

AMENDED IN ASSEMBLY JUNE 27, 2016

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 prohibit the commission from granting an applicant a service provider license until January 1, 2021, if the applicant accepted a bet or wager of any form on Internet gambling, as specified, between December 31, 2006, and December 31, 2011, from a person located in the United States and without a license or authority pursuant to comparable federal or state law in the jurisdiction where the bet or wager was made or the facilitation of the wager or financial transaction occurred. The bill, notwithstanding that provision, would authorize an applicant for a service provider license who meets the description above to obtain a*

service provider license before January 1, 2021, if the applicant pays a one-time fee in the amount of \$20,000,000, to be deposited into the General Fund, and otherwise meets the qualifications and suitability criteria under these provisions. 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. 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. *One-half of the one-time license deposit would be credited against the annual charge on gross gaming revenues.* 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 up to \$57,000,000 of the moneys~~ collected each fiscal year pursuant to the license deposit and ~~quarterly~~ *annual* fees provisions to be deposited into the California Horse Racing Internet Poker Account, which the bill would establish in the General Fund. 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~~ *specified.* The bill would require up to \$3,000,000 of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be transferred to the State

Treasury to the credit of the Fair and Exposition Fund, a continuously appropriated fund, to the benefit of state designated fairs, as specified.

This bill would establish the Unlawful Gambling Enforcement Fund within the General Fund for purposes of ensuring adequate resources for law enforcement charged with enforcing the prohibitions and protections of the provisions described above. The bill would authorize the Attorney General, and other public prosecutors, as specified, to bring a civil action to recover a civil penalty in an unspecified amount against a person who engages in those prohibited activities described above, or other specified unlawful gambling activities 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,~~ *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.

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

This bill would make legislative findings to that effect.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. 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) moneys~~
4 collected each fiscal year pursuant to subdivisions (a) and (b) of
5 Section 19990.519 shall be deposited as follows:
6 (a) ~~Ninety-five percent~~ *Eighty-five percent, in an amount not*
7 *to exceed fifty-seven million dollars (\$57,000,000), in the California*
8 *Horse Racing Internet Poker Account, which is hereby created in*
9 *the General Fund. Notwithstanding Section 13340 of the*
10 *Government Code, the funds in the California Horse Racing*
11 *Internet Poker Account are continuously appropriated to the board,*
12 *which shall annually distribute the funds in the California Horse*
13 *Racing Internet Poker Account according to all of the following:*
14 (1) One and three-twentieths percent to the defined contribution
15 retirement plan for California-licensed jockeys established pursuant
16 to paragraph (1) of subdivision (i) of Section 19604 and
17 administered as specified in this chapter.
18 (2) One and three-twentieths percent to provide health and
19 welfare benefits for California-licensed jockeys, former
20 California-licensed jockeys, and their dependents pursuant to
21 Section 19612.9.
22 (3) Two and three-tenths percent to supplement the pension
23 plan for parimutuel employees administered on behalf of the labor
24 organization that has historically represented the employees who
25 accept or process any form of wagering at the horse racing meetings
26 and for other entities licensed to conduct wagering on horse races
27 in California. Moneys distributed pursuant to this paragraph shall
28 supplement, and not supplant, moneys distributed to that fund
29 pursuant to this chapter or any other law.
30 (4) Ninety-five and four-tenths percent to racing associations
31 or fairs as commissions, to horsemen participating in the racing
32 meeting in the form of purses, and as incentive awards, in the same
33 relative proportion as they were generated or earned at each racing
34 association or fair on races conducted or imported by that racing
35 association or fair during the prior calendar year. Notwithstanding

1 any other law, the distributions with respect to each breed of racing
2 may be altered upon the approval of the board, in accordance with
3 an agreement signed by the respective associations, fairs,
4 horsemen’s organizations, and breeders organizations receiving
5 those distributions.

6 (b) ~~Five percent~~ *percent, in an amount not to exceed three*
7 *million dollars (\$3,000,000)*, to the State Treasury to the credit of
8 the Fair and Exposition Fund, to be deposited in the separate
9 account in the fund specified in Section 19606.1 to benefit state
10 designated fairs as defined in Sections 19418, 19418.1, 19418.2,
11 and 19418.3. Revenues deposited into the separate account in the
12 fund pursuant to this section, notwithstanding Section 19606.1 or
13 any other law to the contrary, shall be allocated only to fairs in
14 Class I to IV+, inclusive, as classified by the department pursuant
15 to Section 4507 of the Food and Agricultural Code.

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

18
19 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION
20 ACT OF 2016

21
22 Article 1. Title and Legislative Declarations

23
24 19990.101. This chapter shall be known and may be cited as
25 the Internet Poker Consumer Protection Act of 2016.

26 19990.102. The Legislature hereby finds and declares all of
27 the following:

28 (a) In October 2006, the United States Congress passed the
29 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)
30 (31 U.S.C. Secs. 5361 et seq.), which generally prohibits the use
31 of banking instruments, including credit cards, checks, and fund
32 transfers, for interstate Internet gambling.

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

38 (c) This chapter shall only authorize poker games to be played
39 via the Internet. No other game may be played via the Internet
40 pursuant to this chapter.

Article 2. Definitions

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- 19990.201. For the purposes of this chapter, the following words have the following meanings:
- (a) “Authorized Internet poker game” means any of several card games, duly authorized by the department and played on an authorized poker Web site, that meet the definition of poker as specified by this section.
 - (b) “Authorized poker Web site” means a Web site on which authorized Internet poker games are offered for play by a licensed operator pursuant to this chapter.
 - (c) “Background investigation” means a process of reviewing and compiling personal and criminal history and financial information through inquiries of various law enforcement and public sources to establish a person’s qualifications and suitability for any necessary license or employee work permit issued pursuant to this chapter.
 - (d) “Bet” means the placement of a wager in a game.
 - (e) “Card room” means a gambling enterprise, as defined in subdivision (m) of Section 19805.
 - (f) “Commission” means the California Gambling Control Commission.
 - (g) “Core functions” and “core functioning” mean any of the following:
 - (1) The management, administration, or control of bets on authorized Internet poker games.
 - (2) The management, administration, or control of the games with which those bets are associated.
 - (3) The development, maintenance, provision, or operation of a gaming system.
 - (h) “Corporate affiliate” means any person controlled by, controlling, or under common ownership with, another person or entity. A person or entity will be deemed to control another person or entity if it possesses, directly or indirectly, the power to direct the management or policies of the other entity, whether through ownership of voting interests or otherwise, or if, regardless of whether or not it has that power, it holds 10 percent or more of the ownership or control of the other entity, whether as a stockholder, partner, member, trust interest, or otherwise.
 - (i) “Department” means the Department of Justice.

1 (j) “Determination of suitability” or “suitability review” means
2 the process, including, but not limited to, conducting a background
3 investigation, to determine whether an applicant for a license or
4 employee work permit issued pursuant to this chapter meets the
5 qualification criteria described in this chapter or whether the
6 applicant is disqualified on any of the grounds specified in this
7 chapter.

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

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

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

18 (B) An entity identified in this paragraph shall have operated
19 its land-based gaming facility for at least three years immediately
20 preceding its application to secure a license to operate an Internet
21 poker Web site pursuant to this chapter, and shall be in good
22 standing during that time period with the applicable federal, state,
23 and tribal regulatory authorities.

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

29 (3) Subject to any applicable limited waiver of sovereign
30 immunity as set forth in subdivision (d) of Section 19990.402, this
31 chapter does not restrict a tribal licensee from participating as an
32 instrumentality of a tribal government or a political subdivision
33 of a tribe, or from forming a separate business entity organized
34 under federal, state, or tribal law.

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

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

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

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

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

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

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

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

23 (2) “Gross gaming revenues” do not include player account
24 deposits or amounts bet, except to the extent any portion of those
25 bets are retained as fees by the operator, discounts on goods or
26 services, rebates or promotional discounts or stakes provided to
27 players, or revenues from nongaming sources, such as from food,
28 beverages, souvenirs, advertising, clothing, and other nongaming
29 sources.

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

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

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

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

39 (w) “Intrastate” means within the borders and jurisdiction of
40 California.

1 (x) “Key employee” means any natural person employed by a
2 licensed operator, service provider, or marketing affiliate, or by a
3 holding or intermediary company of a licensed operator, service
4 provider, or marketing affiliate, who is an officer or director of
5 the licensed operator or service provider, or who, in the judgment
6 of the commission, has the authority to exercise significant
7 influence over decisions concerning the operation of the licensed
8 operator or service provider as that operation relates to the Internet
9 poker authorized by this chapter.

10 (y) “Land-based gaming facility” means a gambling
11 establishment, as defined in subdivision (o) of Section 19805, that
12 is operated pursuant to Chapter 5 (commencing with Section
13 19800), or a casino operated by a tribe on Indian land in California.

14 (z) “Licensed operator” means an eligible entity licensed
15 pursuant to this chapter to offer the play of authorized Internet
16 poker games to registered players on an authorized poker Web
17 site.

18 (aa) “Licensed service provider” means a person licensed
19 pursuant to this chapter to provide goods or services to a licensed
20 operator for use in the operation of an authorized poker Web site.

21 (ab) “Licensee” means a licensed operator or licensed service
22 provider.

23 (ac) “Net position” means the residual difference between assets
24 and liabilities, as defined by generally accepted accounting
25 principles.

26 (ad) “Online self-exclusion form” means a form on which an
27 individual notifies a licensed operator that he or she must be
28 excluded from participation in authorized Internet poker games
29 for a stated period of time.

30 (ae) “Owner” means any person that is eligible to own a
31 land-based gaming facility in California and that has a financial
32 interest in, or control of, a person or entity required to be found
33 suitable under this chapter, including shareholders, partners, and
34 members of limited liability companies holding more than 10
35 percent of the equity or voting control of the person or entity and
36 any person found by the commission to be exerting management
37 or control of the person or entity in fact. An owner of a licensed
38 operator shall include only those persons eligible to own a
39 land-based gaming facility in California. “Owner” does not include
40 the members or government officials of a tribe.

1 (af) “Per hand charge” means the amount charged by the
2 licensed operator for registered players to play in a per hand game.

3 (ag) “Per hand game” means an authorized Internet poker game
4 for which the licensed operator charges the player for each hand
5 played.

6 (ah) “Person” means an individual, corporation, business trust,
7 estate, trust, partnership, limited liability company, association,
8 joint venture, government, governmental subdivision, agency, or
9 instrumentality, public corporation, or any other legal or
10 commercial entity, including any federally recognized California
11 Indian tribe, or an entity that is wholly owned by the tribe.

12 (ai) “Play-for-fun game” means a version of a lawfully played
13 gambling game in which there is no requirement to pay to play or
14 any possibility of winning any prize or other consideration of value,
15 including, but not limited to, games offered only for purposes of
16 training, education, marketing, or amusement.

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

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

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

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

31 (B) The object of the game is to hold or draw to a hand
32 containing a predetermined number of cards that, when all cards
33 to be dealt in the round have been distributed and the betting is
34 completed, meets or exceeds the value of the hands held by the
35 other players. The pot of bets made is awarded to the player or
36 players holding the combination of cards that qualify as the winning
37 combination under the rules of play. Values may be assigned to
38 cards or combinations of cards in various ways, including in
39 accordance with their face value, the combinations of cards held,

1 such as cards of a similar suit or face value, the order of the cards
2 that are held, or other values announced before the round.

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

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

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

18 (F) A poker game that has been approved by the department for
19 play in an authorized live poker room in California pursuant to the
20 Gambling Control Act (Chapter 5 (commencing with Section
21 19800)) shall be eligible for qualification by the department as the
22 basis of an authorized Internet poker gambling game, except that
23 pai gow and any other game in which persons other than authorized
24 players to whom the cards in the game have been dealt, and by
25 whom they are held and played, are permitted to bet on a game
26 outcome or other game feature or may in any way control or
27 influence the play of the hand, shall not be authorized, offered, or
28 played in connection with an authorized Internet poker game.
29 Subject to this limitation, the rules governing play in an authorized
30 Internet poker game pursuant to this chapter shall generally be the
31 same as if the game were lawfully played in a live poker room.

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

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

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

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

6 (B) Success over time may be influenced by the skill of the
7 player.

8 (C) The bets of one player may affect the decisions of another
9 player in the game, and the decisions of one player may affect the
10 success or failure of another.

11 (3) The term “poker” includes poker tournaments in which
12 players pay a fee to the operator of the tournament under
13 tournament rules approved by the applicable gaming regulatory
14 agency.

15 (am) “Proprietary information” means all information, including,
16 but not limited to, computer programs, databases, data, algorithms,
17 formulae, expertise, improvements, discoveries, concepts,
18 inventions, developments, methods, designs, analyses, drawings,
19 techniques, strategies, new products, reports, unpublished financial
20 statements, budgets, projections, billing practices, pricing data,
21 contacts, client and supplier lists, business and marketing records,
22 working papers, files, systems, plans, and all related registrations
23 and applications, that, whether or not patentable or registerable
24 under patent, copyright, trademark, or similar statutes, meet either
25 of the following:

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

29 (2) The information derives independent economic value, actual
30 or potential, from not being generally known to the public or to
31 other persons that can obtain economic value from its disclosure
32 or use.

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

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

1 (ap) “Registration information” means the information provided
2 by a person to a licensed operator in order to become a registered
3 player.

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

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

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

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

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

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

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

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

28 (G) Receives compensation as part of an affiliate marketing
29 program from bringing players or potential players to a licensed
30 operator’s authorized poker Web site.

31 (2) “Service provider” does not include a provider of goods or
32 services that provides similar goods or services to the public for
33 purposes other than the operation of an authorized poker Web site,
34 including, but not limited to, payment processors and geolocation
35 service providers.

36 (as) “State” means the State of California.

37 (at) “Terms of Use Registered Player’s Agreement” means the
38 agreement offered by a licensed operator and accepted by a
39 registered player delineating, among other things, permissible and

1 impermissible activities on an authorized poker Web site and the
2 consequences of engaging in impermissible activities.

3 (au) “Tournament” means a competition approved by the
4 department in which registered players play a series of authorized
5 Internet poker games to decide the winner.

6 (av) “Tournament charge” means the amount charged by the
7 licensed operator for registered players to play in a tournament.

8 (aw) “Tournament winnings” means the amount of any prize
9 awarded to a registered player in a tournament.

10 (ax) “Tribal gaming regulatory authority” means the gaming
11 regulatory authority of a federally recognized California Indian
12 tribe that has the authority to regulate gaming on the tribe’s Indian
13 lands pursuant to IGRA.

14 (ay) “Tribe” means a federally recognized California Indian
15 tribe, including, but not limited to, the governing body of that tribe
16 or any entity that is wholly owned by the tribe.

17 (az) “Unlawful Gambling Enforcement Fund” means the fund
18 established pursuant to Section 19990.802, the revenue of which
19 is dedicated to enforcing the prohibitions of this chapter.

20

21 Article 3. Intrastate Internet Poker in California

22

23 19990.301. Under the federal Unlawful Internet Gambling
24 Enforcement Act of 2006, California is permitted to authorize
25 games played via the Internet as long as all players and the online
26 wagering is located within the jurisdiction of the state and the
27 games are not played by minors.

28 19990.302. Notwithstanding any other law, a person who is
29 21 years of age or older and located within California is hereby
30 permitted to participate as a registered player in an authorized
31 Internet poker game provided by a licensed operator on an
32 authorized poker Web site.

33 19990.303. (a) A person shall not do any of the following:

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

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

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

4 (b) Subject to an opportunity to cure pursuant to Section
5 19990.521, a violation of this chapter is a felony, punishable by
6 imprisonment pursuant to subdivision (h) of Section 1170 of the
7 Penal Code.

8 19990.304. This chapter does not limit or restrict activities or
9 conduct permitted pursuant to Chapter 5 (commencing with Section
10 19800) or IGRA.

11 19990.305. This chapter does not authorize any game offered
12 in Nevada or New Jersey other than poker.

13 19990.306. A person shall not do either of the following:

14 (a) Aggregate computers or any other Internet access device in
15 a place of public accommodation within the state, including a club
16 or other association, or a public or other setting, that can
17 accommodate multiple players to simultaneously play an authorized
18 Internet poker game.

19 (b) Promote, facilitate, or market the activity described in
20 subdivision (a).

21 19990.307. This chapter does not apply to play-for-fun or
22 play-for-free games.

23

24 Article 4. Licensing of Operators and Service Providers

25

26 19990.401. (a) (1) Within 270 days after the effective date of
27 this chapter, the commission, and any other state agency with a
28 duty pursuant to this chapter, shall, in consultation with the
29 department and tribes, adopt regulations pursuant to the
30 Administrative Procedure Act (Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code) to implement this chapter, and to facilitate the operation of
33 authorized poker Web sites and expedite the state’s receipt of
34 revenues in compliance with this chapter. The initial adoption,
35 amendment, or repeal of a regulation authorized by this section is
36 deemed to address an emergency, for purposes of Sections 11346.1
37 and 11349.6 of the Government Code, and the commission and
38 those other state agencies are hereby exempted for that purpose
39 from the requirements of subdivision (b) of Section 11346.1 of
40 the Government Code. After the initial adoption, amendment, or

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

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

9 (A) Underage gambling and problem gambling.

10 (B) Gaming system technical standards and practices.

11 (C) Hardware and software standards and compliance.

12 (D) License and work permit issuance and processes.

13 (E) Suitability standards and determinations.

14 (F) Temporary, provisional, and emergency approvals.

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

17 (H) Appeals from adverse decisions.

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

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

21 (B) Authorized Internet poker game rules.

22 (C) Authorized Internet poker gaming activities.

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

24 (E) In order to assist the department's enforcement of Section
25 19990.526, a procedure for the department to access any list of
26 customers or any database containing customer information that
27 was accrued or created by a licensed service provider prior to the
28 effective date of the regulations described in this subdivision.

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

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

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

1 19990.402. (a) Authorized Internet poker games may be
2 offered only by entities licensed pursuant to this chapter. An
3 eligible entity seeking to offer authorized Internet poker games
4 shall apply to the department for a determination of suitability. If
5 the department determines the applicant is suitable to receive a
6 license, the applicant shall then apply to the commission for an
7 operator license. The applicant shall pay an application processing
8 fee sufficient to cover the reasonable costs associated with the
9 determination of suitability and the issuance of the license.

10 (b) Employees of the licensed operator shall undergo a suitability
11 review and obtain work permits pursuant to Article 6 (commencing
12 with Section 19990.601). Owners, officers, and directors of
13 licensed operators shall also undergo a suitability review and obtain
14 employee work permits pursuant to Article 6 (commencing with
15 Section 19990.601). The commission may refuse to issue a license
16 to an applicant, or suspend or revoke a license of a licensed
17 operator, that fails to comply with this requirement.

18 (c) In order to ensure that licensed operators are not mere
19 facades for unlicensed, unqualified, or undisclosed interests, an
20 applicant for an operator license pursuant to this chapter shall
21 provide documentation to the commission establishing that, if the
22 license is granted, the license applicant will be able, through its
23 own net position or through credit extended directly to the
24 applicant, and with full recourse to it, by a federally or state
25 chartered financial institution not involved with the core functions
26 of the authorized poker Web site, that is entirely secured by an
27 equivalent amount of its own net position, to pay the license deposit
28 required by subdivision (a) of Section 19990.519. In addition, a
29 licensed operator shall submit regular financial reports to the
30 department establishing that the operator meets financial viability
31 requirements, as determined by the commission. The commission
32 may terminate a license if the operator fails to submit the required
33 reports or meet the financial viability requirements.

34 (d) An applicant for an operator license pursuant to this chapter
35 that is a tribe shall include with its license application a limited
36 waiver of the applicant's sovereign immunity. This limited waiver
37 shall apply exclusively to the state, and no other party, solely for
38 the limited purpose of enforcing this chapter and any regulations
39 adopted pursuant to this chapter, and with regard to any claim,
40 sanction, or penalty arising ~~therefrom~~ *under this chapter or any*

1 *regulations adopted pursuant to this chapter* against the licensed
2 operator by the state, and for no other purpose.

3 (e) The commission shall issue an operator license to an
4 applicant determined by the commission to qualify as an eligible
5 entity within 150 days of receiving an application, if the applicant
6 has already been subjected to a determination of suitability by the
7 department and has been approved by the department to apply to
8 the commission for licensure. All applicants shall undergo a
9 determination of suitability prior to applying for an eligibility
10 determination by the commission.

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

16 (g) An operator license denoting full licensure shall be issued
17 for a term of seven years. Subject to the power of the commission
18 to revoke, suspend, condition, or limit any license, as provided in
19 this chapter, a license shall be automatically renewed every seven
20 years thereafter upon application. Failure of a licensed operator to
21 file an application for renewal may be deemed a surrender of the
22 license.

23 (h) Each initial operator license issued pursuant to this section
24 shall take effect on the same date. That date shall be one year after
25 the effective date of the regulations described in Section 19990.401,
26 unless the commission determines that good cause exists for those
27 licenses to take effect in unison on a subsequent date. Each initial
28 operator license shall be a temporary license, and shall be issued
29 for a term of no longer than two years. The issuance of an initial
30 operator license does not guarantee full licensure.

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

39 19990.403. (a) A licensee's employees in direct contact with
40 registered players shall be physically present in the state.

1 (b) All primary servers, facilities, bank accounts, and accounting
2 records of the licensee related to authorized Internet poker shall
3 be located in the state, except for redundant servers and except as
4 may be permitted by the commission for a service provider, if the
5 service provider ensures access to and jurisdiction over the relevant
6 servers, facilities, bank accounts, and accounting records.

7 (c) Notwithstanding subdivisions (a) and (b), a licensee may
8 request, and the department may approve, the licensee's use of
9 personnel, servers, facilities, bank accounts, and accounting records
10 not physically present in the state when necessary to protect
11 registered players and state interests, for the purposes of diagnosing
12 and addressing technological problems, investigating fraud and
13 collusion, and developing and supervising software and
14 configuration changes.

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

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

31 19990.404. (a) An entity seeking to act as a service provider
32 shall apply to the department for a determination of suitability. If
33 the department determines the applicant is suitable to receive a
34 license, the applicant shall then apply to the commission for a
35 service provider license, and obtain a service provider license,
36 before providing goods or services to a licensed operator in
37 connection with the operation of an authorized poker Web site.
38 The commission may impose limitations and conditions upon the
39 issuance of the service provider license or the utilization of the
40 applicant's assets acquired before the enactment of the act that

1 added this section, or both, with respect to its operations in the
2 state.

3 (b) The department shall review the suitability of an applicant
4 for a service provider license. The applicant for a service provider
5 license shall pay an application processing fee sufficient to cover
6 the reasonable costs associated with the determination of suitability
7 and the issuance of the license.

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

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

- 35 (1) All officers of the license applicant.
36 (2) The owner or owners of either of the following:
37 (A) The license applicant.
38 (B) Any corporate affiliate of the license applicant.
39 (3) Any persons otherwise providing goods to, or performing
40 services for, the license applicant related to core functions.

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

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

7 (e) A full investigation shall include a review and evaluation of
8 the service provider’s qualifications and experience to provide the
9 services anticipated, which shall include the required submission
10 of a report prepared on each service provider by an outside firm
11 contracted and supervised by the department, in a format developed
12 by the department, and at the service provider’s expense. The
13 report shall include information necessary for the department to
14 make a determination of suitability, as specified in regulations
15 adopted pursuant to this chapter, consisting of, but not limited to,
16 personal history, prior activities and associations, credit history,
17 civil litigation, any indictments, past and present financial affairs
18 and standing, and business activities, including whether the
19 applicant or an affiliate of the applicant has a financial interest in
20 any business or organization that is or was engaged in any form
21 of gaming or transactions related to gaming prohibited by the law
22 of the federal or state jurisdiction in which those activities took
23 place. The department shall consult with officials of the United
24 States Department of Justice, other states, and international
25 jurisdiction where the applicant has sought to be or has been
26 licensed. The department may specify additional requirements
27 regarding the contents of the report and other information or
28 documentation required to be submitted.

29 ~~(f) (1) Unless licensed or authorized pursuant to this chapter~~
30 ~~or comparable federal or state law in the jurisdiction where the bet~~
31 ~~or wager was made or the facilitation of the wager or financial~~
32 ~~transaction occurred, there is a rebuttable presumption that an~~
33 ~~applicant for a service provider license is unsuitable if either of~~
34 ~~the following occurred:~~

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

39 ~~(B) A member of the board of directors or the ultimate parent~~
40 ~~company of, the chief executive officer of, or a shareholder holding~~

1 more than 10 percent of the shares of, the applicant, or its corporate
2 or marketing affiliate, was directly involved in an executive
3 decisionmaking capacity in facilitating a wager or financial
4 transaction relating to Internet gambling in the United States and
5 that person remains affiliated with the applicant at the time of the
6 application.

7 (f) (1) *There is a rebuttable presumption that an applicant for*
8 *a service provider license is unsuitable if either of the following*
9 *occurred:*

10 (A) *A member of the board of directors of, the chief executive*
11 *officer of, or a shareholder holding more than 10 percent of the*
12 *shares of the applicant, or its corporate affiliate, has held a similar*
13 *or equivalent position with an organization that knowingly and*
14 *willfully accepted a bet, or engaged in a financial transaction*
15 *related to that bet, after December 31, 2006, from a person located*
16 *in the United States on any form of Internet gambling, including,*
17 *but not limited to, poker, that was not affirmatively authorized by*
18 *the law of the United States, or of the state in which the bet or*
19 *related financial transaction was initiated, or that was otherwise*
20 *legal.*

21 (B) *A member of the board of directors of, the chief executive*
22 *officer of, or a shareholder holding more than 10 percent of the*
23 *shares of the applicant, or its corporate affiliate, has held a similar*
24 *or equivalent position with an organization that knowingly*
25 *facilitated or otherwise provided services with respect to bets, or*
26 *engaged in a financial transaction related to those bets, after*
27 *December 31, 2006, involving persons located in the United States,*
28 *and acted with knowledge of the fact that those bets or financial*
29 *transactions were not affirmatively authorized by the law of the*
30 *United States, or of the state in which the bet or related financial*
31 *transaction was initiated, or that was otherwise legal.*

32 (2) An applicant may rebut the presumption described in
33 paragraph (1) by proving to the department, by a preponderance
34 of the evidence, any of the following:

35 (A) The acceptance of the bet or wager, the engagement in the
36 transaction, or the facilitation of the wager or financial transaction
37 was not knowing or intentional.

38 (B) The bet or wager was accepted, or the transaction was
39 engaged in, notwithstanding reasonable efforts by the applicant,

1 or its corporate or marketing affiliate, to exclude bets or wagers
 2 from the person.

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

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

9 (3) This subdivision shall not limit the department’s authority
 10 to make a determination regarding suitability pursuant to Section
 11 19990.405.

12 (g) (1) *Except as provided in paragraph (2), an applicant for a*
 13 *service provider license shall not be granted a license until January*
 14 *1, 2021, if the applicant, or its corporate or marketing affiliate,*
 15 *accepted a bet or wager on any form of Internet gambling, or*
 16 *engaged in a transaction related to those bets or wagers, and both*
 17 *of the following conditions are met:*

18 (A) *The bet or wager was accepted between December 31, 2006,*
 19 *and December 31, 2011, from a person located in the United States.*

20 (B) *The applicant did not have a license or authority pursuant*
 21 *to comparable federal or state law in a jurisdiction where the bet*
 22 *or wager was made or the facilitation of the wager or financial*
 23 *transaction occurred.*

24 (2) *If an applicant for a service provider license meets the*
 25 *description in paragraph (1), the applicant, if he or she otherwise*
 26 *meets the qualifications and suitability criteria under this chapter,*
 27 *shall pay a one-time fee in the amount of twenty million dollars*
 28 *(\$20,000,000), to be deposited into the General Fund, to obtain a*
 29 *service provider license before January 1, 2021.*

30 ~~(g)~~

31 (h) An institutional investor holding less than 10 percent of the
 32 equity securities of a service provider’s holding or intermediary
 33 companies shall be granted a waiver of a determination of
 34 suitability or other requirement if all of the following apply:

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

37 (2) Holdings of those securities were purchased for investment
 38 purposes only.

39 (3) The institutional investor annually files a certified statement
 40 with the department to the effect that it has no intention of

1 influencing or affecting the affairs of the issuer, the licensee, or
2 service provider, as applicable, or its holding or intermediary
3 companies.

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

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

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

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

19 (C) State that the institutional investor and corporation shall
20 maintain gaming compliance policies and procedures to implement
21 and ensure compliance with this chapter and regulations adopted
22 pursuant to this chapter.

23 (6) An institutional investor granted a waiver under this
24 subdivision that subsequently decides to influence or affect the
25 affairs of the issuer shall provide not less than 30 days' notice of
26 that intent and shall file with the department a request for
27 determination of suitability before taking an action that may
28 influence or affect the affairs of the issuer. An institutional investor
29 shall not vote prior to being issued a license. If an institutional
30 investor changes its investment intent, or the department finds
31 reasonable cause to believe that the institutional investor may be
32 found unsuitable, the institutional investor shall take no action
33 other than divestiture with respect to its security holdings until it
34 has complied with any requirements established by the department,
35 which may include the execution of a trust agreement. The
36 institutional investor and its relevant holding, related, or subsidiary
37 companies shall immediately notify the department and, if a tribal
38 license is involved, the tribal gaming regulatory authority, of any
39 information about, or actions of, an institutional investor holding
40 its equity securities when that information or action may impact

1 upon the eligibility of the institutional investor for a waiver
2 pursuant to paragraph (2).

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

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

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

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

20 (C) A collective investment trust organized by banks under Part
21 9 of the Rules of the Office of the Comptroller of the Currency
22 (12 C.F.R. Sec. 9.1 et seq.).

23 (D) A closed-end investment trust.

24 (E) A chartered or licensed life insurance company or property
25 and casualty insurance company.

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

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

30 ~~(h)~~

31 (i) An agreement between a licensed operator and a service
32 provider that is a horse racing association operating pursuant to
33 Chapter 4 (commencing with Section 19400) shall ensure that at
34 least 50 percent of the gross gaming revenue that the licensed
35 operator derives from the service provided by the service provider
36 is paid to the service provider.

37 19990.405. (a) The department shall issue a finding that a
38 license applicant is suitable to obtain a license only if, based on
39 all of the information and documents submitted, the department

1 is satisfied that each of the persons subject to a determination of
2 suitability pursuant to this article is both of the following:

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

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

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

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

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

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

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

1 limitation on the discretion of the department or affect the
2 applicant's burden.

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

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

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

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

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

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

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

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

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

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

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

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

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

14
15 Article 5. Requirements for the Operation of an Authorized
16 Poker Web Site
17

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 19990.502. A licensed operator shall offer only authorized
28 Internet poker games and process bets in accordance with the
29 specified game and betting rules established by the licensed
30 operator and approved by the department pursuant to Section
31 19990.503.

32 19990.503. (a) In order to propose a game for play, a licensed
33 operator shall provide the department with both of the following
34 via electronic means or via mail:

35 (1) Game rules and betting rules it proposes to offer to registered
36 players.

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

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

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

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

8 (1) The name of the game.

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

10 (3) The rules of the game.

11 (4) All instructions on how to play.

12 (5) The unit and total bets permitted.

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

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

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

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

22 (1) Tournament rules.

23 (2) Tournament charge.

24 (3) Games offered during the tournament.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) First name and surname.

39 (2) Principal residence address.

40 (3) Telephone number.

- 1 (4) Social security number.
- 2 (5) Identification or certification to prove that person is at least
- 3 21 years of age.
- 4 (6) Valid email address.
- 5 (e) A licensed operator shall provide registered players with the
- 6 means to update the registration information provided to the
- 7 licensed operator, and shall require that registered players keep
- 8 registration information current.
- 9 (f) This section does not prevent a licensed operator from
- 10 entering into a marketing agreement with a third party, who has
- 11 been determined to be suitable and licensed as a service provider,
- 12 to recruit people to become registered players if the registration
- 13 process described in this section is under the sole control of the
- 14 licensed operator.
- 15 19990.506. (a) A licensed operator shall provide a means for
- 16 registered players to put funds into a registered player account and
- 17 transfer funds out of that account.
- 18 (b) A registered player shall identify the source of funds to be
- 19 used to put money into the registered player account established
- 20 once the registration process is complete.
- 21 (c) At the time of establishing a registered player account, a
- 22 registered player shall designate the bank account into which funds
- 23 from the registered player's authorized poker Web site account
- 24 are to be transferred.
- 25 (d) A registered player shall not establish more than one account
- 26 on the same authorized poker Web site.
- 27 (e) While playing an authorized Internet poker game, the game
- 28 system shall not permit a registered player to increase the amount
- 29 of money that player has available at a game table while a hand is
- 30 in play. Any increase to the funds available to a player during a
- 31 hand shall not take effect until the following hand.
- 32 (f) A licensed operator shall maintain records on the balance of
- 33 each registered player's account.
- 34 (g) A licensed operator shall not permit a registered player to
- 35 place a bet unless the registered player's account has sufficient
- 36 funds to cover the amount of the bet.
- 37 (h) A licensed operator shall not provide credit to a registered
- 38 player's account or act as agent for a credit provider to facilitate
- 39 the provision of funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (d) The person has already been registered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (c) The identity of registered players.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) One-time License Deposit. Prior to offering any games for
28 play or accepting any bets on its authorized poker Web site, a
29 licensed operator shall pay the one-time license deposit as provided
30 in subdivision (a) of Section 19990.519.

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

35 19990.519. (a) In support of the application for a license
36 pursuant to this chapter, prior to offering games or accepting bets
37 on its authorized poker Web site, the licensed operator shall remit
38 to the Treasurer a one-time license deposit in the amount of twelve
39 million five hundred thousand dollars (\$12,500,000), to be
40 deposited into the General Fund, subject to Section 19619.8.

1 19619.8, and six million two hundred fifty thousand dollars
2 (\$6,250,000) of the one-time license deposit shall be credited
3 against the duty imposed the licensed operator's gross gaming
4 revenues pursuant to subdivision (b). Upon depletion of the credit
5 amount, the commission shall notify the licensed operator to
6 commence with the annual payments to the state in accordance
7 with subdivision (b).

8 (b) (1) In consideration of the substantial value of each license,
9 a licensed operator shall remit to the Treasurer on an annual basis
10 for deposit in the General Fund, subject to Section 19619.8, a
11 percentage of its gross gaming revenues pursuant to the applicable
12 rate percent described in paragraph (2).

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

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

20 (B) If annual gross gaming revenues are more than one hundred
21 fifty million dollars (150,000,000) and less than or equal to two
22 hundred fifty million dollars (\$250,000,000), the rate percent is
23 10 percent.

24 (C) If annual gross gaming revenues are more than two hundred
25 fifty million dollars (\$250,000,000) and less than or equal to three
26 hundred fifty million dollars (\$350,000,000), the rate percent is
27 12.5 percent.

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

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

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

38 (4) The commission shall administer and collect the duty
39 imposed by this subdivision pursuant to the Fee Collection
40 Procedures Law (Part 30 (commencing with Section 55001) of the

1 Revenue and Taxation Code). For purposes of this subdivision,
2 the references to “fee” in the Fee Collection Procedures Law shall
3 include the duty imposed by this subdivision, and, except when
4 the context provides otherwise, references to “feepayer” in that
5 law shall include a licensed operator required to pay the duty
6 imposed by this subdivision and references to the “board” in that
7 law shall refer instead to the commission.

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

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

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

22 (b) The state and its agencies shall treat the proprietary
23 information provided by a licensed operator as confidential to
24 protect the licensed operator and to protect the security of the
25 authorized poker Web site.

26 (c) The confidentiality provisions of this chapter exempt
27 proprietary information supplied by a licensee to a state agency
28 from public disclosure consistent with subdivision (b) of Section
29 6253 of the Government Code.

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

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

38 (c) If the department becomes aware of any violation of this
39 chapter, or if it becomes aware of any activities that might lead to
40 a violation, the department shall provide notice of that violation

1 to the licensee and a reasonable opportunity for the licensee to
2 cure the violation. If the violation is not timely cured, the
3 department shall investigate the violation further and may take
4 enforcement actions. If the commission becomes aware of any
5 violation of this chapter, the commission shall notify the
6 department of the violation immediately so that the department
7 may take appropriate action pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (b) A state agency with a duty pursuant to this chapter may enter
 8 into agreements to share information with other regulatory and
 9 law enforcement agencies to assist in performing the state agency’s
 10 duty.

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

16 (b) Pursuant to subdivision (b) of Section 19990.303, a violation
 17 of subdivision (a) is a felony, punishable pursuant to subdivision
 18 (h) of Section 1170 of the Penal Code.

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Article 6. Employee Work Permits

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (h) The applicant was a member of the board of directors or the
17 ultimate parent company of, the chief executive officer of, or a
18 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 federal
26 or state law in the jurisdiction where the facilitation of the wager
27 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 occurred
31 within a reasonable time period in order to cease those activities
32 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.

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Article 7. Protection of Registered Players

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.

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

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

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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.

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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 2 of this
39 act, imposes a limitation on the public’s right of access to the
40 meetings of public bodies or the writings of public officials and

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

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

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

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

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