

Senate Bill No. 472

Passed the Senate September 11, 2013

Secretary of the Senate

Passed the Assembly September 4, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 19852.2, 19855, and 19858 of the Business and Professions Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

SB 472, Hill. Gaming: licenses.

The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. The act makes any person who willfully violates any of the provisions of the act for which a penalty is not expressly provided guilty of a misdemeanor.

The act requires every person who is required to hold a state license to obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required, except as specified. Existing law requires every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability to file an application within 30 calendar days after receipt of the order.

This bill would instead require the application described above to be filed within 45 calendar days after receipt of an order of the commission.

The act also provides that, if the owner of a gambling enterprise is not a person, the owner is not eligible for a gambling license unless specified persons involved in the enterprise obtain a gambling license. Existing law authorizes the commission to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on the grounds of a racetrack that is owned by a limited partnership that also owns the racetrack.

This bill would instead authorize the commission to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on any portion of, or contiguous to, the grounds upon which a racetrack is or had been previously located and horse race meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that

is owned by a limited partnership that also owns or owned the racetrack.

Existing law provides that a person is deemed unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.

This bill would exempt from these provisions a person who is licensed or had an application to be licensed on file with the commission on or before February 1, 2013, has a financial interest in a business or organization engaged in gambling prohibited by state law that was closed and was not engaged in prohibited gambling at the time the person was either licensed or had filed an application to be licensed with the commission, and has a financial interest in a gambling establishment that is located on any portion of, or contiguous to, the grounds on which a racetrack is or had been previously located and horse race meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is directly or indirectly owned by a racetrack limited partnership owner, as defined. The bill would require an exempted person described above, within 3 years of the date the closed business or organization reopens and becomes engaged in any form of prohibited gambling, as specified, to either divest that person's interest in the business or organization, or divest that person's interest in the gambling enterprise or gambling establishment for which the person is licensed or had applied to be licensed by the commission. The bill would also require an exempted person to inform the commission within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of prohibited gambling, as specified. The bill would also make it unlawful, during the 3-year divestment period, for any cross-promotion or marketing, as defined, to occur between the business or organization that is engaged in any form of prohibited gambling, as specified, and a gambling enterprise or gambling establishment, as described. By creating a new crime, the bill would impose a state-mandated local program. The bill would prohibit, during that 3-year divestment period, any funds used in connection with the capital improvement of the gambling enterprise or gambling

establishment from being provided from the gaming revenues of either the business or organization engaged in prohibited forms of gaming. The bill would also provide that if, at the end of the 3-year divestment period, a person has not divested his or her interest in either the gambling enterprise or gambling establishment or the business or organization that is engaged in the form of prohibited gaming, the exemption would not apply to that person and that person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of prohibited gaming, whether within or without this state, as specified.

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.

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

SECTION 1. Section 19852.2 of the Business and Professions Code is amended to read:

19852.2. (a) Notwithstanding Section 19852 or any other provision of law, and solely for the purpose of the licensure of a card club located on any portion of, or contiguous to, the grounds upon which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is owned by a limited partnership that also owns or owned the racetrack, the commission may, at its discretion, exempt all of the following from the licensing requirements of this chapter:

(1) The limited partners in a limited partnership that holds interest in a holding company if all of the following criteria are met:

(A) The limited partners of the limited partnership in the aggregate directly hold at least 95 percent of the interest in the holding company.

(B) The limited partner is one of the following:

(i) An “institutional investor” as defined in subdivision (w) of Section 19805.

(ii) An “employee benefit plan” as defined in Section 1002(3) of Title 29 of the United States Code.

(iii) An investment company that manages a state university endowment.

(2) Other limited partners in a limited partnership described in paragraph (1), if the partners do not number more than five and each partner indirectly owns 1 percent or less of the shares of the interest in the holding company.

(3) A limited partner in a limited partnership that holds in the aggregate less than 5 percent of the interest in a holding company.

(b) Nothing in this section shall be construed to limit the licensure requirements for a general partner of a limited partnership or a limited partner that is not specifically described in this section.

SEC. 2. Section 19855 of the Business and Professions Code is amended to read:

19855. Except as otherwise provided by statute or regulation, every person who, by statute or regulation, is required to hold a state license shall obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required. Every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability shall file the application within 45 calendar days after receipt of the order.

SEC. 3. Section 19858 of the Business and Professions Code is amended to read:

19858. (a) Except as provided in subdivisions (b) and (c), a person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code, whether within or without this state.

(b) Subdivision (a) shall not apply to a publicly traded racing association, a qualified racing association, or any person who is licensed pursuant to subdivision (b) or (c) of Section 19852.

(c) Subdivision (a) shall not apply to a person who meets all of the following criteria:

(1) The person is licensed or had an application to be licensed on file with the commission on or before February 1, 2013.

(2) The person has a financial interest in a business or organization engaged in gambling prohibited by Section 330 of the Penal Code that was closed and was not engaged in prohibited gambling at the time the person was either licensed or had filed an application to be licensed with the commission.

(3) The person has a financial interest in a gambling establishment that is located on any portion of, or contiguous to, the grounds on which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012.

(4) The grounds upon which the gambling establishment described in paragraph (3) is located are directly or indirectly owned by a racetrack limited partnership owner. For purposes of this paragraph, a “racetrack limited partnership owner” is defined as a limited partnership, or a number of related limited partnerships, that is or are at least 80 percent capitalized by limited partners that are an “institutional investor” as defined in subdivision (w) of Section 19805, an “employee benefit plan” as defined in Section 1002(3) of Title 29 of the United States Code, or an investment company that manages a state university endowment.

(d) Within three years of the date the closed business or organization reopens or becomes engaged in any form of gambling prohibited by Section 330 of the Penal Code, a person described in subdivision (c) shall either divest that person’s interest in the business or organization, or divest that person’s interest in the gambling enterprise or gambling establishment for which the person is licensed or has applied to be licensed by the commission.

(e) A person described in subdivision (c) shall inform the commission within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of gambling prohibited by Section 330 of the Penal Code.

(f) During the three-year divestment period described in subdivision (d), it is unlawful for any cross-promotion or marketing to occur between the business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code and the gambling enterprise or gambling establishment described in paragraph (3) of subdivision (c). For purposes of this

subdivision, “cross-promotion or marketing” means the offering to any customers of the gambling enterprise or gambling establishment anything of value related to visiting or gambling at the business or organization engaged in any form of gambling prohibited by Section 330 of the Penal Code.

(g) During the three-year divestment period described in subdivision (d), any funds used in connection with the capital improvement of the gambling enterprise or gambling establishment described in paragraph (3) of subdivision (c) shall not be provided from the gaming revenues of either the business or organization engaged in gaming prohibited under Section 330 of the Penal Code.

(h) If, at the end of the three-year divestment period described in subdivision (d), any person described in subdivision (c) has not divested his or her interest in either the gambling enterprise or gambling establishment or the business or organization engaged in any form of gaming prohibited under Section 330 of the Penal Code, the prohibitions of Section 19858 as it read on January 1, 2013, apply.

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

Approved _____, 2013

Governor