

AMENDED IN ASSEMBLY JUNE 9, 2016

AMENDED IN ASSEMBLY APRIL 20, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2863

Introduced by Assembly Members Gray and Jones-Sawyer

February 19, 2016

An act to add Section 19619.8 to, and to add and repeal Chapter 5.2 (commencing with Section 19990.101) of 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 2863, as amended, Gray. Gambling: Internet poker.

(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. Existing law, the Horse Racing Law, generally regulates horse racing and vests the administration and enforcement of its provisions in the California Horse Racing Board.

This bill, which would be known as the Internet Poker Consumer Protection Act of 2016, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply for a 7-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 7 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 2016 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 require an agreement between a licensed operator and a service provider that is a California-owned and operated horse racing association to ensure that at least 50% of the gross gaming revenue that the licensed operator derives from the service provided by the service provider is paid to the service provider. 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 *in the amount of \$12,500,000 for deposit* into the General Fund ~~in an unspecified amount. The license deposit would be credited against quarterly fees equivalent to an unspecified percentage of the licensee's gross gaming revenue proceeds, as specified.~~ *Fund. The bill would require each licensed operator to remit to the Treasurer on an annual basis for deposit in the General Fund a specified percentage of its gross gaming revenues pursuant to the applicable rate percent, as specified. The bill would require the commission to administer and collect this annual charge pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.* 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. The bill would require the first \$60,000,000 collected each fiscal year pursuant to the license deposit and quarterly fees provisions to be deposited into the California Horse Racing Internet Poker Account, which the bill would establish in the General Fund. ~~Upon becoming operative, the~~ *The bill would continuously appropriate 95% of the funds in the account to the California Horse Racing Board for distribution, as specified, and would transfer 5% of those funds to the Fair and Exposition Fund, a continuously appropriated fund.*

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 in connection with the use of an Internet access device. 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, and would repeal its provisions on January 1, 2024.

~~The bill would become operative when criteria are established by statute addressing involvement in Internet betting prior to the state's authorization of Internet poker pursuant to its provisions.~~

(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: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 19619.8 is added to the Business and
 2 Professions Code, to read:
 3 19619.8. The first sixty million dollars (\$60,000,000) collected
 4 each fiscal year pursuant to subdivisions (a) and (b) of Section
 5 19990.519 shall be deposited as follows:
 6 (a) Ninety-five percent in the California Horse Racing Internet
 7 Poker Account, which is hereby created in the General Fund.
 8 Notwithstanding Section 13340 of the Government Code, the funds
 9 in the California Horse Racing Internet Poker Account are
 10 continuously appropriated to the board, which shall annually

1 distribute the funds in the California Horse Racing Internet Poker
2 Account according to all of the following:

3 (1) One and three-twentieths percent to the defined contribution
4 retirement plan for California-licensed jockeys established pursuant
5 to paragraph (1) of subdivision (i) of Section 19604 and
6 administered as specified in this chapter.

7 (2) One and three-twentieths percent to provide health and
8 welfare benefits for California-licensed jockeys, former
9 California-licensed jockeys, and their dependents pursuant to
10 Section 19612.9.

11 (3) Two and three-tenths percent to supplement the pension
12 plan for ~~pari-mutuel~~ *parimutuel* employees administered on behalf
13 of the labor organization that has historically represented the
14 employees who accept or process any form of wagering at the
15 horse racing meetings and for other entities licensed to conduct
16 wagering on horse races in California. Moneys distributed pursuant
17 to this paragraph shall supplement, and not supplant, moneys
18 distributed to that fund pursuant to this chapter or any other law.

19 (4) Ninety-five and four-tenths percent to racing associations
20 or fairs as commissions, to horsemen participating in the racing
21 meeting in the form of purses, and as incentive awards, in the same
22 relative proportion as they were generated or earned at each racing
23 association or fair on races conducted or imported by that racing
24 association or fair during the prior calendar year. Notwithstanding
25 any other law, the distributions with respect to each breed of racing
26 may be altered upon the approval of the board, in accordance with
27 an agreement signed by the respective associations, fairs,
28 horsemen's organizations, and breeders organizations receiving
29 those distributions.

30 (b) Five percent to the State Treasury to the credit of the Fair
31 and Exposition Fund, to be deposited in the separate account in
32 the fund specified in Section 19606.1 to benefit state designated
33 fairs as defined in Sections 19418, 19418.1, 19418.2, and 19418.3.
34 Revenues deposited into the separate account in the fund pursuant
35 to this section, notwithstanding Section 19606.1 or any other law
36 to the contrary, shall be allocated only to fairs in Class I to IV+,
37 inclusive, as classified by the department pursuant to Section 4507
38 of the Food and Agricultural Code.

39 SEC. 2. Chapter 5.2 (commencing with Section 19990.101) is
40 added to Division 8 of the Business and Professions Code, to read:

1 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION
2 ACT OF 2016

3
4 Article 1. Title and Legislative Declarations
5

6 19990.101. This chapter shall be known and may be cited as
7 the Internet Poker Consumer Protection Act of 2016.

8 19990.102. The Legislature hereby finds and declares all of
9 the following:

10 (a) In October 2006, the United States Congress passed the
11 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)
12 (31 U.S.C. Secs. 5361 et seq.), which generally prohibits the use
13 of banking instruments, including credit cards, checks, and fund
14 transfers, for interstate Internet gambling.

15 (b) UIGEA essentially prohibits online gambling by United
16 States citizens, but includes exceptions that permit individual states
17 to create a regulatory framework to enable intrastate Internet
18 gambling, if the bets or wagers are made exclusively within a
19 single state under certain circumstances.

20 (c) *This chapter shall only authorize poker games to be played*
21 *via the Internet. No other game may be played via the Internet*
22 *pursuant to this chapter.*

23
24 Article 2. Definitions
25

26 19990.201. For the purposes of this chapter, the following
27 words have the following meanings:

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

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

35 (c) “Background investigation” means a process of reviewing
36 and compiling personal and criminal history and financial
37 information through inquiries of various law enforcement and
38 public sources to establish a person’s qualifications and suitability
39 for any necessary license or employee work permit issued pursuant
40 to this chapter.

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

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

4 (f) “Commission” means the California Gambling Control
5 Commission.

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

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

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

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

14 (h) “Corporate affiliate” means any person controlled by,
15 controlling, or under common ownership with, another person or
16 entity. A person or entity will be deemed to control another person
17 or entity if it possesses, directly or indirectly, the power to direct
18 the management or policies of the other entity, whether through
19 ownership of voting interests or otherwise, or if, regardless of
20 whether or not it has that power, it holds 10 percent or more of the
21 ownership or control of the other entity, whether as a stockholder,
22 partner, member, trust interest, or otherwise.

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

24 (j) “Determination of suitability” or “suitability review” means
25 the process, including, but not limited to, conducting a background
26 investigation, to determine whether an applicant for a license or
27 employee work permit issued pursuant to this chapter meets the
28 qualification criteria described in this chapter or whether the
29 applicant is disqualified on any of the grounds specified in this
30 chapter.

31 (k) (1) (A) “Eligible entity” includes both of the following:

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

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

1 (B) An entity identified in this paragraph shall have operated
2 its land-based gaming facility for at least ~~five~~ *three* years
3 immediately preceding its application to secure a license to operate
4 an Internet poker Web site pursuant to this chapter, and shall be
5 in good standing during that time period with the applicable federal,
6 state, and tribal regulatory authorities.

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

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

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

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

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

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

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

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

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

1 (r) (1) “Gross gaming revenues” means the total amount of
2 moneys paid by players to the operator to participate in authorized
3 games before deducting the cost of operating those activities except
4 for fees to marketing affiliates and payment processing fees.

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

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

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

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

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

21 (w) “Intrastate” means within the borders and jurisdiction of
22 California.

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

32 (y) “Land-based gaming facility” means a gambling
33 establishment, as defined in subdivision (o) of Section 19805, that
34 is operated pursuant to Chapter 5 (commencing with Section
35 19800), or a casino operated by a tribe 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 *department* for play in an authorized live poker room in California
3 pursuant to the Gambling Control Act (Chapter 5 (commencing
4 with Section 19800)) shall be eligible for qualification by the
5 ~~commission~~ *department* as the basis of an authorized Internet poker
6 gambling game, except that pai gow and any other game in which
7 persons other than authorized players to whom the cards in the
8 game have been dealt, and by whom they are held and played, are
9 permitted to bet on a game outcome or other game feature or may
10 in any way control or influence the play of the hand, shall not be
11 authorized, offered, or played in connection with an authorized
12 Internet poker game. Subject to this limitation, the rules governing
13 play in an authorized Internet poker game pursuant to this chapter
14 shall generally be the same as if the game were lawfully played in
15 a live poker room.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (D) Sells, licenses, or otherwise receives compensation for
39 selling or licensing, information on individuals in California who

1 made bets on games over the Internet that were not authorized
2 pursuant to this chapter.

3 (E) Provides any product, service, financing, or asset to a
4 licensed operator and is paid a percentage of gaming revenue by
5 the licensed operator, not including fees to financial institutions
6 and payment providers for facilitating a deposit by a customer.

7 (F) Provides intellectual property, including trademarks, trade
8 names, service marks, or similar intellectual property under which
9 a licensed operator identifies its games to its customers.

10 (G) Receives compensation as part of an affiliate marketing
11 program from bringing players or potential players to a licensed
12 operator's authorized poker Web site.

13 (2) "Service provider" does not include a provider of goods or
14 services that provides similar goods or services to the public for
15 purposes other than the operation of an authorized poker Web site,
16 including, but not limited to, payment processors and geolocation
17 service providers.

18 (as) "State" means the State of California.

19 (at) "Terms of Use Registered Player's Agreement" means the
20 agreement offered by a licensed operator and accepted by a
21 registered player delineating, among other things, permissible and
22 impermissible activities on an authorized poker Web site and the
23 consequences of engaging in impermissible activities.

24 (au) "Tournament" means a competition approved by the
25 ~~commission~~ *department* in which registered players play a series
26 of authorized Internet poker games to decide the winner.

27 (av) "Tournament charge" means the amount charged by the
28 licensed operator for registered players to play in a tournament.

29 (aw) "Tournament winnings" means the amount of any prize
30 awarded to a registered player in a tournament.

31 (ax) "Tribal gaming regulatory authority" means the gaming
32 regulatory authority of a federally recognized California Indian
33 tribe that has the authority to regulate gaming on the tribe's Indian
34 lands pursuant to IGRA.

35 (ay) "Tribe" means a federally recognized California Indian
36 tribe, including, but not limited to, the governing body of that tribe
37 or any entity that is wholly owned by the tribe.

38 (az) "Unlawful Gambling Enforcement Fund" means the fund
39 established pursuant to Section 19990.802, the revenue of which
40 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)~~
- 32 (B) Gaming system technical standards and practices.
- 33 ~~(D)~~
- 34 (C) Hardware and software standards and compliance.
- 35 ~~(E)~~
- 36 (D) License and work permit issuance and processes.
- 37 ~~(F)~~
- 38 (E) Suitability standards and determinations.
- 39 ~~(G)~~
- 40 (F) Temporary, provisional, and emergency approvals.

1 ~~(H)~~

2 (G) Effect of receiverships, bankruptcy, insolvency, inheritance,
3 and trusts affecting ownership of a licensee.

4 ~~(I)~~

5 (H) Appeals from adverse decisions.

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

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

9 (B) Authorized Internet poker game rules.

10 (C) Authorized Internet poker gaming activities.

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

12 (E) *In order to assist the department's enforcement of Section*
13 *19990.526, a procedure for the department to access any list of*
14 *customers or any database containing customer information that*
15 *was accrued or created by a licensed service provider prior to the*
16 *effective date of the regulations described in this subdivision.*

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

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

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

28 19990.402. (a) Authorized Internet poker games may be
29 offered only by entities licensed pursuant to this chapter. An
30 eligible entity seeking to offer authorized Internet poker games
31 shall apply to the department for a determination of suitability. If
32 the department determines the applicant is suitable to receive a
33 license, the applicant shall then apply to the commission for an
34 operator license. The applicant shall pay an application processing
35 fee sufficient to cover the reasonable costs associated with the
36 determination of suitability and the issuance of the license.

37 (b) Employees of the licensed operator shall undergo a suitability
38 review and obtain work permits pursuant to Article 6 (commencing
39 with Section 19990.601). Owners, officers, and directors of
40 licensed operators shall also undergo a suitability review and obtain

1 employee work permits pursuant to Article 6 (commencing with
2 Section 19990.601). The commission may refuse to issue a license
3 to an applicant, or suspend or revoke a license of a licensed
4 operator, that fails to comply with this requirement.

5 (c) In order to ensure that licensed operators are not mere
6 facades for unlicensed, unqualified, or undisclosed interests, an
7 applicant for an operator license pursuant to this chapter shall
8 provide documentation to the commission establishing that, if the
9 license is granted, the license applicant will be able, through its
10 own net position or through credit extended directly to the
11 applicant, and with full recourse to it, by a ~~federal~~ *federally* or
12 state chartered financial institution not involved with the core
13 functions of the authorized poker Web site, that is entirely secured
14 by an equivalent amount of its own net position, to pay the license
15 deposit required by subdivision (a) of Section 19990.519. In
16 addition, a licensed operator shall submit regular financial reports
17 to the department establishing that the operator meets financial
18 viability requirements, as determined by the commission. The
19 commission may terminate a license if the operator fails to submit
20 the required reports or meet the financial viability requirements.

21 (d) An applicant for an operator license pursuant to this chapter
22 that is a tribe shall include with its license application a limited
23 waiver of the applicant's sovereign immunity. This limited waiver
24 shall apply exclusively to the state, and no other party, solely for
25 the limited purpose of enforcing this chapter and any regulations
26 adopted pursuant to this chapter, and with regard to any claim,
27 sanction, or penalty arising therefrom against the licensed operator
28 by the state, and for no other purpose.

29 (e) The commission shall issue an operator license to an
30 applicant determined by the commission to qualify as an eligible
31 entity within 150 days of receiving an application, if the applicant
32 has already been subjected to a determination of suitability by the
33 department and has been approved by the department to apply to
34 the commission for licensure. All applicants shall undergo a
35 determination of suitability prior to applying for an eligibility
36 determination by the commission.

37 (f) The state may issue operator licenses only to eligible entities
38 identified within this chapter. Any of the eligible entities may
39 jointly apply for an operator license, either as a consortium or by

1 forming an entity comprised entirely of eligible entities. Each
2 eligible entity may have an interest in only a single operator license.
3 (g) An operator license denoting full licensure shall be issued
4 for a term of seven years. Subject to the power of the commission
5 to revoke, suspend, condition, or limit any license, as provided in
6 this chapter, a license shall be automatically renewed every seven
7 years thereafter upon application. Failure of a licensed operator to
8 file an application for renewal may be deemed a surrender of the
9 license.

10 (h) Each initial operator license issued pursuant to this section
11 shall take effect on the same date. That date shall be one year after
12 the effective date of the regulations described in Section 19990.401,
13 unless the commission determines that good cause exists for those
14 licenses to take effect in unison on a subsequent date. Each initial
15 operator license shall be a temporary license, and shall be issued
16 for a term of no longer than two years. The issuance of an initial
17 operator license does not guarantee full licensure.

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

26 19990.403. (a) A licensee's employees in direct contact with
27 registered players shall be physically present in the state.

28 (b) All primary servers, facilities, bank accounts, and accounting
29 records of the licensee related to authorized Internet poker shall
30 be located in the state, except for redundant servers and except as
31 may be permitted by the commission for a service provider, if the
32 service provider ensures access to and jurisdiction over the relevant
33 servers, facilities, bank accounts, and accounting records.

34 (c) Notwithstanding subdivisions (a) and (b), a licensee may
35 request, and the department may approve, the licensee's use of
36 personnel, servers, facilities, bank accounts, and accounting records
37 not physically present in the state when necessary to protect
38 registered players and state interests, for the purposes of diagnosing
39 and addressing technological problems, investigating fraud and

1 collusion, and developing and supervising software and
2 configuration changes.

3 (d) In addition to any other confidentiality protections afforded
4 to license applicants, the state and its agencies shall treat the
5 proprietary information of a license applicant as confidential to
6 protect the license applicant and to protect the security of any
7 prospective authorized poker Web site. This chapter does not
8 prohibit the exchange of confidential information among state
9 agencies considering a license application. The confidentiality
10 provisions of this chapter exempt proprietary information supplied
11 by a license applicant to a state agency from public disclosure
12 consistent with subdivision (b) of Section 6253 of the Government
13 Code.

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

19 19990.404. (a) An entity seeking to act as a service provider
20 shall apply to the department for a determination of suitability. If
21 the department determines the applicant is suitable to receive a
22 license, the applicant shall then apply to the commission for a
23 service provider license, and obtain a service provider license,
24 before providing goods or services to a licensed operator in
25 connection with the operation of an authorized poker Web site.
26 *The commission may impose limitations and conditions upon the*
27 *issuance of the service provider license or the utilization of the*
28 *applicant's assets acquired before the enactment of the act that*
29 *added this section, or both, with respect to its operations in the*
30 *state.*

31 (b) The department shall review the suitability of an applicant
32 for a service provider license. The applicant for a service provider
33 license shall pay an application processing fee sufficient to cover
34 the reasonable costs associated with the determination of suitability
35 and the issuance of the license.

36 (c) The department may establish a process to conduct a
37 preliminary determination of suitability based on a partial
38 investigation. A partial investigation is intended to screen out
39 applicants that do not meet the suitability requirements of this
40 chapter. A partial investigation shall include fingerprint-based

1 state and federal criminal history checks and clearances, and
2 inquiries into various public databases regarding credit history and
3 any civil litigation. A partial investigation shall also include a
4 review of the service provider's financial status, which shall include
5 the submission of a report prepared by a forensic accounting, audit,
6 or investigative firm approved by the department, in a format
7 developed by the department, and at the service provider's expense.
8 The report shall include the financial information necessary for
9 the department to make a preliminary determination of suitability.
10 The department may specify additional requirements regarding
11 the contents of the report and any other financial information or
12 documentation required to be submitted. A full investigation shall
13 be conducted of only those service providers that pass the partial
14 investigation and that will undergo a full investigation pursuant
15 to subdivision (d). Those service providers that are awarded a
16 preliminary determination of suitability based on a partial
17 investigation are not guaranteed full licensure. Those service
18 providers that do not pass the partial investigation may appeal the
19 decision to the commission.

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

- 23 (1) All officers of the license applicant.
24 (2) The owner or owners of either of the following:
25 (A) The license applicant.
26 (B) Any corporate affiliate of the license applicant.
27 (3) Any persons otherwise providing goods to, or performing
28 services for, the license applicant related to core functions.
29 (4) Any person deemed by the department to have significant
30 influence over the license applicant or its service providers or their
31 respective operations.

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

35 (e) A full investigation shall include a review and evaluation of
36 the service provider's qualifications and experience to provide the
37 services anticipated, which shall include the required submission
38 of a report prepared on each service provider by an outside firm
39 contracted and supervised by the department, in a format developed
40 by the department, and at the service provider's expense. The

1 report shall include information necessary for the department to
2 make a determination of suitability, as specified in regulations
3 adopted pursuant to this chapter, consisting of, but not limited to,
4 personal history, prior activities and associations, credit history,
5 civil litigation, *any indictments*, past and present financial affairs
6 and standing, and business activities, including whether the
7 applicant or an affiliate of the applicant has a financial interest in
8 any business or organization that is or was engaged in any form
9 of gaming or transactions related to gaming prohibited by the law
10 of the federal or state jurisdiction in which those activities took
11 place. *The department shall consult with officials of the United*
12 *States Department of Justice, other states, and international*
13 *jurisdiction where the applicant has sought to be or has been*
14 *licensed.* The department may specify additional requirements
15 regarding the contents of the report and other information or
16 documentation required to be submitted.

17 (f) (1) *Unless licensed or authorized pursuant to this chapter*
18 *or comparable federal or state law in the jurisdiction where the*
19 *bet or wager was made or the facilitation of the wager or financial*
20 *transaction occurred, there is a rebuttable presumption that an*
21 *applicant for a service provider license is unsuitable if either of*
22 *the following occurred:*

23 (A) *The applicant, or its corporate or marketing affiliate,*
24 *accepted a bet or wager on any form of Internet gambling, or*
25 *engaged in a transaction relating to those bets or wagers, from a*
26 *person located in the United States after December 31, 2011.*

27 (B) *A member of the board of directors or the ultimate parent*
28 *company of, the chief executive officer of, or a shareholder holding*
29 *more than 10 percent of the shares of, the applicant, or its*
30 *corporate or marketing affiliate, was directly involved in an*
31 *executive decisionmaking capacity in facilitating a wager or*
32 *financial transaction relating to Internet gambling in the United*
33 *States and that person remains affiliated with the applicant at the*
34 *time of the application.*

35 (2) *An applicant may rebut the presumption described in*
36 *paragraph (1) by proving to the department, by a preponderance*
37 *of the evidence, any of the following:*

38 (A) *The acceptance of the bet or wager, the engagement in the*
39 *transaction, or the facilitation of the wager or financial transaction*
40 *was not knowing or intentional.*

1 (B) *The bet or wager was accepted, or the transaction was*
2 *engaged in, notwithstanding reasonable efforts by the applicant,*
3 *or its corporate or marketing affiliate, to exclude bets or wagers*
4 *from the person.*

5 (C) *The acceptance of the bet or wager, the engagement in the*
6 *transaction, or the facilitation of the wager or financial transaction*
7 *occurred within a reasonable time period in order to cease those*
8 *activities in the United States.*

9 (D) *The person described in subparagraph (B) of paragraph*
10 *(1) is no longer affiliated with the applicant.*

11 (3) *This subdivision shall not limit the department's authority*
12 *to make a determination regarding suitability pursuant to Section*
13 *19990.405.*

14 (f)

15 (g) An institutional investor holding less than 10 percent of the
16 equity securities of a service provider's holding or intermediary
17 companies shall be granted a waiver of a determination of
18 suitability or other requirement if all of the following apply:

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

21 (2) Holdings of those securities were purchased for investment
22 purposes only.

23 (3) The institutional investor annually files a certified statement
24 with the department to the effect that it has no intention of
25 influencing or affecting the affairs of the issuer, the licensee, or
26 service provider, as applicable, or its holding or intermediary
27 companies.

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

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

33 (A) Include a statement that the institutional investor beneficially
34 owns the equity securities of the corporation for investment
35 purposes only, and in the ordinary course of business as an
36 institutional investor, and not for the purposes of causing, directly
37 or indirectly, the election of members of the board of directors, or
38 effecting a change in the corporate charter, bylaws, management,
39 policies, or operations of the corporation of any of its affiliates.

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

4 (C) State that the institutional investor and corporation shall
5 maintain gaming compliance policies and procedures to implement
6 and ensure compliance with this chapter and regulations adopted
7 pursuant to this chapter.

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

28 (7) If at any time the department finds that an institutional
29 investor holding a security of a licensee under this chapter has
30 failed to comply with the terms of this chapter, or if at any time
31 the department finds that, by reason of the extent or nature of its
32 holdings, whether of debt or equity securities, an institutional
33 investor is in a position to exercise such a substantial impact upon
34 the controlling interests of a licensee that investigation and
35 determination of suitability of the institutional investor are
36 necessary to protect the public interest, the department may take
37 any necessary action otherwise authorized by this chapter to protect
38 the public interest.

39 (8) For purposes of this subdivision, an "institutional investor"
40 includes all of the following:

- 1 (A) A retirement fund administered by a public agency for the
2 exclusive benefit of federal, state, or local public employees.
- 3 (B) An investment company registered under the federal
4 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).
- 5 (C) A collective investment trust organized by banks under Part
6 9 of the Rules of the Office of the Comptroller of the Currency
7 (12 C.F.R. Sec. 9.1 et seq.).
- 8 (D) A closed-end investment trust.
- 9 (E) A chartered or licensed life insurance company or property
10 and casualty insurance company.
- 11 (F) A federally or state-regulated bank, savings and loan, or
12 other federally or state-regulated lending institution.
- 13 (G) An investment adviser registered under the federal
14 Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.).
- 15 ~~(g)~~
- 16 (h) An agreement between a licensed operator and a service
17 provider that is a horse racing association operating pursuant to
18 Chapter 4 (commencing with Section 19400) shall ensure that at
19 least 50 percent of the gross gaming revenue that the licensed
20 operator derives from the service provided by the service provider
21 is paid to the service provider.
- 22 19990.405. (a) The department shall issue a finding that a
23 license applicant is suitable to obtain a license only if, based on
24 all of the information and documents submitted, the department
25 is satisfied that each of the persons subject to a determination of
26 suitability pursuant to this article is both of the following:
- 27 (1) A person of good character, honesty, and integrity, or, if an
28 entity, in good standing in its jurisdiction of organization and in
29 all other jurisdictions in which it is qualified, or should be qualified,
30 to do business.
- 31 (2) A person whose prior activities, criminal record, if any,
32 reputation, habits, and associations do not pose a threat to the
33 public interest of the state, or to the effective regulation and control
34 of authorized Internet poker games, or create or enhance the
35 dangers of unsuitable, unfair, or illegal practices, methods, and
36 activities in the conduct of authorized Internet poker games or in
37 the carrying on of the business and financial arrangements
38 incidental thereto.
- 39 (b) The department shall issue a finding that a license applicant
40 is not suitable to obtain a license if it finds that a person subject

1 to a determination of suitability pursuant to this article is described
2 by any of the following:

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

5 (2) The person failed to timely provide information,
6 documentation, and assurances required by this chapter or requested
7 by the department, or, with respect to a licensed applicant, failed
8 to reveal any fact material to qualification, or supplied information
9 that is untrue or misleading as to a material fact pertaining to the
10 suitability criteria.

11 (3) The person has been convicted of a felony, including a
12 conviction by a federal court or a court in another state or foreign
13 jurisdiction for a crime that would constitute a felony if committed
14 in California, except that a conviction of a felony involving the
15 hunting or fishing rights of a tribal member while on his or her
16 reservation shall not be included among the class of disqualifying
17 felonies.

18 (4) The person has been convicted of a misdemeanor in a
19 jurisdiction involving dishonesty or moral turpitude within the
20 10-year period immediately preceding the submission of the
21 application, unless the applicant has been granted relief pursuant
22 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.
23 However, the granting of relief pursuant to Section 1203.4,
24 1203.4a, or 1203.45 of the Penal Code shall not constitute a
25 limitation on the discretion of the department or affect the
26 applicant's burden.

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

29 (6) The person has contemptuously defied a legislative
30 investigative body, or other official investigative body of a state
31 or of the United States or a foreign jurisdiction, when that body is
32 engaged in the investigation of crimes relating to poker, official
33 corruption related to poker activities, or criminal profiteering
34 activity or organized crime, as defined in Section 186.2 of the
35 Penal Code.

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

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

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

3 ~~(C) The act that added this subparagraph shall not become~~
4 ~~operative until criteria are established by statute to address~~
5 ~~involvement in Internet betting prior to the state's authorization~~
6 ~~of Internet poker pursuant to this chapter.~~

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

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

10 (2) If denial of the application, or approval of the license with
11 restrictions or conditions on the license, is recommended, the
12 department shall prepare and file with the commission written
13 reasons upon which the recommendation is based. Prior to filing
14 its recommendation with the commission, the department shall
15 meet with the applicant, or the applicant's duly authorized
16 representative, and inform the applicant generally of the basis for
17 a proposed recommendation that the application be denied,
18 restricted, or conditioned.

19 (3) This section does not require the department to divulge to
20 the applicant confidential information received from a law
21 enforcement agency or information received from a person with
22 assurances that the information would be maintained confidential,
23 nor to divulge any information that might reveal the identity of an
24 informant or jeopardize the safety of a person.

25 (4) Denial of an application shall be without prejudice to a new
26 and different application filed in accordance with any regulations
27 adopted by the commission with respect to the submission of
28 applications.

29 (5) An applicant may withdraw its application for a license at
30 any time prior to final action on the application by the commission
31 by filing a written request with the commission to withdraw the
32 application, absent knowledge of a specific reason to suspect that
33 the person or entity may be found unsuitable.

34 19990.406. (a) This chapter does not restrict the authority of
35 a tribe that is a licensed operator or that owns a tribal enterprise
36 that is a licensed operator to conduct suitability reviews of its
37 service providers.

38 (b) This chapter also does not prohibit a tribal gaming regulatory
39 authority from providing the results of its suitability investigations

1 or determinations to the commission or department for its
2 consideration in issuance of licenses pursuant to this chapter.

3

4 Article 5. Requirements for the Operation of an Authorized
5 Poker Web Site
6

6

7 19990.501. (a) A licensed operator shall ensure that registered
8 players are eligible to play authorized Internet poker games and
9 implement appropriate data security standards to prevent access
10 by a person whose age and location have not been verified in
11 accordance with this chapter.

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

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

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

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

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

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

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

1 card provided by the person matches the address listed on his or
2 her government identification.

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

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

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

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

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

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

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

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

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

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

1 (2) The commission shall deliver the form to each licensed
2 operator.

3 (3) A licensed operator shall prominently display a link to the
4 department's Responsible Gambling Internet Web page and the
5 online self-exclusion form on the authorized poker Web site that
6 is displayed when either of the following occurs:

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

8 (B) Each time a registered player accesses the authorized poker
9 Web site prior to playing.

10 (4) A licensed operator shall retain the online self-exclusion
11 form to identify persons who want to be excluded from play. A
12 licensed operator shall exclude those persons from play.

13 (5) A licensed operator that has made commercially reasonable
14 efforts to comply with this subdivision shall not be held liable in
15 any way if a person who has filled out an online self-exclusion
16 form plays despite that person's request to be excluded.

17 19990.502. A licensed operator shall offer only authorized
18 Internet poker games and process bets in accordance with the
19 specified game and betting rules established by the licensed
20 operator and approved by the ~~commission~~ department pursuant to
21 Section 19990.503.

22 19990.503. (a) In order to propose a game for play, a licensed
23 operator shall provide the department with both of the following
24 via electronic means or via mail:

25 (1) Game rules and betting rules it proposes to offer to registered
26 players.

27 (2) Documentation from an independent gaming test laboratory
28 that is licensed or registered in any United States jurisdiction to
29 test, approve, and certify the game's software.

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

32 19990.504. (a) A licensed operator shall ensure that games
33 are fair.

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

37 (1) The name of the game.

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

39 (3) The rules of the game.

40 (4) All instructions on how to play.

- 1 (5) The unit and total bets permitted.
- 2 (6) Per hand charges assessed to registered players.
- 3 (7) The registered player's current account balance, which shall
- 4 be updated in real time.
- 5 (8) Any other information that a licensed operator or the
- 6 department determines is necessary for the registered player to
- 7 have in real time to compete fairly in the game.
- 8 (c) A licensed operator shall display a link on its authorized
- 9 poker Web site that includes the following information for each
- 10 tournament offered:
 - 11 (1) Tournament rules.
 - 12 (2) Tournament charge.
 - 13 (3) Games offered during the tournament.
 - 14 (4) Prize structure and number of registered players that will be
 - 15 paid.
 - 16 (5) Buy-in amount, re-buy amount, and add-on amount.
- 17 (d) Data used to create game results shall be unpredictable so
- 18 that it is infeasible to predict the next occurrence in a game.
- 19 (e) A licensed operator shall deploy controls and technology to
- 20 minimize fraud or cheating through collusion, including external
- 21 exchange of information between different players, or any other
- 22 means.
 - 23 (1) If a licensed operator becomes aware that fraud or cheating
 - 24 is taking place or has taken place, it shall take steps to stop those
 - 25 activities immediately and inform the department of all relevant
 - 26 facts.
 - 27 (2) The department shall not impose a fine against a licensed
 - 28 operator to prevent fraud or cheating if the licensed operator can
 - 29 demonstrate that it acted responsibly to prevent those activities as
 - 30 soon as the licensed operator became aware of them.
- 31 (f) In a per hand game, if the gaming server or software does
- 32 not allow a game to be completed, the game shall be void and all
- 33 funds relating to the incomplete game shall be returned to the
- 34 registered player's account.
- 35 (g) In a tournament, if the gaming server or software does not
- 36 allow the tournament to be completed, all prize money shall be
- 37 distributed among players in accordance with the procedure
- 38 approved by the department and published by the licensed operator
- 39 prior to the commencement of the tournament.

1 (h) A licensed operator shall display or allow the results from
2 any authorized Internet poker game, including the redemption of
3 winnings from any game, to be displayed or represented only by
4 showing the card faces of the winning hand and the dollar amount
5 won.

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

7 (1) Display or allow the outcome from any authorized Internet
8 poker game, including the redemption of winnings from any game,
9 to be displayed or represented in a manner that mimics a slot
10 machine or any other casino-style games, including, but not limited
11 to, blackjack, roulette, or craps.

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

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

17 19990.505. (a) A licensed operator shall register players and
18 establish registered player accounts prior to play.

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

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

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

27 (1) First name and surname.

28 (2) Principal residence address.

29 (3) Telephone number.

30 (4) Social security number.

31 (5) Identification or certification to prove that person is at least
32 21 years of age.

33 (6) Valid email address.

34 (e) A licensed operator shall provide registered players with the
35 means to update the registration information provided to the
36 licensed operator, and shall require that registered players keep
37 registration information current.

38 (f) This section does not prevent a licensed operator from
39 entering into a marketing agreement with a third party, who has
40 been determined to be suitable and licensed as a service provider,

1 to recruit people to become registered players if the registration
2 process described in this section is under the sole control of the
3 licensed operator.

4 19990.506. (a) A licensed operator shall provide a means for
5 registered players to put funds into a registered player account and
6 transfer funds out of that account.

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

10 (c) At the time of establishing a registered player account, a
11 registered player shall designate the bank account into which funds
12 from the registered player's authorized poker Web site account
13 are to be transferred.

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

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

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

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

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

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

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

33 (k) A licensed operator shall not commingle funds in the
34 segregated account containing funds paid by registered players
35 with any other funds held by the licensed operator, including, but
36 not limited to, operating funds of the licensed operator. Both the
37 accounts of the licensed operator and its segregated registered
38 player accounts shall be held in financial institutions located in
39 the state.

1 (l) Funds held in a registered player’s account shall be used only
2 for the following purposes:

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

6 (2) To transfer funds from one registered player’s account to
7 the account of another registered player to reconcile the result of
8 a loss in the play of an authorized Internet poker game.

9 (3) To transfer funds from a registered player’s account to a
10 temporary account to be held by a licensed operator pending the
11 outcome of an authorized Internet poker game.

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

14 (5) To transfer funds from a registered player’s account with
15 the licensed operator to an account specified by that registered
16 player upon that registered player’s request.

17 19990.507. Prior to completing the registration process, a
18 licensed operator shall explain in a conspicuous fashion to the
19 person who is registering the privacy policies of the authorized
20 poker Web site, and the person shall assent to the following
21 policies:

22 (a) Personally identifiable information shall not be shared with
23 any nongovernmental third parties, except as provided in Section
24 19990.512.

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

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

33 19990.508. A licensed operator may require that a registered
34 player, or a person registering as a player, agree to a Terms of Use
35 Registered Player’s Agreement.

36 19990.509. A licensed operator may suspend or revoke the
37 account of a registered player for any of the following reasons:

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

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

3 (c) The registered player has violated the authorized poker Web
4 site's Terms of Use Registered Player's Agreement.

5 (d) The person has already been registered.

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

9 (f) The licensed operator is directed by a state agency to suspend
10 or revoke the registered player's account.

11 19990.510. Upon registration, and each time a registered player
12 logs into an authorized poker Web site, the licensed operator shall
13 permit a registered player to adjust his or her play settings to:

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

15 (b) Set a limit on the aggregate losses in a registered player's
16 account within a specified period of time.

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

19 19990.511. A licensed operator shall offer customer support
20 that shall be available to registered players 24 hours per day, 365
21 days per year.

22 19990.512. (a) A licensed operator shall protect the privacy
23 of registered players and their personally identifiable information.

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

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

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

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

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

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

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

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

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

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

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

18 (f) Except as provided in subdivision (g), a licensed operator
19 shall not disclose personally identifiable information concerning
20 any registered player without the prior written or electronic consent
21 of the registered player and shall take actions necessary to prevent
22 unauthorized access to that information by a person other than the
23 registered player or licensed operator.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) The third party offers clear and convincing evidence that
26 the subject of the information is reasonably suspected of engaging
27 in criminal activity or otherwise relevant to a pending civil action
28 and that the information sought would be material evidence in the
29 case.

30 (2) The registered player about whom the information is
31 requested is afforded the opportunity to appear and contest the
32 third party's claim.

33 19990.513. A licensed operator shall establish a book of
34 accounts and regularly audit all of its financial records and reports,
35 which shall, at a minimum, include all of the following:

36 (a) Monthly auditable and aggregate financial statements of
37 gambling transactions.

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

39 (c) The identity of registered players.

1 (d) The balance on each registered player’s account at the start
2 of a session of play, the amount won or lost by each registered
3 player during a game, and the balance on the registered player’s
4 account.

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

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

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

10 19990.514. (a) A licensed operator shall make all financial
11 records established and maintained pursuant to Section 19990.513,
12 including, but not limited to, all books, records, documents,
13 financial information, and financial reports, available on an
14 electronic basis, as required by the commission, the department,
15 or other state agencies so that those state agencies can fulfill their
16 responsibilities under this chapter. A state agency may request
17 specific printed hard copies of records for good cause.

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

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

26 19990.515. A licensed operator shall do all of the following:

27 (a) Implement technical systems that materially aid the
28 commission in the protection of registered players. Software shall
29 meet, at a minimum, international industry standards as verified
30 by an independent gaming test laboratory that is licensed or
31 registered in any United States jurisdiction to test, approve, and
32 certify the software.

33 (b) Define and document its methodology for developing
34 software and applications and describe the manner in which
35 software protects registered players from fraud and other risks in
36 the play of authorized Internet poker games and in the management
37 of registered player accounts.

38 (c) Meet minimum game server connectivity requirements to
39 ensure that registered players are protected from losses due to
40 connectivity problems.

1 (d) Ensure that all transactions involving registered players’
2 funds are recoverable by the system in the event of a failure or
3 malfunction.

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

7 (f) Document and implement preventive and detective controls
8 addressing money laundering and fraud risks.

9 19990.516. (a) A licensed operator may charge registered
10 players to play in authorized Internet poker games.

11 (b) (1) A licensed operator may charge a per hand charge if the
12 per hand charge is designated and conspicuously posted on the
13 licensed operator’s authorized poker Web site.

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

16 (c) (1) A licensed operator may charge a tournament charge if
17 the tournament charge is designated and conspicuously posted on
18 the licensed operator’s authorized poker Web site.

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

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

23 19990.517. A licensed operator may do any of the following:

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

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

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

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

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

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

1 (g) Enter into contractual agreements with one or more licensed
 2 operators for the purpose of ensuring adequate player liquidity.
 3 19990.518. There are three categories of application fees,
 4 regulatory fees, and license deposits, as follows:

5 (a) Application Processing Fee. In order to cover the costs of
 6 suitability investigations and other costs of processing an
 7 application for a license or work permit, the applicant shall deposit
 8 the applicable application processing fee as provided in subdivision
 9 (a) of Section 19990.402, subdivision (e) of Section 19990.403,
 10 subdivision (b) of Section 19990.404, or Section 19990.605. Any
 11 balance of the application processing fee that remains after
 12 completion of the determination of suitability shall be refunded to
 13 the applicant. If additional moneys are needed to complete the
 14 determination of suitability of the license applicant, the applicant
 15 shall pay the funds necessary to complete the determination of
 16 suitability.

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

23 (c) Ongoing Regulatory Fees. Following issuance of a license
 24 and beginning of operations thereunder, the licensed operator shall
 25 pay the ongoing regulatory fees set forth in subdivision (c) of
 26 Section 19990.519.

27 19990.519. (a) In support of the application for a license
 28 pursuant to this chapter, prior to offering games or accepting bets
 29 on its authorized poker Web site, the licensed operator shall remit
 30 to the Treasurer a one-time license deposit in the amount of ~~_____~~
 31 ~~dollars (\$_____); twelve million five hundred thousand dollars~~
 32 ~~(\$12,500,000), to be deposited into the General Fund, subject to~~
 33 ~~Section 19619.8, and credited against charges imposed pursuant~~
 34 ~~to subdivision (b) on the licensed operator's gross gaming revenues.~~
 35 ~~Upon depletion of the license deposit, the department shall notify~~
 36 ~~the licensed operator to commence quarterly payments to the state~~
 37 ~~in accordance with subdivision (b): 19619.8.~~

38 (b) (1) In consideration of the substantial value of each license,
 39 a licensed operator shall remit to the Treasurer on a ~~quarterly an~~
 40 *annual* basis for deposit in the General Fund, subject to Section

1 19619.8, an amount equal to _____ percent of its gross gaming
2 revenues; a percentage of its gross gaming revenues pursuant to
3 the applicable rate percent described in paragraph (2).

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

6 (2) *The rate percent assessed per year on a licensed operator*
7 *pursuant to this subdivision shall be based upon the annual*
8 *cumulative total of gross gaming revenues for all licensed*
9 *operators during the calendar year as follows:*

10 (A) *If annual gross gaming revenues are less than or equal to*
11 *one hundred fifty million dollars (\$150,000,000), the rate percent*
12 *is 8.847 percent.*

13 (B) *If annual gross gaming revenues are more than one hundred*
14 *fifty million dollars (150,000,000) and less than or equal to two*
15 *hundred fifty million dollars (\$250,000,000), the rate percent is*
16 *10 percent.*

17 (C) *If annual gross gaming revenues are more than two hundred*
18 *fifty million dollars (\$250,000,000) and less than or equal to three*
19 *hundred fifty million dollars (\$350,000,000), the rate percent is*
20 *12.5 percent.*

21 (D) *If annual gross gaming revenues are more than three*
22 *hundred fifty million dollars (\$350,000,000), the rate percent is*
23 *15 percent.*

24 (3) (A) *By January 31 of each calendar year, the commission*
25 *shall, based on financial information submitted to it by licensed*
26 *operators, determine the applicable rate percent for the preceding*
27 *calendar year consistent with paragraph (2) and notify each*
28 *licensed operator of that rate percent.*

29 (B) *Each annual payment shall be due 30 days after the licensed*
30 *operator receives the notification from the commission described*
31 *in subparagraph (A).*

32 (4) *The commission shall administer and collect the duty*
33 *imposed by this subdivision pursuant to the Fee Collection*
34 *Procedures Law (Part 30 (commencing with Section 55001) of the*
35 *Revenue and Taxation Code). For purposes of this subdivision,*
36 *the references to “fee” in the Fee Collection Procedures Law shall*
37 *include the duty imposed by this subdivision, and, except when the*
38 *context provides otherwise, references to “feepayer” in that law*
39 *shall include a licensed operator required to pay the duty imposed*

1 *by this subdivision and references to the “board” in that law shall*
2 *refer instead to the commission.*

3 ~~(2)~~

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

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

13 19990.520. (a) The licensed operator shall facilitate the
14 collection of personal income taxes from registered players by the
15 Franchise Tax Board and shall be responsible for providing current
16 and accurate documentation on a timely basis to all state agencies,
17 as provided in this chapter.

18 (b) The state and its agencies shall treat the proprietary
19 information provided by a licensed operator as confidential to
20 protect the licensed operator and to protect the security of the
21 authorized poker Web site.

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

26 19990.521. (a) A licensee shall act expeditiously to cure any
27 violation of this chapter, or any regulation adopted pursuant to this
28 chapter, in the offer or administration of authorized Internet poker
29 games that interferes with its obligations to the state or registered
30 players under this chapter.

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

34 (c) If the department becomes aware of any violation of this
35 chapter, or if it becomes aware of any activities that might lead to
36 a violation, the department shall provide notice of that violation
37 to the licensee and a reasonable opportunity for the licensee to
38 cure the violation. If the violation is not timely cured, the
39 department shall investigate the violation further and may take
40 enforcement actions. If the commission becomes aware of any

1 violation of this chapter, the commission shall notify the
2 department of the violation immediately so that the department
3 may take appropriate action pursuant to this chapter.

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

10 (e) A licensee shall be afforded a reasonable time period to cure
11 any reported violation. During this time period, a licensee shall
12 not be subject to prosecution for the criminal penalty described in
13 Section 19990.303, or liable for the civil penalties described in
14 this article.

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

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

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

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

36 19990.522. (a) (1) A license issued pursuant to this chapter
37 is not transferable.

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

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

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

8 (b) The department shall investigate to ensure that any person
9 acquiring an interest in a licensee is suitable, and otherwise
10 financially, technically, and legally qualified to be a licensee
11 pursuant to this chapter. If an acquiring person is found to be
12 unsuitable to be a licensee, or otherwise not financially, technically,
13 or legally qualified to be a licensee, the licensed operator or the
14 acquiring person may challenge that determination.

15 19990.523. All facilities, software, including downloadable
16 programs, and any other property, both tangible and intangible,
17 used by the licensed operator in offering authorized Internet poker
18 games for play on an authorized poker Web site shall be the
19 property of the licensed operator or its licensed service providers,
20 and shall be subject to the review of the department and the
21 approval of the commission.

22 19990.524. If any dispute arises between the state and a
23 licensee, either the commission or a licensee may file an action in
24 the superior court of any county in which the commission has an
25 office for an interpretation of the rights and responsibilities of the
26 state and the licensee pursuant to this chapter.

27 19990.525. (a) (1) The department or commission may
28 contract with other public or private entities, including, but not
29 limited to, state, tribal, and international regulatory agencies, for
30 the provision of services related to a responsibility imposed on the
31 department or commission by this chapter if all of the following
32 are satisfied:

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

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

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

39 (2) In order to expedite the implementation of intrastate Internet
40 poker, a contract entered into pursuant to paragraph (1) is not

1 subject to the Public Contracts Code, or otherwise applicable
2 contracting provisions of the Government Code.

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

7 *19990.526. (a) Until January 1, 2019, a licensed service*
8 *provider shall not, for any purpose, use any list of customers or*
9 *database containing customer information that was accrued or*
10 *created prior to the effective date of the regulations described in*
11 *subdivision (a) of Section 19990.401.*

12 *(b) Pursuant to subdivision (b) of Section 19990.303, a violation*
13 *of subdivision (a) is a felony, punishable pursuant to subdivision*
14 *(h) of Section 1170 of the Penal Code.*

15

16 Article 6. Employee Work Permits

17

18 19990.601. (a) Except as provided in Section 19990.602, a
19 licensee shall submit an application and applicable fees to the
20 department and apply to the commission for an employee work
21 permit on behalf of each employee.

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

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

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

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

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

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

6 19990.602. (a) A tribe that is a licensed operator, or that owns
7 a tribal enterprise that is a licensed operator, may elect to
8 participate in the tribal gaming regulatory authority process
9 prescribed by this section for the issuance of employee work
10 permits. If the tribe does not elect to participate in the tribal gaming
11 regulatory authority process as provided in this section, then the
12 process specified in this section regarding submission and action
13 by the tribal gaming regulatory authority on the application for
14 employee work permit shall not apply, and the other provisions of
15 this chapter shall instead govern.

16 (b) The joint state and tribal processes required pursuant to this
17 section are intended to promote and involve joint cooperation
18 among the tribal gaming regulatory authority, the commission,
19 and the department.

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

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

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

38 (3) The tribal gaming regulatory authority shall conduct, or
39 cause to be conducted, all necessary determinations of suitability
40 reasonably required to determine that the applicant is qualified for

1 an employee work permit under the standards set forth in this
2 chapter for the issuance of the employee work permit.

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

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

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

31 (7) After receipt of the tribal gaming regulatory authority's
32 notice pursuant to paragraph (6), and upon completion of the
33 necessary determination of suitability, the commission shall issue
34 a notice to the tribal gaming regulatory authority stating its finding
35 that the applicant is suitable or is not suitable for the requested
36 permit. The commission may charge an additional application
37 processing fee pursuant to Section 19990.605 to cover the
38 reasonable costs of conducting its verification of suitability.

39 (A) If the commission notices a finding that the applicant is
40 suitable, the tribal gaming regulatory agency shall issue an

1 employee work permit to the applicant. The permit shall be
2 effective pursuant to this chapter as though issued by the
3 commission.

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

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

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

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

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

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

14 19990.603. An applicant for an employee work permit is
15 disqualified if the applicant is described by any of the following:

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

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

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

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

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

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

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

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

16 *(h) The applicant was a member of the board of directors or
17 the ultimate parent company of, the chief executive officer of, or
18 a shareholder holding more than 10 percent of the shares of, an
19 entity, or its corporate or marketing affiliate, and was directly
20 involved in an executive decision making capacity that led the
21 entity, or its affiliate, to facilitate a wager or financial transaction
22 relating to Internet gambling in the United States, unless any of
23 the following applies:*

24 *(1) The entity, or its affiliate, was licensed or authorized to
25 engage in the activity pursuant to this chapter or comparable
26 federal or state law in the jurisdiction where the facilitation of the
27 wager or financial transaction occurred.*

28 *(2) The facilitation of the wager or financial transaction was
29 not knowing or intentional.*

30 *(3) The facilitation of the wager or financial transaction
31 occurred within a reasonable time period in order to cease those
32 activities in the United States.*

33 19990.604. (a) If a licensed operator has any owners, officers,
34 or directors who are not employees, it shall ensure that each of
35 those persons obtains an employee work permit before having any
36 role or decisionmaking authority regarding the licensed operator's
37 gaming operations.

38 (b) If the licensed operator is a tribal enterprise controlled by
39 an independent board of directors, the officers, directors, and
40 employees of that tribal enterprise are subject to suitability review

1 pursuant to this section. This section does not require that an
2 officer, director, employee, or member of the tribe that owns the
3 tribal enterprise be subject to suitability review if that individual
4 is not also an officer, director, employee, or member of the tribal
5 enterprise or a person who controls the core functions of the tribal
6 enterprise.

7 19990.605. The commission, the department, and, if applicable,
8 the tribal gaming regulatory authority, shall establish application
9 processing fees to be paid by a licensee for the reasonable cost of
10 determinations of suitability for, and issuance of, employee work
11 permit applications. The commission shall establish processes for
12 the revocation or suspension of an employee work permit, and to
13 withdraw an application for an employee work permit.

14 19990.606. A licensed operator or service provider shall not
15 enter into, without prior approval of the commission, a contract
16 or agreement with either of the following:

17 (a) A person who is denied a gambling license or employee
18 work permit pursuant to Chapter 5 (commencing with Section
19 19800), or whose gambling license or employee work permit is
20 suspended or revoked.

21 (b) Any business enterprise under the control of a person
22 described in subdivision (a), after the date of receipt of notice of
23 the action.

24 19990.607. (a) (1) A licensed operator or service provider
25 shall not employ, without prior approval of the commission, a
26 person in any capacity for which he or she is required to have an
27 employee work permit, if the person has been denied a gambling
28 license or an employee work permit pursuant to Chapter 5
29 (commencing with Section 19800), or if his or her gambling license
30 or employee work permit has been suspended or revoked after the
31 date of receipt of notice of the action by the commission or tribal
32 gaming regulatory authority.

33 (2) A licensed operator or service provider shall not enter into
34 a contract or agreement with a person whose application for a
35 gambling license or an employee work permit has been withdrawn
36 with prejudice, or with a business enterprise under the control of
37 that person, for the period of time during which the person is
38 prohibited from filing a new application for a gambling license or
39 an employee work permit.

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

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

13 (3) A licensed operator or service provider shall not designate
14 another employee to replace the employee whose employment was
15 terminated or suspended, unless the other employee has an existing
16 work permit.

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

23 (d) Except as provided in subdivision (b), a contract or
24 agreement for the provision of services or property to a licensed
25 operator or service provider or for the conduct of any activity
26 pertaining to the operation of an authorized poker Web site, that
27 is to be performed by a person required by this chapter, or by
28 regulation, to hold an employee work permit, shall be terminated
29 upon a suspension or revocation of the person's employee work
30 permit.

31 (e) If a contract or agreement for the provision of services or
32 property to a licensed operator or service provider, or for the
33 conduct of any activity at an authorized poker Web site, is to be
34 performed by a person required by this chapter or by regulations
35 adopted pursuant to this chapter, to hold an employee work permit,
36 the contract or agreement shall be deemed to include a provision
37 for its termination without liability on the part of the licensed
38 operator or service provider upon a suspension or revocation of
39 the person's employee work permit. In any action brought by the
40 commission to terminate a contract or agreement pursuant to

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

7
8 Article 7. Protection of Registered Players
9

10 19990.701. A licensed operator shall use its best efforts to
11 protect registered players. Subject to the approval of the
12 department, and consistent with uniform standards established by
13 the department by regulation, each licensed operator shall establish
14 administrative procedures to resolve registered player complaints.

15 19990.702. (a) If a registered player has a complaint against
16 a licensed operator, the exclusive remedy shall be to register the
17 complaint with the department.

18 (b) The department shall establish regulations with respect to
19 registered player *disputes and* complaints.

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

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

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

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

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

33
34 Article 8. Financial Provisions for State Regulation and
35 Unlawful Gambling Enforcement
36

37 19990.801. The Treasurer shall transfer all amounts received
38 pursuant to subdivision (a) of Section 19990.402, subdivision (e)
39 of Section 19990.403, subdivision (b) of Section 19990.404,
40 subdivision (c) of Section 19990.519, and Section 19990.605 to

1 the Controller for deposit in the Internet Poker Fund, which is
2 created in the State Treasury, to be administered by the department.
3 Notwithstanding Section 13340 of the Government Code, all
4 moneys in the fund are continuously appropriated to the department
5 and the commission, without regard to fiscal years, in the amounts
6 necessary for the department and the commission to perform their
7 duties under this chapter.

8 19990.802. (a) The Unlawful Gambling Enforcement Fund is
9 hereby established within the General Fund for purposes of
10 ensuring adequate resources for law enforcement charged with
11 enforcing the prohibitions and protections of this chapter. The
12 Unlawful Gambling Enforcement Fund shall be funded by
13 depositing:

14 (1) ____ percent of the revenue from the civil penalties
15 recovered by law enforcement authorities pursuant to Section
16 19990.803 into the fund prior to the distribution required under
17 subdivision (c) of Section 19990.803.

18 (2) All amounts or property recovered pursuant to Section
19 19990.804.

20 (3) ____ percent of the duties paid by licensed operators
21 pursuant to subdivision (b) of Section 19990.519, after any
22 distribution required by Section 19619.8.

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

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

28 19990.803. (a) Except as provided in subdivision (f) of Section
29 19990.501, a person who engages or conspires to engage in
30 activities prohibited by this chapter, or in connection with the use
31 of an Internet access device, activities prohibited by Section 321,
32 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, or 331
33 of the Penal Code, is liable for a civil penalty not to exceed ____
34 dollars (\$____) for each violation, in addition to any other penalty
35 or remedy that may be imposed by law, which shall be assessed
36 and recovered in a civil action brought in the name of the people
37 of the State of California by the Attorney General, a district
38 attorney, a county counsel authorized by agreement with the district
39 attorney in an action involving the violation of a county ordinance,
40 the city attorney of a city having a population in excess of 750,000

1 persons, the city attorney of a city and county, or, with the consent
2 of the district attorney, the city prosecutor in a city with a full-time
3 city prosecutor, in a court of competent jurisdiction.

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

8 (1) The nature and seriousness of the misconduct.

9 (2) The number of violations.

10 (3) The persistence of the misconduct.

11 (4) The length of time over which the misconduct occurred.

12 (5) The willfulness of the defendant's misconduct.

13 (6) The defendant's assets, liabilities, and net worth.

14 (c) (1) Subject to paragraph (1) of subdivision (a) of Section
15 19990.802, civil penalties recovered by law enforcement authorities
16 pursuant to this section shall be allocated as follows:

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

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

26 (C) If the action is brought by a city attorney or city prosecutor,
27 one-half of the penalty collected shall be paid to the treasurer of
28 the city in which the judgment was entered for deposit into that
29 city's general fund, and one-half to the treasurer of the county in
30 which judgment was entered for deposit into that county's general
31 fund. If the action is brought by the city attorney of a city and
32 county, the entire amount of the penalty collected shall be paid to
33 the treasurer of the city and county in which the judgment was
34 entered.

35 (2) The revenue from all civil penalties allocated to the Unlawful
36 Gambling Enforcement Fund pursuant to subparagraph (A) of
37 paragraph (1), upon appropriation by the Legislature, shall be used
38 by the Attorney General exclusively to support the investigation
39 and enforcement of violations of California's gambling laws,
40 including the implementation of judgments obtained from

1 prosecution and investigation of those violations and violations
2 of, in connection with the use of an Internet access device, Sections
3 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, and
4 331 of the Penal Code, and other activities that are in furtherance
5 of this chapter.

6 (3) The revenue from all civil penalties allocated to the treasurer
7 of the county, city, or city and county in which the judgment was
8 entered pursuant to subparagraphs (A), (B), and (C) of paragraph
9 (1) shall be for the exclusive use of the district attorney, the county
10 counsel, the city attorney, or the city prosecutor, whichever is
11 applicable, for the enforcement of this chapter and existing laws
12 prohibiting illegal gambling activity.

13 19990.804. (a) Any money, other representative of value, or
14 real or personal property used in, or derived from, the play of a
15 game provided on the Internet that is not authorized by the state
16 pursuant to this chapter is subject to seizure by the department or
17 by a peace officer.

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

24
25 Article 9. Preemption of Local Regulation

26
27 19990.901. A city, county, or city and county shall not regulate,
28 tax, or enter into a contract with respect to any matter related to
29 this chapter. This section does not prohibit or limit the investigation
30 and prosecution of any violation of this chapter.

31
32 Article 10. Reports to the Legislature

33
34 19990.1001. Notwithstanding Section 10231.5 of the
35 Government Code, within one year of the operative date of this
36 chapter, and annually thereafter, the commission, in consultation
37 with the department, the Treasurer, and the Franchise Tax Board,
38 shall issue a report to the Legislature describing the state’s efforts
39 to meet the policy goals articulated in this chapter. The report shall

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

3 19990.1002. (a) At least four years after the issue date of any
4 license pursuant to this chapter, but no later than five years after
5 that date, the Bureau of State Audits shall issue a report to the
6 Legislature detailing the implementation of this chapter.

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

10

11 Article 11. Partial Severability and Repeal of Chapter

12

13 19990.1101. (a) Except as provided in subdivision (b), the
14 provisions of this chapter are severable. If any provision of this
15 chapter, other than those listed in subdivision (b), or its application,
16 is held invalid, that invalidity shall not affect other provisions or
17 applications that can be given effect without the invalid provision
18 or application.

19 (b) (1) The following provisions of this chapter are not
20 severable:

21 (A) Establishing poker as the only permissible Internet gambling
22 game.

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

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

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

32 19990.1102. This chapter shall remain in effect only until
33 January 1, 2024, and as of that date is repealed, unless a later
34 enacted statute, that is enacted before January 1, 2024, deletes or
35 extends that date.

36 SEC. 3. The Legislature finds and declares that Chapter 5.2
37 (commencing with Section 19990.101) of Division 8 of the
38 Business and Professions Code, as added by Section 1 of this act,
39 imposes a limitation on the public's right of access to the meetings
40 of public bodies or the writings of public officials and agencies

1 within the meaning of Section 3 of Article I of the California
2 Constitution. Pursuant to that constitutional provision, the
3 Legislature makes the following findings to demonstrate the interest
4 protected by this limitation and the need for protecting that interest:

5 The limitations on the people’s right of access set forth in this
6 act are necessary to protect the privacy and integrity of information
7 submitted by registered players as well as the proprietary
8 information of the license applicants and licensees.

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

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

22 In order to protect the interests of Californians who play online
23 gambling games and to ensure that people play fair games, that
24 the state realizes the revenues, and that suitable persons operate
25 authorized poker Web sites, it is necessary that this act take effect
26 immediately.