

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN SENATE AUGUST 19, 2013

SENATE BILL

No. 678

Introduced by Senator Correa

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 678, as amended, Correa. Internet gambling.

(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 willful violation of these provisions is punishable as a misdemeanor, as specified.

This bill would authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply for a license to operate an intrastate Internet poker Web site offering the play of authorized games to players within California, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized game permitted by the state pursuant to this bill. The bill would prohibit a person, except as provided, from aggregating 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 make any

violation of these provisions 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 120 days after the effective date of this bill, in consultation with the department to implement these provisions, and to facilitate the operation of intrastate Internet poker Web sites and expedite the state's receipt of revenues. This bill would authorize the commission to issue initial licenses, as specified, and would establish the procedure for license renewal. The bill would require a license applicant to apply to the commission and pay an application deposit sufficient to cover all costs associated with the issuance of the license, for deposit into the Internet Poker Licensing 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 license applicants. The bill would establish separate license procedures for an applicant that is a federally reorganized ~~reorganized~~ *recognized* Indian tribe.

This bill would require the payment of a regulatory fee, for deposit into the Internet Poker Fund, as created by the bill, subject to annual appropriation by the Legislature for the actual reasonable 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 of \$10,000,000 for deposit in the General Fund. The license fee would be credited against fees imposed on the licensee's gross gaming proceeds, as specified.

This bill would authorize each licensee, subject to approval by the department, and the department, ~~subject to approval by~~ *in consultation with* the commission, to establish administrative procedures to resolve registered player complaints.

This bill would require the department, in consultation with the commission, 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 effective 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.

(2) The bill would state that its provisions are severable.

(3) 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.

(4) 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 2013

7
8 Article 1. General Provisions

9
10 19990.01. This chapter shall be known and may be cited as the
11 Internet Poker Consumer Protection Act of 2013.

12 19990.02. The Legislature hereby finds and declares all of the
13 following:

14 (a) The state and the governments of numerous federally
15 recognized California Indian Tribes ~~tribes~~ currently maintain and
16 implement substantial regulatory and law enforcement efforts to
17 protect thousands of Californians who play, among other things,
18 real-money poker in, respectively, licensed California card rooms
19 and authorized tribal government casinos, yet the state provides
20 no licensing requirements, regulatory structure, or law enforcement
21 efforts to protect Californians who play the same games online on
22 an illegal and unregulated basis for money. The Legislature finds
23 that protection of the interests of both the state and persons within
24 its jurisdiction that play real-money games online requires the
25 authorization and establishment of a system for regulating Internet
26 poker gambling within California.

27 (b) In October 2006, Congress passed the SAFE Port Act (Public
28 Law 109-347), to increase the security of United States ports. That

1 act included a section entitled the Unlawful Internet Gambling
2 Enforcement Act of 2006 (UIGEA), which prohibits the use of
3 banking instruments, including credit cards, checks, or fund
4 transfers, for interstate Internet gambling, essentially prohibiting
5 poker and other gambling games played online by United States
6 citizens. UIGEA includes exceptions, however, that permit
7 individual states to create a regulatory framework to enable
8 intrastate Internet gambling, in which wagers are made exclusively
9 within a single state whose laws or regulations comply with all of
10 the following:

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

13 (A) Age and location verification requirements.

14 (B) Data security standards designed to prevent access by minors
15 and persons located outside of that state.

16 (2) Expressly authorize the betting or wagering process.

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

19 (A) The Interstate Horseracing Act of 1978.

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

21 (C) The Gambling Devices Transportation Act.

22 (D) The Indian Gaming Regulatory Act of 1988 (IGRA).

23 (c) Despite the absence of enabling legislation in conformity
24 with UIGEA, Californians participate in Internet poker and other
25 forms of Internet gambling operated by offshore operators that are
26 not regulated by California or United States authorities. Neither
27 federal nor California laws provide any protections for California
28 participants in those sites, nor do the citizens of California directly
29 benefit from these activities. This significant rise in Internet gaming
30 within California, together with efforts by other states to begin
31 authorizing and regulating Internet gambling and recent federal
32 claims of illegal activities by certain offshore Internet gambling
33 operators, has increased the need for California to enact on an
34 urgent basis a statutory framework for authorizing and regulating
35 Internet gaming within the state. The Legislature finds that Internet
36 poker is a reality that must be addressed by California in order to
37 protect consumers from compulsive gambling, underage play and
38 exploitation from illegal operators, as well as to meet the needs of
39 its citizens and economy. California also wants to limit the scope

1 of Internet gambling to the game of poker, with which it has
2 extensive regulatory experience.

3 (d) By regulating Internet poker, the state will achieve the
4 following:

5 (1) Protect and promote its economy.

6 (2) Provide California players with a safe and secure
7 environment to play online.

8 (3) Ensure fair and transparent Internet gambling.

9 (4) Protect player funds and their winnings.

10 (5) Protect against underage gambling.

11 (6) Combat crime, racketeering, corruption, money laundering,
12 and terrorism financing.

13 (7) Enable the poker industry in California, which employs
14 thousands of Californians, to compete fairly in ~~Intrastate~~ *intrastate*
15 *Internet* poker.

16 (8) Generate millions of dollars of additional revenues to meet
17 California and tribal governmental needs.

18 (e) California, thus, has a state interest in authorizing and
19 regulating legitimate Internet poker and in ensuring that those
20 activities are consistent with existing public policy regarding the
21 playing of poker games within the state. The public interest will
22 be best served by requiring that those entities who desire to own
23 or operate Internet poker web sites within the state continue to
24 comply with the existing standards and rigorous scrutiny that must
25 be met in order to qualify to offer poker games within the state.

26 (f) The Legislature has determined, from experience gained by
27 observing the development of Internet poker throughout the world,
28 and in agreement with the federal requirements for authorizing
29 Internet gambling under UIGEA, that California's regulatory
30 requirements must include all of the following:

31 (1) A system that is implemented and administered in a fair and
32 transparent manner that ensures that players can participate in an
33 environment that safeguards and secures their personal data in
34 accordance with the latest industry data security standards.

35 (2) The maintenance of player deposits and winnings in a secure
36 system that enables players to access and withdraw their funds at
37 any time in accordance with published terms and conditions.

38 (3) The subjection of all authorized Internet gaming software
39 to rigorous testing by independent testing facilities to ensure that
40 the game outcomes are unbiased and unpredictable.

1 (4) The exclusion of minors and the protection of vulnerable
2 players from compulsive and excessive gambling by installing
3 player verification systems and enforcing measures to detect these
4 individuals and behavior in order to prevent them from accessing
5 and playing on Internet Web sites.

6 (5) Ensuring that online gambling activities are free from crime
7 or the use of moneys obtained illegally, including the use of
8 systems designed to detect, prevent, and report suspicious activities
9 and transactions, including, but not limited to, robotic or collusive
10 play, money laundering, or the evasion of state income taxes.

11 (6) To offer responsible gaming features that limit a player's
12 potential for excessive gambling.

13 (g) It is in the interest of the state to recapture, to the maximum
14 extent, the hundreds of millions of dollars of public service funding
15 that has been repeatedly cut during the state's budget crisis. It is
16 the intent of the Legislature in enacting this chapter to ensure that
17 the state realizes a minimum of ____ dollars (\$____) of General
18 Fund revenue from operator and license fees and payments during
19 the 2015–16 fiscal year.

20 (h) The Legislature has considered and finds that authorization
21 of intrastate Internet poker pursuant to this chapter does not violate
22 the California Constitution or interfere with any right or exclusivity
23 provision under any compact between the state and any federally
24 recognized Indian tribe. Neither the equipment, including the
25 computers required to access authorized intrastate Internet poker
26 games under this chapter, any component thereof, nor any building
27 or room, other than where poker is currently authorized, may be
28 used in the operation or play of Internet poker. This chapter also
29 prohibits the offering or use of any slot machine or other gaming
30 device as defined in any of those compacts, or any other device
31 which permits the playing of a gambling game against a computer
32 or device in connection with any Internet poker game authorized
33 under this chapter. Only nonbanking poker games in which
34 authorized live players play against each other in real time is to
35 be permitted. The Legislature finds that the application of UIGEA
36 in California would not be prohibited by the activities contemplated
37 by this chapter and that the chapter does not violate federal law
38 by infringing upon tribal sovereignty.

39 (i) This chapter does not prohibit any federally recognized Indian
40 tribe within California with a tribal-state gaming compact with the

1 state pursuant to IGRA from participating in authorized Internet
2 poker games pursuant to these provisions.

3 19990.03. It is the intent of the Legislature to create a licensing
4 and regulatory framework that will achieve all of the following:

5 (a) Ensure that authorized games are offered for play only in a
6 manner that is consistent with federal and state law.

7 (b) Authorize the California Gambling Control Commission to
8 issue licenses, with the recommendation of the Department of
9 Justice, to applicants that meet the qualifications and background
10 requirements consistent with this chapter, and to authorize those
11 agencies to conduct the investigations necessary to carry out those
12 duties.

13 (c) Ensure that game play authorized by this chapter is offered
14 only to registered players who are physically present within the
15 borders of California at the time of play and who are 21 years of
16 age or older.

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

20 (e) Grant power to the state agencies authorized in this chapter
21 to oversee the operations of each licensee and to enforce the
22 provisions of this chapter to ensure that the interests of the state
23 and registered players are protected.

24 (f) Establish a process that includes the ability to conduct
25 background investigations as necessary to determine an applicant's
26 suitability to participate in the gaming industry, and financial ability
27 to obtain a license and the required software from the applicant's
28 own resources, in order to prevent a person from using a false
29 identity to acquire a license, and requires that each employee of a
30 licensee receive all necessary licenses and work permits from the
31 state prior to engaging in any activities for which that license or
32 permit is required.

33 (g) Ensure that the state is able to collect income tax revenues
34 from authorized players in California.

35 (h) Distribute regulatory fees ~~which~~ *that* have been deposited
36 into the Internet Poker Fund, as established in Section 19990.86,
37 which shall be administered by the Controller, subject to annual
38 appropriation by the Legislature, and which shall not be subject
39 to the formulas established by law directing expenditures from the
40 General Fund, for the following:

1 (1) The actual costs of license oversight, consumer protection,
2 state regulation, and problem gambling programs.

3 (2) Other purposes related to this chapter as the Legislature may
4 decide.

5 (i) Create systems to protect each player's private information
6 and prevent fraud and identity theft.

7 (j) Ensure that authorized players are able to have their financial
8 transactions processed in a secure, safe, and transparent fashion,
9 including the segregation of player deposits from other operator
10 funds, the right to terminate accounts and obtain the return of
11 deposits, the payment of winnings on a timely basis, and full
12 accountability of all bets made, moneys collected, and prizes and
13 pots paid out, including the basis ~~therefore~~ *therefor* under game
14 rules.

15 (k) Ensure that all authorized Internet gambling games offered
16 by a licensee are fair and honest, including, but not limited to,
17 verifiable protections against cheating, collusion, nonrandom card
18 shuffles or dealing, and advance knowledge of cards dealt.

19 (l) Ensure that all applicable gaming regulatory agencies have
20 unrestricted access to the premises and records of each licensee
21 that relate to the operation, maintenance, control, money ~~handling~~
22 *handling*, or other material aspect of any authorized game and
23 that these premises and accounts be in strict compliance with state
24 and tribal gaming laws and regulations concerning credit
25 authorization, account access, and other security provisions and
26 that all of the operator's computers, ~~servers~~ *servers*, and other
27 components of the gaming system, and any bank or other repository
28 where player's or operator's funds in connection with the poker
29 room operation are deposited, are physically located within
30 California.

31 (m) Require that each licensee provide players with easily
32 accessible customer service.

33 (n) Require that each licensee's Internet Web site contain
34 information relating to problem gambling, including a telephone
35 number that an individual may call to seek information and
36 assistance for a potential gambling addiction, provided that
37 operators shall not be required to disrupt game play with that
38 information.

1 (o) Require that each licensee and all of its service providers,
2 including tribal governments, meet the requirements applicable to
3 it in connection with authorized games.

4 (p) Ensure that there are no artificial business constraints on the
5 licensee, such as limits on the percentage of revenues that may be
6 paid to service providers or limits on the number of intrastate
7 Internet poker rooms a licensee may operate or that the state may
8 issue overall.

9 (q) Ensure that all employees of the licensee are located, and
10 all gaming activities operated by it are conducted, physically within
11 the state and that the activities of licensees relating to gaming
12 activities remain within the state’s regulatory jurisdiction, either
13 because they are conducted within state boundaries or by entities
14 that have agreed to subject themselves to the state’s regulatory and
15 enforcement jurisdiction, provided that this chapter does not
16 prohibit the use of servers or other equipment located outside
17 California where that equipment is maintained solely for backup
18 purposes.

19 (r) Create an express exemption from disclosure, pursuant to
20 the California Public Records Act under subdivision (b) of Section
21 6253 of the Government Code, that exempts from public disclosure
22 proprietary information of a license applicant or a licensee in order
23 to permit disclosure of confidential information to state agencies
24 while achieving the public policy goals of deploying secure systems
25 that protect the interests of the state and players.

26 (s) Preserve the authority of the state to opt out of or into any
27 federal framework for Internet poker, or to enter into an agreement
28 with other states to provide Internet poker, provided these schemes
29 or frameworks meet the criteria and address the issues concerning
30 the matters set forth herein and are in compliance with applicable
31 law.

32 (t) As a matter of public policy requiring statewide consistency,
33 preempt any city, county, or city and county from enacting any
34 law or ordinance regulating or taxing Internet poker activities
35 covered in this chapter.

36
37 Article 2. Definitions

38
39 19990.05. For the purposes of this chapter the following words
40 have the following meanings:

1 (a) “Authorized game” means a game of poker as defined in
2 this chapter that has been approved by the commission for play
3 on the Internet in an authorized poker room. Authorized games
4 may only be operated by licensed poker room operators on an
5 authorized poker platform.

6 (b) “Authorized player” means a registered player who has
7 provided the information and met the qualifications to play an
8 authorized game.

9 (c) “Authorized poker platform” means a software system that
10 has been approved by the regulatory agency to manage and operate
11 the play and presentation of authorized games, provided that player
12 management systems and funds management systems, as defined
13 in this chapter, shall be in software modules that are separate from
14 the poker platform software and shall not be under the operation
15 or control of, or accessible to, an authorized platform operator
16 unless the platform operator is also the licensed poker room
17 operator for the poker room on which the platform is operated.

18 (d) “Authorized poker room” means a virtual cardroom on the
19 Internet with one or more virtual card tables in which authorized
20 players can play authorized games, provided that this chapter does
21 not prohibit an authorized poker room from offering ~~“play for free”~~
22 *“play-for-free”* or ~~“play for fun”~~ *“play-for-fun”* poker games to
23 authorized players. Authorized poker rooms may only operate
24 games on an authorized platform and shall handle financial and
25 player management functions through authorized software that is
26 separate and distinct from the game management system.

27 (e) “Authorized poker room skin,” or “skin,” means a portal to
28 an authorized poker room which may be provided by a poker room
29 licensee to any person or entity, a skin sponsor, that is, itself,
30 qualified to hold an authorized poker room license, and shall be
31 regulated in accordance with subdivision (o) of Section 19990.20.

32 (f) “Background investigation” means a process of reviewing
33 and compiling personal and criminal history and financial
34 information through inquiries of various law enforcement and
35 public sources to establish a person’s qualifications and suitability
36 for a license to participate in the gambling industry.

37 (g) “Bet” means the placement of money or something of
38 monetary value at risk of being lost depending of the outcome of
39 a game.

1 (h) “Commission” means the California Gambling Control
2 Commission, except that where the described function also involves
3 a function to be served by the department, the term “commission”
4 shall also mean the department to the extent of those functions.

5 (i) “Compact” means a tribal-state gaming compact entered
6 into between a federally recognized tribe and the State of
7 California pursuant to the IGRA, or procedures issued in lieu
8 thereof by the Secretary of Interior that are in effect (“Secretarial
9 Procedures”).

10 (i)

11 (j) “Core functions” and “core functioning” mean the
12 management, administration, or control of the following:

13 (1) ~~Bets.~~ *Bets or wagers on authorized games.*

14 (2) ~~Authorized.~~ *The processing, qualifying, or participation of*
15 *authorized players.*

16 (3) *Payments to and from authorized players.*

17 (4) ~~Authorized.~~ *The offering, conduct, presentation, or operation*
18 *of authorized games.*

19 (5) ~~Intellectual property.~~ *property related to authorized games*
20 *and poker rooms, including the trademarks, trade names, service*
21 *marks, or similar intellectual property under which a licensee*
22 *identifies its games to its customers.*

23 (6) ~~A system for administering the deposit accounts, including~~
24 ~~records of moneys owed to, or paid to or from, players by the~~
25 ~~operator.~~ *The systems internal to the authorized platform or poker*
26 *rooms that account for, or govern, the payments to or from*
27 *authorized players or the deposit accounts, or in connection with*
28 *the authorized games or other transactions related thereto,*
29 *including the maintenance of accounting records of moneys owed*
30 *to, or paid to or from, players by the operator. “Core functions”*
31 *and “core functioning” do not include the financial services or*
32 *transactions provided by banks, credit card companies, or other*
33 *financial services providers that supply funds or credit to*
34 *authorized players to enable them to participate in authorized*
35 *games. Those services or transactions shall be independent from,*
36 *and not controlled by, the licensed platform or poker room*
37 *operator and shall be operated in accordance with applicable law*
38 *governing those financial services and transactions.*

39 (j)

1 (k) “Department” means the Department of Justice, except that
 2 where the described function also involves a function to be served
 3 by the commission, the term “department” shall also mean the
 4 commission to the extent of those functions.

5 ~~(k)~~

6 (l) “Deposit account” is a fund maintained by an authorized
 7 poker room on behalf of authorized players into which the players
 8 may deposit cash for use for betting in games or for deposit of
 9 player winnings from games.

10 ~~(l)~~

11 (m) “Employee work permit” means a permit issued to an
 12 employee of a licensee by the commission after a background
 13 investigation and finding of suitability.

14 ~~(m)~~

15 (n) “Finding of suitability” means a finding by the regulatory
 16 agency that a person meets the qualification criteria described in
 17 Article 4 (commencing with Section 19990.20), and that the person
 18 would not be disqualified on any of the grounds specified in that
 19 article.

20 ~~(n)~~

21 (o) “Funds management system” means an authorized software
 22 system that is dedicated to managing player funds in authorized
 23 games, including, but not limited to, tracking player accounts, bets,
 24 pot collections and awards, player credits, financial reporting
 25 requirements, and other financial transactions associated with the
 26 operation of authorized games. Funds management systems may
 27 only be operated by a licensed poker room operator and only in
 28 connection with a *an authorized* poker room under its management
 29 and control.

30 ~~(o)~~

31 (p) “Gamble” or “gambling” means the placing of a bet or
 32 something of value at risk on the chance that the outcome of a
 33 game or event over which the player does not have total control
 34 will occur and that will result in the winning of a prize for correctly
 35 predicting the outcome.

36 ~~(p)~~

37 (q) “Game” means a contest in which players may win or lose
 38 depending on skill, ~~chance~~ *chance*, or a combination thereof,
 39 depending on the rules of play.

40 ~~(q)~~

1 (r) “Gaming system” means the combination of hardware,
2 ~~software~~ *software*, and data networks specifically described in
3 Section 19990.35.

4 ~~(r)~~

5 (s) “Good standing” means that a person has not had a California
6 gaming license or determination of suitability suspended or revoked
7 by a final decision of an agency that has issued that license or *has*
8 been issued a final order by a court of competent jurisdiction to
9 cease conducting gaming activities. A suspension, revocation, or
10 order shall be deemed final for purposes of this definition when it
11 is no longer subject to challenge or appeal through administrative
12 or court processes. The reinstatement of a finding of suitability or
13 license following a suspension or revocation shall restore a person’s
14 eligibility to be considered suitable or for a license, unless the
15 determination of reinstatement itself bars that restoration.

16 ~~(s)~~

17 (t) “Gross revenues” means the total amount of moneys paid
18 by players to the operator to participate in authorized games before
19 deducting the cost of operating those activities except for fees to
20 intermediate and payment processing fees. Gross revenues do not
21 include player account deposits, amounts bet, except to the extent
22 that those bets are used for generating fees to the operator as
23 permitted under this chapter, and only to the extent those bet
24 portions are retained by the operator, discounts on goods or
25 services, rebates or promotional discounts or stakes provided to
26 players, or revenues from nongaming sources, such as from food,
27 beverages, souvenirs, advertising, ~~clothing~~ *clothing*, and other
28 nongaming sources.

29 ~~(t)~~

30 (u) “Initial license” means a license issued under this chapter
31 on or before a date set *in the regulations adopted* by the
32 commission pursuant to paragraph (1) of subdivision (a) of Section
33 19990.70 for the issuance of the first licenses that will be issued
34 under this chapter and that shall be issued simultaneously.

35 ~~(u)~~

36 (v) “Intermediary” means a party that enters into an agreement
37 with a licensee to recruit players to the licensee’s authorized poker
38 room.

39 ~~(v)~~

1 (w) “Internal control system” means the system utilized by the
2 authorized operator to ensure that all procedures involving the play
3 of the game, the payment, receipt, rewarding, ~~deposit~~ *deposit*, or
4 other handling of moneys, the integrity of the game equipment,
5 the player actions to be scrutinized, enforcement of the age and
6 geographic restrictions on players, and all other aspects of the
7 game and the poker room are being carried out in a way that will
8 comply with game rules and laws, uphold the integrity of the game,
9 and prevent fraud or cheating from occurring.

10 ~~(w)~~

11 (x) “Internet poker” means an authorized game.

12 ~~(x)~~

13 (y) “Internet Poker Fund” means the fund established pursuant
14 to Section 19990.86.

15 ~~(y)~~

16 (z) “Internet Poker Licensing Fund” means the fund established
17 pursuant to Section 19990.20.

18 ~~(z)~~

19 (aa) “Internet self-exclusion form” means a form on which an
20 authorized player notifies an authorized poker room operator that
21 he or she must be excluded from participation in authorized games
22 for a stated period of time.

23 ~~(aa)~~

24 (ab) “Intrastate” means within the borders of California.

25 ~~(ab)~~

26 (ac) “Key employee” means any natural person employed by a
27 licensed operator or service provider licensee who is an officer or
28 director of the licensee, or who, in the judgment of the commission,
29 has the authority to exercise significant influence over decisions
30 concerning the operation of the licensee, over the operation of an
31 authorized platform or poker room, or over any core function
32 associated therewith.

33 ~~(ac)~~

34 (ad) “Land-based gaming entity” means a licensee that is a card
35 club operated pursuant to Chapter 5 (commencing with Section
36 19800).

37 ~~(ad)~~

38 (ae) “Licensee” means a licensed operator, a service provider,
39 or any other person holding a license under this chapter.

40 ~~(ae)~~

- 1 (af) “Licensed operator” means an authorized poker room
2 operator, an authorized poker platform operator, or both.
3 ~~(af)~~
- 4 (ag) “Operator” means a person that operates an authorized
5 platform or poker room.
6 ~~(ag)~~
- 7 (ah) “Owner” means a person that has a financial interest in or
8 control of a licensee, service provider, or other entity required to
9 be found suitable under this chapter.
10 ~~(ah)~~
- 11 (ai) “Per hand charge” means the amount charged to an
12 authorized player to enable him or her to play a hand in an
13 authorized game. Notwithstanding any other provision of state
14 law, per hand charges may be collected on behalf of all participants
15 in an individual game through the collection by the operator of a
16 percentage of the pot or each bet made into the pot.
17 ~~(ai)~~
- 18 (aj) “Per hand game” means a game for which the operator
19 charges the player for each hand played.
20 ~~(aj)~~
- 21 (ak) “Person” means ~~an~~ a natural person, corporation, business
22 trust, estate, trust, partnership, limited liability company,
23 association, joint venture, government, including a tribal
24 government, governmental subdivision, agency, or instrumentality,
25 public corporation, or any other legal or commercial entity.
26 ~~(ak)~~
- 27 (al) “Play-for-fun game” means a version of a lawfully played
28 gambling game in which there is no requirement to pay to play or
29 any possibility of winning any prize or other consideration of value.
30 Play-for-fun games are typically offered for training, educational,
31 marketing, or amusement purposes only.
32 ~~(al)~~
- 33 (am) “Play-for-free game” means a version of a lawfully played
34 gambling game that may include prizes or pots, without requiring
35 a fee or other consideration for the right to play.
36 ~~(am)~~
- 37 (an) “Player management system” means an authorized software
38 system dedicated to managing the activities of players in authorized
39 games. Player management systems may only be operated by

1 licensed poker room operators, and only in connection with poker
2 rooms under their management and control.

3 ~~(an)~~

4 (ao) “Play settings” means the options and default parameters
5 made available by an operator to a player in the play of games.

6 ~~(ae)~~

7 (ap) “Player account” means a record kept by a poker room
8 operator on the gaming system, storing the player’s personal
9 details, in which player gaming deposits and winnings are kept
10 separate from an operator’s assets.

11 ~~(ap)~~

12 (aq) “Player session” means a temporary connection established
13 between a player’s interface and a gaming system for the exchange
14 of information, for the duration of the time that an authorized
15 player is logged into his or her account.

16 ~~(aq)~~

17 (ar) “Poker” means any of several nonbanked card games
18 commonly referred to as “poker” that meet all of the following
19 criteria:

20 (1) Played by two or more individuals who bet and play against
21 each other and not against the house on cards dealt to them out of
22 a common deck of cards for each round of play, including those
23 games played over the Internet using electronically generated and
24 displayed virtual cards.

25 (2) The object of the game is to hold or draw to a hand
26 containing a predetermined number of cards which, when all cards
27 to be dealt in the round have been distributed and the betting is
28 completed, meets or exceeds the value of the hands held by the
29 other players. The pot of bets made is awarded to the player or
30 players holding the combination of cards which qualify as the
31 winning combination under the rules of play. Values may be
32 assigned to cards or combinations of cards in various ways, such
33 as in accordance with their face value, the combinations of cards
34 held, such as cards of a similar suit or face value, the order of the
35 cards that are held, or other values announced before the round.

36 (3) The house may deal or operate and officiate the game, and
37 may collect a fee for doing so, but is not a participant in the game
38 itself. The house has no stake in who wins or loses or the amount
39 that is wagered.

1 (4) Poker may be played in a variety of ways, including dealing
2 all cards to the players so that they may not be seen by others,
3 dealing the cards open face to the players, dealing through a
4 combination of both, or creating a common set of cards that may
5 be used by all players. The particular rules and winning
6 combinations are made known to the players before each round is
7 dealt.

8 (5) All bets are placed in a common pot. At one or more
9 predetermined point during the game a player may resign, challenge
10 other players to make additional bets into the pot, or demand that
11 players reveal their hand so a winner can be determined.

12 (6) A poker game that has been approved by the commission
13 for play in an authorized live poker club in California under the
14 Gambling Control Act shall be eligible for qualification by the
15 commission as the basis of an authorized intrastate Internet poker
16 gambling game, except that neither pai gow nor any other game
17 in which persons other than authorized players to whom the cards
18 in the game are dealt, and by whom they are held and played, are
19 permitted to be on a game outcome or other game feature, or who
20 may otherwise control the play of the hand, shall be authorized,
21 offered, or played in connection with an intrastate Internet poker
22 game. Subject to this limitation, the rules governing play in an
23 authorized poker game under this chapter shall generally be the
24 same as if the game were lawfully played in a live poker club.

25 (7) Video games, slot machines, and other similar devices that
26 individuals play against the house or device and win based on
27 valuations or combinations of cards that are similar to those
28 valuations or combinations used in live, interactive poker games,
29 commonly known as “video poker” and “video lottery,” are not
30 “poker” and are not permitted under this chapter.

31 ~~(ar)~~

32 (as) Other characteristics defining “poker” under this chapter
33 include the following:

34 (1) Live players with equal chances of winning competing
35 against each other over the Internet in real time and not against
36 the house or any device.

37 (2) Success over time may be influenced by the skill of the
38 player.

1 (3) The bets of one player may affect the decisions of another
2 player in the game, and the decisions of one player may affect the
3 success or failure of another.

4 (4) The term “poker” includes poker tournaments in which
5 players pay a fee to the operator of the tournament under
6 tournament rules approved by the applicable gaming regulatory
7 agency.

8 ~~(as)~~

9 ~~(at)~~ “Poker enterprise” means a person or entity meeting the
10 ~~requirements for that designation~~ *definition of a “gambling*
11 *enterprise”* under subdivision ~~(d)~~ *(m)* of Section 19805 *that*
12 *conducts poker*, and any other requirements under law for operating
13 a land-based gaming entity.

14 ~~(at)~~

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

31 ~~(au)~~

32 *(av)* “Registered player” means a player who has submitted the
33 required registration information to an authorized poker room
34 operator in order to be eligible to become an authorized player in
35 an authorized game in that poker room.

36 ~~(av)~~

37 *(aw)* “Regulatory agency” means the commission, a tribal
38 gaming commission with jurisdiction over the tribal license
39 applicant and licensee, or both, and the department, as provided
40 in this chapter.

1 ~~(aw)~~

2 (ax) “Player’s agreement” means the legal agreement to be
3 offered by an authorized poker room operator and accepted by a
4 registered player as a condition of becoming an authorized player
5 and qualified for play in an authorized game. The player’s
6 agreement shall delineate, among other things, permissible and
7 impermissible activities in which the player may or may not engage
8 on the Internet poker Web site and the consequences of engaging
9 in those activities.

10 ~~(ax)~~

11 (ay) “Registration information” means the information provided
12 by a person to a poker room operator in order to record the person’s
13 interest in becoming an authorized player in that poker room.

14 ~~(ay)~~

15 (az) “Robotic play” means the use of a machine or software by
16 a player or operator to simulate or automate player action at any
17 point in a game, or otherwise to act as a substitute for a live player.

18 ~~(az)~~

19 (ba) “Service provider” means a person that, under a service
20 provider license, does any of the following:

21 (1) Supplies goods or services to an authorized platform operator
22 or poker room operator to enable the operator to operate that
23 platform or poker room. Service providers may not provide goods
24 or services directly to authorized players or authorized games in
25 connection with the operation of any authorized platform or poker
26 room, but shall only do so through and by a licensed platform or
27 poker room operator.

28 (2) Provides a gaming product or service to a licensee for use
29 in an authorized game, including providing intermediary services.

30 (3) The term “service provider” does not include a provider of
31 goods or services *to a licensed platform or poker room operator,*
32 *or to an authorized player;* that are not principally used in
33 connection with the operation of an authorized ~~game.~~ *game,*
34 *including, but not limited to, the financial services or transactions*
35 *provided by banks, credit card companies, or other financial*
36 *service providers that supply funds or credit to authorized players*
37 *to enable them to participate in authorized games. Those services*
38 *or transactions shall be independent from, and not controlled by,*
39 *the licensed platform or poker room operator, and shall be*

1 *operated in accordance with applicable law governing those*
 2 *financial services and transactions.*

3 ~~(ba)~~

4 *(bb)* “State” means the State of California.

5 ~~(bb)~~

6 *(bc)* “Tournament” means a competition in which players play
 7 a series of games to decide the winner.

8 ~~(be)~~

9 *(bd)* “Tournament charge” means the amount charged by the
 10 operator for an authorized player to play in a tournament.

11 ~~(bd)~~

12 *(be)* “Tournament winnings” means the amount of a prize
 13 awarded to an authorized player in a tournament.

14 ~~(be)~~

15 *(bf)* “Tribe” means a federally recognized Indian tribal
 16 government located within California.

17 ~~(bf)~~

18 *(bg)* “Tribal enterprise” means an entity that is wholly owned
 19 and controlled by one or more tribes and no others, and shall be
 20 treated as a tribe for the purpose of this chapter.

21 ~~(bf)~~

22 *(bh)* “Tribal regulatory agency” means the person, agency,
 23 board, committee, commission, or council designated under tribal
 24 law or the rules of the tribal enterprise to carry out the primary
 25 gaming regulatory responsibilities for a tribe or tribal enterprise,
 26 provided that tribal enterprises that are combinations of tribes or
 27 tribal enterprises shall include within their rules a designation of
 28 a specific tribal regulatory agency to register with the commission
 29 and function as the primary tribal regulatory agency with regulatory
 30 jurisdiction over the combination. That designation may not be
 31 changed except upon 20 days’ written notice to the commission.

32 ~~(bg)~~

33 *(bi)* “Wagering suspense account” means a segregated account
 34 that temporarily holds the bets in a game pending the outcome of
 35 the game.

36

37 Article 3. Authorized Games

38

39 19990.10. To the extent permitted by federal law, the operation
 40 of gambling games on the Internet shall be authorized as long as

1 all players and their betting activities are located within the state
2 and the games are not played by minors.

3 19990.11. Notwithstanding any other law, a person in
4 California shall be 21 years of age or older to participate as a
5 registered player in an authorized game.

6 19990.12. (a) A person in the state shall not offer the
7 opportunity to play an Internet gambling game, and a person shall
8 not offer the opportunity to play an authorized game to anyone
9 located within this state without holding a valid operator's license
10 issued by the state to offer the play of authorized games.

11 (b) It is unlawful for a person to offer or play an Internet
12 gambling game that is not authorized by the state.

13 (c) Except as stated in this chapter, this chapter does not impose
14 a limitation, restriction, or requirement on the offering of "~~play~~
15 ~~for fun~~" games, or "~~play for free~~" "*play-for-fun*" or "*play-for-free*"
16 games on the Internet.

17 (d) It is unlawful for a person to offer the use of, or aggregate,
18 except at a license poker room operator's lawfully operating live
19 site, computers or other devices or equipment in a public setting
20 or for consideration for the purpose of enabling others to access,
21 play or participate over the Internet, directly or indirectly, in an
22 authorized game or any other gambling activity, or to promote or
23 market the playing of those games or activities, whether or not
24 those games or activities are controlled games or authorized under
25 this chapter.

26 (e) A violation of this chapter is punishable as a misdemeanor.

27 19990.13. Any money, other representative of value, or real
28 or personal property used in, or derived from, the play of a
29 gambling game provided on the Internet that is not authorized by
30 the state pursuant to this chapter is subject to seizure by the
31 commission or by a peace officer. Upon a finding by a court that
32 the money, other representative of value, or real or personal
33 property was used in, or derived from, the play of a gambling game
34 provided on the Internet that is not authorized by the state pursuant
35 to this chapter, that money or property shall be forfeited to the
36 Internet Poker Fund established in Section 19990.86. This chapter
37 does not apply to play-for-fun or play-for-free games.

38 19990.14. Only poker games that are offered for play or played
39 in an authorized poker room are authorized games.

Article 4. Licensing Internet Poker Gambling

19990.20. (a) There shall be the following three categories of licenses:

(1) Platform operator licenses. Platform operator licenses shall be required of a person operating an authorized platform.

(2) Poker room operator licenses. Poker room operator licenses shall be required of a person operating an authorized card room.

(3) Service provider licenses. A service provider license shall be required of a person providing goods or services to, or in connection with, the operation of an *authorized poker platform or an authorized poker room*.

(b) Entities eligible to apply for, receive, and maintain a platform operator license or a poker room operator license pursuant to this chapter are the following:

(1) A poker enterprise, as defined in ~~subdivision (m) of Section 19805~~ *Section 19990.05*, that holds an owner license to operate a land-based gaming entity issued pursuant to subdivision (a) of Section 19851, subject to oversight by, and in good standing with, the commission.

(2) A federally recognized California Indian tribe with a valid gaming ordinance or resolution and a valid compact authorizing it to offer gaming under the *federal* Indian Gaming Regulatory Act of 1988, or a tribal enterprise controlled by, and subject to, the powers and immunities of one or more members, partners, or shareholder tribes that have that authorization. A tribal enterprise may have as its members, partners, or shareholders any combination of federally recognized tribes or tribal enterprises.

(3) A legal entity whose members, partners, or shareholders or any combination of poker enterprises, Indian tribes, and tribal entities, each of which is eligible to hold the same kind of license as or to be held by the combination.

(4) In the case of a platform operator license, the applicant, or, if a combination, each of its members, partners, or shareholders, shall have been lawfully offering and operating live on-premises poker gambling games for in-person players within ~~California~~ *California* continuously for the three years immediately preceding the filing of the application.

1 (c) A service provider license may be issued to any person or
2 form of entity, provided the applicant meets the regulatory
3 requirements for the license.

4 (d) For the purposes of this section, an incorporation or other
5 change in legal form of ownership during the three years
6 immediately preceding application for licensure that did not alter
7 the ownership qualifications of the entity, does not disqualify an
8 entity otherwise eligible for licensure.

9 (e) Initial licenses for purposes of this section are licenses issued
10 pursuant to applications properly and completely filed with the
11 appropriate regulatory commission not later than 120 days prior
12 to the date on which the first license issued pursuant to this chapter
13 shall take effect. Subject to the power of the appropriate regulatory
14 commission to deny, revoke, suspend, condition, or limit an
15 operating license, as provided in this chapter, a license is eligible
16 for renewal at the end of each term. Failure of a licensee to file an
17 application for renewal prior to the expiration date of the license
18 may be deemed to be an abandonment of the license.

19 (f) Platform operator licenses issued under this chapter shall be
20 for a term of up to 10 years, and shall require payment of a license
21 fee payment of ____ dollars (\$____).

22 (g) Poker room operator licenses issued under this chapter shall
23 be for a term of ~~5~~ 10 years and shall require a license fee payment
24 of ____ dollars (\$____).

25 (h) Service provider licenses issued under this chapter shall be
26 for a term of 10 years and shall require a license fee pay of ____
27 dollars (\$____).

28 (i) A license applicant shall submit to the commission, together
29 with its application, an application deposit as determined by the
30 department, in consultation with the commission, and any tribal
31 regulatory agency with jurisdiction over the applicant's intended
32 poker room or platform for the reasonably anticipated costs to
33 complete a necessary background investigation and evaluate the
34 suitability of the applicant.

35 (j) All moneys collected pursuant to this section shall be
36 deposited into the Internet Poker Licensing Fund, which is hereby
37 created, to be administered by the department. Notwithstanding
38 Section 13340 of the Government Code, all moneys in the fund
39 are continuously appropriated to the department and the
40 commission, without regard to fiscal years, in the amounts

1 necessary for the department and the commission to perform their
2 duties under this section.

3 (k) An operator and service provider license applicant who
4 intends to function as an operator licensee or service provider to
5 a tribal poker room or platform, including a tribe or tribal enterprise
6 providing those services under this chapter, and any others required
7 to be licensed in connection therewith under this chapter, tribal
8 license applicants, ~~shall~~ *shall, if required by the tribal gaming*
9 *agency, obtain a license from the tribal regulatory agency*
10 *exercising jurisdiction over that platform or poker room, under the*
11 *procedures set forth in this section. However, if no tribal*
12 *gaming agency process is required, this subdivision does not apply.*
13 The parties intend that the licensing process provided for pursuant
14 to this chapter shall involve joint cooperation among tribal
15 regulatory agencies, the commission, and the department. The
16 licensing process shall be as follows:

17 (1) All tribal license applicants shall pay the required fee to the
18 commission and obtain a certified receipt verifying payment.

19 (2) The certified receipt of payment shall be presented to the
20 tribal regulatory agency prior to that agency beginning the
21 background and licensing process.

22 (3) Tribal gaming agencies receiving those applications shall
23 notify the commission of those applications within five days
24 following receipt thereof.

25 (4) In reviewing an application for a license, the tribal regulatory
26 agency shall determine whether issuance of the license would meet
27 the licensing standards set forth in this chapter. A license may not
28 be issued unless, based on all information and documents
29 submitted, the tribal regulatory agency is satisfied that the applicant
30 meets all of the criteria set forth in Sections ~~1990.22~~ *19990.22* and
31 ~~1990.23~~, *19990.23* including those which must be met to find that
32 an applicant is suitable for licensing.

33 (5) Each applicant for a tribal regulatory agency license shall
34 submit the completed application along with the required
35 information and a tribal regulatory agency application fee, if
36 required, to the tribal regulatory agency in accordance with the
37 rules and regulations of that agency. At a minimum, the tribal
38 regulatory agency shall require submission and consideration of
39 all information required under Sections ~~1990.22~~ *19990.22* and
40 ~~1990.23~~. *19990.23*. For applicants who are business entities, the

1 licensing provisions shall apply to the entity as well as to each of
2 the following:

3 (A) Its officers and directors.

4 (B) Its principal management employees, including any chief
5 executive officer, chief financial officer, chief operating officer,
6 and general manager.

7 (C) Its owners or partners, if an unincorporated business.

8 (D) Its shareholders who own more than 10 percent of the shares
9 of the corporation, if a corporation.

10 (E) Each person or entity, other than a financial institution that
11 the tribal regulatory agency has determined does not require a
12 license under the preceding section, that, alone or in combination
13 with others, has provided financing in connection with any gaming
14 authorized under this chapter, if that person or entity provided
15 more than 10 percent of (i) the startup capital, (ii) the operating
16 capital over a 12-month period, or (iii) a combination thereof. For
17 purposes of this section, where there is any commonality of the
18 characteristics identified in subparagraphs (A) to (E), inclusive,
19 between any two or more entities, those entities may be deemed
20 to be a single entity. Nothing herein precludes the tribe or tribal
21 regulatory agency from requiring more stringent licensing
22 requirements.

23 (6) The tribal regulatory agency shall conduct, or cause to be
24 conducted, all necessary background investigations reasonably
25 required to determine that the applicant is qualified for a gaming
26 license under the standards set forth in Sections ~~199022~~ 19990.22
27 and ~~199023~~ 19990.23.

28 (7) In lieu of completing its own background investigation, and
29 to the extent that doing so does not conflict with or violate this
30 chapter, the tribal regulatory agency may contract with the
31 commission and the department for the conduct of background
32 investigations, may rely on a state certification of nonobjection
33 previously issued under a gaming compact involving another tribe,
34 or may rely on a state gaming license previously issued to the
35 applicant, to fulfill some or all of the tribal regulatory agency's
36 background investigation obligation. An applicant for a tribal
37 license shall be required to provide releases to the commission to
38 make available to the tribal agency background information
39 regarding the applicant. The commission shall cooperate in
40 furnishing to the tribal regulatory agency that information, unless

1 doing so would violate any agreement the commission has with a
2 source of the information other than the applicant, or would impair
3 or impede a criminal investigation, or unless the tribal regulatory
4 agency cannot provide sufficient safeguards to ensure the state
5 gaming agency that the information will remain confidential or
6 that a provision of the information would violate state or federal
7 law.

8 (8) If the tribe adopts an ordinance confirming that Article 6
9 (commencing with section 11140) of Chapter 1 of Title 1 of Part
10 4 of the Penal Code is applicable to members, investigators, and
11 staff of the tribal regulatory agency, and those members,
12 investigators, and staff thereafter comply with that ordinance, then,
13 for purposes of carrying out its obligations under this section, the
14 tribal regulatory agency shall be considered to be an entity entitled
15 to receive state summary criminal history information within the
16 meaning of paragraph (12) of subdivision (b) of Section 11105 of
17 the Penal Code. The Department of Justice shall provide services
18 to the tribal regulatory agency through the California Law
19 Enforcement Telecommunications System (CLETS), subject to a
20 determination by the CLETS advisory committee that the tribal
21 regulatory agency is qualified for receipt of those services, and on
22 those terms and conditions as are deemed reasonable by that
23 advisory committee.

24 (9) Upon completion of the necessary background investigation,
25 the tribal regulatory agency may issue a license on a conditional
26 or unconditional basis. Nothing herein shall create a property or
27 other right of an applicant in an opportunity to be licensed, or in
28 a license itself, both of which shall be considered to be privileges
29 granted to the applicant in the sole discretion of the tribal regulatory
30 agency.

31 (10) Any tribal license application under this chapter may be
32 denied, and any license issued may be revoked, if the tribal
33 regulatory agency determines that the application is incomplete
34 or deficient, or if the applicant is determined to be unsuitable or
35 otherwise unqualified for a gaming license. Pending consideration
36 of revocation, the tribal regulatory agency may suspend a license.
37 All rights to notice and hearing shall be governed by the rules of
38 the tribal regulatory agency, which shall meet minimum
39 requirements to be developed among the tribes, the commission,
40 and the department, and as to which the applicant will be notified

1 in writing, along with notice of an intent to suspend or revoke the
2 license.

3 (11) Except as provided in subparagraph (B), upon receipt of
4 notice that the commission or department, collectively or
5 individually, the state regulatory agency, has determined that a
6 person would be unsuitable for licensure in a similar application
7 filed in connection with a nontribal operation, the tribal regulatory
8 agency shall not issue the requested license or, if that notice is
9 received after issuance of the license, promptly revoke that license,
10 provided that the tribal regulatory agency may, in its discretion,
11 reissue a license to the person following entry of a final judgment
12 reversing the determination of the commission and department in
13 a proceeding in state court conducted pursuant to Section 1085 of
14 the Civil Code.

15 (12) The tribal regulatory agency may summarily suspend the
16 license of any employee if the tribal regulatory agency determines
17 that the continued licensing of the person or entity could constitute
18 a threat to the public health or safety or may violate this chapter.

19 (13) Upon receipt of a completed license application and a
20 determination by the tribal regulatory agency that it intends to
21 issue the license, the tribal regulatory agency shall transmit to the
22 commission a notice of intent to license the applicant, together
23 with all of the following:

24 (A) A copy of all tribal license application materials and
25 information received by the tribal regulatory agency from the
26 applicant.

27 (B) An original set of fingerprint cards.

28 (C) A current photograph.

29 (D) Except to the extent waived by the commission, those
30 releases of information, waivers, and other completed and executed
31 forms as the tribal regulatory agency shall require.

32 (14) ~~The~~ *As a part of any application process required by a*
33 *tribal regulatory agency under this subdivision, the tribal*
34 *regulatory agency shall also require the applicant to file an*
35 *application with the state gaming agency, prior to issuance of any*
36 *license, for a determination of suitability for licensure under this*
37 *chapter. Upon receipt of completed license application information*
38 *from the tribal regulatory agency, the state gaming agency may*
39 *conduct a background investigation pursuant to state law to*
40 *determine whether the applicant would be suitable to be licensed*

1 for association with a poker room or platform subject to the
2 jurisdiction of the gaming agency. If further investigation is
3 required to supplement the investigation conducted by the tribal
4 regulatory agency, the applicant will be required to pay the
5 statutory application fee charged by the state regulatory agency
6 pursuant to this chapter, but any deposit requested by the state
7 regulatory agency shall take into account the initial deposit already
8 provided by the applicant, reports of the background investigation
9 already conducted by the tribal regulatory agency, and any other
10 burdens on the applicant.

11 (15) Failure to pay the application fee may be grounds for denial
12 of the application by the state regulatory agency.

13 (16) The state regulatory agency and tribal regulatory agency
14 shall cooperate in sharing as much background information as
15 possible, both to maximize investigative efficiency and
16 thoroughness, and to minimize investigative costs. *The state*
17 *regulatory agency shall not impose a greater burden or cost upon*
18 *an application originating from a tribal applicant or regulatory*
19 *agency than if the application originated in connection with a*
20 *nontribal operator.*

21 (17) Upon completion of the necessary background investigation
22 or other verification of suitability, the state regulatory agency shall
23 issue a notice to the tribal regulatory agency certifying that the
24 state has determined that the applicant would be suitable, or that
25 the applicant would be unsuitable, for licensure in connection with
26 a poker room or platform under this chapter and, if unsuitable,
27 stating the reasons therefor. Prior to denying an application for a
28 determination of suitability, the state regulatory agency shall notify
29 the tribal regulatory agency and afford the tribe an opportunity to
30 be heard. If the state regulatory agency denies an application for
31 a determination of suitability, that agency shall provide the
32 applicant with written notice of all appeal rights available under
33 state law.

34 (18) The tribal regulatory agency shall require a licensee to
35 apply for renewal of a determination of suitability at the time the
36 licensee applies for renewal of a tribal license under this chapter.

37 (19) The state regulatory agencies and the tribal gaming agencies
38 under gaming compacts then in effect shall cooperate in developing
39 standard licensing forms for tribal gaming license applicants, on
40 a statewide basis, that reduce or eliminate duplicative or excessive

1 paperwork, which forms and procedures shall take into account
2 the requirements under this chapter and the expense thereof.

3 (l) An application deposit amount from a license applicant that
4 remains after completion of a background investigation and the
5 finding of suitability shall be refunded to the applicant. If additional
6 moneys are needed to complete the investigation of the license
7 applicant, the applicant shall pay the funds necessary to complete
8 the investigation.

9 (m) There is no limit on the number of Internet poker rooms an
10 authorized poker room licensed operator may ~~operate~~: *operate, or*
11 *on the number of skins that can be offered through an authorized*
12 *poker room, but each room shall require a separate license and*
13 *license fee.*

14 (n) All initial licenses issued pursuant to this chapter shall take
15 effect on the same date, as determined by the commission, but not
16 later than one year after this chapter becomes effective.

17 (o) In addition to the licenses required under this chapter, an
18 application may be made to become a skin sponsor, under the
19 following rules:

20 (1) Skins are intended to serve as an alternative means by which
21 ~~those qualified to operate an authorized poker room who meet~~
22 *gaming suitability requirements* may participate in intrastate
23 Internet poker ~~and through which authorized players can be~~
24 ~~attracted to, and may participate in, authorized games being~~
25 ~~conducted in the authorized poker room.~~ *on a nonoperational basis*
26 *by permitting, through contractual arrangements with authorized*
27 *poker room operators and compliance with applicable regulations,*
28 *the opportunity to offer players authorized games in an authorized*
29 *poker room, but under the skin sponsor's brand or other identity*
30 *rather than that of the authorized poker room operator.* Skins are
31 typically represented on an Internet Web site through graphics and
32 words distinguishing it from those employed directly by the
33 authorized poker room.

34 (2) Other than ~~design~~ *the approval of designs, logos, graphics,*
35 and other advertising considerations, skin sponsors shall have no
36 operation or control over the skin or authorized poker room, or
37 any access to the platform or games played thereon. ~~All~~

38 (3) All games ~~offered~~ *played* through a skin shall be treated the
39 same as other authorized games played in the host poker room and

1 shall be ~~subject to the same rules.~~ *offered only to authorized*
2 *players.* ~~Players~~

3 (4) *Players* entering games from skins or directly through the
4 poker room may be mixed among the tables in the poker room and
5 need not be informed as to the source from which other players
6 entered the room.

7 ~~(3)~~

8 (5) An unlimited number of skins for an authorized poker room
9 may be issued to one or more skin sponsors by the poker room
10 licensee. A fee to the commission for a skin sponsorship shall be
11 collected and paid to the commission in the amount of ____% of
12 the fee to be paid to the licensed poker room operator for operating
13 the skin on the sponsor's behalf, but the fee to the commission
14 shall be equal to or greater than ____ dollars (\$____) annually.

15 ~~(4)~~

16 (6) Players accessing the authorized poker room through a skin
17 shall be authorized and, in all other respects, treated and subject
18 to the same rules as any other player in the room.

19 ~~(5)~~

20 (7) Additional rules governing advertisements, identifications,
21 and notifications to players regarding skins shall be issued by the
22 regulatory agency, ~~which shall prohibit the use of a skin to serve~~
23 ~~as a false front for a person's participation in intrastate Internet~~
24 ~~poker under this chapter by any person who would not otherwise~~
25 ~~qualify to do so as a licensee of an authorized poker room.~~ *agency.*

26 19990.21. An entity described in subdivision (b) of Section
27 19990.20 is eligible for a platform operator license or a poker room
28 operator license. There is no limit on the total number of operating
29 licenses the state may issue. An eligible entity may jointly apply
30 for a license, either as a partnership or some other combination of
31 eligible entities, as long as that combination is comprised entirely
32 of eligible entities. An eligible entity that is a partnership,
33 consortium, or other combination of eligible entities may itself
34 have an interest in only a single license.

35 19990.22. (a) Factors to be considered in evaluating the
36 application for a license shall include, but are not limited to,
37 quality, efficiency, reliability, financial viability, durability,
38 adaptability, timely performance, integrity, and security.

39 (b) (1) A nontribal license applicant shall be a resident of
40 California or an entity organized in California, domiciled in

1 California, and in good standing with the Secretary of State and
2 Franchise Tax Board, and subject to auditing, enforcement of the
3 terms of the license, and state taxation.

4 (2) The following applies to tribal license applicants:

5 (A) The commission shall consult with California tribal
6 governments and regulatory agencies to develop a registration and
7 application process that takes into account, and avoids duplication
8 of, efforts by the commission and tribal governmental gaming
9 agencies to perform background and other suitability tests
10 applicable to tribes under their tribal-state compacts.

11 (B) A tribal license applicant shall be federally recognized as
12 a tribe, perform a substantial portion of its governmental functions
13 within the borders of California, and be subject to a tribal-state
14 compact, ~~Secretarial procedures for class III gaming under IGRA,~~
15 ~~or a gaming ordinance or resolution approved under IGRA that is~~
16 ~~in effect.~~ *gaming compact*.

17 (C) A tribal enterprise license applicant shall include with its
18 license application an express and limited waiver of all tribal
19 owners' sovereign immunity solely for the purposes of enforcing
20 the terms of a license issued under this chapter and any regulations
21 promulgated thereunder, and with regard to a claim, sanction, or
22 penalty arising therefrom, and for no other purpose.

23 (D) Tribal applicants who have conducted live poker games for
24 in-person players on their tribal lands for at least three continuous
25 years prior to filing their license application and are in good
26 standing shall be presumed to be suitable to hold a gaming license.

27 (3) A licensed operator cannot accept goods for services from
28 a service provider that has not been licensed as a service provider
29 under this chapter.

30 (4) All facilities, bank accounts, and accounting records of a
31 license applicant related to authorized gaming activity shall be
32 located in California.

33 (5) Proprietary information supplied by a license applicant to a
34 state agency shall be exempt from public disclosure to the extent
35 permitted under Section 6253 of the Government Code.

36 (6) In addition to other confidentiality protections afforded to
37 license applicants, the state and its regulatory agencies and the
38 tribe and their regulatory agencies shall treat the proprietary
39 information of a license applicant as confidential to protect the
40 license applicant and to protect the security of a prospective

1 intrastate Internet poker platform or poker room. This chapter does
2 not prohibit the exchange of confidential information among state
3 agencies, tribal gaming agencies, or both, considering a license
4 application, nor does it prohibit the state or its agencies from
5 entering into agreements to share applicant background information
6 with other gaming licensing agencies in other jurisdictions.

7 19990.23. (a) The commission or, if application for licensing
8 in connection with a tribal platform or poker room, the appropriate
9 tribal regulatory agency, *if required under subdivision (k) of Section*
10 *19990.20*, shall review the suitability and capability of a license
11 applicant in conformity with the rules set forth in this chapter.

12 (b) With respect to nontribal licenses, the commission may
13 establish a process to conduct a preliminary determination of
14 suitability based on a partial investigation of license applicants
15 that are seeking licensure along with a determination of which
16 license applicants may be subject to a partial investigation. A
17 partial investigation is intended to screen out applicants that do
18 not meet the prima facie evidential showing that it meets the
19 suitability requirements of this chapter. A partial investigation
20 shall include fingerprint-based state and federal criminal history
21 checks and clearances, and inquiries into various public databases
22 regarding credit history and civil litigation. A partial investigation
23 shall also include a review of the applicant's financial status, which
24 shall include the required submission of a report prepared on behalf
25 of the applicant by a department-approved forensic accounting,
26 audit, or investigative firm, in a format developed by the
27 department, and at the applicant's expense. The report shall include
28 the financial information necessary for the department to make a
29 preliminary determination of suitability. The department may
30 specify additional requirements regarding the contents of the report
31 and any other financial information or documentation required to
32 be submitted with the application. A full investigation shall be
33 conducted of only those persons that pass the partial investigation
34 and that will undergo a full investigation pursuant to subdivision
35 (c). Those applicants that do not pass the partial investigation may
36 appeal the decision to the commission.

37 (c) The commission shall conduct a full investigation into the
38 suitability of a license applicant that initially applies to the
39 commission for a license, and in the case of tribal license

1 applicants, *if required under subdivision (k) of Section 19990.20,*
2 following approval of the license by the tribal regulatory agency.

3 (d) Notwithstanding ~~anything in any provision of~~ this chapter
4 to the contrary, an applicant that is a tribe and *that* is subject to a
5 tribal-state compact, secretarial procedures for class III gaming
6 under IGRA, or a gaming ordinance or resolution approved under
7 IGRA that is in effect, shall be presumed suitable and shall not be
8 required to pay the application fee. *However, tribal officials and*
9 *other agents or representatives of the tribe are exempt from the*
10 *suitability determinations pursuant to this section only when, as*
11 *set forth in subparagraph (C) of paragraph (3), the tribe holds the*
12 *license through a separate and independent tribal entity. In all*
13 other instances the investigation shall include all of the following
14 persons:

15 (1) The license applicant.

16 (2) All officers, directors, partners, and members of the license
17 applicant.

18 (3) The owner or owners of the following:

19 (A) The license applicant.

20 (B) An affiliate of the license applicant.

21 (C) A person deemed by the department to have significant
22 influence over the license applicant or its service providers or their
23 respective operations. *Notwithstanding any provision of this section*
24 *to the contrary, in the event the tribal applicant is a separate and*
25 *independent entity of the tribe, such as a tribally and wholly owned*
26 *corporation or limited liability company, with control vested in a*
27 *board or committee that is separate from the tribe's governing*
28 *body, except for the basic tribal eligibility requirements set forth*
29 *in Section 19990.20, that may be met by the tribe, those tribal*
30 *entities shall meet any other requirements for licensure pursuant*
31 *to this chapter. Only the officers, directors, and key employees of*
32 *those entities, and not the elected officials of the tribal owner,*
33 *shall be required to meet the suitability requirements of this*
34 *section, except when those tribal officials have authority to exercise*
35 *direct control over the operations of the entity.*

36 (D) A person that directly or indirectly holds a beneficial interest
37 or ownership interest of 10 percent or more of a service provider
38 or player recruiter of the licensee. The commission may require a
39 person with a smaller interest to be found suitable in the exercise
40 of its discretion where it deems appropriate. If the person is not a

1 natural person, the department may determine which officers,
2 directors, and owners of the person are significantly involved in
3 the management or control of the person as it relates to core
4 functions so as to require an investigation into suitability.

5 (e) A full investigation shall include a review and evaluation of
6 the license applicant's qualifications and experience to provide
7 the services anticipated of a licensee, which shall include the
8 required submission of a report prepared on each applicant by an
9 outside firm contracted and supervised by the department, in a
10 format developed by the department, and at the applicant's expense.
11 The report shall include information necessary for the department
12 to make a determination of suitability, as specified in regulation,
13 consisting of, but not limited to, personal history, prior activities
14 and associations, credit history, civil litigation, past and present
15 financial affairs and standing, and business activities. The
16 department may specify additional requirements regarding the
17 contents of the report and other information or documentation
18 required to be submitted with the application. If the license
19 applicant is using or providing gaming software, the license
20 applicant shall also provide compliance certification of its gaming
21 software by a department-approved certification entity.

22 (f) An institutional investor holding less than 10 percent of the
23 equity securities of a service provider's holding or intermediary
24 companies shall be granted a waiver of an investigation of
25 suitability or other requirement if all of the following apply:

26 (1) The securities are those of a corporation, whether publicly
27 traded or privately held.

28 (2) Holdings of those securities were purchased for investment
29 purposes only.

30 (3) The institutional investor annually files a certified statement
31 with the department to the effect that it has no intention of
32 influencing or affecting the affairs of the issuer, the licensee, or
33 service provider, as applicable, or its holding or intermediary
34 companies.

35 (4) Notwithstanding paragraph (3), the institutional investor
36 may vote on matters submitted to the vote of the outstanding
37 security holders.

38 (5) The certification described in paragraph (3) shall include a
39 statement that the institutional investor beneficially owns the equity
40 securities of the corporation for investment purposes only, and in

1 the ordinary course of business as an institutional investor, and
2 not for the purpose of causing, directly or indirectly, the election
3 of members of the board of directors, or effecting a change in the
4 corporate charter, bylaws, management, policies, or operations of
5 the corporation or any of its affiliates. The certification also shall
6 indicate any changes to the structure or operations of the
7 institutional investor that could affect its classification as an
8 institutional investor, as listed in paragraph (7). Additionally, the
9 certification shall state that the institutional investor and
10 corporation shall maintain gaming compliance policies and
11 procedures to implement and ensure compliance with this chapter
12 and regulations promulgated thereunder.

13 (6) An institutional investor granted a waiver under this
14 subdivision that subsequently decides to influence or affect the
15 affairs of the issuer shall provide not less than 30 days' notice of
16 that intent and shall file with the department a request for
17 determination of suitability before taking an action that may
18 influence or affect the affairs of the issuer. However, the
19 institutional investor may vote on matters submitted to the vote of
20 the outstanding security holders. If an institutional investor changes
21 its investment intent, or the department finds reasonable cause to
22 believe that the institutional investor may be found unsuitable, the
23 institutional investor shall take no action other than divestiture
24 with respect to its security holdings until it has complied with any
25 requirements established by the department, which may include
26 the execution of a trust agreement. The institutional investor and
27 its relevant holding, related, or subsidiary companies shall
28 immediately notify the department and, if a tribal license is
29 involved, the tribal regulatory agency, of any information about,
30 or actions of, an institutional investor holding its equity securities
31 when that information or action may impact upon the eligibility
32 of the institutional investor for a waiver pursuant to paragraph (2).

33 (7) If at any time the regulatory agency finds that an institutional
34 investor holding a security of a licensee under this chapter has
35 failed to comply with the terms of this chapter, or if at any time
36 the department finds that, by reason of the extent or nature of its
37 holdings, whether of debt or equity securities, an institutional
38 investor is in a position to exercise such a substantial impact upon
39 the controlling interests of a licensee that investigation and
40 determination of suitability of the institutional investor are

1 necessary to protect the public interest, the department may take
2 any necessary action otherwise authorized under this chapter to
3 protect the public interest.

4 (8) For purposes of this subdivision, an “institutional investor”
5 includes all of the following:

6 (A) A retirement fund administered by a public agency for the
7 exclusive benefit of federal, state, or local public employees.

8 (B) An investment company registered under the federal
9 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

10 (C) A collective investment trust organized by banks under Part
11 Nine of the Rules of the *Office of the Comptroller of the Currency*.

12 (D) A closed-end investment trust.

13 (E) A chartered or licensed life insurance company or property
14 and casualty insurance company.

15 (F) A federally regulated or state-regulated bank, savings and
16 loan, or other federally or state-regulated lending institution.

17 (G) An investment adviser registered under the federal
18 Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.).

19 (H) Other persons as the department may determine for reasons
20 consistent with the public interest.

21 (g) The tribe or tribes that own a tribal enterprise, and the
22 officers, directors, and employees of that tribe or tribes, are not
23 subject to suitability review as a condition of the tribal enterprise
24 obtaining a license pursuant to this chapter, provided that the tribal
25 enterprise is controlled by an independent board of directors. The
26 officers, directors, and employees of the tribal enterprise are not
27 hereby exempted from suitability review.

28 (h) Except as otherwise provided by statute or regulation, every
29 person, that, by statute or regulation, is required to hold a license
30 shall obtain a license prior to engaging in the activity, or occupying
31 the position, with respect to which the license is required. An
32 applicant for licensing, or for any approval or consent, shall make
33 a full and true disclosure of all information to the appropriate
34 regulatory agencies as necessary to carry out the policies of the
35 state relating to the licensing and control of poker. The burden of
36 proving a person’s qualifications to receive a license is on the
37 applicant.

38 (i) The regulatory agencies may issue a finding of suitability
39 for a license applicant to obtain a license only if, based on all of
40 the information and documents submitted, the commission is

1 satisfied that each of the persons subject to investigation pursuant
2 to this section is both of the following:

3 (1) A person of good character, honesty, and integrity, or, if an
4 entity, in good standing in its jurisdiction of organization and in
5 all other jurisdictions in which it is qualified, or should be qualified,
6 to do business.

7 (2) A person whose prior activities, criminal record, if any,
8 reputation, habits, and associations do not pose a threat to the
9 public interest of this state, or to the effective regulation and control
10 of controlled poker, or create or enhance the dangers of unsuitable,
11 unfair, or illegal practices, methods, and activities in the conduct
12 of controlled poker or in the carrying on of the business and
13 financial arrangements incidental thereto.

14 (j) The commission shall issue a finding that a license applicant
15 is not suitable to obtain a license if it finds that a person subject
16 to investigation pursuant to this section is described by any of the
17 following:

18 (1) Failed to clearly establish eligibility and qualifications in
19 accordance with this chapter.

20 (2) Failed to timely provide information, documentation, and
21 assurances required by this chapter or requested by the department,
22 or, with respect to a license applicant, failed to reveal any fact
23 material to qualification, or supplied information that is untrue or
24 misleading as to a material fact pertaining to the suitability criteria.

25 (3) Been convicted of a felony, including a conviction by a
26 federal court or a court in another state or foreign jurisdiction for
27 a crime that would constitute a felony if committed in California,
28 except that a conviction of a felony involving the hunting or fishing
29 rights of a tribal member while on his or her reservation shall not
30 be included among the class of disqualifying felonies.

31 (4) Been convicted of a misdemeanor in a jurisdiction involving
32 dishonesty or moral turpitude within the 10-year period
33 immediately preceding the submission of the application, unless
34 the applicant has been granted relief pursuant to Section 1203.4,
35 1203.4a, or 1203.45 of the Penal Code. However, the granting of
36 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
37 Code shall not constitute a limitation on the discretion of the
38 department or affect the applicant's burden.

39 (5) Has associated with criminal profiteering activity or
40 organized crime, as defined in Section 186.2 of the Penal Code.

1 (6) Has contemptuously defied a legislative investigative body,
2 or other official investigative body of a state or of the United States
3 or a foreign jurisdiction, when that body is engaged in the
4 investigation of crimes relating to poker, official corruption related
5 to poker activities, or criminal profiteering activity or organized
6 crime, as defined in Section 186.2 of the Penal Code.

7 (7) Is less than 21 years of age.

8 (8) Has knowingly and willfully accepted a bet after December
9 31, 2006, from a person located in the United States on any form
10 of Internet gambling, including, but not limited to, poker, that has
11 not been affirmatively authorized by law of the United States or
12 of each state in which a person making that bet were located, or
13 has been the holder of a direct or indirect financial interest in a
14 person or entity that has accepted that bet.

15 (9) Has knowingly facilitated or otherwise provided services
16 with respect to bets or gambling games using the Internet involving
17 persons located in the United States for a person described in
18 paragraph (8), acting with knowledge of the fact that these bets or
19 gambling games involved persons located in the United States.

20 (j)

21 (k) Actions on license applications will be treated as follows:

22 (1) The commission shall reject the license application of an
23 applicant found to be ineligible for licensure.

24 (2) If denial of the application, or approval of the license with
25 restrictions or conditions on the license, is recommended, the
26 department shall prepare and file with the commission written
27 reasons upon which the recommendation is based. Prior to filing
28 its recommendation with the commission, the department shall
29 meet with the applicant, or the applicant's duly authorized
30 representative, and inform the applicant generally of the basis for
31 a proposed recommendation that the application be denied,
32 restricted, or conditioned.

33 (3) This section neither requires the department to divulge to
34 the applicant confidential information received from a law
35 enforcement agency or information received from a person with
36 assurances that the information would be maintained confidential,
37 nor to divulge any information that might reveal the identity of an
38 informant or jeopardize the safety of a person.

39 (4) Denial of an application shall be without prejudice to a new
40 and different application filed in accordance with any regulations

1 adopted by the department with respect to the submission of
2 applications.

3 (5) A request to withdraw an application for a license may be
4 made by the license applicant at any time prior to final action on
5 the application by the department by filing a written request with
6 the commission to withdraw the application, absent knowledge of
7 a specific reason to suspect that the person or entity may be found
8 unsuitable.

9 (6) The commission shall waive the application of the provisions
10 of paragraph (8) ~~of subdivision (j) or paragraph~~ *or* (9) of
11 subdivision (j) ~~to~~ *for* an applicant who can demonstrate by clear
12 and convincing evidence that its conduct in connection with bets
13 and gambling games involving persons located in the United States
14 was not unlawful under federal law and the laws of each state in
15 which persons making the bets were located. ~~The termination of~~
16 ~~a prosecution of that applicant under the laws of any state, the~~
17 ~~United States, or other jurisdiction in a manner other than with a~~
18 ~~conviction shall not be regarded as evidence that the applicant's~~
19 ~~conduct was not unlawful. In making this determination, the~~
20 ~~commission may consider evidence that the applicant was~~
21 ~~prosecuted under the laws of any state, the United States, or~~
22 ~~another jurisdiction. However, the termination of a prosecution~~
23 ~~in a manner other than a conviction does not constitute evidence~~
24 ~~that the applicant's conduct was lawful.~~ This section does not
25 waive the need to comply with all otherwise applicable license
26 and suitability requirements.

27 (l) *This section shall not be construed to prohibit a tribal*
28 *regulatory agency from conducting its own analysis of suitability*
29 *for a person or entity applying for licensure in connection with a*
30 *tribal platform or poker room, or from providing the results of its*
31 *suitability analysis to the commission, as provided under*
32 *subdivision (k) of Section 19990.20.*

33 19990.23.5. A finding of suitability by a state gaming agency
34 within the United States with expertise recognized within the
35 gaming industry that is also recognized as meeting this standard
36 by the department, shall be grounds for a state provisional finding
37 of suitability with respect to a particular person or entity until a
38 permanent suitability finding is issued by the department as to that
39 person or entity.

1 19990.24. In addition to any other data that the department
2 shall request from a license applicant as a matter of law, and to
3 ensure that a license applicant is legally, technically, and financially
4 qualified to become a licensee, the department shall request that
5 a license applicant name, describe, or provide all of the following:

6 (a) The license applicant's experience and qualifications to
7 provide the services anticipated of a licensee as set forth in Article
8 5 (commencing with Section 19990.30).

9 (b) The names of all of the license applicant's owners,
10 executives, and employees at the time the application is submitted,
11 as well as sufficient personally identifiable information on each
12 of those persons to conduct background investigations as required
13 by the department.

14 (c) For those owners, executives, and employees who would be
15 required to hold a work permit if the license application were
16 granted, the application shall include information regarding their
17 qualifications to obtain that permit. That information may be in
18 the form of work permit applications to be processed by the
19 department along with the license application.

20 (d) The fingerprints of the owners, directors, managers,
21 executives, and employees of the licensee and its affiliates, using
22 live scan technology.

23 (e) Documentation and information relating to the license
24 applicant and its direct and indirect owners, including, but not
25 limited to, all of the following:

26 (1) Proof of the license applicant's formation in California,
27 including, as applicable, articles of incorporation, articles of
28 organization, bylaws, operating agreement, partnership agreement,
29 or other formation or charter documents. For a tribe or tribal
30 enterprise, this requirement shall be satisfied by providing
31 documentation regarding the tribe's federal recognition and its
32 operation of a substantial portion of its governmental activities in
33 California.

34 (2) Current and historical audited financial and accounting
35 records performed in accordance with Generally Accepted
36 Accounting Principles (GAAP) or International Financial Reporting
37 Standards (IFRS).

38 (3) Documents describing legal and regulatory proceedings in
39 which the license applicant has been or is a party.

1 (4) Documents relating to the license applicant’s business history
2 and structure.

3 (5) Documents relating to the nature and sources of the license
4 applicant’s financing, including, but not limited to, operating
5 agreements, partnership agreements, stock purchase agreements,
6 loan capital agreements, pro forma cap tables, pro forma statements
7 of profits and loss, investor rights agreements, voting agreements,
8 and shareholder agreements. These materials may be submitted
9 subject to a request for confidentiality.

10 (6) Documentation that demonstrates that the license applicant
11 is financially qualified to perform the obligations of a licensee as
12 described in this article. *An applicant for licensure as an operator*
13 *shall provide documentation establishing that, if the license is*
14 *granted, the license applicant is qualified to pay the license fee*
15 *required by subdivision (a) of Section 19990.58 from its own assets,*
16 *or its owners’ assets, or through credit extended to the entity in*
17 *an amount not to exceed the entity’s own assets, or its owners’*
18 *assets.*

19 (7) An independent financial audit report by a certified public
20 accountant.

21 (f) A description of the functions, goods, or services that the
22 license applicant intends to provide through licensed service
23 providers, rather than conducting directly.

24 (g) A description of the games and services the license applicant
25 proposes to offer to authorized players, in the case of an applicant
26 for an operator’s license, or of the goods or services the license
27 applicant proposes to offer to licensed operators, in the case of an
28 applicant for a service provider’s license.

29 (h) In the case of an applicant for an operator’s license, a
30 description of the manner in which the licensee’s facilities will
31 accomplish the goals of this chapter, including, but not limited to:

32 (1) The licensee’s location within the state.

33 (2) The licensee’s security systems.

34 (3) The license applicant’s proposal for the manner in which it
35 will facilitate compliance with all of the standards set forth in this
36 chapter and federal law, including, but not limited to, Section
37 5362(10)(B) of Title 31 of the United States Code.

38 (i) In the case of an applicant for a license, the system
39 requirements that the license applicant plans to implement to

- 1 achieve the state's goals under this chapter, including, but not
2 limited to, the following:
- 3 (1) Connectivity and level of service.
 - 4 (2) The system architecture of the gaming equipment.
 - 5 (3) The software architecture of the gaming system.
 - 6 (4) The network architecture of the gaming system.
 - 7 (5) The security employed for the protection of the gaming
8 system.
 - 9 (6) The security employed for the protection of online players.
 - 10 (7) Connectivity with systems belonging to service providers.
 - 11 (8) Methods employed to maintain high service availability.
 - 12 (9) Change management procedures.
 - 13 (10) Information security policies.
 - 14 (11) Disaster recovery procedures.
 - 15 (12) Policies to ensure transparency and integrity in gaming.
 - 16 (13) Financial policies for the protection of player funds.
 - 17 (14) Gaming systems, including, but not limited to, hardware
18 and software that ensure all of the following:
 - 19 (A) The games are legal.
 - 20 (B) The games are independent and fair and played by live
21 persons.
 - 22 (C) Game and betting rules are available to all registered players.
 - 23 (D) All data used for the conduct of each game are randomly
24 generated and unpredictable to the same extent that a properly
25 shuffled finite deck of tangible playing cards would be random
26 and unpredictable.
 - 27 (15) Accounting systems, ~~including~~ *including*, but not limited
28 to, those for any of the following:
 - 29 (A) Authorized player accounts.
 - 30 (B) Per hand charges.
 - 31 (C) Transparency and reporting to all state agencies.
 - 32 (D) Distribution of funds, pursuant to the license and this
33 chapter, to the state and authorized players.
 - 34 (E) Ongoing auditing and ongoing internal control and
35 compliance reviews.
 - 36 (16) Facility security systems to protect the intrastate Internet
37 poker Web site from internal and external threats.
 - 38 (j) The license applicant's proposal to facilitate the statutory
39 duties and responsibilities of the state agencies with jurisdiction

1 over aspects of the licensee’s operations, including, but not limited
2 to, all of the following:

- 3 (1) The department.
- 4 (2) The commission.
- 5 (3) The Treasurer.
- 6 (4) The Franchise Tax Board.

7 (k) In addition to demonstrating that the license applicant is
8 legally, technically, and financially qualified to become a licensee,
9 an applicant for an operator’s license shall also provide compliance
10 certification of its gaming software by a department-approved
11 certification entity to ensure that it complies with the requirements
12 of this chapter.

13 19990.25. (a) The holder of an owner license issued pursuant
14 to subdivision (a) of Section 19851 that is in good standing, is not
15 unqualified to operate a land-based poker entity by reason of an
16 investment in a license applicant or a licensee.

17 (b) An official representative of the government of a federally
18 recognized California Indian tribe with a tribal-state gaming
19 compact with the state or conducting gaming activities pursuant
20 to secretarial procedures, or the tribe itself or its subsidiaries, is
21 not unqualified to operate a land-based poker entity by reason of
22 an investment in a license applicant or a licensee.

23 (c) (1) A license applicant whose application is denied by the
24 state regulatory agency may bring an action to appeal that decision
25 to the Superior Court of the County of Sacramento. Damages or
26 other monetary awards shall not be permitted.

27 (2) The Superior Court of the County of Sacramento shall uphold
28 the decision by the state regulatory agency if there is substantial
29 evidence to support the department’s decision to deny the license
30 application.

31 (3) If the Superior Court of the County of Sacramento finds for
32 the license applicant, it shall return the application to the
33 department for action consistent with the decision of the court.

34

35 Article 5. Rights and Obligations of ~~Licenses~~ *Licenseses*

36

37 19990.30. (a) A licensee shall comply with the terms of this
38 chapter.

39 (b) A licensed operator may cease its operations after providing
40 the department with a 90-day advance notice of its intent and a

1 statement explaining its reasons for doing so, which may include
2 the fact that continuing to operate the intrastate Internet poker Web
3 site is commercially infeasible. In response to that notice, the state
4 may file an action in the Superior Court of the County of
5 Sacramento if it deems that action necessary to protect a state
6 interest, including, but not limited to, the interests of authorized
7 players.

8 (c) If a dispute arises between the state and the licensee, the
9 department or a licensee may file an action in the superior court
10 of a county in which the department has an office for an
11 interpretation of the rights and responsibilities of the state and the
12 licensee pursuant to this chapter.

13 19990.31. (a) Prior to initiating operations and thereafter, a
14 licensee shall ensure that each employee has been issued an
15 employee work permit by the department, pursuant to standards
16 adopted by the department, prior to that person having access to
17 the licensee's facilities. The permit shall be renewed every two
18 years.

19 (b) An employee work permit shall not be issued unless, based
20 on all of the information and documents submitted, the department
21 is satisfied that the applicant is, at a minimum, all of the following:

- 22 (1) A person of good character, honesty, and integrity.
23 (2) A person whose prior activities, criminal record, if any,
24 reputation, habits, and associations do not pose a threat to the
25 public interest of this state, or to the effective regulation and control
26 of controlled poker, or create or enhance the dangers of unsuitable,
27 unfair, or illegal practices, methods, and activities in the conduct
28 of controlled poker or in the carrying on of incidental business and
29 financial arrangements.
30 (3) A person who is in all other respects qualified to hold an
31 employee work permit as provided in this chapter.

32 (c) An applicant for an employee work permit is disqualified
33 for any of the following reasons:

- 34 (1) Failure of the applicant to clearly establish eligibility and
35 qualification in accordance with this chapter.
36 (2) Failure of the applicant to provide timely information,
37 documentation, and assurances required by this chapter or requested
38 by a state official, or failure of the applicant to reveal any fact
39 material to the qualification, or the supplying of information that

1 is untrue or misleading as to a material fact pertaining to the
2 qualification criteria.

3 (3) Conviction of a felony, including a conviction by a federal
4 court, a court in another state, or a court in another country, for a
5 crime that would constitute a felony if committed in California.

6 (4) Conviction of the applicant for a misdemeanor involving
7 dishonesty or moral turpitude within the 10-year-period
8 immediately preceding the submission of the application, unless
9 the applicant has been granted relief pursuant to Section 1203.4,
10 1203.4a, or 1203.45 of the Penal Code. However, the granting of
11 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
12 Code shall not constitute a limitation on the discretion of the
13 department or affect the applicant's burden under subdivision (b).

14 (5) Association of the applicant with criminal profiteering
15 activity or organized crime, as defined in Section 186.2 of the
16 Penal Code.

17 (6) Contemptuous defiance by the applicant of a legislative
18 investigative body, or other official investigative body of a state
19 or of the United States, when that body is engaged in the
20 investigation of crimes relating to poker, official corruption related
21 to poker activities, or criminal profiteering activity or organized
22 crime, as defined in Section 186.2 of the Penal Code.

23 (7) The applicant is less than 21 years of age.

24 (d) A licensee shall apply for an employee work permit on behalf
25 of each employee.

26 (e) An employee work permit shall not be issued unless the
27 applicant meets the qualification standards adopted by the
28 commission.

29 (f) The department shall establish a fee to be paid by a licensee
30 for the cost of background investigation on employee work permit
31 applications submitted on behalf of that licensee's employees. The
32 department and the commission shall establish processes for the
33 revocation or suspension of an intrastate Internet poker license or
34 employee work permit, and to withdraw an application for an
35 intrastate Internet poker license or employee work permit.

36 (g) (1) A licensee shall not enter into, without prior approval
37 of the department, a contract or agreement with a person who is
38 denied a poker license or employee work permit pursuant to
39 Chapter 5 (commencing with Section 19800), or whose poker
40 license or employee work permit is suspended or revoked by the

1 department, or with a business enterprise under the control of that
2 person, after the date of receipt of notice of the department's action.

3 (2) A licensee shall not enter into a contract or agreement with
4 a person or entity that has knowingly and willfully accepted a bet
5 from a person located in the United States on a form of Internet
6 gambling, including, but not limited to, poker, after December 31,
7 2006, that has not been affirmatively authorized by a law of the
8 United States or of each state in which the person making that bet
9 was located, or has been the holder of a direct or indirect financial
10 interest in a person or entity that has accepted a bet. This section
11 does not apply to a person or entity that has demonstrated, by clear
12 and convincing evidence, pursuant to the process described in
13 paragraph (6) of subdivision (i) of Section 19990.23, that its
14 conduct in connection with bets and gambling games involving
15 persons located in the United States was not unlawful under federal
16 law and the laws of each state in which persons making bets were
17 located.

18 (h) A licensee shall not employ, without prior approval of the
19 department, a person in a capacity for which he or she is required
20 to have an employee work permit, if the person has been denied
21 a poker license or an employee work permit pursuant to Chapter
22 5 (commencing with Section 19800), or if his or her poker license
23 or employee work permit has been suspended or revoked after the
24 date of receipt of notice of the action by the department. A licensee
25 shall not enter into a contract or agreement with a person whose
26 application for a poker license or an employee work permit has
27 been withdrawn with prejudice, or with a business enterprise under
28 the control of that person, for the period of time during which the
29 person is prohibited from filing a new application for a poker
30 license or an employee work permit.

31 (i) If an employee who is required to hold an employee work
32 permit pursuant to this chapter is denied an employee work permit,
33 or has his or her employee work permit revoked by the department,
34 the employee shall be terminated immediately in all capacities.
35 Upon notifying the licensee of the department's action, the
36 employee shall have no further involvement in the poker operation.
37 Notwithstanding any provisions of this chapter to the contrary:

38 (1) If an employee who is required to hold an employee work
39 permit pursuant to this chapter has his or her employee work permit
40 suspended, the employee shall be suspended in all capacities. Upon

1 notifying the licensee of the department’s action, the employee
2 shall not be permitted to have involvement in the poker operation
3 during the period of suspension.

4 (2) A licensee shall not designate another employee to replace
5 the employee whose employment was terminated or suspended,
6 unless the other employee has an existing work permit.

7 (j) A licensee shall not pay to a person whose employment has
8 been terminated or suspended pursuant to subdivision (i)
9 remuneration for a service performed in a capacity in which the
10 person is required to hold an employee work permit, except for
11 amounts due for services rendered before the date of receipt of
12 notice of the department’s action of suspension or termination.

13 (k) Except as provided in subdivision (i), a contract or agreement
14 for the provision of services or property to a licensee for the
15 conduct of an activity pertaining to the operation of an authorized
16 game, which is to be performed by a person required by this
17 chapter, or by regulations adopted pursuant to this chapter, to hold
18 an employee work permit, shall be terminated upon a suspension
19 or revocation of the person’s employee work permit.

20 (l) In a case in which a contract or agreement for the provision
21 of services or property to a licensee or an affiliate thereof, or for
22 the conduct of an activity at an intrastate Internet poker Web site,
23 is to be performed by a person required by this chapter or by
24 regulations adopted by the department to hold an employee work
25 permit, the contract shall be deemed to include a provision for its
26 termination without liability on the part of the licensee or affiliate,
27 upon a suspension or revocation of the person’s employee work
28 permit. In an action brought by the department to terminate a
29 contract pursuant to subdivision (k), it is not a defense that the
30 agreement does not expressly include the provision described in
31 this subdivision, and the lack of express inclusion of the provision
32 in the agreement is not a basis for enforcement of the contract by
33 a party thereto.

34 (m) If a licensee does not comply with the requirements of this
35 section, the department may impose a civil fine of not more than
36 ____ dollars (\$____) per occurrence. In the event that a licensee
37 negligently, willfully, or wantonly fails to comply with these
38 requirements, the department may initiate an enforcement action
39 and subject a licensee to a civil fine of ____ dollars (\$____) and
40 an order to suspend or revoke the licensee’s license.

1 19990.32. The licensee is responsible for providing current
2 and accurate documentation on a timely basis to all state agencies,
3 as provided in this chapter.

4 In addition to any other confidentiality protections provided to
5 persons licensed by the state, the state and its agencies shall treat
6 the proprietary information provided by a licensee as confidential
7 to protect the licensee and to protect the security of the gaming
8 system.

9 19990.33. (a) Changes in ownership of the licensee shall be
10 approved by the department prior to the closing of a proposed
11 transaction.

12 (b) The department shall investigate to ensure that a person
13 acquiring an interest in a licensee is suitable and otherwise
14 financially, technically, and legally qualified to be a licensee
15 consistent with this chapter. If an acquiring person is found to be
16 unsuitable to be a licensee or otherwise not financially, technically,
17 or legally qualified to be a licensee, the licensee or the acquiring
18 person may challenge that determination consistent with
19 subdivision (c) of Section 19990.25.

20 (c) A change in the elected officers of a tribal government
21 licensee shall not be considered to be a change in interest or
22 ownership of the licensee.

23 19990.34. All facilities, software, and any other property, both
24 tangible and intangible, used by the licensee in offering authorized
25 games for play on an authorized platform or in an authorized poker
26 room shall be owned or licensed by the licensed operator and shall
27 be approved by the department.

28 19990.35. The gaming system is divided into three parts:

29 (a) A player management system that shall include all the
30 technology, functions, and internal control system required to
31 establish, manage, administer, and control a player's online gaming
32 account.

33 (b) A funds management system that shall include all the
34 technology, ~~functions~~ *functions*, and internal control system
35 mechanisms required to record and manage real money in the
36 deposit account or in rewards and bonus management systems,
37 whether those systems are for real or noncashable value.

38 (c) A games management system that shall include all the
39 technology, ~~functions~~ *functions*, and internal control system
40 mechanisms required to set up, manage and monitor authorized

1 games, including games content and game logic, but does not
2 receive, process, or store personal information about ~~players and~~
3 ~~their funds~~. *players, such as their names, addresses, and other*
4 *contact information, or their funds, except to the extent necessary*
5 *for the system to function, and in accordance with any limitations*
6 *from the card room operator and any applicable regulations.*

7 (d) This section does not prohibit a licensed operator from
8 licensing software, intellectual property, or other goods, services,
9 or information used by the gaming system from a licensed service
10 provider.

11 (1) The player management system and the fund management
12 system shall belong to, and be the responsibility of, an authorized
13 poker room operator. A licensed poker platform operator shall not
14 have access to the player management system and fund
15 management ~~system~~. *system, except to the extent expressly*
16 *authorized in writing by the poker room operator and in conformity*
17 *with applicable regulations.*

18 (2) The game management system shall belong to, and be the
19 responsibility of, an authorized poker platform operator. Authorized
20 poker room operators shall not have access to the games
21 management ~~system~~. *system, except to the extent expressly*
22 *authorized in writing by the poker room operator and in conformity*
23 *with applicable regulations.*

24 (e) The player management system shall at a minimum carry
25 out the following functions:

26 (1) Player registration.

27 (2) Player settings.

28 (3) Player account management.

29 (4) Responsible gaming.

30 (5) Player authentication.

31 (6) Player authorization.

32 (7) Geolocation.

33 (8) Set up a safe and secure connection with the player terminal.

34 (9) Age verification.

35 (f) The licensed poker room operator is responsible to control
36 and manage the player identity, *and* funds and data related to
37 authorized players in that poker ~~room~~ *room*, to ensure the privacy
38 and funds security of authorized players. This section does not
39 prohibit the licensed operator from licensing software, intellectual
40 property, or other goods, services, or information used by the player

1 management or funds management system from a licensed service
2 provider.

3 (g) The licensed poker platform operator shall ensure that
4 players are eligible to play the games operated by the poker room
5 licensee and implement appropriate security standards to prevent
6 collusion and cheating during games and that all gaming is fair.
7 This provision does not prohibit the licensed operator from
8 licensing software, intellectual property, or other goods, services,
9 or information used by the game management system from a
10 licensed service provider.

11 (h) An authorized player shall be physically located within the
12 State of California at the time of engaging in an authorized game.
13 However, an authorized player shall not be hindered from accessing
14 his or her player's account from anywhere outside California as
15 long as he or she does not engage in gaming.

16 (i) An authorized player shall be 21 years of age or older.

17 (1) An internet game shall not be provided, directly or indirectly,
18 to an individual under 21 years of age.

19 (2) Each licensed operator shall do all of the following:

20 (A) Prior to permitting an individual to play an authorized game,
21 the licensed poker room operator shall verify that the individual
22 is 21 years of age or older. The licensed operator shall match the
23 name, address, and date of birth provided by the individual to
24 information contained in a database approved by the department
25 as being reliable for those purposes.

26 (B) If the licensed poker room operator is unable to verify that
27 the individual is 21 years of age or older pursuant to subparagraph
28 (A), the licensed operator shall require the individual to submit an
29 age-verification kit consisting of a writing signed by the individual
30 attesting that he or she is 21 years of age or older and a copy of a
31 valid form of government identification. For the purposes of this
32 section, a valid form of government identification includes a
33 driver's license, state identification card, passport, official
34 naturalization or immigration document, such as an alien
35 registration receipt card or an immigrant visa, or United States
36 military identification. The licensed operator also shall verify that
37 the physical billing address on the check or credit card provided
38 by the person matches the address listed in the government
39 identification.

1 (C) The licensed poker room operator shall not permit authorized
2 players to make payments by money order or cash.

3 (3) If a licensed poker room operator complies with the
4 requirements of paragraph (2), and a person under 21 years of age
5 participates in an authorized game provided by the licensee, the
6 licensee is not in violation of this section.

7 (4) The department may assess civil penalties against a person
8 that violates this section, according to the following schedule:

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

11 (B) Not less than two thousand five hundred dollars (\$2,500)
12 and not more than three thousand five hundred dollars (\$3,500)
13 for the second violation.

14 (C) Not less than four thousand dollars (\$4,000) and not more
15 than five thousand dollars (\$5,000) for the third violation.

16 (D) Not less than five thousand five hundred dollars (\$5,500)
17 and not more than six thousand five hundred dollars (\$6,500) for
18 the fourth violation.

19 (E) Ten thousand dollars (\$10,000) for a fifth or any subsequent
20 violation.

21 (j) The department shall, by regulation, provide a process for a
22 licensed operator to exclude from play a person who has filled out
23 a California Internet poker self-exclusion form.

24 (1) The department shall develop a self-exclusion form within
25 six months of the operative date of this chapter.

26 (2) The department shall deliver the form to each licensed poker
27 room operator.

28 (3) A licensed poker room operator shall, *prior to any play*,
29 prominently display a link to the department's ~~responsible poker~~
30 *Responsible Gambling* Internet Web-site page and *display* the
31 self-exclusion form ~~on the poker room Web site that is displayed~~
32 when either of the following occurs:

33 (A) A person ~~registered to be~~ registers to be a player.

34 (B) ~~Each time an~~ An authorized player accesses the *authorized*
35 ~~poker room prior to playing~~ room.

36 (4) A licensed operator shall retain the Internet self-exclusion
37 form to identify persons who want to be excluded from play.

38 (5) A licensed poker room operator that has made commercially
39 reasonable efforts to comply with this subdivision shall not be held
40 liable in any way if a person who has filled out an Internet

1 self-exclusion form plays despite that person's request to be
2 excluded.

3 19990.36. A licensed poker platform operator shall only offer
4 authorized games and process bets in accordance with the
5 applicable game and betting rules established by the licensed
6 operator and approved by the department pursuant to Sections
7 19990.14 and 19990.37, provided that neither this chapter nor
8 those rules prohibit a licensed operator from offering play-for-fun
9 or play-for-free poker games on an ~~authorized~~ *Internet poker* Web
10 site.

11 19990.37. (a) To propose an authorized game for play, a
12 licensed operator shall provide the department with both of the
13 following:

14 (1) Game rules and betting rules it proposes to offer to registered
15 players.

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

18 (b) The department shall approve the game rules and betting
19 rules before a licensee may offer the game to authorized players.

20 19990.38. (a) A licensed operator shall ensure that games are
21 fair by utilizing a gaming system approved by the commission.
22 The commission may promulgate regulations specifying
23 requirements for the gaming system.

24 (b) The licensed poker room operator and applicable service
25 providers shall, prior to commencing the operation of the gaming
26 system, certify through an independent gaming certification entity
27 approved by the commission the reliability, accuracy, and integrity
28 of the system and its parts, as well as its ability to be effectively
29 tested, in accordance with certification regulations to be issued by
30 the commission. All components of the gaming system shall
31 comply with all requirements of this chapter.

32 (c) The hardware used by a licensed poker room operator to
33 offer authorized games shall not be the subject of any voluntary
34 liens, encumbrances, hypothecations, or other third party interests,
35 unless those interests are disclosed to and approved by the
36 department. This subdivision does not prohibit the licensed operator
37 from licensing software, intellectual property, or other goods,
38 services, or information used by the player management, funds
39 management, or games management system from a licensed service
40 provider.

1 (d) The gaming system shall display for each game the following
2 information:

- 3 (1) The name of the game.
- 4 (2) Any restrictions on play.
- 5 (3) The rules of the game.
- 6 (4) All instructions on how to play.
- 7 (5) The unit and total bets permitted.
- 8 (6) The player's current account balance, which shall be updated
9 in real time.
- 10 (7) Any other information that a licensee determines is necessary
11 for the authorized players to have in real time to compete fairly in
12 the game.

13 (e) Data used to create game results shall be unpredictable so
14 that it is infeasible to predict the next occurrence in a game, given
15 complete knowledge of the algorithm or hardware generating the
16 sequence and all previously generated numbers.

17 (f) A licensed poker room operator shall deploy controls and
18 technology to minimize fraud or cheating through collusion,
19 including external exchange of information between different
20 players, robotic play, or any other means.

21 (1) If a licensee poker room operator becomes aware that fraud
22 or cheating is taking place or has taken place, it shall take steps to
23 stop those activities immediately and inform the department of all
24 relevant facts.

25 (2) The department shall not impose liquidated damages against
26 a licensee to prevent fraud or cheating if the licensee can
27 demonstrate that it acted responsibly to prevent those activities as
28 soon as the licensee became aware of them.

29 (g) In a per hand game, if the gaming server or software does
30 not allow a game to be completed, the game shall be void and all
31 funds relating to the incomplete game shall be returned to the
32 registered player's account.

33 (h) In a tournament, if the gaming server or software does not
34 allow the tournament to be completed, all prize money shall be
35 distributed among players in accordance with the procedure
36 published by the licensee prior to the commencement of the
37 tournament.

38 19990.39. (a) A licensed operator shall register players and
39 establish player accounts prior to play.

- 1 (b) The player registration process must include submitting the
2 following minimum information:
- 3 (1) Full legal name.
 - 4 (2) Mailing address.
 - 5 (3) Telephone number.
 - 6 (4) Social security ~~number~~. *number or taxpayer identification*
7 *number.*
 - 8 (5) Identification or certification to prove that the individual is
9 at least 21 years of age.
 - 10 (6) Valid email address.
 - 11 (7) A secure password to be used with the player's account,
12 unless the online service permits for an alternative method of
13 authentication of the player approved by the department.
 - 14 (8) That he or she has read and agreed to the terms and
15 conditions of the service, including a reference where those terms
16 and conditions could be found.
- 17 (c) A licensed poker room operator shall employ an
18 authentication process before accepting a player, unless the
19 authentication process was previously carried out by a licensed
20 service provider.
- 21 (d) An individual under 21 years of age shall not be registered
22 as an authorized player, and funds deposited or money won by an
23 individual under 21 years of age shall be forfeited to the
24 commission. The commission may take further action towards the
25 licensed operator who registered an individual under 21 years of
26 age or permitted that individual to play a game.
- 27 (e) Only a licensed poker room operator may hold a deposit
28 account.
- 29 (f) A player may ~~only have one online gaming account~~ *have*
30 *multiple gaming accounts* with any given licensed poker room
31 ~~operator~~. *operator for any room and skin in which the player*
32 *participates, but shall not be permitted to play more than one*
33 *position at the same table at the same time.*
- 34 (g) A licensed poker room operator shall not permit an individual
35 to participate in a game conducted by the licensed poker platform
36 operator unless that individual has been verified and holds a deposit
37 account with the licensed poker room operator.
- 38 (h) Authorized players may only be permitted to play while
39 physically located in the State of California. The intermediate
40 routing of electronic data in connection with interactive gaming

1 shall not determine the location or locations in which a bet is
2 initiated, received, or otherwise made.

3 (i) The licensed poker room operator shall keep a list of all
4 players active at all times in the gaming system.

5 (j) If a licensed poker room operator becomes aware that an
6 individual has provided false information in respect of a registration
7 or authorization process, the licensed poker room operator shall
8 not register that individual and if he or she has already been
9 registered, the licensed poker room operator shall immediately
10 cancel his or her registration as a player with the licensed operator.

11 (k) Subject to those rules that the commission may establish,
12 this section does not prevent a licensed poker room operator from
13 entering into a marketing agreement with a third party to recruit
14 individuals to become registered players, provided that the licensed
15 operator remains responsible for ensuring that the registration
16 process described in this section has been completed prior to
17 permitting game play.

18 19990.40. (a) A licensed poker room operator shall provide a
19 means for authorized players to deposit funds into the deposit
20 account and transfer funds out of that account, either for return to
21 the player or for use in game play.

22 (b) An authorized player shall identify the source of funds to
23 be used to put money into the account established once the
24 registration process is complete. *The player shall identify the*
25 *specific account to be used for any given game prior to play and*
26 *in accordance with the poker room rules.*

27 (c) At the time that a player establishes an online gaming
28 account, he or she shall designate the bank account *or credit card*
29 *into which funds from his or her deposit account associated with*
30 *his or her play* are to be withdrawn or deposited, in accordance
31 with the poker room rules.

32 ~~(d) A player may establish only one online gaming account in~~
33 ~~any authorized Internet poker room, and may not play more than~~
34 ~~one hand position at any poker table, whether those tables are~~
35 ~~operated by the poker room directly or through a skin or network~~
36 ~~of rooms or skins operating from the same platform, and it shall~~
37 ~~be the responsibility of the poker platform operator and the poker~~
38 ~~room operator to ensure that the prohibition is not violated. Players~~
39 ~~violating the rule may be barred or suspended from future play in~~

1 ~~that or other authorized poker rooms, as the regulatory agency~~
2 ~~shall determine.~~

3 ~~(e)~~

4 (d) A licensed operator shall not permit a player to increase the
5 amount of money available for his or her player's online gaming
6 ~~account in the account designated for use in a game~~ after a hand
7 ~~in that game~~ has started.

8 ~~(f)~~

9 (e) A licensed poker room operator shall maintain records on
10 the balance of each player's funds in the deposit account. *funds in*
11 *each of the player's deposit accounts.*

12 ~~(g)~~

13 (f) A licensed operator shall not permit a player to place a bet
14 unless the player has sufficient funds in the ~~deposit~~ *designated*
15 ~~account to cover the amount of all bets required for that hand.~~

16 ~~(h)~~

17 (g) A licensed operator shall not provide credit to a player or
18 act as agent for a credit provider to facilitate the provision of funds.

19 ~~(i)~~

20 (h) Players shall not be paid interest by licensees on the funds
21 in the deposit accounts.

22 19990.41. (a) A licensed poker room operator shall hold all
23 player funds in a deposit account and shall segregate the deposit
24 account from all of its other assets.

25 (b) A licensed poker room operator shall not commingle funds
26 in the deposit account with any other funds held by the licensee,
27 including, but not limited to, operating funds. Both the accounts
28 of the licensed operator and its segregated authorized player
29 accounts shall be held in financial institutions located in the state.

30 (c) Funds held in an authorized player's account shall only be
31 used for the following purposes:

32 (1) To pay per hand or tournament charges owed by an
33 authorized player to the licensed operator for authorized game
34 play.

35 (2) To transfer funds from one authorized player's account to
36 the account of another registered player to reconcile the result of
37 a loss in the play of an authorized game.

38 (3) To transfer funds from an authorized player's account to an
39 account to be held by a licensed poker operator pending the
40 outcome of an authorized game. The poker platform operator shall

1 establish a suspense wagering account to temporarily hold those
2 funds pending the outcome of a game.

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

5 (5) To transfer funds from an authorized player's account with
6 the licensed poker room operator to an account specified by an
7 authorized player upon that player's request.

8 19990.42. During the registration process, a licensed poker
9 room operator shall clearly and conspicuously explain to the person
10 who is registering the privacy policies of the intrastate Internet
11 poker room, and the person shall assent to the following policies:

12 (a) Personally identifiable information shall not be shared with
13 a nongovernmental third party except as provided in subdivision
14 (k) of Section 19990.47.

15 (b) All personally identifiable information about registered
16 players shall be shared with state or federal agencies, including,
17 but not limited to, the department, the commission, the Franchise
18 Tax Board, and the Department of Child Support Services as
19 necessary to assist them in fulfilling their obligations.

20 (c) Personally identifiable information may be shared with
21 government agencies only as provided in subdivision (b) or subject
22 to court order as provided in subdivision (j) of Section 19990.47.

23 19990.43. A licensed operator may require that an authorized
24 player, or a person registering as a player, agree to a Terms of Use
25 Registered Player's Agreement.

26 19990.44. A licensed operator may suspend or revoke the
27 account of an authorized player for any of the following reasons:

28 (a) A person or authorized player provided false information to
29 the licensed operator, including, but not limited to, information
30 provided in the registration process.

31 (b) The authorized player has not updated registration
32 information as required to keep it current.

33 (c) The authorized player has violated the ~~intrastate Internet~~
34 *authorized* poker room's Terms of Use Registered Player's
35 Agreement.

36 (d) The person has already been registered and authorized.

37 (e) The licensed poker room operator is directed by a state
38 agency to suspend or revoke the registered player's account.

39 19990.45. (a) Upon registration, and each time a registered
40 player logs into an ~~intrastate Internet~~ *authorized* poker room, the

1 licensed operator shall permit a registered player to adjust his or
2 her play settings to:

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

4 (2) Set a limit on the aggregate losses in a registered player's
5 account within a specified period of time.

6 (b) During play, in order to assist a registered player to decide
7 if to suspend play, the registered player's screen shall do all of the
8 following:

9 (1) Once an hour, indicate how long the player has been playing
10 and the current value and change in value of the registered player's
11 account total since the last time he or she logged in.

12 (2) At least once every six hours, require the registered player
13 to confirm that the player has read the messages required in
14 paragraph (1), and give an option to the player to end the session
15 or return to the game.

16 19990.46. A licensed poker room operator shall establish a
17 toll-free telephone customer service hotline that shall be available
18 to registered players 24 hours per day, 365 days a year. The
19 licensed operator shall give notice to the department when using
20 personnel who are out of state in supporting its customer service
21 hotline.

22 19990.47. (a) A licensed poker room operator shall protect
23 the privacy of registered players and their personally identifiable
24 information.

25 (b) A licensed operator shall comply with all state and federal
26 privacy and data protection laws.

27 (c) At the time of registration with a licensed poker room
28 operator as a registered player, and at least once a year thereafter,
29 a licensee shall provide notice in the form of a separate, written
30 statement, delivered via United States Postal Service or electronic
31 mail, to the registered player that clearly and conspicuously informs
32 the registered player of all of the following:

33 (1) The nature of personally identifiable information collected
34 or to be collected with respect to the registered player and the
35 nature of the use of that information.

36 (2) The nature, frequency, and purpose of any disclosure that
37 may be made of personally identifiable information, including an
38 identification of the types of persons to whom the disclosure may
39 be made.

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

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

6 (5) The limitations provided by this section with respect to the
7 collection and disclosure of personally identifiable information by
8 a licensee and the right of the registered player under subdivision
9 (j) or (k) to enforce those limitations.

10 (d) A licensed poker room operator may collect personally
11 identifiable information in order to do either of the following:

12 (1) Obtain information necessary to operate the intrastate
13 Internet poker Web site and offer authorized games to authorized
14 players pursuant to this chapter.

15 (2) Detect unauthorized play, activities contrary to a licensed
16 operator's Terms of Use or Registered Player's Agreement, or
17 activities contrary to state or federal law.

18 (3) A licensed operator shall not collect any other personally
19 identifiable information concerning any registered player without
20 the prior written or electronic consent of the registered player
21 concerned and shall not permit its licensed service providers to do
22 so.

23 (e) Except as provided in subdivision (f), a licensed operator
24 shall not disclose personally identifiable information concerning
25 any registered player without the prior written or electronic consent
26 of the registered player concerned and shall take actions necessary
27 to prevent unauthorized access to that information by a person
28 other than the registered player or licensee.

29 (f) A licensed operator may disclose personally identifiable
30 information if the disclosure is any of the following:

31 (1) Necessary to render, or conduct a legitimate business activity
32 related to, the provision of authorized games to the registered
33 player by the licensed operator.

34 (2) Subject to subdivision (k), made pursuant to a court order
35 authorizing the disclosure, if the registered player is notified of
36 the order by the person to whom the order is directed.

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

39 (A) The licensed poker room operator has provided the
40 registered player the opportunity to prohibit or limit the disclosure.

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

4 (4) To the department to fulfill its obligations under this chapter
5 or a state agency as authorized in this chapter.

6 (5) To persons found suitable under this chapter if the registered
7 player is notified and consents to the information being shared.

8 (g) A registered player shall be provided access to all personally
9 identifiable information regarding that registered player that is
10 collected and maintained by a licensed operator. The information
11 shall be made available to the registered player at reasonable times
12 and at a place designated by the licensed operator. A registered
13 player shall be provided a reasonable opportunity to correct any
14 error in the information.

15 (h) A licensed poker room operator may destroy personally
16 identifiable information if the information is no longer necessary
17 for the purpose for which it was collected, and there are no pending
18 requests or orders for access to the information under subdivision
19 (k).

20 19990.48. A licensed operator shall establish a book of accounts
21 and regularly audit all of its financial records and reports, which
22 shall, at a minimum, include all of the following:

23 (a) Monthly auditable and aggregate financial statements of
24 poker transactions.

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

26 (c) The identity of registered players.

27 (d) The balance on each registered player's account at the start
28 of a session of play, the amount won or lost by each registered
29 player during a game, and the balance on the registered player's
30 account.

31 (e) The bets placed on each game, time stamped by the games
32 management system.

33 (f) The result of each game, time stamped by the games
34 management system.

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

37 19990.49. (a) A licensed operator shall make all financial
38 records established and maintained pursuant to Section 19990.48,
39 including, but not limited to, all books, records, documents,
40 financial information, and financial reports, available as required

1 by the department or other state agencies so that those agencies
2 can fulfill their responsibilities under this chapter. The licensed
3 operator may provide records in electronic form to satisfy the
4 requirements of this section. A state agency may request specific
5 printed hard copies of records for good cause.

6 (b) The licensed operator's data shall be retained in a manner
7 so that it may be accessed by the state agencies.

8 (c) Notwithstanding subdivision (b), data covered by
9 subdivisions (d), (e), and (f) of Section 19990.48 shall be accessible
10 to the state agencies for 120 days, and, thereafter, archived and
11 retained for no less than one year.

12 19990.50. (a) A licensed operator shall implement technical
13 systems that materially aid the department in the protection of
14 authorized players. Software shall meet, at a minimum,
15 international industry standards as verified by a
16 department-approved certification entity.

17 (b) A licensed operator shall define and document its
18 methodology for developing software and applications and describe
19 the manner in which software protects authorized players from
20 fraud and other risks in the play of authorized games and in the
21 management of authorized player accounts.

22 (c) A poker room operator shall meet minimum game server
23 connectivity requirements and shall involve the licensed platform
24 operator to ensure that authorized players are protected from losses
25 due to connectivity problems.

26 (d) An authorized poker room operator shall ensure that all
27 transactions involving registered players' funds shall be recoverable
28 by the system in the event of a failure or malfunction.

29 (e) All information required for reviewing a game interrupted
30 due to loss of connectivity shall be recoverable by the licensed
31 poker platform operator.

32 (f) The licensed operator shall document and implement
33 preventative and detective controls addressing money laundering
34 and fraud risks. If money laundering or corruption is detected by
35 the authorized platform operator, that platform operator shall
36 immediately inform the authorized poker room operators with
37 whom the authorized players are associated.

38 19990.51. (a) An authorized poker room operator may charge
39 authorized players to play authorized games.

40 (b) Per hand charges are permitted.

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

3 (2) An authorized poker room operator may vary the per hand
4 charges to registered players based on betting limits or other
5 factors.

6 (c) Tournament charges shall be permitted.

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

9 (2) A licensed operator may vary tournament charges based on
10 tournament prizes or other factors.

11 (d) A licensed operator shall provide notice to the department
12 of the charges to registered players prior to initiating play.

13 19990.52. A licensed operator may enter into an agreement
14 with a third party to sponsor or underwrite prizes for a tournament.

15 19990.53. An authorized poker room may enter into an
16 agreement to sell advertisement space on an Internet Web site that
17 it controls.

18 19990.535. (a) A licensee may enter into an agreement with
19 a third party for marketing, or any other purpose consistent with
20 this chapter, including, but not limited to, displaying the name of
21 a marketing partner on a screen viewed by a registered player.

22 (b) (1) A licensee shall not utilize any brand or business name,
23 trade or service mark, software, technology, ~~operational-system~~
24 *system*, or customer information for a core function that was used
25 in connection with the knowing and willful acceptance of any bet
26 from persons located in the United States on any form of Internet
27 gambling, including, but not limited to, poker, ~~after October 16,~~
28 *December 31, 2006*, that has not been affirmatively authorized
29 by law of the United States or of each state in which persons
30 making a bet were located.

31 (2) The commission shall permit a licensee or the person or
32 entity with whom the licensee proposes to enter into an agreement
33 subject to this subdivision to seek a waiver of this paragraph. That
34 waiver shall be granted only if it is demonstrated by clear and
35 convincing evidence that the asset proposed to be used was not
36 used in a manner that was unlawful under federal law and the laws
37 of each state in which persons making bets were located.

38 19990.54. A licensed operator may enable a chat function
39 between registered players if it has in place effective controls
40 against collusion.

1 19990.55. A licensed operator may post Internet Web links on
2 the Internet Web sites it controls to permit registered players to
3 access remote Internet Web sites.

4 19990.56. A licensed operator may enter into contractual
5 agreements with one or more licensed operators for the purpose
6 of ensuring adequate player liquidity.

7 19990.57. A licensed platform operator may allow an
8 authorized player to participate simultaneously in multiple games
9 or tournaments, if the licensed operator has demonstrated to the
10 department that it has technical controls that prohibit a registered
11 player from playing multiple hands simultaneously in the same
12 game.

13 19990.58. (a) Before the collection of a registered player fee,
14 bet, or deposit on any authorized game in the licensed operator's
15 authorized poker room, the operator shall remit to the Treasurer
16 for deposit in the General Fund a one-time license fee in the amount
17 of ~~_____ dollars (\$_____)~~; *ten million dollars (\$10,000,000)*. This
18 amount shall be credited against fees imposed pursuant to
19 subdivision (b) on the licensed poker room operator's gross
20 revenues for the first years of operation. Upon depletion of the
21 license fee, the department shall notify the licensee to commence
22 monthly payments to the state in accordance with subdivision (b).

23 (b) A licensed poker room operator shall remit to the Treasurer
24 on a monthly basis for deposit in the General Fund, a duty of 10
25 percent on its gross gaming revenues for the prior month.

26 (1) Each monthly payment shall be due on the 10th day of the
27 following month.

28 (2) A licensed operator shall make all electronic and written
29 financial records available to the Treasurer, the commission, and
30 the department on an electronic basis.

31 (c) Each licensed operator shall pay a regulatory fee, to be
32 deposited in the Internet Poker Fund, in an amount to be determined
33 by the department for the actual reasonable costs of license
34 oversight, consumer protection, state regulation, problem poker
35 programs, and other purposes related to this chapter.

36 (d) This section does not prohibit a licensed operator from
37 contracting with one or more licensed operators, or service
38 providers, to allocate among themselves the total fees and deposits
39 to be paid under this section, provided that nothing in this

1 subdivision ~~effects~~ *affects* the amount due to the department from
2 those licensees.

3 19990.59. (a) The licensed poker room operator shall facilitate
4 the collection of personal income taxes from registered players by
5 the Franchise Tax Board.

6 (b) The licensed poker room operator shall withhold 5 percent
7 of tournament winnings for state income tax if the winnings less
8 the tournament charge are more than six hundred dollars (\$600)
9 and are at least 300 times the tournament charge.

10 (1) The licensed poker room operator shall transfer that withheld
11 income to the Franchise Tax Board.

12 (2) Winnings and losses of the authorized player from other
13 tournaments sponsored by the licensed poker room operator during
14 the year are not taken into account in arriving at the
15 six-hundred-dollar (\$600) amount. Required withholding is
16 determined on a tournament-by-tournament basis.

17 (c) Within six months of the effective date of this chapter, the
18 Franchise Tax Board shall publish a form to be used annually by
19 a licensed operator to report information concerning income tax
20 revenues from registered players. The Franchise Tax Board shall
21 provide a date by which the form is required to be filed. The form
22 shall include, but shall not be limited to, the following information:

23 (1) The registered player's first name and surname.

24 (2) The registered player's social security number.

25 (3) The total amount the authorized player deposited in his or
26 her account during the year.

27 (4) The authorized player's total winnings, if any, during the
28 year.

29 (5) The authorized player's total losses, if any, during the year.

30 (6) The total amount withheld by the licensed poker room
31 operator, if any, during the year for purposes of federal or state
32 income taxes.

33 (7) Whether the registered player opened or closed his or her
34 account during the year.

35 (d) The licensed poker room operator shall electronically file a
36 copy of the form with the Franchise Tax Board for each registered
37 player who held an account with the licensed operator for all, or
38 any portion of, the taxable year. The licensed operator shall
39 electronically provide each registered player with a copy of the
40 form.

1 19990.60. A security interest in a licensee, other than a security
2 interest in financed or leased equipment, shall not be enforced
3 except in conformity with regulations adopted by the commission.
4 If a licensee contracts to acquire or transfer any assets or property
5 in circumstances where the transferor or transferee must be licensed
6 or found suitable, then the transaction shall not have a closing date
7 prior to the approval or licensing of the other party, except as
8 provided in regulations of the commission.

9 19990.61. (a) A licensee shall act expeditiously to cure any
10 violation of this chapter, or any regulation adopted pursuant to this
11 chapter, in the offer or administration of authorized games that
12 interferes with its obligations to the state or registered players
13 under this chapter.

14 (b) If a licensee becomes aware of any violation, it shall notify
15 the department immediately and work with the department to
16 develop a plan to rectify the violation.

17 (c) If the department becomes aware of any violation, or if it
18 becomes aware of any activities that might lead to a violation, the
19 department shall provide notice of that violation to the licensee
20 and a reasonable opportunity to cure the violation.

21 (d) All state agencies with responsibilities under this chapter
22 shall report any actual or suspected violation of this chapter, or
23 any regulation adopted pursuant to this chapter, or activities that
24 may lead to that violation, to the department immediately so that
25 the department can assess whether it needs to commence an
26 investigation or enforcement action.

27 (e) A licensee shall be afforded a reasonable time period to cure
28 any reported violation. The department may assess penalties for
29 any violation of this chapter, or any regulation adopted pursuant
30 to this chapter.

31 (f) The department shall have the subpoena power in an
32 investigation of any violation of this chapter, or any regulation
33 adopted pursuant to this chapter.

34 (g) The department may revoke or suspend any license or work
35 permit under this chapter upon reaching a finding that the licensee
36 or employee is in violation of any provision of this chapter, or any
37 regulation adopted pursuant to this chapter.

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

1 19990.62. The department shall protect the rights and assets
2 of registered players on an intrastate Internet poker Web site if the
3 licensed operator's license pursuant to this chapter is revoked or
4 the licensed operator becomes bankrupt.

5 19990.63. (a) A licensee shall at all times indemnify, defend,
6 and hold harmless the state and its agencies from and against any
7 claims, damages, liabilities, costs, and expenses, including, but
8 not limited to, reasonable attorney's fees and expenses arising out
9 of any third-party claim made against the state or any of its
10 agencies relating to actions of the licensee and this chapter.

11 However, the state shall not enter into a settlement agreement
12 related to any of those claims, damages, liabilities, costs, or
13 expenses without the prior written approval of the licensee.

14 (b) The state and its agencies shall promptly notify a licensee
15 of any claim or litigation to which the indemnity set forth in
16 subdivision (a) applies.

17 (c) At the option of a licensee, it may assume the defense of
18 any claim or litigation. If a licensee assumes the defense of any
19 claim or litigation, the licensee's obligation with respect thereto
20 shall be limited to the payment of any settlement approved by the
21 licensee, or any judgment in connection with that claim or
22 litigation.

23

24

Article 6. Authority of State Agencies

25

26 19990.70. (a) (1) Within 120 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, in order to comply with time
29 deadlines, in consultation with the department, adopt regulations
30 to implement this chapter, and to facilitate the operation of
31 intrastate Internet poker Web sites and expedite the state's receipt
32 of revenues in compliance with this chapter. The initial adoption,
33 amendment, or repeal of a regulation authorized by this section is
34 deemed to address an emergency, for purposes of Sections 11346.1
35 and 11349.6 of the Government Code, and the commission and
36 those other state agencies are hereby exempted for that purpose
37 from the requirements of subdivision (b) of Section 11346.1 of
38 the Government Code. After the initial adoption, amendment, or
39 repeal of an emergency regulation pursuant to this section, the
40 commission and those other state agencies shall not request

1 approval from the Office of Administrative Law to readopt the
2 regulation as an emergency regulation pursuant to Section 11346.1
3 of the Government Code, but shall promulgate permanent
4 regulations in accordance with all applicable law. The commission
5 shall circulate its proposed permanent regulations to all tribes and
6 land-based gaming entities eligible for licensure pursuant to this
7 chapter along with information regarding how comments can be
8 submitted prior to adopting permanent regulations.

9 (2) The regulations adopted by the commission shall address
10 underage poker and problem poker.

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

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

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

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

29 19990.72. The department may outsource its regulatory
30 functions under this chapter if optimal to provide efficient,
31 effective, and robust regulation with access to worldwide expertise
32 tested and proven in the poker industry. This may include, but is
33 not limited to, ~~state~~ *state*, *tribal*, and international regulatory
34 agencies. The department may also enter into agreements to share
35 information with other regulatory and law enforcement agencies
36 to assist in conducting background checks and suitability reviews.
37 To expedite the implementation of Internet poker, contracts
38 pursuant to this section shall not be subject to otherwise applicable
39 provisions of the Government Code or the Public Contract Code

1 and, for those purposes, the department shall not be considered a
2 state agency or public entity.

3

4

Article 7. Player Protection

5

6 19990.75. Subject to the approval of the department, and
7 consistent with uniform standards established by the department
8 by regulation, each licensee shall establish administrative
9 procedures to resolve registered player complaints.

10 19990.76. If a registered player has a complaint against a
11 licensee, the exclusive remedy shall be to register the complaint
12 with the department, unless an action is brought pursuant to
13 subdivision (j) of Section 19990.47.

14 19990.77. (a) The department, in consultation with the
15 commission, shall establish regulations with respect to registered
16 player complaints.

17 (b) Under the regulations, the department shall do all of the
18 following:

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

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

23 (3) Initiate enforcement actions to require specific performance
24 of any obligation that a licensee has to a registered player and
25 payment by the licensee of restitution to a registered player for
26 actual losses and interest thereon.

27 19990.78. A licensee may appeal an action by the department
28 pursuant to this article to the superior court, which shall review
29 the appeal de novo.

30

31

Article 8. Disposition of State Regulatory Proceeds

32

33 19990.86. (a) The Treasurer shall transfer all amounts received
34 from a licensee pursuant to subdivision (c) of Section 19990.58
35 to the Controller for deposit into the Internet Poker Fund, which
36 is hereby created in the State Treasury, to be administered by the
37 Controller, subject to annual appropriation by the Legislature.

38 (b) The state agencies shall submit revenue needs to fulfill their
39 obligations under this chapter for the upcoming fiscal year to the
40 Senate Committee on Budget and Fiscal Review and the Assembly

1 Committee on Budget, as well as the Senate and Assembly
2 Committees on Governmental Organization and the Department
3 of Finance on or before March 31 of the preceding fiscal year. A
4 justification of those costs shall be provided with each submission
5 of revenue needs.

6 (c) ~~The State Department of Alcohol and Drug Programs, State~~
7 ~~Department of Public Health, Office of Problem Poker, Gambling,~~
8 shall submit revenue needs for programs to alleviate problem poker
9 that results from the offering of authorized games for the upcoming
10 fiscal year to the Senate Committee on Budget and Fiscal Review
11 and the Assembly Committee on Budget, as well as the Senate and
12 Assembly Committees on Governmental Organization, the Senate
13 and Assembly Committees on Human Services, and the Department
14 of Finance on or before March 31 of the preceding fiscal year. A
15 justification of those costs shall be provided with each submission
16 of revenue needs.

17 (d) All remaining proceeds not allocated to subdivisions (b) and
18 (c) shall remain in the Internet Poker Fund subject to appropriation
19 by the Legislature.

20
21 Article 9. Preemption of Local Regulation

22
23 19990.90. A city, county, or city and county shall not regulate,
24 tax, or enter into a contract with respect to any matter related to
25 this chapter. This section does not prohibit or limit the investigation
26 and prosecution of any violation of this chapter.

27
28 Article 10. Reports to the Legislature

29
30 19990.95. Notwithstanding Section 10231.5 of the Government
31 Code, within one year of the effective date of this chapter and,
32 annually thereafter, the department, in consultation with the
33 commission, the Treasurer, and the Franchise Tax Board, shall
34 issue a report to the Legislature describing the state's efforts to
35 meet the policy goals articulated in this chapter. The report shall
36 be submitted in compliance with Section 9795 of the Government
37 Code.

38 19990.96. (a) At least four years after the issue date of any
39 license pursuant to this chapter, but no later than five years after
40 that date, the Bureau of State Audits shall issue a report to the

1 Legislature detailing the implementation of this chapter. The State
2 Auditor may advise the Legislature on any recommendations
3 regarding the terms of licensure, including the consideration paid
4 to the state, the economic and operational impacts upon the licensee
5 and the state, and any other issues that may be relevant to the state's
6 decision whether to impose modifications on existing licensees'
7 fees or terms of licensure. The report may also advise the
8 Legislature as to any proposed changes to Article 5 (commencing
9 with Section 19990.30) of this chapter.

10 (b) A report submitted pursuant to subdivision (a) shall be
11 submitted in compliance with Section 9795 of the Government
12 Code.

13 (c) Pursuant to Section 10231.5 of the Government Code, this
14 section is repealed on January 1, 2020.

15 SEC. 2. The provisions of this act are severable. If any
16 provision of this act or its application is held invalid, that invalidity
17 shall not affect other provisions or applications that can be given
18 effect without the invalid provision or application.

19 SEC. 3. The Legislature finds and declares that Section 1 of
20 this act, which adds Chapter 5.2 (commencing with Section
21 19990.01) to Division 8 of the Business and Professions Code,
22 imposes a limitation on the public's right of access to the meetings
23 of public bodies or the writings of public officials and agencies
24 within the meaning of Section 3 of Article I of the California
25 Constitution. Pursuant to that constitutional provision, the
26 Legislature makes the following findings to demonstrate the interest
27 protected by this limitation and the need for protecting that interest:

28 The limitations on the people's rights of access set forth in this
29 chapter are necessary to protect the privacy and integrity of
30 information submitted by the registered players as well as the
31 proprietary information of the license applicants and licensees.

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

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

5 In order to protect the interests of Californians who play Internet
6 poker games and to ensure that people play fair games, that the
7 state realizes the revenues, and that suitable persons operate
8 intrastate Internet poker games, it is necessary that this act take
9 effect immediately.

O