personally identifiable information concerning any  
6 registered player without the prior written or electronic consent of  
7 the registered player and shall take actions necessary to prevent  
8 unauthorized access to that information by a person other than the  
9 registered player or licensee.

10 (g) A licensee may disclose personally identifiable information  
11 if the disclosure is any of the following:

12 (1) Necessary to render, or conduct a legitimate business activity  
13 related to, the provision of authorized Internet poker games to the  
14 registered player by the licensee.

15 (2) Subject to subdivision (j), made pursuant to a court order  
16 authorizing the disclosure, if the registered player is notified of  
17 the order by the person to whom the order is directed.

18 (3) A disclosure of the names and addresses of registered players  
19 to any tournament third party, if both of the following apply:

20 (A) The licensee has provided the registered player the  
21 opportunity to prohibit or limit the disclosure.

22 (B) The disclosure does not reveal, directly or indirectly, the  
23 nature of any transaction made by the registered player over the  
24 intrastate Internet poker Web site.

25 (4) A disclosure to the commission to fulfill its obligations under  
26 this chapter or a state agency as authorized in this chapter.

27 (5) A disclosure to persons found suitable under this chapter if  
28 the registered player is notified and consents to the information  
29 being shared.

30 (h) A registered player shall be provided access to all personally  
31 identifiable information regarding that registered player that is  
32 collected and maintained by a licensee. The information shall be  
33 made available to the registered player at reasonable times and at  
34 a place designated by the licensee. A registered player shall be  
35 provided reasonable opportunity to correct any error in the  
36 information.

37 (i) A licensee shall destroy personally identifiable information  
38 if the information is no longer reasonably necessary for the purpose  
39 for which it was collected, and there are no pending requests or  
40 orders for access to the information under subdivision (j).



1 (j) Except as provided in subdivision (g), a governmental or  
2 nongovernmental third party may obtain personally identifiable  
3 information concerning a registered player pursuant to a court  
4 order only if, in the court proceeding relevant to the court order,  
5 both of the following apply:

6 (1) The third party offers clear and convincing evidence that  
7 the subject of the information is reasonably suspected of engaging  
8 in criminal activity or otherwise relevant to a pending civil action  
9 and that the information sought would be material evidence in the  
10 case.

11 (2) The registered player about whom the information is  
12 requested is afforded the opportunity to appear and contest the  
13 third-party's claim.

14 19990.42. A licensee shall establish a book of accounts and  
15 regularly audit all of its financial records and reports, which shall,  
16 at a minimum, include all of the following:

17 (a) Monthly auditable and aggregate financial statements of  
18 gambling transactions.

19 (b) Monthly calculation of all amounts payable to the state.

20 (c) The identity of registered players.

21 (d) The balance on each registered player's account at the start  
22 of a session of play, the amount won or lost by each registered  
23 player during a game, and the balance on the registered player's  
24 account.

25 (e) The wagers placed on each game, time stamped by the games  
26 server.

27 (f) The result of each game, time stamped by the games server.

28 (g) The amount, if any, as determined by the registered player,  
29 withheld from winnings for federal or state income tax purposes.

30 19990.43. (a) A licensee shall make all financial records  
31 established and maintained pursuant to Section 19990.42,  
32 including, but not limited to, all books, records, documents,  
33 financial information, and financial reports, available on an  
34 electronic basis, as required by the commission or other state  
35 agencies so that those state agencies can fulfill their responsibilities  
36 under this chapter. A state agency may request specific printed  
37 hard copies of records for good cause.

38 (b) The licensee's data shall be retained in a manner by which  
39 it may be accessed online by a state agency with responsibilities

1 under this chapter. The commission shall identify which state  
2 agencies require online access.

3 (c) Notwithstanding subdivision (b), data covered by  
4 subdivisions (d), (e), and (f) of Section 19990.42, shall be  
5 accessible to the state agencies online for 120 days, and, thereafter,  
6 archived and retained for one year.

7 19990.44. (a) A licensee shall implement technical systems  
8 that materially aid the commission in the protection of registered  
9 players. Software shall meet, at a minimum, international industry  
10 standards as verified by a commission-approved gaming laboratory.

11 (b) A licensee shall define and document its methodology for  
12 developing software and applications and describe the manner in  
13 which software protects registered players from fraud and other  
14 risks in the play of authorized Internet poker games and in the  
15 management of registered player accounts.

16 (c) A licensee shall meet minimum game server connectivity  
17 requirements to ensure that registered players are protected from  
18 losses due to connectivity problems.

19 (d) A licensee shall ensure that all transactions involving  
20 registered players' funds shall be recoverable by the system in the  
21 event of a failure or malfunction.

22 (e) All information required for reviewing a game interrupted  
23 due to loss of connectivity shall be recoverable by the licensee.

24 (f) Preventative and detective controls addressing money  
25 laundering and fraud risks shall be documented and implemented  
26 by the licensee.

27 19990.45. (a) A licensee may charge registered players to play  
28 in authorized Internet poker games.

29 (b) Per hand charges are permitted.

30 (1) A per hand charge shall be designated and conspicuously  
31 posted on the intrastate Internet poker Web site.

32 (2) A licensee may vary the per hand charges to registered  
33 players based on betting limits or other factors.

34 (c) Tournament charges shall be permitted.

35 (1) A tournament charge shall be designated and conspicuously  
36 posted on the intrastate Internet poker Web site.

37 (2) A licensee may vary tournament charges based on  
38 tournament prizes or other factors.

39 (d) A licensee shall provide notice to the commission of the  
40 charges to registered players prior to initiating play.

1 19990.46. A licensee may do any of the following:

2 (a) Enter into an agreement with any third party to sponsor or  
3 underwrite prizes for a tournament, subject to the approval of the  
4 commission and, if applicable, the tribal gaming regulatory  
5 authority.

6 (b) Enter into an agreement to sell advertisement space on any  
7 Internet Web site it controls.

8 (c) Enter into an agreement with a third-party subcontractor for  
9 marketing, or any other purpose consistent with this chapter,  
10 including, but not limited to, displaying the name of a marketing  
11 partner on a screen viewed by a registered player. However, a  
12 licensee shall not utilize any brand or business name, including  
13 any derivative brand name with the same or similar wording, or  
14 any trade or service mark, software, technology, operational  
15 system, customer information, or other data acquired, derived, or  
16 developed directly or indirectly from any operation that has  
17 accepted a wager from any person in California on any form of  
18 Internet gaming prior to \_\_\_\_\_. To the extent any business  
19 relationships or financial arrangements were utilized or existed to  
20 further illegal Internet gambling, those relationships and  
21 arrangements shall be discontinued.

22 (d) Enable a chat function between registered players if it has  
23 in place effective controls against collusion.

24 (e) Post Internet Web links on the Internet Web sites it controls  
25 to permit registered players to access remote Internet Web sites.  
26 However, each licensee is limited to \_\_\_\_\_ Internet poker Web site  
27 for which \_\_\_\_\_ which it may offer Internet poker to registered  
28 players.

29 (f) Enter into contractual agreements with one or more licensees  
30 for the purpose of ensuring adequate player liquidity.

31 19990.47. (a) In support of the application for a license  
32 pursuant to this chapter, the licensee shall remit to the Treasurer  
33 a one-time license fee in the amount of five million (\$5,000,000),  
34 to be deposited into the General Fund, and credited against charges  
35 imposed pursuant to subdivision (b) on the licensee's gross gaming  
36 revenues. Upon depletion of the license fee, the commission shall  
37 notify the licensee to commence quarterly payments to the state  
38 in accordance with subdivision (b).

39 (b) In consideration of the substantial value of each license, a  
40 licensee shall remit to the Treasurer on a quarterly basis for deposit

1 in the General Fund an amount equal to 5 percent of its gross  
2 gaming revenues.

3 (1) Each quarterly payment shall be due on the 10th day of the  
4 month following the end of each quarter.

5 (2) A licensee shall make all electronic and written financial  
6 records available to the Treasurer, the commission, and the  
7 department on an electronic basis.

8 (c) Each licensee shall pay a regulatory fee, to be deposited in  
9 the Internet Poker Fund, in an amount, not to exceed \_\_\_\_ (\$\_\_\_\_)  
10 per year, to be determined by the commission for the reasonable  
11 costs of license oversight, consumer protection, state regulation,  
12 problem gambling programs, and other purposes related to this  
13 chapter.

14 19990.48. (a) The licensee shall facilitate the collection of  
15 personal income taxes from registered players by the Franchise  
16 Tax Board and shall be responsible for providing current and  
17 accurate documentation on a timely basis to all state agencies, as  
18 provided in this chapter.

19 (b) The state and its agencies shall treat the proprietary  
20 information provided by a licensee as confidential to protect the  
21 licensee and to protect the security of the intrastate Internet poker  
22 Web site.

23 (c) The confidentiality provisions of this chapter exempt  
24 proprietary information supplied by a licensee to a state agency  
25 from public disclosure consistent with subdivision (b) of Section  
26 6253 of the Government Code.

27 19990.49. (a) A licensee shall act expeditiously to cure any  
28 violation of this chapter, or any violation of a regulation adopted  
29 pursuant to this chapter, in the offer or administration of authorized  
30 Internet poker games that interferes with its obligations to the state  
31 or registered players under this chapter.

32 (b) If a licensee becomes aware of any violation, it shall notify  
33 the commission immediately and work with the commission to  
34 develop a plan to rectify the violation.

35 (c) If the commission becomes aware of any violation, or if it  
36 becomes aware of any activities that might lead to a violation, the  
37 commission shall provide notice of that violation to the licensee  
38 and a reasonable opportunity to cure the violation, before referring  
39 the matter to the department for investigation and possible  
40 enforcement.

1 (d) All state agencies with responsibilities under this chapter  
2 shall report any actual or suspected violation of this chapter, or  
3 any regulation adopted pursuant to this chapter, or activities that  
4 may lead to a violation, to the department immediately so that the  
5 department can assess whether it needs to commence an  
6 investigation or enforcement action.

7 (e) A licensee shall be afforded a reasonable time period to cure  
8 any reported violation.

9 (f) The department shall have subpoena power in an  
10 investigation of any violation of this chapter, or any regulation  
11 adopted pursuant to this chapter.

12 (g) The department may revoke or suspend any license or work  
13 permit under this chapter upon reaching a finding that the licensee  
14 or employee is in violation of any provision of this chapter, or any  
15 regulation adopted pursuant to this chapter. However, a tribal  
16 licensee shall not have its license suspended or revoked, or be  
17 fined or otherwise penalized, for complying with any applicable  
18 federal law or regulation when operating an Internet poker Web  
19 site on Indian lands. To the extent that any state requirement is  
20 more strict than any applicable federal requirement, the tribal  
21 licensee shall comply with the more strict state requirement unless  
22 the federal requirement preempts state law.

23 (h) A licensee may appeal any decision of the department  
24 pursuant to this section to the superior court. The superior court  
25 shall hear any appeal de novo.

26 (i) The department shall protect the rights and assets of  
27 registered players on an intrastate Internet poker Web site if the  
28 licensee's license pursuant to this chapter is revoked or the licensee  
29 becomes bankrupt.

30 19990.50. (a) A license issued pursuant to this chapter is not  
31 transferable. To the extent a licensee seeks to change ownership  
32 of its land-based gaming facility, the license held by the licensee  
33 shall be rendered void upon the date of any change of ownership  
34 in the land-based gaming facility. In anticipation of a change in  
35 ownership, the acquiring person shall apply for a license in  
36 advance, at which point the commission shall determine whether  
37 the applicant is legally qualified to be a licensee under this chapter.

38 (b) The commission shall investigate to ensure that any person  
39 acquiring an interest in a licensee is suitable and otherwise  
40 financially, technically, and legally qualified to be a licensee

1 pursuant to this chapter. If an acquiring person is found to be  
2 unsuitable to be a licensee, or otherwise not financially, technically,  
3 or legally qualified to be a licensee, the licensee or the acquiring  
4 person may challenge that determination.

5 19990.51. All facilities, software, including downloadable  
6 programs, and any other property, both tangible and intangible,  
7 used by the licensee in offering authorized Internet poker games  
8 for play on an intrastate Internet poker Web site shall be the  
9 property of the licensee or its subcontractors, and shall be subject  
10 to the approval of the commission.

11 19990.52. If any dispute arises between the state and the  
12 licensee, either the commission or a licensee may file an action in  
13 the superior court of any county in which the commission has an  
14 office for an interpretation of the rights and responsibilities of the  
15 state and the licensee pursuant to this chapter.

16

#### 17 Article 6. Employee Work Permits

18

19 19990.60. (a) A licensee shall apply to the commission and,  
20 if applicable, the tribal regulatory authority, for an employee work  
21 permit on behalf of each employee.

22 (b) Prior to initiating operations and thereafter, a licensee shall  
23 ensure that every employee has been issued an employee work  
24 permit by the commission and, if applicable, the tribal gaming  
25 regulatory authority, prior to that person having access to the  
26 licensee's facilities. The permit shall be renewed every two years.

27 (c) An employee work permit shall not be issued unless, based  
28 on all of the information and documents submitted, the commission  
29 and, if applicable, the tribal gaming regulatory authority is satisfied  
30 that the applicant is, at a minimum, all of the following:

31 (1) A person of good character, honesty, and integrity.

32 (2) A person whose prior activities, criminal record, if any,  
33 reputation, habits, and associations do not pose a threat to the  
34 integrity of a gaming operation or public interest of this state, or  
35 to the effective regulation and control of controlled gambling, or  
36 create or enhance the dangers of unsuitable, unfair, or illegal  
37 practices, methods, and activities in the conduct of controlled  
38 gambling or in the carrying on of incidental business and financial  
39 arrangements.

1 (3) A person who is in all other respects qualified to hold an  
2 employee work permit as provided in this chapter.

3 (d) An employee work permit shall not be issued unless the  
4 applicant meets the qualification standards adopted by the  
5 commission. A tribal gaming regulatory authority may impose  
6 additional qualifications with respect to activities on Indian lands.

7 19990.61. An applicant for an employee work permit is  
8 disqualified for any of the following reasons:

9 (a) Failure of the applicant to clearly establish eligibility and  
10 qualification in accordance with this chapter.

11 (b) Failure of the applicant to provide timely information,  
12 documentation, and assurances required by this chapter or requested  
13 by any state official, failure of the applicant to reveal any fact  
14 material to the qualification, or the supplying of information that  
15 is untrue or misleading as to a material fact pertaining to the  
16 qualification criteria.

17 (c) Conviction of a felony, including a conviction by a federal  
18 court, a court in another state, or a court in another country, for a  
19 crime that would constitute a felony if committed in California.

20 (d) Conviction of the applicant for any misdemeanor involving  
21 dishonesty or moral turpitude within the 10-year period  
22 immediately preceding the submission of the application, unless  
23 the applicant has been granted relief pursuant to Section 1203.4,  
24 1203.4a, or 1203.45 of the Penal Code. However, the granting of  
25 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal  
26 Code shall not constitute a limitation on the discretion of the  
27 department or affect the applicant's burden under subdivision (b).

28 (e) Association of the applicant with criminal profiteering  
29 activity or organized crime, as defined by Section 186.2 of the  
30 Penal Code.

31 (f) Contemptuous defiance by the applicant of any legislative  
32 investigative body, or other official investigative body of any state  
33 or of the United States, when that body is engaged in the  
34 investigation of crimes relating to gambling, official corruption  
35 related to gambling activities, or criminal profiteering activity or  
36 organized crime, as defined by Section 186.2 of the Penal Code.

37 (g) The applicant is less than 21 years of age.

38 19990.62. The commission and, if applicable, the tribal gaming  
39 regulatory authority shall establish fees to be paid by a licensee  
40 for the reasonable cost of background investigation on employee

1 work permit applications. The commission shall establish processes  
2 for the revocation or suspension of an intrastate Internet poker  
3 license or employee work permit, and to withdraw an application  
4 for an intrastate Internet poker license or employee work permit.  
5 These processes shall also be followed by the tribal gaming  
6 regulatory authority with respect to activities on Indian lands.

7 19990.63. (a) A licensee or subcontractor of a licensee shall  
8 not enter into, without prior approval of the commission and, if  
9 applicable, the tribal gaming regulatory authority, a contract or  
10 agreement with a person who is denied a gambling license or  
11 employee work permit pursuant to Chapter 5 (commencing with  
12 Section 19800), or whose gambling license or employee work  
13 permit is suspended or revoked by the department or tribal gaming  
14 regulatory authority, or with any business enterprise under the  
15 control of that person, after the date of receipt of notice of the  
16 action of the department or tribal gaming regulatory authority.

17 (b) A licensee or subcontractor of a licensee shall not enter into  
18 a contract or agreement with a person or entity that has accepted  
19 a wager from any person in California on any form of Internet  
20 gaming prior to \_\_\_\_, or has been the holder of a direct or indirect  
21 financial interest in a person or entity that has accepted that wager.

22 19990.64. (a) A licensee or subcontractor of a licensee shall  
23 not employ, without prior approval of the commission and, if  
24 applicable, the tribal gaming regulatory authority, a person in any  
25 capacity for which he or she is required to have an employee work  
26 permit, if the person has been denied a gambling license or an  
27 employee work permit pursuant to Chapter 5 (commencing with  
28 Section 19800), or if his or her gambling license or employee work  
29 permit has been suspended or revoked after the date of receipt of  
30 notice of the action by the commission or tribal gaming regulatory  
31 authority. A licensee or subcontractor of a licensee shall not enter  
32 into a contract or agreement with a person whose application for  
33 a gambling license or an employee work permit has been  
34 withdrawn with prejudice, or with a business enterprise under the  
35 control of that person, for the period of time during which the  
36 person is prohibited from filing a new application for a gambling  
37 license or an employee work permit.

38 (b) (1) If an employee who is required to hold an employee  
39 work permit pursuant to this chapter is denied an employee work  
40 permit, or has his or her employee work permit revoked by the



1 commission or tribal gaming regulatory authority, the employee  
2 shall be terminated immediately in all capacities. Upon notifying  
3 the licensee of the action of the commission or tribal gaming  
4 regulatory authority, the employee shall have no further  
5 involvement in the gambling operation.

6 (2) If an employee who is required to hold an employee work  
7 permit pursuant to this chapter has his or her employee work permit  
8 suspended, the employee shall be suspended in all capacities. Upon  
9 notifying the licensee of the action of the commission or tribal  
10 gaming regulatory authority, the employee shall not be permitted  
11 to have any involvement in the gambling operation during the  
12 period of suspension.

13 (3) A licensee or subcontractor of a licensee shall not designate  
14 another employee to replace the employee whose employment was  
15 terminated or suspended, unless the other employee has an existing  
16 work permit.

17 (c) A licensee or subcontractor of a licensee shall not pay to a  
18 person whose employment has been terminated or suspended  
19 pursuant to subdivision (b) any remuneration for any service  
20 performed in any capacity in which the person is required to hold  
21 an employee work permit, except for amounts due for services  
22 rendered before the date of receipt of notice of the action of the  
23 department or tribal gaming regulatory authority.

24 (d) Except as provided in subdivision (b), a contract or  
25 agreement for the provision of services or property to a licensee  
26 or subcontractor or for the conduct of any activity pertaining to  
27 the operation of an intrastate Internet poker Web site, that is to be  
28 performed by a person required by this chapter, or by regulations  
29 adopted pursuant to this chapter, to hold an employee work permit,  
30 shall be terminated upon a suspension or revocation of the person's  
31 employee work permit.

32 (e) In a case in which a contract or agreement for the provision  
33 of services or property to a licensee or an affiliate thereof, or for  
34 the conduct of any activity at an intrastate Internet poker Web site,  
35 is to be performed by a person required by this chapter or by  
36 regulations adopted by the department to hold an employee work  
37 permit, the contract shall be deemed to include a provision for its  
38 termination without liability on the part of the licensee, affiliate,  
39 or subcontractor upon a suspension or revocation of the person's  
40 employee work permit. In any action brought by the commission

1 to terminate a contract pursuant to subdivision (d) or this  
2 subdivision, it shall not be a defense that the agreement does not  
3 expressly include the provision described in this subdivision, and  
4 the lack of express inclusion of the provision in the agreement  
5 shall not be a basis for enforcement of the contract by a party  
6 thereto.

7  
8  
9

Article 7. Protection of Registered Players

10 19990.70. A licensee shall use its best efforts to protect  
11 registered players. Subject to the approval of the commission, and  
12 consistent with uniform standards established by the commission  
13 by regulation, each licensee shall establish administrative  
14 procedures to resolve registered player complaints.

15 19990.71. (a) If a registered player has a complaint against a  
16 licensee, the exclusive remedy shall be to register the complaint  
17 with the commission.

18 (b) The commission, in consultation with the department, shall  
19 establish regulations with respect to registered player complaints.

20 (c) Under the regulations, the commission shall do all of the  
21 following:

22 (1) Investigate registered player complaints to determine if a  
23 licensee has failed to meet its obligations to a registered player.

24 (2) Attempt to resolve complaints by registered players if a  
25 licensee fails to meet an obligation to a registered player.

26 (3) Initiate enforcement actions to require specific performance  
27 of any obligation that the commission has determined a licensee  
28 has failed to fulfill with respect to a registered player.

29 (d) A licensee may appeal any action by the commission  
30 pursuant to this article to the superior court, which shall review  
31 the appeal de novo.

32

33 Article 8. Financial Provisions for State Regulation and  
34 Unlawful Gambling Enforcement

35

36 19990.75. The Treasurer shall transfer all amounts received  
37 from a licensee pursuant to subdivision (d) of Section 19990.22  
38 and subdivision (c) of Section 19990.47 to the Controller for  
39 deposit in the Internet Poker Fund, which is created in the State  
40 Treasury, to be administered by the department. Notwithstanding

1 Section 13340 of the Government Code, all moneys in the fund  
2 are continuously appropriated to the department and the  
3 commission, without regard to fiscal years, in the amounts  
4 necessary for the department and the commission to perform their  
5 duties under Sections 19990.22 and 19990.23, and subdivision (c)  
6 of Section 19990.47.

7 19990.76. (a) The state agencies shall submit revenue needs  
8 to fulfill their obligations under this chapter for the upcoming fiscal  
9 year to the Senate Committee on Budget and Fiscal Review and  
10 the Assembly Committee on Budget, as well as the Senate and  
11 Assembly Committees on Governmental Organization and the  
12 Department of Finance on or before March 31 of the preceding  
13 fiscal year. A justification of those costs shall be provided with  
14 each submission of revenue needs.

15 (b) The State Department of Alcohol and Drug Programs, Office  
16 of Problem Gambling, shall submit revenue needs for programs  
17 to alleviate problem gambling that results from the offering of  
18 authorized Internet poker games for the upcoming fiscal year to  
19 the Senate Committee on Budget and Fiscal Review and the  
20 Assembly Committee on Budget, as well as the Senate and  
21 Assembly Committees on Governmental Organization, the Senate  
22 and Assembly Committees on Human Services, and the Department  
23 of Finance on or before March 31 of the preceding fiscal year. A  
24 justification of those costs shall be provided with each submission  
25 of revenue needs.

26 (c) With the exception of funding paid into the Unlawful  
27 Gambling Enforcement Fund, as set forth in this article, all  
28 remaining proceeds not allocated pursuant to subdivisions (a) and  
29 (b) shall remain in the Internet Poker Fund subject to appropriation  
30 by the Legislature.

31 19990.77. The Unlawful Gambling Enforcement Fund is hereby  
32 established as a special fund within the General Fund for purposes  
33 of ensuring adequate resources for law enforcement charged with  
34 enforcing the prohibitions and protections of this chapter. The fund  
35 shall be funded by depositing \_\_\_\_ percent of the revenue from  
36 the civil penalties recovered by law enforcement authorities  
37 pursuant to Section 19990.78 into the fund prior to the distribution  
38 required under subdivision (c) of Section 19990.78. Up to \_\_\_\_  
39 million dollars (\$\_\_\_\_) in the fund may be expended annually by

1 the Attorney General, upon appropriation by the Legislature, for  
2 the purposes of this chapter.

3 19990.78. (a) A person who engages or conspires to engage  
4 in activities prohibited by this chapter, or by Section 321, 322,  
5 323, 324, 326, 330, 330a, 330b, 330c, 330d, 330.1, 330.4, or 331  
6 of the Penal Code, is liable for a civil penalty not to exceed \_\_\_\_  
7 dollars (\$\_\_\_\_) for each violation, in addition to any other penalty  
8 or remedy that may be imposed by law, which shall be assessed  
9 and recovered in a civil action brought in the name of the people  
10 of the State of California by the Attorney General, a district  
11 attorney, a county counsel authorized by agreement with the district  
12 attorney in an action involving the violation of a county ordinance,  
13 the city attorney of a city having a population in excess of 750,000  
14 persons, the city attorney of a city and county, or, with the consent  
15 of the district attorney, the city prosecutor in a city with a full-time  
16 city prosecutor, in a court of competent jurisdiction.

17 (b) The court shall impose a civil penalty for each violation of  
18 this chapter and each violation of Section 321, 322, 323, 324, 326,  
19 330, 330a, 330b, 330c, 330d, 330.1, 330.4, or 331 of the Penal  
20 Code. In determining the amount of the civil penalty, the court  
21 shall consider any relevant circumstance presented by a party to  
22 the case, including, but not limited to, any of the following:

- 23 (1) The nature and seriousness of the misconduct.
- 24 (2) The number of violations.
- 25 (3) The persistence of the misconduct.
- 26 (4) The length of time over which the misconduct occurred.
- 27 (5) The willfulness of the defendant's misconduct.
- 28 (6) The defendant's assets, liabilities, and net worth.

29 (c) (1) Civil penalties recovered by law enforcement authorities  
30 pursuant to this section shall be allocated as follows:

31 (A) If the action is brought by the Attorney General, one-half  
32 of the penalty collected shall be paid to the treasurer of the county  
33 in which the judgment was entered for deposit into that county's  
34 general fund, and one-half to the Treasurer for deposit into the  
35 Unlawful Gambling Enforcement Fund.

36 (B) If the action is brought by a district attorney or county  
37 counsel, the penalty collected shall be paid to the treasurer of the  
38 county in which the judgment was entered for deposit into that  
39 county's general fund.

1 (C) If the action is brought by a city attorney or city prosecutor,  
2 one-half of the penalty collected shall be paid to the treasurer of  
3 the city in which the judgment was entered for deposit into that  
4 city's general fund, and one-half to the treasurer of the county in  
5 which judgment was entered for deposit into that county's general  
6 fund. If the action is brought by the city attorney of a city and  
7 county, the entire amount of the penalty collected shall be paid to  
8 the treasurer of the city and county in which the judgment was  
9 entered.

10 (2) The revenue from all civil penalties allocated pursuant to  
11 subparagraph (A) of paragraph (1), upon appropriation by the  
12 Legislature, shall be used by the Attorney General exclusively to  
13 support the investigation and enforcement of violations of  
14 California's gambling laws, including the implementation of  
15 judgments obtained from prosecution and investigation of those  
16 violations and other activities that are in furtherance of this chapter  
17 and Sections 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330d,  
18 330.1, 330.4, and 331 of the Penal Code.

19 (3) The revenue from all civil penalties allocated pursuant to  
20 subparagraphs (B) and (C) of paragraph (1) shall be for the  
21 exclusive use of the district attorney, the county counsel, the city  
22 attorney, or the city prosecutor, whichever is applicable, for the  
23 enforcement of this chapter and existing laws prohibiting illegal  
24 gambling activity.

25  
26 Article 9. Preemption of Local Regulation

27  
28 19990.80. A city, county, or city and county shall not regulate,  
29 tax, or enter into a contract with respect to any matter related to  
30 this chapter. This section shall not prohibit or limit the investigation  
31 and prosecution of any violation of this chapter.

32  
33 Article 10. Reports to the Legislature

34  
35 19990.85. Notwithstanding Section 10231.5 of the Government  
36 Code, within one year of the operative date of this chapter, and  
37 annually thereafter, the commission, in consultation with the  
38 department, the Treasurer, and the Franchise Tax Board, shall issue  
39 a report to the Legislature describing the state's efforts to meet the  
40 policy goals articulated in this chapter. The report shall be

1 submitted in compliance with Section 9795 of the Government  
2 Code.

3 19990.86. (a) At least four years after the issue date of any  
4 license pursuant to this chapter, but no later than five years after  
5 that date, the Bureau of State Audits shall issue a report to the  
6 Legislature detailing the implementation of this chapter.

7 (b) A report submitted pursuant to subdivision (a) shall be  
8 submitted in compliance with Section 9795 of the Government  
9 Code.

10 (c) Pursuant to Section 10231.5 of the Government Code, this  
11 section is repealed four years after the date on which this chapter  
12 becomes operative.

13  
14  
15

Article 11. Nonseverability

16 19990.87. The provisions of this act are not severable. If any  
17 provision of this act or the application thereof to any person or  
18 circumstances is held invalid, the entire act shall be invalid.

19 SEC. 2. Section 330d is added to the Penal Code, to read:

20 330d. (a) An “electronic sweepstakes device” is a slot machine  
21 or device within the meaning of Section 330b, and is subject to  
22 that section.

23 (b) For the purposes of this section, an “electronic sweepstakes  
24 device” is a computer or other mechanically or electronically  
25 operated machine or device, or network of machines or devices,  
26 that is capable of displaying information on a screen or other  
27 mechanism, and that is intended to be used at least in part for the  
28 purpose of conducting or promoting a sweepstakes through the  
29 use of an entertaining display, including the entry process or the  
30 reveal of a prize, regardless of whether that computer, machine,  
31 device, or network also serves other purposes, such as Internet  
32 access, and regardless of whether consideration is required in order  
33 to enter the sweepstakes or to operate the device in connection  
34 with the conduct or promotion of the sweepstakes.

35 (c) For the purposes of this section, “entertaining display” means  
36 a video or mechanical representation of the outcome of the  
37 sweepstakes, including, but not limited to, video or mechanical  
38 reels or other casino game themes.

39 (d) For the purposes of this section, a “sweepstakes” is defined  
40 as a game, advertising scheme or plan, or other promotion

1 conducted in connection with the sale of a consumer product, with  
2 or without payment of consideration, that a person may enter to  
3 win or become eligible to receive a prize of money, credit,  
4 allowance, or thing of value, or that may be given in trade, the  
5 determination of which is based upon skill or chance, or both, and  
6 regardless of the point at which the prize is determined.

7 SEC. 3. The Legislature finds and declares that Chapter 5.2  
8 (commencing with Section 19990.01) of Division 8 of the Business  
9 and Professions Code, as added by this act, imposes a limitation  
10 on the public’s right of access to the meetings of public bodies or  
11 the writings of public officials and agencies within the meaning  
12 of Section 3 of Article I of the California Constitution. Pursuant  
13 to that constitutional provision, the Legislature makes the following  
14 findings to demonstrate the interest protected by this limitation  
15 and the need for protecting that interest:

16 The limitations on the people’s rights of access set forth in this  
17 chapter are necessary to protect the privacy and integrity of  
18 information submitted by the registered players as well as the  
19 proprietary information of the license applicants and licensees.

20 SEC. 4. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.

29 SEC. 5. This act is an urgency statute necessary for the  
30 immediate preservation of the public peace, health, or safety within  
31 the meaning of Article IV of the Constitution and shall go into  
32 immediate effect. The facts constituting the necessity are:

33 In order to protect the interests of Californians who play online  
34 gambling games and to ensure that people play fair games, that  
35 the state realizes the revenues, and that suitable persons operate  
36 intrastate Internet poker Web sites, it is necessary that this act take  
37 effect immediately.

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