

ASSEMBLY BILL

No. 167

Introduced by Assembly Member Jones-Sawyer

January 22, 2015

An act to add Chapter 5.2 (commencing with Section 19990.101) 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

AB 167, as introduced, Jones-Sawyer. Gambling: Internet poker: unlawful gambling activity.

(1) Existing law, the Gambling Control Act, provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. The Department of Justice has related investigatory and enforcement duties under the act. Any violation of these provisions is punishable as a misdemeanor, as specified.

This bill, which would be known as the Internet Poker Consumer Protection Act of 2015, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply for a 4-year license to operate an authorized poker Web site offering the play of authorized Internet poker games to registered players within California, as specified. The bill would require that the license be automatically renewed every 4 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker game permitted by the state pursuant to these provisions. The bill would

provide that it is unlawful for a person to aggregate computers or any other Internet access device in a place of public accommodation within the state, including a club or other association, or a public or other setting, that can accommodate multiple players to simultaneously play an authorized Internet poker game, or to promote, facilitate, or market that activity. The bill would provide that any violation of the Internet Poker Consumer Protection Act of 2015 is punishable as a felony. 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 to implement the provisions within 270 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes, and to facilitate the operation of authorized poker Web sites and expedite the state's receipt of revenues. The bill would require an eligible entity, as defined, to pay an application processing fee sufficient to cover all reasonable costs associated with the review of the entity's suitability for licensure and the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts necessary to perform their duties pursuant to this bill. The bill would require an entity seeking to act as a service provider to apply for a service provider license, employees of a licensed operator or a licensed service provider to obtain employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits. The bill would establish a tribal gaming regulatory authority process for the purpose of processing tribal employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee to pay a one-time license deposit into the General Fund in the amount of \$10,000,000. The license deposit would be credited against quarterly fees equivalent to 8.5% of the licensee's gross gaming revenue proceeds, as specified. The bill would require an applicant for an operator license to provide documentation establishing that the

applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified.

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

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

The bill would provide that specified provisions are not severable.

(2)Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(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: $\frac{2}{3}$. 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
2 19990.101) is added to Division 8 of the Business and Professions
3 Code, to read:

4
5 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION
6 ACT OF 2015

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

10
11 19990.101. This chapter shall be known and may be cited as
12 the Internet Poker Consumer Protection Act of 2015.

13 19990.102. The Legislature hereby finds and declares all of
14 the following:

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

21 (b) Californians participate in illegal online gambling on
22 unregulated Internet Web sites every week. Neither federal nor
23 California laws provide any consumer protections for California
24 players. California players assume all risks, any negative social or
25 financial impacts are borne by the citizens of California, and the
26 revenues generated from online gambling are being realized by
27 offshore operators and do not provide any benefits to the citizens
28 of California.

29 (c) The presence, operation, and expansion of offshore,
30 unlicensed, and unregulated Internet gambling Web sites available
31 to Californians endanger Californians because the current Internet
32 gambling Web sites operate illegally and without regulation as
33 demonstrated by criminal investigations of some Internet gambling
34 purveyors, and questions have arisen about the honesty and the
35 fairness of the games played on Internet gambling Web sites as
36 well as the true purpose for, and use of, proceeds generated by
37 these unregulated Internet gambling Web sites. In addition, some
38 of the unlicensed and unregulated Internet gambling activity

1 interferes with rights Californians preserved to federally recognized
2 tribal governments when amending the state’s Constitution, with
3 that amendment providing tribes the sole and exclusive right to
4 engage in slot machine and house-banked casino-style gaming in
5 California. California, thus, has a state interest in authorizing and
6 regulating legitimate Internet poker and in ensuring that those
7 activities are consistent with existing public policy regarding the
8 playing of poker games within the state. The public interest will
9 be best served by requiring that those entities who desire to own
10 or operate Internet poker Web sites within the state continue to
11 comply with the existing standards and rigorous scrutiny that must
12 be met in order to qualify to offer poker games within the state.

13 (d) These rights were separately guaranteed in 1999, and at
14 various times thereafter, when the state negotiated and entered into
15 compacts with tribes pursuant to the federal Indian Gaming
16 Regulatory Act of 1988 (IGRA), under which signatory tribes
17 possess the exclusive right within the state to operate “gaming
18 devices.” “Gaming device” is defined in those compacts to include
19 any electronic, electromechanical, electrical, or video device that,
20 for consideration, permits: individual play with or against that
21 device or the participation in any electronic, electromechanical,
22 electrical, or video system to which that device is connected; the
23 playing of games thereon or therewith, including, but not limited
24 to, the playing of facsimiles of games of chance or skill; the
25 possible delivery of, or entitlement by the player to, a prize or
26 something of value as a result of the application of an element of
27 chance; and a method for viewing the outcome, prize won, and
28 other information regarding the playing of games thereon or
29 therewith. Internet gaming necessitates the use of an electronic
30 device, whether in a private or a public setting, to participate in a
31 game. The authorization of Internet gaming could, therefore,
32 constitute a breach of those compacts and jeopardize the payments
33 being made to the state. As such, the Legislature recognizes that
34 the forms of Internet gaming authorized to be played within the
35 state must be strictly limited and that the authorization of any form
36 of Internet gaming, with the exception of poker as described in
37 this chapter, would violate compact exclusivity. This includes, but
38 is not limited to, any slot or casino-style game.

39 (e) Tribally owned and operated casinos have contributed to
40 local economies, generated tens of thousands of jobs for

1 Californians, provided hundreds of millions of dollars in revenues
2 for the state since the advent of Indian gaming, and are entitled to
3 the full protection of the laws of this state. As such, the state is
4 presently engaged in regulatory and enforcement efforts to combat
5 the rise of illegal gambling activity that threatens not only protected
6 rights, but the health and welfare of all Californians.

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

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

20 (A) Age and location verification requirements.

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

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

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

27 (A) The Interstate Horseracing Act of 1978.

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

29 (C) The Gambling Devices Transportation Act.

30 (D) IGRA.

31 (g) State authorization to operate Internet poker consistent with
32 federal law, and heightened regulation and enforcement regarding
33 Internet gambling activity that goes beyond poker, provides
34 California with the means to protect its citizens and consumers
35 under certain conditions by providing a framework to ensure that,
36 among other things, the state is not subject to an unnecessary and
37 unprecedented expansion of gambling, minors are prevented from
38 gambling, citizens participating in Internet poker activities are
39 protected, and the state is not deprived of income tax revenues to
40 which it would otherwise be entitled from these activities.

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

9 (i) The state currently maintains and implements substantial
10 regulatory and law enforcement efforts to protect thousands of
11 Californians who gamble and play, among other things, real-money
12 poker in licensed California card rooms.

13 (j) Federally recognized Indian tribes in California offer
14 real-money poker, including electronically aided poker, on their
15 Indian lands as a “class II” game under IGRA.

16 (k) While the state, federal government, and tribal governments
17 exercise regulatory authority over various real-money poker games
18 offered in California, none of those entities presently provide
19 licensing requirements, regulatory structure, or law enforcement
20 tools to protect millions of Californians who play the same games
21 daily for money on the Internet.

22 (l) In order to protect Californians who gamble online, allow
23 state law enforcement to ensure consumer protection, and ensure
24 compliance with the California Constitution and negotiated
25 compacts and secretarial procedures, it is in the best interest of the
26 state and its citizens to authorize, implement, and create a legal
27 system for intrastate Internet gambling that is limited to the game
28 of poker.

29 (m) The California Gambling Control Commission and the
30 Department of Justice, in conjunction with other state agencies
31 and tribal gaming regulatory authorities, have the expertise to issue
32 licenses to conduct intrastate Internet poker to existing operators
33 of regulated gaming. Further, strict suitability standards must be
34 imposed on those persons and entities seeking to work for or
35 provide services to licensed operators in order to ensure that the
36 highest level of integrity is maintained.

37 (n) The state also possesses a legitimate interest in protecting
38 the integrity of state-authorized intrastate Internet poker by
39 licensing those entities that have significant experience operating
40 in a regulated land-based gaming facility environment. The state’s

1 interests are best met, therefore, by licensing only those entities
2 in California that are currently permitted to offer gaming activities
3 and are in good standing with the appropriate state, federal, and
4 tribal regulatory agencies.

5 (o) This chapter will permit a qualified card room, horseracing
6 association, or federally recognized California Indian tribe, to
7 obtain a license from the state to operate authorized poker games
8 via the Internet for players within the jurisdiction of California.

9 (p) Participation by tribes will further the interests of the state
10 because tribes have significant experience operating and regulating
11 real-money games.

12 (q) The authorization of intrastate Internet poker pursuant to
13 this chapter does not violate any tribal-state compact or the
14 California Constitution. Application of UIGEA in California, as
15 set forth in this chapter, also does not violate federal Indian law
16 by impinging upon protected tribal sovereignty. Accordingly,
17 nothing in this chapter shall alter, diminish, or impact the rights
18 and obligations of tribes in existing tribal-state compacts or
19 secretarial procedures approved pursuant to IGRA, or require that
20 those compacts be renegotiated. At the same time, a tribal licensee
21 does not relinquish any rights under its compact with the state by
22 virtue of participating in intrastate Internet poker pursuant to this
23 chapter, which is intended to respect the regulatory obligations
24 and responsibilities of state, tribal, and federal authorities.

25 19990.103. It is the intent of the Legislature to create a
26 licensing and regulatory framework and enforcement mechanisms
27 to do all of the following:

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

30 (b) Ensure the state possesses sufficient resources to enforce
31 prohibitions of illegal gambling activity, in part, by establishing
32 a regulatory enforcement fund and by empowering the department
33 to retain a portion of receipts collected from illegal operations and,
34 as necessary, receipts collected in accordance with this chapter.

35 (c) Authorize and direct the commission to issue a license to
36 certain existing operators of land-based gaming facilities in
37 California that meet the eligibility requirements and timely submit
38 the required application and registration fees pursuant to this
39 chapter.

1 (d) Ensure that each licensee complies with applicable laws and
2 regulations.

3 (e) Grant power to the state agencies authorized in this chapter
4 to oversee the operations of each licensee, including the operations
5 of those licensed by a tribal gaming regulatory authority under this
6 chapter whose licenses and permits have been reviewed and
7 approved by the commission in accordance with this chapter, and
8 to enforce the provisions of this chapter to ensure that the interests
9 of the state and registered players are protected.

10 (f) Establish a process that includes a determination of suitability
11 of owners, officers, directors, and key employees, requires that
12 each employee of a licensee receives all necessary work permits
13 from the state, and coordinates that investigation with any
14 suitability review undertaken by a participating tribe's gaming
15 regulatory authority.

16 (g) Ensure that the state is able to collect income tax revenues
17 from registered players participating in Internet poker activity in
18 the state.

19 (h) Deposit regulatory fees collected by the state from each
20 licensed operator into the Internet Poker Fund, as established in
21 Section 19990.801, which shall be administered by the department,
22 and continuously appropriated for the following:

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

25 (2) Other purposes related to this chapter as the Legislature may
26 decide, including, but not limited to, enforcement efforts related
27 to illegal Internet gambling activities.

28 (i) Create systems to protect each registered player's private
29 information and prevent fraud and identity theft.

30 (j) Ensure that registered players are able to have their financial
31 transactions processed in a secure, timely, and transparent fashion.

32 (k) Require that each licensed operator provide registered players
33 with accessible customer service.

34 (l) Require that each licensed operator's Internet poker Web
35 site contain information relating to problem gambling, including
36 a telephone number that an individual may call to seek information
37 and assistance for a potential gambling addiction.

38 (m) Ensure that the licensed operator maintains responsibility
39 for the Internet poker business and is not serving as a facade for
40 an entity not eligible to be a licensed operator. The Internet poker

1 Web site shall identify who is the actual licensed operator to ensure
2 protection of players.

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

10 (o) As a matter of statewide concern, preempt any city, county,
11 or city and county from enacting any law or ordinance regulating
12 or taxing any matter covered in this chapter.

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Article 2. Definitions

16 19990.201. For the purposes of this chapter, the following
17 words have the following meanings:

18 (a) “Authorized Internet poker game” means any of several card
19 games, duly authorized by the department and played on an
20 authorized poker Web site, that meet the definition of poker as
21 specified by this section.

22 (b) “Authorized poker Web site” means a Web site on which
23 authorized Internet poker games are offered for play by a licensed
24 operator pursuant to this chapter.

25 (c) “Background investigation” means a process of reviewing
26 and compiling personal and criminal history and financial
27 information through inquiries of various law enforcement and
28 public sources to establish a person’s qualifications and suitability
29 for any necessary license or employee work permit issued pursuant
30 to this chapter.

31 (d) “Bet” means the placement of a wager in a game.

32 (e) “Card room” means a gambling enterprise, as defined in
33 subdivision (m) of Section 19805.

34 (f) “Commission” means the California Gambling Control
35 Commission.

36 (g) “Core functions” and “core functioning” mean any of the
37 following:

38 (1) The management, administration, or control of bets on
39 authorized Internet poker games.

1 (2) The management, administration, or control of the games
2 with which those bets are associated.

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

5 (h) “Corporate affiliate” means any person controlled by,
6 controlling, or under common ownership with, another person or
7 entity. A person or entity will be deemed to control another person
8 or entity if it possesses, directly or indirectly, the power to direct
9 the management or policies of the other entity, whether through
10 ownership of voting interests or otherwise, or if, regardless of
11 whether or not it has that power, it holds 10 percent or more of the
12 ownership or control of the other entity, whether as a stockholder,
13 partner, member, trust interest, or otherwise.

14 (i) “Department” means the Department of Justice.

15 (j) “Determination of suitability,” or “suitability review” means
16 the process, including, but not limited to, conducting a background
17 investigation, to determine whether an applicant for a license or
18 employee work permit issued pursuant to this chapter meets the
19 qualification criteria described in this chapter or whether the
20 applicant is disqualified on any of the grounds specified in this
21 chapter.

22 (k) (1) (A) “Eligible entity” includes all of the following:

23 (i) A card room that operates pursuant to Chapter 5
24 (commencing with Section 19800) whose owner or owners have
25 been authorized, subject to oversight by, and in good standing
26 with, the applicable state regulatory authorities.

27 (ii) A federally recognized California Indian tribe that operates
28 a gaming facility pursuant to a facility license issued in accordance
29 with a tribal gaming ordinance approved by the Chair of the
30 National Indian Gaming Commission and that is eligible to conduct
31 real-money poker at that facility.

32 (iii) A California-owned and operated horse racing association
33 that is based in California and that operates pursuant to Chapter 4
34 (commencing with Section 19400), whose owner or owners have
35 been authorized, subject to oversight by, and in good standing
36 with, the applicable state regulatory authorities.

37 (B) An entity identified in this paragraph shall have operated
38 its land-based gaming facility for at least five years immediately
39 preceding its application to secure a license to operate an Internet
40 poker Web site pursuant to this chapter, and shall be in good

1 standing during that time period with the applicable federal, state,
2 and tribal regulatory authorities.

3 (2) A group consisting of any combination of tribes, card rooms,
4 and horse racing associations is eligible to jointly apply for a
5 license pursuant to this chapter, through an entity organized under
6 state or federal law, if each entity within the group independently
7 satisfies the requisite eligibility requirements identified in this
8 chapter.

9 (3) Subject to any applicable limited waiver of sovereign
10 immunity as set forth in subdivision (d) of Section 19990.402, this
11 chapter does not restrict a tribal licensee from participating as an
12 instrumentality of a tribal government or a political subdivision
13 of a tribe, or from forming a separate business entity organized
14 under federal, state, or tribal law.

15 (4) A tribe that operates a gaming facility that accepts bets from
16 players within this state but who are not physically present on
17 Indian lands when making those bets is not an eligible entity, unless
18 those bets are accepted on authorized Internet poker games played
19 on an authorized poker Web site.

20 (l) “Employee” means any natural person employed in, or
21 serving as a consultant or independent contractor with respect to,
22 the core functioning of the actual operation of an authorized poker
23 Web site.

24 (m) “Employee work permit” means a permit issued to an
25 employee of the licensed operator or a service provider, or to a
26 nonemployee owner, officer, or director of a licensed operator, by
27 the commission pursuant to this chapter.

28 (n) “Gambling” means to deal, operate, carry on, conduct,
29 maintain, or expose for play any game for money.

30 (o) “Game” means any gambling game.

31 (p) “Gaming system” means the technology, including hardware
32 and software, used by a licensee to facilitate the offering of
33 authorized Internet poker games to registered players.

34 (q) “Good standing” means that a person has not had a gambling
35 license suspended or revoked by a final decision of the commission
36 or been finally ordered by a court of competent jurisdiction to
37 cease conducting gaming activities.

38 (r) (1) “Gross gaming revenues” means the total amount of
39 moneys paid by players to the operator to participate in authorized

1 games before deducting the cost of operating those activities except
2 for fees to marketing affiliates and payment processing fees.

3 (2) “Gross gaming revenues” do not include player account
4 deposits or amounts bet, except to the extent any portion of those
5 bets are retained as fees by the operator, discounts on goods or
6 services, rebates or promotional discounts or stakes provided to
7 players, or revenues from nongaming sources, such as from food,
8 beverages, souvenirs, advertising, clothing, and other nongaming
9 sources.

10 (s) “IGRA” means the federal Indian Gaming Regulatory Act
11 of 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et
12 seq.).

13 (t) “Initial operator license” means an operator license that is
14 issued pursuant to subdivision (h) of Section 19990.402.

15 (u) “Internet access device” means a personal computer or
16 mobile communications device used for connecting to the Internet.

17 (v) “Internet Poker Fund” means the fund established pursuant
18 to Section 19990.801.

19 (w) “Intrastate” means within the borders and jurisdiction of
20 California.

21 (x) “Key employee” means any natural person employed by a
22 licensed operator, service provider, or marketing affiliate, or by a
23 holding or intermediary company of a licensed operator, service
24 provider, or marketing affiliate, who is an officer or director of
25 the licensed operator or service provider, or who, in the judgment
26 of the commission, has the authority to exercise significant
27 influence over decisions concerning the operation of the licensed
28 operator or service provider as that operation relates to the Internet
29 poker authorized by this chapter.

30 (y) “Land-based gaming facility” means a gambling
31 establishment, as defined in subdivision (o) of Section 19805, that
32 is operated pursuant to Chapter 5 (commencing with Section
33 19800), a horse racetrack that is operated pursuant to Chapter 4
34 (commencing with Section 19400), or a casino operated by a tribe
35 on Indian land in California.

36 (z) “Licensed operator” means an eligible entity licensed
37 pursuant to this chapter to offer the play of authorized Internet
38 poker games to registered players on an authorized poker Web
39 site.

- 1 (aa) “Licensed service provider” means a person licensed
2 pursuant to this chapter to provide goods or services to a licensed
3 operator for use in the operation of an authorized poker Web site.
- 4 (ab) “Licensee” means a licensed operator or licensed service
5 provider.
- 6 (ac) “Net position” means the residual difference between assets
7 and liabilities, as defined by generally accepted accounting
8 principles.
- 9 (ad) “Online self-exclusion form” means a form on which an
10 individual notifies a licensed operator that he or she must be
11 excluded from participation in authorized Internet poker games
12 for a stated period of time.
- 13 (ae) “Owner” means any person that is eligible to own a
14 land-based gaming facility in California and that has a financial
15 interest in, or control of, a person or entity required to be found
16 suitable under this chapter, including shareholders, partners, and
17 members of limited liability companies holding more than 10
18 percent of the equity or voting control of the person or entity and
19 any person found by the commission to be exerting management
20 or control of the person or entity in fact. An owner of a licensed
21 operator shall include only those persons eligible to own a
22 land-based gaming facility in California. “Owner” does not include
23 the members or government officials of a tribe.
- 24 (af) “Per hand charge” means the amount charged by the
25 licensed operator for registered players to play in a per hand game.
- 26 (ag) “Per hand game” means an authorized Internet poker game
27 for which the licensed operator charges the player for each hand
28 played.
- 29 (ah) “Person” means an individual, corporation, business trust,
30 estate, trust, partnership, limited liability company, association,
31 joint venture, government, governmental subdivision, agency, or
32 instrumentality, public corporation, or any other legal or
33 commercial entity, including any federally recognized California
34 Indian tribe, or an entity that is wholly owned by the tribe.
- 35 (ai) “Play-for-fun game” means a version of a lawfully played
36 gambling game in which there is no requirement to pay to play or
37 any possibility of winning any prize or other consideration of value,
38 including, but not limited to, games offered only for purposes of
39 training, education, marketing, or amusement.

1 (aj) “Play-for-free game” means a version of a lawfully played
2 gambling game that may include prizes or pots, without requiring
3 a fee or other consideration for the right to play.

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

7 (al) (1) “Poker” means any of several nonbanked card games
8 commonly referred to as “poker” that meet all of the following
9 criteria:

10 (A) Played by two or more individuals who bet and play against
11 each player and not against the house on cards dealt to each player
12 out of a common deck of cards for each round of play, including
13 those games played over the Internet using electronically generated
14 and displayed virtual cards.

15 (B) The object of the game is to hold or draw to a hand
16 containing a predetermined number of cards that, when all cards
17 to be dealt in the round have been distributed and the betting is
18 completed, meets or exceeds the value of the hands held by the
19 other players. The pot of bets made is awarded to the player or
20 players holding the combination of cards that qualify as the winning
21 combination under the rules of play. Values may be assigned to
22 cards or combinations of cards in various ways, including in
23 accordance with their face value, the combinations of cards held,
24 such as cards of a similar suit or face value, the order of the cards
25 that are held, or other values announced before the round.

26 (C) The house may deal or operate and officiate the game, and
27 may collect a fee for doing so, but is not a participant in the game
28 itself. The house has no stake in who wins or loses.

29 (D) Poker may be played in a variety of ways, including dealing
30 all cards to the players so that they may not be seen by others,
31 dealing the cards open face to the players, dealing through a
32 combination of both, or creating a common set of cards that may
33 be used by all players. The particular rules and winning
34 combinations are made known to the players before each round is
35 dealt.

36 (E) All bets are placed in a common pot. At one or more
37 predetermined points during the game a player may resign,
38 challenge other players to make additional bets into the pot, or
39 demand that players reveal their hand so a winner can be
40 determined.

1 (F) A poker game that has been approved by the commission
 2 for play in an authorized live poker room in California pursuant
 3 to the Gambling Control Act (Chapter 5 (commencing with Section
 4 19800)) shall be eligible for qualification by the commission as
 5 the basis of an authorized Internet poker gambling game, except
 6 that pai gow and any other game in which persons other than
 7 authorized players to whom the cards in the game have been dealt,
 8 and by whom they are held and played, are permitted to bet on a
 9 game outcome or other game feature or may in any way control
 10 or influence the play of the hand, shall not be authorized, offered,
 11 or played in connection with an authorized Internet poker game.
 12 Subject to this limitation, the rules governing play in an authorized
 13 Internet poker game pursuant to this chapter shall generally be the
 14 same as if the game were lawfully played in a live poker room.

15 (G) An authorized Internet poker game shall not include a
 16 player-dealer position.

17 (H) Video games, slot machines, and other similar devices that
 18 individuals play against the house or device and win based on
 19 valuations or combinations of cards that are similar to those
 20 valuations or combinations used in live, interactive poker games,
 21 commonly known as “video poker” and “video lottery,” are not
 22 “poker” and are not permitted under this chapter.

23 (2) Other characteristics defining “poker” pursuant to this
 24 chapter include any of the following:

25 (A) Live players with equal chances of winning competing
 26 against each other over the Internet in real time and not against
 27 the house or any device.

28 (B) Success over time may be influenced by the skill of the
 29 player.

30 (C) The bets of one player may affect the decisions of another
 31 player in the game, and the decisions of one player may affect the
 32 success or failure of another.

33 (3) The term “poker” includes poker tournaments in which
 34 players pay a fee to the operator of the tournament under
 35 tournament rules approved by the applicable gaming regulatory
 36 agency.

37 (am) “Proprietary information” means all information, including,
 38 but not limited to, computer programs, databases, data, algorithms,
 39 formulae, expertise, improvements, discoveries, concepts,
 40 inventions, developments, methods, designs, analyses, drawings,

1 techniques, strategies, new products, reports, unpublished financial
2 statements, budgets, projections, billing practices, pricing data,
3 contacts, client and supplier lists, business and marketing records,
4 working papers, files, systems, plans, and all related registrations
5 and applications that, whether or not patentable or registerable
6 under patent, copyright, trademark, or similar statutes, meets either
7 of the following:

8 (1) The information can be protected as a trade secret under
9 California law or any other applicable state, federal, or foreign
10 law.

11 (2) The information derives independent economic value, actual
12 or potential, from not being generally known to the public or to
13 other persons that can obtain economic value from its disclosure
14 or use.

15 (an) “Proxy player” means a machine, device, or agent, other
16 than the registered player, that is used to play an authorized Internet
17 poker game.

18 (ao) “Registered player” means a player who has registered with
19 a licensed operator to play authorized Internet poker games on the
20 licensed operator’s authorized poker Web site.

21 (ap) “Registration information” means the information provided
22 by a person to a licensed operator in order to become a registered
23 player.

24 (aq) “Robotic play” means the use of a machine or software to
25 automate the next player action at any point in a game, including
26 the use of a proxy player.

27 (ar) (1) “Service provider” means any person, other than an
28 employee, that does any of the following:

29 (A) On behalf of a licensed operator, manages, administers, or
30 controls bets on authorized Internet poker games provided over
31 the Internet by a licensee pursuant to this chapter.

32 (B) On behalf of a licensed operator, manages, administers, or
33 controls the games with which the bets described in subparagraph
34 (A) are associated.

35 (C) On behalf of a licensed operator, develops, maintains,
36 provides, or operates a gaming system.

37 (D) Sells, licenses, or otherwise receives compensation for
38 selling or licensing, information on individuals in California who
39 made bets on games over the Internet that were not authorized
40 pursuant to this chapter.

- 1 (E) Provides any product, service, financing, or asset to a
- 2 licensed operator and is paid a percentage of gaming revenue by
- 3 the licensed operator, not including fees to financial institutions
- 4 and payment providers for facilitating a deposit by a customer.
- 5 (F) Provides intellectual property, including trademarks, trade
- 6 names, service marks, or similar intellectual property under which
- 7 a licensed operator identifies its games to its customers.
- 8 (G) Receives compensation as part of an affiliate marketing
- 9 program from bringing players or potential players to a licensed
- 10 operator’s authorized poker Web site.
- 11 (2) “Service provider” does not include a provider of goods or
- 12 services that provides similar goods or services to the public for
- 13 purposes other than the operation of an authorized poker Web site,
- 14 including, but not limited to, payment processors and geolocation
- 15 service providers.
- 16 (as) “State” means the State of California.
- 17 (at) “Terms of Use Registered Player’s Agreement” means the
- 18 agreement offered by a licensed operator and accepted by a
- 19 registered player delineating, among other things, permissible and
- 20 impermissible activities on an authorized poker Web site and the
- 21 consequences of engaging in impermissible activities.
- 22 (au) “Tournament” means a competition approved by the
- 23 commission in which registered players play a series of authorized
- 24 Internet poker games to decide the winner.
- 25 (av) “Tournament charge” means the amount charged by the
- 26 licensed operator for registered players to play in a tournament.
- 27 (aw) “Tournament winnings” means the amount of any prize
- 28 awarded to a registered player in a tournament.
- 29 (ax) “Tribal gaming regulatory authority” means the gaming
- 30 regulatory authority of a federally recognized California Indian
- 31 tribe that has the authority to regulate gaming on the tribe’s Indian
- 32 lands pursuant to IGRA.
- 33 (ay) “Tribe” means a federally recognized California Indian
- 34 tribe, including, but not limited to, the governing body of that tribe
- 35 or any entity that is wholly owned by the tribe.
- 36 (az) “Unlawful Gambling Enforcement Fund” means the fund
- 37 established pursuant to Section 19990.802, the revenue of which
- 38 is dedicated to enforcing the prohibitions of this chapter.

1 Article 3. Intrastate Internet Poker in California

2
3 19990.301. Under the federal Unlawful Internet Gambling
4 Enforcement Act of 2006, California is permitted to authorize
5 games played via the Internet as long as all players and the online
6 wagering is located within the jurisdiction of the state and the
7 games are not played by minors.

8 19990.302. Notwithstanding any other law, a person who is
9 21 years of age or older and located within California is hereby
10 permitted to participate as a registered player in an authorized
11 Internet poker game provided by a licensed operator on an
12 authorized poker Web site.

13 19990.303. (a) A person shall not do any of the following:

14 (1) Offer any game of poker on the Internet in this state unless
15 that person holds a valid license issued by the commission to offer
16 the play of authorized Internet poker games on an authorized poker
17 Web site pursuant to this chapter.

18 (2) Offer to any player located within California any game
19 provided on the Internet that is not authorized by the state pursuant
20 to this chapter.

21 (3) As a player located in this state, play any game provided on
22 the Internet that is not authorized by the state pursuant to this
23 chapter.

24 (b) Subject to an opportunity to cure pursuant to Section
25 19990.521, a violation of this chapter is a felony, punishable by
26 imprisonment pursuant to subdivision (h) of Section 1170 of the
27 Penal Code.

28 19990.304. This chapter does not limit or restrict activities or
29 conduct permitted pursuant to Chapter 5 (commencing with Section
30 19800) or IGRA.

31 19990.305. This chapter does not authorize any game offered
32 in Nevada or New Jersey other than poker.

33 19990.306. A person shall not do either of the following:

34 (a) Aggregate computers or any other Internet access device in
35 a place of public accommodation within the state, including a club
36 or other association, or a public or other setting, that can
37 accommodate multiple players to simultaneously play an authorized
38 Internet poker game.

39 (b) Promote, facilitate, or market the activity described in
40 subdivision (a).

1 19990.307. This chapter does not apply to play-for-fun or
2 play-for-free games.

3
4 Article 4. Licensing of Operators and Service Providers
5

6 19990.401. (a) (1) Within 270 days after the effective date of
7 this chapter, the commission, and any other state agency with a
8 duty pursuant to this chapter, shall, in consultation with the
9 department and tribes, adopt regulations pursuant to the
10 Administrative Procedure Act (Chapter 3.5 (commencing with
11 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
12 Code) to implement this chapter, and to facilitate the operation of
13 authorized poker Web sites and expedite the state’s receipt of
14 revenues in compliance with this chapter. The initial adoption,
15 amendment, or repeal of a regulation authorized by this section is
16 deemed to address an emergency, for purposes of Sections 11346.1
17 and 11349.6 of the Government Code, and the commission and
18 those other state agencies are hereby exempted for that purpose
19 from the requirements of subdivision (b) of Section 11346.1 of
20 the Government Code. After the initial adoption, amendment, or
21 repeal of an emergency regulation pursuant to this section, the
22 commission and those other state agencies shall not request
23 approval from the Office of Administrative Law to readopt the
24 regulation as an emergency regulation pursuant to Section 11346.1
25 of the Government Code, but shall promulgate permanent
26 regulations in accordance with all applicable law.

27 (2) The regulations adopted by the commission shall at a
28 minimum address all of the following:

- 29 (A) Underage gambling and problem gambling.
- 30 (B) Resolution of player disputes and complaints.
- 31 (C) Gaming system technical standards and practices.
- 32 (D) Hardware and software standards and compliance.
- 33 (E) License and work permit issuance and processes.
- 34 (F) Suitability standards and determinations.
- 35 (G) Temporary, provisional, and emergency approvals.
- 36 (H) Effect of receiverships, bankruptcy, insolvency, inheritance,
37 and trusts affecting ownership of a licensee.
- 38 (I) Appeals from adverse decisions.

39 (3) The regulations adopted by the department shall at a
40 minimum address all of the following:

1 (A) Approval of an authorized Internet poker game.

2 (B) Authorized Internet poker game rules.

3 (C) Authorized Internet poker gaming activities.

4 (D) Registered player-assessed fees, as necessary.

5 (b) (1) Each state agency with a duty pursuant to this chapter
6 shall identify a point of contact at that agency and describe the
7 responsibility of the contact with respect to the state agency's duty.

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

11 (3) Unless otherwise provided by this chapter, notice by a
12 licensee to a state agency shall be deemed effective once it is
13 received by the agency and deemed to be complete. An application
14 or notice is not deemed complete until all pertinent documents,
15 information, and fees are submitted to the department.

16 19990.402. (a) Authorized Internet poker games may be
17 offered only by entities licensed pursuant to this chapter. An
18 eligible entity seeking to offer authorized Internet poker games
19 shall apply to the department for a determination of suitability. If
20 the department determines the applicant is suitable to receive a
21 license, the applicant shall then apply to the commission for an
22 operator license. The applicant shall pay an application processing
23 fee sufficient to cover the reasonable costs associated with the
24 determination of suitability and the issuance of the license.

25 (b) Employees of the licensed operator shall undergo a suitability
26 review and obtain work permits pursuant to Article 6 (commencing
27 with Section 19990.601). Owners, officers, and directors of
28 licensed operators shall also undergo a suitability review and obtain
29 employee work permits pursuant to Article 6 (commencing with
30 Section 19990.601). The commission may refuse to issue a license
31 to an applicant, or suspend or revoke a license of a licensed
32 operator, that fails to comply with this requirement.

33 (c) In order to ensure that licensed operators are not mere
34 facades for unlicensed, unqualified, or undisclosed interests, an
35 applicant for an operator license pursuant to this chapter shall
36 provide documentation to the commission establishing that, if the
37 license is granted, the license applicant will be able, through its
38 own net position or through credit extended directly to the
39 applicant, and with full recourse to it, by a federal or state chartered
40 financial institution not involved with the core functions of the

1 authorized poker Web site, that is entirely secured by an equivalent
2 amount of its own net position, to pay the license deposit required
3 by subdivision (a) of Section 19990.519. In addition, a licensed
4 operator shall submit regular financial reports to the department
5 establishing that the operator meets financial viability requirements,
6 as determined by the commission. The commission may terminate
7 a license if the operator fails to submit the required reports or meet
8 the financial viability requirements.

9 (d) An applicant for an operator license pursuant to this chapter
10 that is a tribe shall include with its license application a limited
11 waiver of the applicant's sovereign immunity. This limited waiver
12 shall apply exclusively to the state, and no other party, solely for
13 the limited purpose of enforcing this chapter and any regulations
14 adopted pursuant to this chapter, and with regard to any claim,
15 sanction, or penalty arising therefrom against the licensed operator
16 by the state, and for no other purpose.

17 (e) The commission shall issue an operator license to an
18 applicant determined by the commission to qualify as an eligible
19 entity within 150 days of receiving an application, if the applicant
20 has already been subjected to a determination of suitability by the
21 department and has been approved by the department to apply to
22 the commission for licensure. All applicants shall undergo a
23 determination of suitability prior to applying for an eligibility
24 determination by the commission.

25 (f) The state may issue operator licenses only to eligible entities
26 identified within this chapter. Any of the eligible entities may
27 jointly apply for an operator license, either as a consortium or by
28 forming an entity comprised entirely of eligible entities. Each
29 eligible entity may have an interest in only a single operator license.

30 (g) An operator license denoting full licensure shall be issued
31 for a term of four years. Subject to the power of the commission
32 to revoke, suspend, condition, or limit any license, as provided in
33 this chapter, a license shall be automatically renewed every four
34 years thereafter upon application. Failure of a licensed operator to
35 file an application for renewal may be deemed a surrender of the
36 license.

37 (h) Each initial operator license issued pursuant to this section
38 shall take effect on the same date. That date shall be one year after
39 the effective date of the regulations described in Section 19990.401,
40 unless the commission determines that good cause exists for those

1 licenses to take effect in unison on a subsequent date. Each initial
2 operator license shall be a temporary license, and shall be issued
3 for a term of no longer than two years. The issuance of an initial
4 operator license does not guarantee full licensure.

5 (i) A licensed operator may cease its operations after providing
6 the department with a 90-day advance notice of its intent and a
7 statement explaining its reasons for doing so, which may include
8 the fact that continuing to operate the authorized poker Web site
9 is commercially infeasible. In response to that notice, the state
10 may file an action in the Superior Court of the County of
11 Sacramento as it deems necessary to protect any state interests,
12 including, but not limited to, the interests of registered players.

13 19990.403. (a) A licensee's employees in direct contact with
14 registered players shall be physically present in the state.

15 (b) All primary servers, facilities, bank accounts, and accounting
16 records of the licensee related to authorized Internet poker shall
17 be located in the state, except for redundant servers and except as
18 may be permitted by the commission for a service provider, if the
19 service provider ensures access to and jurisdiction over the relevant
20 servers, facilities, bank accounts, and accounting records.

21 (c) Notwithstanding subdivisions (a) and (b), a licensee may
22 request, and the department may approve, the licensee's use of
23 personnel, servers, facilities, bank accounts, and accounting records
24 not physically present in the state when necessary to protect
25 registered players and state interests, for the purposes of diagnosing
26 and addressing technological problems, investigating fraud and
27 collusion, and developing and supervising software and
28 configuration changes.

29 (d) In addition to any other confidentiality protections afforded
30 to license applicants, the state and its agencies shall treat the
31 proprietary information of a license applicant as confidential to
32 protect the license applicant and to protect the security of any
33 prospective authorized poker Web site. This chapter does not
34 prohibit the exchange of confidential information among state
35 agencies considering a license application. The confidentiality
36 provisions of this chapter exempt proprietary information supplied
37 by a license applicant to a state agency from public disclosure
38 consistent with subdivision (b) of Section 6253 of the Government
39 Code.

1 (e) A license applicant shall submit to the department, together
2 with its application, an application processing fee as specified in
3 subdivision (a) of Section 19990.402. All moneys collected by the
4 state pursuant to this subdivision shall be deposited into the Internet
5 Poker Fund.

6 19990.404. (a) An entity seeking to act as a service provider
7 shall apply to the department for a determination of suitability. If
8 the department determines the applicant is suitable to receive a
9 license, the applicant shall then apply to the commission for a
10 service provider license, and obtain a service provider license,
11 before providing goods or services to a licensed operator in
12 connection with the operation of an authorized poker Web site.

13 (b) The department shall review the suitability of an applicant
14 for a service provider license. The applicant for a service provider
15 license shall pay an application processing fee sufficient to cover
16 the reasonable costs associated with the determination of suitability
17 and the issuance of the license.

18 (c) The department may establish a process to conduct a
19 preliminary determination of suitability based on a partial
20 investigation. A partial investigation is intended to screen out
21 applicants that do not meet the suitability requirements of this
22 chapter. A partial investigation shall include fingerprint-based
23 state and federal criminal history checks and clearances, and
24 inquiries into various public databases regarding credit history and
25 any civil litigation. A partial investigation shall also include a
26 review of the service provider's financial status, which shall include
27 the submission of a report prepared by a forensic accounting, audit,
28 or investigative firm approved by the department, in a format
29 developed by the department, and at the service provider's expense.
30 The report shall include the financial information necessary for
31 the department to make a preliminary determination of suitability.
32 The department may specify additional requirements regarding
33 the contents of the report and any other financial information or
34 documentation required to be submitted. A full investigation shall
35 be conducted of only those service providers that pass the partial
36 investigation and that will undergo a full investigation pursuant
37 to subdivision (d). Those service providers that are awarded a
38 preliminary determination of suitability based on a partial
39 investigation are not guaranteed full licensure. Those service

1 providers that do not pass the partial investigation may appeal the
2 decision to the commission.

3 (d) Before the commission issues a service provider license to
4 an applicant, the department shall conduct the full investigation
5 required by this section of all of the following persons:

6 (1) All officers of the license applicant.

7 (2) The owner or owners of either of the following:

8 (A) The license applicant.

9 (B) Any corporate affiliate of the license applicant.

10 (3) Any persons otherwise providing goods to, or performing
11 services for, the license applicant related to core functions.

12 (4) Any person deemed by the department to have significant
13 influence over the license applicant or its service providers or their
14 respective operations.

15 (5) In the case of a tribe or a wholly owned tribal entity that is
16 a service provider, the investigation shall be limited to the business
17 officers of the tribal entity that will serve as the service provider.

18 (e) A full investigation shall include a review and evaluation of
19 the service provider's qualifications and experience to provide the
20 services anticipated, which shall include the required submission
21 of a report prepared on each service provider by an outside firm
22 contracted and supervised by the department, in a format developed
23 by the department, and at the service provider's expense. The
24 report shall include information necessary for the department to
25 make a determination of suitability, as specified in regulations
26 adopted pursuant to this chapter, consisting of, but not limited to,
27 personal history, prior activities and associations, credit history,
28 civil litigation, past and present financial affairs and standing, and
29 business activities, including whether the applicant or an affiliate
30 of the applicant has a financial interest in any business or
31 organization that is or was engaged in any form of gaming or
32 transactions related to gaming prohibited by the law of the federal
33 or state jurisdiction in which those activities took place. The
34 department may specify additional requirements regarding the
35 contents of the report and other information or documentation
36 required to be submitted.

37 (f) An institutional investor holding less than 10 percent of the
38 equity securities of a service provider's holding or intermediary
39 companies shall be granted a waiver of a determination of
40 suitability or other requirement if all of the following apply:

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

3 (2) Holdings of those securities were purchased for investment
4 purposes only.

5 (3) The institutional investor annually files a certified statement
6 with the department to the effect that it has no intention of
7 influencing or affecting the affairs of the issuer, the licensee, or
8 service provider, as applicable, or its holding or intermediary
9 companies.

10 (4) Notwithstanding paragraph (3), the institutional investor
11 may vote on matters submitted to the vote of the outstanding
12 security holders after the investor has been issued a license.

13 (5) The certification described in paragraph (3) shall do all of
14 the following:

15 (A) Include a statement that the institutional investor beneficially
16 owns the equity securities of the corporation for investment
17 purposes only, and in the ordinary course of business as an
18 institutional investor, and not for the purposes of causing, directly
19 or indirectly, the election of members of the board of directors, or
20 effecting a change in the corporate charter, bylaws, management,
21 policies, or operations of the corporation of any of its affiliates.

22 (B) Indicate any changes to the structure or operations of the
23 institutional investor that could affect its classification as an
24 institutional investor, as that term is listed in paragraph (8).

25 (C) State that the institutional investor and corporation shall
26 maintain gaming compliance policies and procedures to implement
27 and ensure compliance with this chapter and regulations adopted
28 pursuant to this chapter.

29 (6) An institutional investor granted a waiver under this
30 subdivision that subsequently decides to influence or affect the
31 affairs of the issuer shall provide not less than 30 days' notice of
32 that intent and shall file with the department a request for
33 determination of suitability before taking an action that may
34 influence or affect the affairs of the issuer. An institutional investor
35 shall not vote prior to being issued a license. If an institutional
36 investor changes its investment intent, or the department finds
37 reasonable cause to believe that the institutional investor may be
38 found unsuitable, the institutional investor shall take no action
39 other than divestiture with respect to its security holdings until it
40 has complied with any requirements established by the department,

1 which may include the execution of a trust agreement. The
2 institutional investor and its relevant holding, related, or subsidiary
3 companies shall immediately notify the department and, if a tribal
4 license is involved, the tribal gaming regulatory authority, of any
5 information about, or actions of, an institutional investor holding
6 its equity securities when that information or action may impact
7 upon the eligibility of the institutional investor for a waiver
8 pursuant to paragraph (2).

9 (7) If at any time the department finds that an institutional
10 investor holding a security of a licensee under this chapter has
11 failed to comply with the terms of this chapter, or if at any time
12 the department finds that, by reason of the extent or nature of its
13 holdings, whether of debt or equity securities, an institutional
14 investor is in a position to exercise such a substantial impact upon
15 the controlling interests of a licensee that investigation and
16 determination of suitability of the institutional investor are
17 necessary to protect the public interest, the department may take
18 any necessary action otherwise authorized by this chapter to protect
19 the public interest.

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

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

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

26 (C) A collective investment trust organized by banks under Part
27 9 of the Rules of the Office of the Comptroller of the Currency
28 (12 C.F.R. Sec. 9.1 et seq.).

29 (D) A closed-end investment trust.

30 (E) A chartered or licensed life insurance company or property
31 and casualty insurance company.

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

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

36 19990.405. (a) The department shall issue a finding that a
37 license applicant is suitable to obtain a license only if, based on
38 all of the information and documents submitted, the department
39 is satisfied that each of the persons subject to a determination of
40 suitability pursuant to this article is both of the following:

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

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

13 (b) The department shall issue a finding that a license applicant
14 is not suitable to obtain a license if it finds that a person subject
15 to a determination of suitability pursuant to this article is described
16 by any of the following:

17 (1) The person failed to clearly establish eligibility and
18 qualifications in accordance with this chapter.

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

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

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

1 (5) The person has associated with criminal profiteering activity
2 or organized crime, as defined in Section 186.2 of the Penal Code.

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

10 (7) The person is less than 21 years of age.

11 (8) (A) The person has been convicted in a court of competent
12 jurisdiction of a felony consisting of either having accepted a bet
13 over the Internet in violation of United States or California law,
14 or having aided or abetted that unlawful activity.

15 (B) A licensee shall not enter into a contract or agreement with
16 a person or entity described in subparagraph (A).

17 (c) License applications shall be treated as follows:

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

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

29 (3) This section does not require the department to divulge to
30 the applicant confidential information received from a law
31 enforcement agency or information received from a person with
32 assurances that the information would be maintained confidential,
33 nor to divulge any information that might reveal the identity of an
34 informant or jeopardize the safety of a person.

35 (4) Denial of an application shall be without prejudice to a new
36 and different application filed in accordance with any regulations
37 adopted by the commission with respect to the submission of
38 applications.

39 (5) An applicant may withdraw its application for a license at
40 any time prior to final action on the application by the commission

1 by filing a written request with the commission to withdraw the
2 application, absent knowledge of a specific reason to suspect that
3 the person or entity may be found unsuitable.

4 19990.406. (a) This chapter does not restrict the authority of
5 a tribe that is a licensed operator or that owns a tribal enterprise
6 that is a licensed operator to conduct suitability reviews of its
7 service providers.

8 (b) This chapter also does not prohibit a tribal gaming regulatory
9 authority from providing the results of its suitability investigations
10 or determinations to the commission or department for its
11 consideration in issuance of licenses pursuant to this chapter.

12
13 Article 5. Requirements for the Operation of an Authorized
14 Poker Web Site
15

16 19990.501. (a) A licensed operator shall ensure that registered
17 players are eligible to play authorized Internet poker games and
18 implement appropriate data security standards to prevent access
19 by a person whose age and location have not been verified in
20 accordance with this chapter.

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

23 (c) A registered player shall be at least 21 years of age.

24 (d) Each licensed operator shall do all of the following, whether
25 directly or through the actions of its licensed service providers:

26 (1) Prior to registering a person as a registered player or
27 permitting a person to play an authorized Internet poker game, the
28 licensed operator shall verify that the person is 21 years of age or
29 older.

30 (2) The licensed operator shall attempt to match the name,
31 address, and date of birth provided by the person to information
32 contained in records in a database of individuals who have been
33 verified to be 21 years of age or older by reference to an appropriate
34 database of government records.

35 (3) The licensed operator shall verify that the name and physical
36 billing address on the check or credit card offered for payment by
37 the person seeking to be a registered player matches the name and
38 address listed in the database.

39 (4) If the licensed operator is unable to verify that the person is
40 21 years of age or older pursuant to paragraph (1), the licensed

1 operator shall require the person to submit age-verification
2 documents consisting of an attestation signed by the person that
3 he or she is 21 years of age or older and a copy of a valid form of
4 government identification. For the purposes of this section, a valid
5 form of government identification includes a driver's license, state
6 identification card, passport, official naturalization or immigration
7 document, such as an alien registration receipt card or an immigrant
8 visa, or United States military identification. The licensed operator
9 shall verify that the physical billing address on the check or credit
10 card provided by the person matches the address listed on his or
11 her government identification.

12 (5) The licensed operator shall not permit registered players to
13 make payments or withdrawals by money order or cash, except
14 that a licensed operator may permit registered players to make
15 payments or withdrawals by money order or cash in person at the
16 land-based gaming facility operated by the licensed operator. The
17 licensed operator shall submit information to each credit card
18 company through which it makes credit card sales, in an
19 appropriate form and format so that the words "Internet poker" or
20 equivalent description is printed on the purchaser's credit card
21 statement with that credit card company, when a payment to a
22 licensed operator is made by credit card and the transaction is
23 categorized as required by law.

24 (e) A licensed operator is not in violation of this section if the
25 operator complies with the requirements of paragraphs (1) and (2)
26 of subdivision (d), and a person under 21 years of age participates
27 in an authorized Internet poker game provided by the licensed
28 operator.

29 (f) The department may assess a civil penalty against a person
30 who violates this section, whether a licensed operator, owner,
31 service provider, or player, according to the following schedule:

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

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

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

- 1 (4) Not less than five thousand five hundred dollars (\$5,500),
2 and not more than six thousand five hundred dollars (\$6,500), for
3 the fourth violation.
- 4 (5) Ten thousand dollars (\$10,000) for a fifth or subsequent
5 violation.
- 6 (g) The commission shall, by regulation, provide a process for
7 a licensee to exclude from play any person who has filled out an
8 online self-exclusion form.
- 9 (1) The commission shall develop an online self-exclusion form
10 within six months of the effective date of this chapter.
- 11 (2) The commission shall deliver the form to each licensed
12 operator.
- 13 (3) A licensed operator shall prominently display a link to the
14 department’s Responsible Gambling Internet Web page and the
15 online self-exclusion form on the authorized poker Web site that
16 is displayed when either of the following occurs:
- 17 (A) A person registers as a registered player.
- 18 (B) Each time a registered player accesses the authorized poker
19 Web site prior to playing.
- 20 (4) A licensed operator shall retain the online self-exclusion
21 form to identify persons who want to be excluded from play. A
22 licensed operator shall exclude those persons from play.
- 23 (5) A licensed operator that has made commercially reasonable
24 efforts to comply with this subdivision shall not be held liable in
25 any way if a person who has filled out an online self-exclusion
26 form plays despite that person’s request to be excluded.
- 27 19990.502. A licensed operator shall offer only authorized
28 Internet poker games and process bets in accordance with the
29 specified game and betting rules established by the licensed
30 operator and approved by the commission pursuant to Section
31 19990.503.
- 32 19990.503. (a) In order to propose a game for play, a licensed
33 operator shall provide the department with both of the following
34 via electronic means or via mail:
- 35 (1) Game rules and betting rules it proposes to offer to registered
36 players.
- 37 (2) Documentation from an independent gaming test laboratory
38 that is licensed or registered in any United States jurisdiction to
39 test, approve, and certify the game’s software.

1 (b) A licensed operator shall not offer a game for play until the
2 department has approved the game rules and betting rules.

3 19990.504. (a) A licensed operator shall ensure that games
4 are fair.

5 (b) A licensed operator shall display a link on its authorized
6 poker Web site that includes the following information for each
7 game offered:

8 (1) The name of the game.

9 (2) Any restrictions on the play of the game.

10 (3) The rules of the game.

11 (4) All instructions on how to play.

12 (5) The unit and total bets permitted.

13 (6) Per hand charges assessed to registered players.

14 (7) The registered player's current account balance, which shall
15 be updated in real time.

16 (8) Any other information that a licensed operator or the
17 department determines is necessary for the registered player to
18 have in real time to compete fairly in the game.

19 (c) A licensed operator shall display a link on its authorized
20 poker Web site that includes the following information for each
21 tournament offered:

22 (1) Tournament rules.

23 (2) Tournament charge.

24 (3) Games offered during the tournament.

25 (4) Prize structure and number of registered players that will be
26 paid.

27 (5) Buy-in amount, re-buy amount, and add-on amount.

28 (d) Data used to create game results shall be unpredictable so
29 that it is infeasible to predict the next occurrence in a game.

30 (e) A licensed operator shall deploy controls and technology to
31 minimize fraud or cheating through collusion, including external
32 exchange of information between different players, or any other
33 means.

34 (1) If a licensed operator becomes aware that fraud or cheating
35 is taking place or has taken place, it shall take steps to stop those
36 activities immediately and inform the department of all relevant
37 facts.

38 (2) The department shall not impose a fine against a licensed
39 operator to prevent fraud or cheating if the licensed operator can

1 demonstrate that it acted responsibly to prevent those activities as
2 soon as the licensed operator became aware of them.

3 (f) In a per hand game, if the gaming server or software does
4 not allow a game to be completed, the game shall be void and all
5 funds relating to the incomplete game shall be returned to the
6 registered player's account.

7 (g) In a tournament, if the gaming server or software does not
8 allow the tournament to be completed, all prize money shall be
9 distributed among players in accordance with the procedure
10 approved by the department and published by the licensed operator
11 prior to the commencement of the tournament.

12 (h) A licensed operator shall display or allow the results from
13 any authorized Internet poker game, including the redemption of
14 winnings from any game, to be displayed or represented only by
15 showing the card faces of the winning hand and the dollar amount
16 won.

17 (i) A licensed operator shall not do any of the following:

18 (1) Display or allow the outcome from any authorized Internet
19 poker game, including the redemption of winnings from any game,
20 to be displayed or represented in a manner that mimics a slot
21 machine or any other casino style games, including, but not limited
22 to, blackjack, roulette, or craps.

23 (2) Use casino game graphics, themes, or titles, including, but
24 not limited to, depictions of slot machine-style symbols, banked
25 or banking card games, craps, roulette, keno, lotto, or bingo.

26 (3) Allow the use of robotic play at any time by itself, a service
27 provider, or a player.

28 19990.505. (a) A licensed operator shall register players and
29 establish registered player accounts prior to play.

30 (b) A person shall not participate in any game provided by a
31 licensed operator unless the person is a registered player and holds
32 a registered player account.

33 (c) A registered player account may be established in person,
34 or by United States mail, telephone, or by any electronic means.

35 (d) To register and establish a registered player account to play
36 poker with real money, a person shall provide all of the following
37 registration information:

38 (1) First name and surname.

39 (2) Principal residence address.

40 (3) Telephone number.

1 (4) Social security number.

2 (5) Identification or certification to prove that person is at least
3 21 years of age.

4 (6) Valid email address.

5 (e) A licensed operator shall provide registered players with the
6 means to update the registration information provided to the
7 licensed operator, and shall require that registered players keep
8 registration information current.

9 (f) This section does not prevent a licensed operator from
10 entering into a marketing agreement with a third party, who has
11 been determined to be suitable and licensed as a service provider,
12 to recruit people to become registered players if the registration
13 process described in this section is under the sole control of the
14 licensed operator.

15 19990.506. (a) A licensed operator shall provide a means for
16 registered players to put funds into a registered player account and
17 transfer funds out of that account.

18 (b) A registered player shall identify the source of funds to be
19 used to put money into the registered player account established
20 once the registration process is complete.

21 (c) At the time of establishing a registered player account, a
22 registered player shall designate the bank account into which funds
23 from the registered player's authorized poker Web site account
24 are to be transferred.

25 (d) A registered player shall not establish more than one account
26 on the same authorized poker Web site.

27 (e) While playing an authorized Internet poker game, the game
28 system shall not permit a registered player to increase the amount
29 of money that player has available at a game table while a hand is
30 in play. Any increase to the funds available to a player during a
31 hand shall not take effect until the following hand.

32 (f) A licensed operator shall maintain records on the balance of
33 each registered player's account.

34 (g) A licensed operator shall not permit a registered player to
35 place a bet unless the registered player's account has sufficient
36 funds to cover the amount of the bet.

37 (h) A licensed operator shall not provide credit to a registered
38 player's account or act as agent for a credit provider to facilitate
39 the provision of funds.

1 (i) Interest shall not be paid by a licensed operator with respect
2 to a registered player's account.

3 (j) A licensed operator shall segregate funds it holds in all
4 registered player accounts from all of its other assets.

5 (k) A licensed operator shall not commingle funds in the
6 segregated account containing funds paid by registered players
7 with any other funds held by the licensed operator, including, but
8 not limited to, operating funds of the licensed operator. Both the
9 accounts of the licensed operator and its segregated registered
10 player accounts shall be held in financial institutions located in
11 the state.

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

14 (1) To pay per hand or tournament charges owed by a registered
15 player to the licensed operator for play of authorized Internet poker
16 games.

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

20 (3) To transfer funds from a registered player's account to a
21 temporary account to be held by a licensed operator pending the
22 outcome of an authorized Internet poker game.

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

25 (5) To transfer funds from a registered player's account with
26 the licensed operator to an account specified by that registered
27 player upon that registered player's request.

28 19990.507. Prior to completing the registration process, a
29 licensed operator shall explain in a conspicuous fashion to the
30 person who is registering the privacy policies of the authorized
31 poker Web site, and the person shall assent to the following
32 policies:

33 (a) Personally identifiable information shall not be shared with
34 any nongovernmental third parties, except as provided in Section
35 19990.512.

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

1 (c) Personally identifiable information may be shared with
2 governmental agencies only as set forth in subdivision (b) or
3 subject to court order as provided in Section 19990.512.

4 19990.508. A licensed operator may require that a registered
5 player, or a person registering as a player, agree to a Terms of Use
6 Registered Player’s Agreement.

7 19990.509. A licensed operator may suspend or revoke the
8 account of a registered player for any of the following reasons:

9 (a) A person or registered player provided false information to
10 the licensed operator, including, but not limited to, in the
11 registration process.

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

14 (c) The registered player has violated the authorized poker Web
15 site’s Terms of Use Registered Player’s Agreement.

16 (d) The person has already been registered.

17 (e) The licensed operator suspects that the registered player has
18 participated in an illegal or unauthorized activity on the authorized
19 poker Web site.

20 (f) The licensed operator is directed by a state agency to suspend
21 or revoke the registered player’s account.

22 19990.510. Upon registration, and each time a registered player
23 logs into an authorized poker Web site, the licensed operator shall
24 permit a registered player to adjust his or her play settings to:

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

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

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

30 19990.511. A licensed operator shall offer customer support
31 that shall be available to registered players 24 hours per day, 365
32 days per year.

33 19990.512. (a) A licensed operator shall protect the privacy
34 of registered players and their personally identifiable information.

35 (b) A licensed operator shall comply with all applicable state
36 and federal privacy and data protection laws.

37 (c) At the time a registered player registers with a licensed
38 operator, and at least one time per year thereafter, a licensed
39 operator shall provide notice in the form of a separate, written
40 statement, delivered via the United States Postal Service or

1 electronic mail, to the registered player that clearly and
2 conspicuously informs the registered player of all of the following:

3 (1) The nature of personally identifiable information collected
4 or to be collected with respect to the registered player and the
5 nature of the use of that information.

6 (2) The nature, frequency, and purpose of any disclosure that
7 may be made of personally identifiable information, including an
8 identification of the types of persons to whom the disclosure may
9 be made.

10 (3) The period during which personally identifiable information
11 will be maintained by the licensed operator.

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

15 (5) The limitations provided by this section with respect to the
16 collection and disclosure of personally identifiable information by
17 a licensed operator.

18 (d) A licensed operator shall not collect personally identifiable
19 information concerning any registered player without the prior
20 written or electronic consent of the registered player.

21 (e) A licensed operator may collect personally identifiable
22 information in order to do both of the following:

23 (1) Obtain information necessary to operate the authorized poker
24 Web site and offer authorized Internet poker games to registered
25 players pursuant to this chapter.

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

29 (f) Except as provided in subdivision (g), a licensed operator
30 shall not disclose personally identifiable information concerning
31 any registered player without the prior written or electronic consent
32 of the registered player and shall take actions necessary to prevent
33 unauthorized access to that information by a person other than the
34 registered player or licensed operator.

35 (g) A licensed operator may disclose personally identifiable
36 information if the disclosure is any of the following:

37 (1) Necessary to render, or conduct a legitimate business activity
38 related to, the provision of authorized Internet poker games to the
39 registered player by the licensed operator.

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

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

6 (A) The licensed operator has provided the registered player
7 the opportunity to prohibit or limit the disclosure.

8 (B) The disclosure does not reveal, directly or indirectly, the
9 nature of any transaction made by the registered player over the
10 authorized poker Web site.

11 (4) A disclosure to the commission and the department to fulfill
12 its obligations under this chapter or to a state agency as authorized
13 in this chapter.

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

17 (h) A licensed operator shall provide a registered player with
18 access to all personally identifiable information regarding that
19 registered player that is collected and maintained by the licensed
20 operator. The licensed operator shall make the information
21 available to the registered player at reasonable times and at a place
22 designated by the licensed operator. A licensed operator shall
23 provide a registered player a reasonable opportunity to correct any
24 error in the information.

25 (i) A licensed operator shall destroy personally identifiable
26 information if both of the following apply:

27 (1) The information is no longer reasonably necessary for the
28 purpose for which it was collected.

29 (2) There are no pending requests or orders for access to the
30 information under subdivision (j).

31 (j) A governmental or nongovernmental third party may obtain
32 personally identifiable information concerning a registered player
33 pursuant to a court order only if, in the court proceeding relevant
34 to the court order, both of the following apply:

35 (1) The third party offers clear and convincing evidence that
36 the subject of the information is reasonably suspected of engaging
37 in criminal activity or otherwise relevant to a pending civil action
38 and that the information sought would be material evidence in the
39 case.

1 (2) The registered player about whom the information is
2 requested is afforded the opportunity to appear and contest the
3 third party’s claim.

4 19990.513. A licensed operator shall establish a book of
5 accounts and regularly audit all of its financial records and reports,
6 which shall, at a minimum, include all of the following:

7 (a) Monthly auditable and aggregate financial statements of
8 gambling transactions.

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

10 (c) The identity of registered players.

11 (d) The balance on each registered player’s account at the start
12 of a session of play, the amount won or lost by each registered
13 player during a game, and the balance on the registered player’s
14 account.

15 (e) The bets placed on each game, time stamped by the games
16 server.

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

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

20 19990.514. (a) A licensed operator shall make all financial
21 records established and maintained pursuant to Section 19990.513,
22 including, but not limited to, all books, records, documents,
23 financial information, and financial reports, available on an
24 electronic basis, as required by the commission, the department,
25 or other state agencies so that those state agencies can fulfill their
26 responsibilities under this chapter. A state agency may request
27 specific printed hard copies of records for good cause.

28 (b) The licensed operator’s data shall be retained in a manner
29 by which it may be accessed online by a state agency with
30 responsibilities pursuant to this chapter. The commission shall
31 identify which state agencies require online access.

32 (c) Notwithstanding subdivision (b), data covered by
33 subdivisions (d), (e), and (f) of Section 19990.513, shall be
34 accessible to the state agencies online for 180 days, and, thereafter,
35 archived and retained for two years.

36 19990.515. A licensed operator shall do all of the following:

37 (a) Implement technical systems that materially aid the
38 commission in the protection of registered players. Software shall
39 meet, at a minimum, international industry standards as verified
40 by an independent gaming test laboratory that is licensed or

1 registered in any United States jurisdiction to test, approve, and
2 certify the software.

3 (b) Define and document its methodology for developing
4 software and applications and describe the manner in which
5 software protects registered players from fraud and other risks in
6 the play of authorized Internet poker games and in the management
7 of registered player accounts.

8 (c) Meet minimum game server connectivity requirements to
9 ensure that registered players are protected from losses due to
10 connectivity problems.

11 (d) Ensure that all transactions involving registered players'
12 funds are recoverable by the system in the event of a failure or
13 malfunction.

14 (e) Ensure that all information required for reviewing a game
15 interrupted due to loss of connectivity is recoverable by the licensed
16 operator.

17 (f) Document and implement preventative and detective controls
18 addressing money laundering and fraud risks.

19 19990.516. (a) A licensed operator may charge registered
20 players to play in authorized Internet poker games.

21 (b) (1) A licensed operator may charge a per hand charge if the
22 per hand charge is designated and conspicuously posted on the
23 licensed operator's authorized poker Web site.

24 (2) A licensed operator may vary the per hand charges to
25 registered players based on betting limits or other factors.

26 (c) (1) A licensed operator may charge a tournament charge if
27 the tournament charge is designated and conspicuously posted on
28 the licensed operator's authorized poker Web site.

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

31 (d) A licensed operator shall provide notice to the commission
32 of the charges to registered players prior to initiating play.

33 19990.517. A licensed operator may do any of the following:

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

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

1 (c) Enter into an agreement with a third-party service provider
2 for marketing, or any other purpose consistent with this chapter,
3 including, but not limited to, displaying the name of a marketing
4 partner on a screen viewed by a registered player.

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

7 (e) Post Internet Web links on the Internet Web sites it controls
8 to permit registered players to access remote Internet Web sites.

9 (f) Offer authorized Internet poker games on up to two
10 authorized poker Web sites pursuant to its license.

11 (g) Enter into contractual agreements with one or more licensed
12 operators for the purpose of ensuring adequate player liquidity.

13 19990.518. There are three categories of application fees,
14 regulatory fees, and license deposits, as follows:

15 (a) Application Processing Fee. In order to cover the costs of
16 suitability investigations and other costs of processing an
17 application for a license or work permit, the applicant shall deposit
18 the applicable application processing fee as provided in subdivision
19 (a) of Section 19990.402, subdivision (e) of Section 19990.403,
20 subdivision (b) of Section 19990.404, or Section 19990.605. Any
21 balance of the application processing fee that remains after
22 completion of the determination of suitability shall be refunded to
23 the applicant. If additional moneys are needed to complete the
24 determination of suitability of the license applicant, the applicant
25 shall pay the funds necessary to complete the determination of
26 suitability.

27 (b) One-time License Deposit. Prior to offering any games for
28 play or accepting any bets on its authorized poker Web site, a
29 licensed operator shall pay the one-time license deposit as provided
30 in subdivision (a) of Section 19990.519. This deposit shall be an
31 advance against the duty on gross gaming revenues specified in
32 subdivision (b) of Section 19990.519.

33 (c) Ongoing Regulatory Fees. Following issuance of a license
34 and beginning of operations thereunder, the licensed operator shall
35 pay the ongoing regulatory fees set forth in subdivision (c) of
36 Section 19990.519.

37 19990.519. (a) In support of the application for a license
38 pursuant to this chapter, prior to offering games or accepting bets
39 on its authorized poker Web site, the licensed operator shall remit
40 to the Treasurer a one-time license deposit in the amount of ten

1 million dollars (\$10,000,000), to be deposited into the General
2 Fund, and credited against charges imposed pursuant to subdivision
3 (b) on the licensed operator's gross gaming revenues. Upon
4 depletion of the license deposit, the department shall notify the
5 licensed operator to commence quarterly payments to the state in
6 accordance with subdivision (b).

7 (b) In consideration of the substantial value of each license, a
8 licensed operator shall remit to the Treasurer on a quarterly basis
9 for deposit in the General Fund an amount equal to 8.5 percent of
10 its gross gaming revenues.

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

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

16 (c) Each licensed operator shall pay a regulatory fee, to be
17 deposited in the Internet Poker Fund, in an amount to be determined
18 by the commission, for the reasonable costs of license oversight,
19 consumer protection, state regulation, problem gambling programs,
20 and other purposes related to this chapter, determined on a pro rata
21 basis depending on the number of licensed operators in the state.

22 19990.520. (a) The licensed operator shall facilitate the
23 collection of personal income taxes from registered players by the
24 Franchise Tax Board and shall be responsible for providing current
25 and accurate documentation on a timely basis to all state agencies,
26 as provided in this chapter.

27 (b) The state and its agencies shall treat the proprietary
28 information provided by a licensed operator as confidential to
29 protect the licensed operator and to protect the security of the
30 authorized poker Web site.

31 (c) The confidentiality provisions of this chapter exempt
32 proprietary information supplied by a licensee to a state agency
33 from public disclosure consistent with subdivision (b) of Section
34 6253 of the Government Code.

35 19990.521. (a) A licensee shall act expeditiously to cure any
36 violation of this chapter, or any regulation adopted pursuant to this
37 chapter, in the offer or administration of authorized Internet poker
38 games that interferes with its obligations to the state or registered
39 players under this chapter.

1 (b) If a licensee becomes aware of any violation of this chapter,
2 it shall notify the department immediately and work with the
3 department to develop a plan to rectify the violation.

4 (c) If the department becomes aware of any violation of this
5 chapter, or if it becomes aware of any activities that might lead to
6 a violation, the department shall provide notice of that violation
7 to the licensee and a reasonable opportunity for the licensee to
8 cure the violation. If the violation is not timely cured, the
9 department shall investigate the violation further and may take
10 enforcement actions. If the commission becomes aware of any
11 violation of this chapter, the commission shall notify the
12 department of the violation immediately so that the department
13 may take appropriate action pursuant to this chapter.

14 (d) All state agencies with responsibilities under this chapter
15 shall report any actual or suspected violation of this chapter, or
16 any regulation adopted pursuant to this chapter, or activities that
17 may lead to a violation, to the department immediately so that the
18 department can assess whether it needs to commence an
19 investigation or enforcement action.

20 (e) A licensee shall be afforded a reasonable time period to cure
21 any reported violation. During this time period, a licensee shall
22 not be subject to prosecution for the criminal penalty described in
23 Section 19990.303, or liable for the civil penalties described in
24 this article.

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

28 (g) The commission may revoke or suspend any license or work
29 permit under this chapter upon reaching a finding that the licensee
30 or employee is in violation of any provision of this chapter, or any
31 regulation adopted pursuant to this chapter. However, a tribal
32 licensee shall not have its license suspended or revoked, or be
33 fined or otherwise penalized, for complying with any applicable
34 federal law or regulation when operating an authorized poker Web
35 site on Indian lands. To the extent that any state requirement is
36 more stringent than any applicable federal requirement, the tribal
37 licensee shall comply with the more stringent state requirement,
38 unless the federal requirement preempts state law.

1 (h) A licensee may appeal any final decision of the department
2 pursuant to this section to the superior court. The superior court
3 shall hear any appeal de novo.

4 (i) The department shall protect the rights and assets of
5 registered players on an authorized poker Web site if the licensed
6 operator's license pursuant to this chapter is revoked or the licensed
7 operator becomes bankrupt.

8 19990.522. (a) (1) A license issued pursuant to this chapter
9 is not transferable.

10 (2) (A) If a licensed operator seeks to change the ownership of
11 its land-based gaming facility, both of the following apply:

12 (A) The license held by the licensed operator under this chapter
13 shall be rendered void upon the date of any change of ownership
14 in the land-based gaming facility.

15 (B) Prior to a change in ownership, the acquiring person shall
16 apply to become a licensed operator, at which point the commission
17 shall determine whether the person is legally qualified to be a
18 licensed operator under this chapter.

19 (b) The department shall investigate to ensure that any person
20 acquiring an interest in a licensee is suitable, and otherwise
21 financially, technically, and legally qualified to be a licensee
22 pursuant to this chapter. If an acquiring person is found to be
23 unsuitable to be a licensee, or otherwise not financially, technically,
24 or legally qualified to be a licensee, the licensed operator or the
25 acquiring person may challenge that determination.

26 19990.523. All facilities, software, including downloadable
27 programs, and any other property, both tangible and intangible,
28 used by the licensed operator in offering authorized Internet poker
29 games for play on an authorized poker Web site shall be the
30 property of the licensed operator or its licensed service providers,
31 and shall be subject to the review of the department and the
32 approval of the commission.

33 19990.524. If any dispute arises between the state and a
34 licensee, either the commission or a licensee may file an action in
35 the superior court of any county in which the commission has an
36 office for an interpretation of the rights and responsibilities of the
37 state and the licensee pursuant to this chapter.

38 19990.525. (a) (1) The department or commission may
39 contract with other public or private entities, including, but not
40 limited to, state, tribal, and international regulatory agencies, for

1 the provision of services related to a responsibility imposed on the
2 department or commission by this chapter if all of the following
3 are satisfied:

4 (A) The contract will assist with the provision of efficient,
5 effective, and robust regulation of intrastate Internet poker.

6 (B) The contract provides access to expertise that has been tested
7 and proven in the poker industry.

8 (C) The department or commission retains administrative control
9 and responsibility for ensuring compliance with this chapter.

10 (2) In order to expedite the implementation of intrastate Internet
11 poker, a contract entered into pursuant to paragraph (1) is not
12 subject to the Public Contracts Code, or otherwise applicable
13 contracting provisions of the Government Code.

14 (b) A state agency with a duty pursuant to this chapter may enter
15 into agreements to share information with other regulatory and
16 law enforcement agencies to assist in performing the state agency's
17 duty.

18

19

Article 6. Employee Work Permits

20

21 19990.601. (a) Except as provided in Section 19990.602, a
22 licensee shall submit an application and applicable fees to the
23 department and apply to the commission for an employee work
24 permit on behalf of each employee.

25 (b) Prior to initiating operations and thereafter, a licensee shall
26 ensure that every employee has been issued an employee work
27 permit by the commission prior to that person having access to the
28 licensee's facilities. The permit shall be renewed every two years.

29 (c) The commission shall issue an employee work permit only
30 if, based on all of the information and documents submitted, the
31 commission is satisfied that the applicant is, at a minimum, all of
32 the following:

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

34 (2) A person whose prior activities, criminal record, if any,
35 reputation, habits, and associations do not pose a threat to the
36 integrity of a gaming operation or public interest of this state, or
37 to the effective regulation and control of controlled gambling, as
38 defined in Section 19805, or create or enhance the dangers of
39 unsuitable, unfair, or illegal practices, methods, and activities in

1 the conduct of controlled gambling or in the carrying on of
2 incidental business and financial arrangements.

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

5 (d) The commission shall not issue an employee work permit
6 unless the applicant meets the qualification standards adopted by
7 the commission by regulation. A tribal gaming regulatory authority
8 may impose additional qualifications with respect to activities on
9 Indian lands.

10 19990.602. (a) A tribe that is a licensed operator, or that owns
11 a tribal enterprise that is a licensed operator, may elect to
12 participate in the tribal gaming regulatory authority process
13 prescribed by this section for the issuance of employee work
14 permits. If the tribe does not elect to participate in the tribal gaming
15 regulatory authority process as provided in this section, then the
16 process specified in this section regarding submission and action
17 by the tribal gaming regulatory authority on the application for
18 employee work permit shall not apply, and the other provisions of
19 this chapter shall instead govern.

20 (b) The joint state and tribal processes required pursuant to this
21 section are intended to promote and involve joint cooperation
22 among the tribal gaming regulatory authority, the commission,
23 and the department.

24 (c) The tribal employee work permit process shall be as follows:

25 (1) All applications for employee work permits first shall be
26 filed with the tribal gaming regulatory authority, which shall
27 promptly file a copy of the application with the commission,
28 together with information regarding the filing date and the payment
29 of fees and deposits. The application shall be accompanied by the
30 fees required in Section 19990.605, except those fees shall be
31 deposited into a tribal account created for the purpose of holding
32 the deposited funds and using them for the costs of the suitability
33 review and the issuance of the license.

34 (2) In reviewing an application for a work permit, the tribal
35 gaming regulatory authority shall determine whether issuance of
36 the employee work permit would meet the suitability standards
37 set forth in this chapter. The tribal gaming regulatory authority
38 shall not issue a permit unless, based on all information and
39 documents submitted, the tribal gaming regulatory authority

1 determines that the applicant meets all of the criteria set forth in
2 this chapter for the issuance of the employee work permit.

3 (3) The tribal gaming regulatory authority shall conduct, or
4 cause to be conducted, all necessary determinations of suitability
5 reasonably required to determine that the applicant is qualified for
6 an employee work permit under the standards set forth in this
7 chapter for the issuance of the employee work permit.

8 (4) In lieu of completing its own determination of suitability,
9 and to the extent that doing so does not conflict with or violate
10 this chapter, the tribal gaming regulatory authority may contract
11 with the department for the conduct of determinations of suitability,
12 may rely on a state certification of nonobjection previously issued
13 under a gaming compact involving another tribe, or may rely on
14 a state gaming license previously issued to the applicant, to fulfill
15 some or all of the tribal gaming regulatory authority's
16 determination of suitability obligation. An applicant for a tribal
17 employee work permit shall provide releases to make background
18 information regarding the applicant available to the tribal gaming
19 regulatory authority, the department, and the commission.

20 (5) Upon completion of the necessary determination of
21 suitability, the tribal gaming regulatory authority may issue a
22 finding that the person or entity is eligible for an employee work
23 permit on a conditional or unconditional basis. This section does
24 not create a property or other right of an applicant in an opportunity
25 to be permitted, or in a permit itself, both of which shall be
26 considered privileges granted to the applicant in the sole discretion
27 of the tribal gaming regulatory authority.

28 (6) Upon receipt of a completed license application and a
29 determination by the tribal gaming regulatory authority that the
30 applicant is eligible and suitable for the employee work permit,
31 the tribal gaming regulatory authority shall transmit to the
32 commission a notice of intent to issue a permit to the applicant.
33 The tribal gaming regulatory authority shall not issue an employee
34 work permit until the process required by paragraph (7) is
35 complete.

36 (7) After receipt of the tribal gaming regulatory authority's
37 notice pursuant to paragraph (6), and upon completion of the
38 necessary determination of suitability, the commission shall issue
39 a notice to the tribal gaming regulatory authority stating its finding
40 that the applicant is suitable or is not suitable for the requested

1 permit. The commission may charge an additional application
2 processing fee pursuant to Section 19990.605 to cover the
3 reasonable costs of conducting its verification of suitability.

4 (A) If the commission notices a finding that the applicant is
5 suitable, the tribal gaming regulatory agency shall issue an
6 employee work permit to the applicant. The permit shall be
7 effective pursuant to this chapter as though issued by the
8 commission.

9 (B) If the commission notices a finding that the applicant is not
10 suitable, the tribal gaming regulatory authority shall not issue the
11 requested permit. Prior to denying an application for a
12 determination of suitability, the commission shall notify the tribal
13 gaming regulatory authority and afford the tribe an opportunity to
14 be heard. If the commission denies an application for a
15 determination of suitability, the commission shall provide the
16 applicant with written notice of all appeal rights available under
17 state law.

18 (C) Upon receipt of notice that the commission or department,
19 collectively or individually, or the tribal gaming regulatory
20 authority has determined that a person would be unsuitable in a
21 similar application filed in connection with a nontribal operation,
22 the tribal gaming regulatory authority shall not issue the requested
23 permit or, if that notice is received after issuance of the permit,
24 promptly revoke that permit. However, the tribal gaming regulatory
25 authority may, in its discretion, reissue a permit to the person
26 following entry of a final judgment reversing the determination of
27 the commission and department in a proceeding in state court
28 conducted pursuant to Section 1085 of the Code of Civil Procedure.

29 (8) A tribal permit application submitted pursuant to this section
30 may be denied, and any permit issued may be revoked, if the tribal
31 gaming regulatory authority determines that the application is
32 incomplete or deficient, or if the applicant is determined to be
33 unsuitable or otherwise unqualified for a permit. Pending
34 consideration of revocation, the tribal gaming regulatory authority
35 may suspend a permit. All rights to notice and hearing shall be
36 governed by the rules of the tribal gaming regulatory authority,
37 which shall meet minimum requirements to be developed among
38 the tribes, the commission, and the department, and as to which
39 the applicant shall be notified in writing, along with notice of an
40 intent to suspend or revoke the permit.

1 (9) The tribal gaming regulatory authority may summarily
2 suspend an employee work permit issued pursuant to this section
3 if the tribal gaming regulatory authority determines that the
4 continued permitting of the person or entity could constitute a
5 threat to the public health or safety or may violate this chapter.

6 (d) The commission and tribal gaming regulatory authorities
7 conducting suitability reviews pursuant to this section shall
8 cooperate in sharing as much background information as possible
9 in order to maximize investigative efficiency and thoroughness,
10 to minimize investigative costs, and to expedite the permitting
11 process.

12 (e) The commission and the tribes that have elected to conduct
13 suitability reviews pursuant to this section shall cooperate in
14 developing standard forms for tribal gaming employee work permit
15 applicants, on a statewide basis, that reduce or eliminate duplicative
16 or excessive paperwork, and that take into account the requirements
17 of this chapter and the expense of compliance with those
18 requirements.

19 19990.603. An applicant for an employee work permit is
20 disqualified if the applicant is described by any of the following:

21 (a) The applicant failed to clearly establish eligibility and
22 qualifications in accordance with this chapter.

23 (b) The applicant failed to timely provide information,
24 documentation, and assurances required by this chapter or requested
25 by any state official, or, with respect to a licensed applicant, failed
26 to reveal any fact material to qualification, or supplied information
27 that is untrue or misleading as to a material fact pertaining to the
28 suitability criteria.

29 (c) The applicant has been convicted of a felony, including a
30 conviction by a federal court or a court in another state or foreign
31 jurisdiction for a crime that would constitute a felony if committed
32 in California, except that a conviction of a felony involving the
33 hunting or fishing rights of a tribal member while on his or her
34 reservation shall not be included among the class of disqualifying
35 felonies.

36 (d) The applicant has been convicted of a misdemeanor in a
37 jurisdiction involving dishonesty or moral turpitude within the
38 10-year period immediately preceding the submission of the
39 application, unless the applicant has been granted relief pursuant
40 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

1 However, the granting of relief pursuant to Section 1203.4,
2 1203.4a, or 1203.45 of the Penal Code shall not constitute a
3 limitation on the discretion of the department or affect the
4 applicant's burden.

5 (e) The applicant has associated with criminal profiteering
6 activity or organized crime, as defined in Section 186.2 of the
7 Penal Code.

8 (f) The applicant has contemptuously defied a legislative
9 investigative body, or other official investigative body of a state
10 or of the United States or a foreign jurisdiction, when that body is
11 engaged in the investigation of crimes relating to poker, official
12 corruption related to poker activities, or criminal profiteering
13 activity or organized crime, as defined in Section 186.2 of the
14 Penal Code.

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

16 (h) The applicant has been convicted in a court of competent
17 jurisdiction of a felony consisting of either having accepted a bet
18 over the Internet in violation of United States or California law,
19 or having aided or abetted that unlawful activity.

20 19990.604. (a) If a licensed operator has any owners, officers,
21 or directors who are not employees, it shall ensure that each of
22 those persons obtains an employee work permit before having any
23 role or decisionmaking authority regarding the licensed operator's
24 gaming operations.

25 (b) If the licensed operator is a tribal enterprise controlled by
26 an independent board of directors, the officers, directors, and
27 employees of that tribal enterprise are subject to suitability review
28 pursuant to this section. This section does not require that an
29 officer, director, employee, or member of the tribe that owns the
30 tribal enterprise be subject to suitability review if that individual
31 is not also an officer, director, employee, or member of the tribal
32 enterprise or a person who controls the core functions of the tribal
33 enterprise.

34 19990.605. The commission, the department, and, if applicable,
35 the tribal gaming regulatory authority, shall establish application
36 processing fees to be paid by a licensee for the reasonable cost of
37 determinations of suitability for, and issuance of, employee work
38 permit applications. The commission shall establish processes for
39 the revocation or suspension of an employee work permit, and to
40 withdraw an application for an employee work permit.

1 19990.606. A licensed operator or service provider shall not
 2 enter into, without prior approval of the commission, a contract
 3 or agreement with either of the following:

4 (a) A person who is denied a gambling license or employee
 5 work permit pursuant to Chapter 5 (commencing with Section
 6 19800), or whose gambling license or employee work permit is
 7 suspended or revoked.

8 (b) Any business enterprise under the control of a person
 9 described in subdivision (a), after the date of receipt of notice of
 10 the action.

11 19990.607. (a) (1) A licensed operator or service provider
 12 shall not employ, without prior approval of the commission, a
 13 person in any capacity for which he or she is required to have an
 14 employee work permit, if the person has been denied a gambling
 15 license or an employee work permit pursuant to Chapter 5
 16 (commencing with Section 19800), or if his or her gambling license
 17 or employee work permit has been suspended or revoked after the
 18 date of receipt of notice of the action by the commission or tribal
 19 gaming regulatory authority.

20 (2) A licensed operator or service provider shall not enter into
 21 a contract or agreement with a person whose application for a
 22 gambling license or an employee work permit has been withdrawn
 23 with prejudice, or with a business enterprise under the control of
 24 that person, for the period of time during which the person is
 25 prohibited from filing a new application for a gambling license or
 26 an employee work permit.

27 (b) (1) If an employee who is required to hold an employee
 28 work permit pursuant to this chapter is denied an employee work
 29 permit, or has his or her employee work permit revoked, the
 30 employee shall be terminated immediately in all capacities. Upon
 31 notifying the licensee of the denial or revocation, the employee
 32 shall have no further involvement in the gambling operation.

33 (2) If an employee who is required to hold an employee work
 34 permit pursuant to this chapter has his or her employee work permit
 35 suspended, the employee shall be suspended in all capacities. Upon
 36 notifying the licensee of the suspension, the employee shall not
 37 be permitted to have any involvement in the gambling operation
 38 during the period of suspension.

39 (3) A licensed operator or service provider shall not designate
 40 another employee to replace the employee whose employment was

1 terminated or suspended, unless the other employee has an existing
2 work permit.

3 (c) A licensed operator or service provider shall not pay to a
4 person whose employment has been terminated or suspended as
5 described in subdivision (b) any remuneration for any service
6 performed in any capacity in which the person is required to hold
7 an employee work permit, except for amounts due for services
8 rendered before the date of receipt of the notice.

9 (d) Except as provided in subdivision (b), a contract or
10 agreement for the provision of services or property to a licensed
11 operator or service provider or for the conduct of any activity
12 pertaining to the operation of an authorized poker Web site, that
13 is to be performed by a person required by this chapter, or by
14 regulation, to hold an employee work permit, shall be terminated
15 upon a suspension or revocation of the person's employee work
16 permit.

17 (e) If a contract or agreement for the provision of services or
18 property to a licensed operator or service provider, or for the
19 conduct of any activity at an authorized poker Web site, is to be
20 performed by a person required by this chapter or by regulations
21 adopted pursuant to this chapter, to hold an employee work permit,
22 the contract or agreement shall be deemed to include a provision
23 for its termination without liability on the part of the licensed
24 operator or service provider upon a suspension or revocation of
25 the person's employee work permit. In any action brought by the
26 commission to terminate a contract or agreement pursuant to
27 subdivision (d) or this subdivision, it is not a defense that the
28 contract or agreement does not expressly include the provision
29 described in this subdivision, and the lack of express inclusion of
30 the provision in the contract or agreement is not a basis for
31 enforcement of the contract or agreement by a party to the contract
32 or agreement.

33

34 Article 7. Protection of Registered Players

35

36 19990.701. A licensed operator shall use its best efforts to
37 protect registered players. Subject to the approval of the
38 department, and consistent with uniform standards established by
39 the department by regulation, each licensed operator shall establish
40 administrative procedures to resolve registered player complaints.

1 19990.702. (a) If a registered player has a complaint against
 2 a licensed operator, the exclusive remedy shall be to register the
 3 complaint with the department.

4 (b) The department shall establish regulations with respect to
 5 registered player complaints.

6 (c) Under the regulations, the department shall do all of the
 7 following:

8 (1) Investigate registered player complaints to determine if a
 9 licensed operator has failed to meet its obligations to a registered
 10 player.

11 (2) Attempt to resolve complaints by registered players if a
 12 licensed operator fails to meet an obligation to a registered player.

13 (3) Initiate enforcement actions to require specific performance
 14 of any obligation that the department has determined a licensed
 15 operator has failed to fulfill with respect to a registered player.

16 (d) A licensed operator may appeal any action by the department
 17 pursuant to this article to the superior court, which shall review
 18 the appeal de novo.

19

20 Article 8. Financial Provisions for State Regulation and
 21 Unlawful Gambling Enforcement

22

23 19990.801. The Treasurer shall transfer all amounts received
 24 pursuant to subdivision (a) of Section 19990.402, subdivision (e)
 25 of Section 19990.403, subdivision (b) of Section 19990.404,
 26 subdivision (c) of Section 19990.519, and Section 19990.605 to
 27 the Controller for deposit in the Internet Poker Fund, which is
 28 created in the State Treasury, to be administered by the department.
 29 Notwithstanding Section 13340 of the Government Code, all
 30 moneys in the fund are continuously appropriated to the department
 31 and the commission, without regard to fiscal years, in the amounts
 32 necessary for the department and the commission to perform their
 33 duties under this chapter.

34 19990.802. (a) The Unlawful Gambling Enforcement Fund is
 35 hereby established within the General Fund for purposes of
 36 ensuring adequate resources for law enforcement charged with
 37 enforcing the prohibitions and protections of this chapter. The
 38 Unlawful Gambling Enforcement Fund shall be funded by
 39 depositing:

1 (1) ____ percent of the revenue from the civil penalties
2 recovered by law enforcement authorities pursuant to Section
3 19990.803 into the fund prior to the distribution required under
4 subdivision (c) of Section 19990.803.

5 (2) All amounts or property recovered pursuant to Section
6 19990.804.

7 (3) ____ percent of the duties paid by licensed operators
8 pursuant to subdivision (b) of Section 19990.519.

9 (4) The revenue from the civil penalties recovered pursuant to
10 subdivision (f) of Section 19990.501.

11 (b) Up to ____ million dollars (\$____) in the fund may be
12 expended annually by the Attorney General, upon appropriation
13 by the Legislature, for the purposes of this chapter.

14 19990.803. (a) Except as provided in subdivision (f) of Section
15 19990.501, a person who engages or conspires to engage in
16 activities prohibited by this chapter, or activities prohibited by
17 Section 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330d,
18 330.1, 330.4, or 331 of the Penal Code, is liable for a civil penalty
19 not to exceed ____ dollars (\$____) for each violation, in addition
20 to any other penalty or remedy that may be imposed by law, which
21 shall be assessed and recovered in a civil action brought in the
22 name of the people of the State of California by the Attorney
23 General, a district attorney, a county counsel authorized by
24 agreement with the district attorney in an action involving the
25 violation of a county ordinance, the city attorney of a city having
26 a population in excess of 750,000 persons, the city attorney of a
27 city and county, or, with the consent of the district attorney, the
28 city prosecutor in a city with a full-time city prosecutor, in a court
29 of competent jurisdiction.

30 (b) In determining the amount of the civil penalty described in
31 subdivision (a), the court shall consider any relevant circumstance
32 presented by a party to the case, including, but not limited to, any
33 of the following:

- 34 (1) The nature and seriousness of the misconduct.
- 35 (2) The number of violations.
- 36 (3) The persistence of the misconduct.
- 37 (4) The length of time over which the misconduct occurred.
- 38 (5) The willfulness of the defendant's misconduct.
- 39 (6) The defendant's assets, liabilities, and net worth.

1 (c) (1) Subject to paragraph (1) of subdivision (a) of Section
2 19990.802, civil penalties recovered by law enforcement authorities
3 pursuant to this section shall be allocated as follows:

4 (A) If the action is brought by the Attorney General, one-half
5 of the penalty collected shall be paid to the treasurer of the county
6 in which the judgment was entered for deposit into that county’s
7 general fund, and one-half to the Treasurer for deposit into the
8 Unlawful Gambling Enforcement Fund.

9 (B) If the action is brought by a district attorney or county
10 counsel, the penalty collected shall be paid to the treasurer of the
11 county in which the judgment was entered for deposit into that
12 county’s general fund.

13 (C) If the action is brought by a city attorney or city prosecutor,
14 one-half of the penalty collected shall be paid to the treasurer of
15 the city in which the judgment was entered for deposit into that
16 city’s general fund, and one-half to the treasurer of the county in
17 which judgment was entered for deposit into that county’s general
18 fund. If the action is brought by the city attorney of a city and
19 county, the entire amount of the penalty collected shall be paid to
20 the treasurer of the city and county in which the judgment was
21 entered.

22 (2) The revenue from all civil penalties allocated to the Unlawful
23 Gambling Enforcement Fund pursuant to subparagraph (A) of
24 paragraph (1), upon appropriation by the Legislature, shall be used
25 by the Attorney General exclusively to support the investigation
26 and enforcement of violations of California’s gambling laws,
27 including the implementation of judgments obtained from
28 prosecution and investigation of those violations and violations of
29 Sections 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330d,
30 330.1, 330.4, and 331 of the Penal Code, and other activities that
31 are in furtherance of this chapter.

32 (3) The revenue from all civil penalties allocated to the treasurer
33 of the county, city, or city and county in which the judgment was
34 entered pursuant to subparagraphs (A), (B), and (C) of paragraph
35 (1) shall be for the exclusive use of the district attorney, the county
36 counsel, the city attorney, or the city prosecutor, whichever is
37 applicable, for the enforcement of this chapter and existing laws
38 prohibiting illegal gambling activity.

39 19990.804. (a) Any money, other representative of value, or
40 real or personal property used in, or derived from, the play of a

1 game provided on the Internet that is not authorized by the state
2 pursuant to this chapter is subject to seizure by the department or
3 by a peace officer.

4 (b) Upon a finding by a court that the money, other
5 representative of value, or real or personal property was used in,
6 or derived from, the play of a game provided on the Internet that
7 is not authorized by the state pursuant to this chapter, that money
8 or property shall be forfeited to the Unlawful Gambling
9 Enforcement Fund established in Section 19990.802.

10

11 Article 9. Preemption of Local Regulation

12

13 19990.901. A city, county, or city and county shall not regulate,
14 tax, or enter into a contract with respect to any matter related to
15 this chapter. This section does not prohibit or limit the investigation
16 and prosecution of any violation of this chapter.

17

18 Article 10. Reports to the Legislature

19

20 19990.1001. Notwithstanding Section 10231.5 of the
21 Government Code, within one year of the operative date of this
22 chapter, and annually thereafter, the commission, in consultation
23 with the department, the Treasurer, and the Franchise Tax Board,
24 shall issue a report to the Legislature describing the state's efforts
25 to meet the policy goals articulated in this chapter. The report shall
26 be submitted in compliance with Section 9795 of the Government
27 Code.

28

29 19990.1002. (a) At least four years after the issue date of any
30 license pursuant to this chapter, but no later than five years after
31 that date, the Bureau of State Audits shall issue a report to the
32 Legislature detailing the implementation of this chapter.

32

33 (b) A report submitted pursuant to subdivision (a) shall be
34 submitted in compliance with Section 9795 of the Government
35 Code.

35

36 (c) This section shall remain in effect only until January 1, 2020,
37 and as of that date is repealed, unless a later enacted statute, that
is enacted before January 1, 2020, deletes or extends that date.

Article 11. Partial Severability

1 Article 11. Partial Severability
2
3 19990.1101. (a) Except as provided in subdivision (b), the
4 provisions of this chapter are severable. If any provision of this
5 chapter, other than those listed in subdivision (b), or its application,
6 is held invalid, that invalidity shall not affect other provisions or
7 applications that can be given effect without the invalid provision
8 or application.

9 (b) (1) The following provisions of this chapter are not
10 severable:

11 (A) Establishing poker as the only permissible Internet gambling
12 game.

13 (B) Prohibiting persons or entities who have been convicted in
14 a court of competent jurisdiction of a felony consisting of either
15 having accepted a bet over the Internet in violation of United States
16 or California law, or having aided or abetted that unlawful activity,
17 from being licensed under this chapter.

18 (C) Limiting the entities that are eligible for an operator license.

19 (2) If any of the provisions identified in paragraph (1), or
20 application of those provisions to any person or circumstances, is
21 held invalid, the entire chapter shall be invalid.

22 SEC. 2. The Legislature finds and declares that Chapter 5.2
23 (commencing with Section 19990.101) of Division 8 of the
24 Business and Professions Code, as added by Section 1 of this act,
25 imposes a limitation on the public’s right of access to the meetings
26 of public bodies or the writings of public officials and agencies
27 within the meaning of Section 3 of Article I of the California
28 Constitution. Pursuant to that constitutional provision, the
29 Legislature makes the following findings to demonstrate the interest
30 protected by this limitation and the need for protecting that interest:

31 The limitations on the people’s right of access set forth in this
32 chapter are necessary to protect the privacy and integrity of
33 information submitted by registered players as well as the
34 proprietary information of the license applicants and licensees.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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

8 In order to protect the interests of Californians who play online
9 gambling games and to ensure that people play fair games, that
10 the state realizes the revenues, and that suitable persons operate
11 authorized poker Web sites, it is necessary that this act take effect
12 immediately.

O