

AMENDED IN SENATE AUGUST 19, 1999

AMENDED IN SENATE JUNE 30, 1999

AMENDED IN ASSEMBLY MAY 13, 1999

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 317

Introduced by Assembly Member Floyd

February 8, 1999

An act to amend Sections 19801, 19805, 19818, 19830A, 19844, 19851.5, 19940, 19950.1, and 19950.2 of, to amend and renumber Sections 19846A, 19852A, and 19872A of, to add Sections 19823.1 and 19861.5 to, *to add Article 15 (commencing with Section 19970) and Article 16 (commencing with Section 19980) to Chapter 5 of Division 8 of,* and to add and repeal Section 19919 of, the Business and Professions Code, *and to amend Sections 186.9, 337j, and 14161 of, and to add Sections 337k, 337l, and 337m to, the Penal Code,* relating to gambling, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Floyd. Gambling Control Act: licensure: operation of gambling establishments.

(1) Existing law contained in the Gambling Control Act establishes, as of January 1, 1999, the California Gambling Control Commission, with jurisdiction over the operation of,

and supervision over, gambling establishments in the state, and over all persons having to do with the operations of those gambling establishments. Existing law requires every person who, by regulation or statute, is required to hold a license under these provisions to obtain the license prior to engaging in the activity or occupying the position for which the license is required, and requires every person who, by order of the commission, is required to apply for a license or a finding of suitability to file the application within 30 calendar days after receipt of the order.

This bill would provide that until the Governor declares by executive order that the commission is prepared to assume its responsibilities and exercise the powers conferred by the Gambling Control Act, the Division of Gambling Control shall have the authority to amend, repeal, and enforce specified interim regulations. The bill would also provide that certain regulations of the commission would be exempt from specified procedural requirements if adopted within 90 days after this executive order is issued.

The bill would provide that, in addition to the other powers and duties specified by the act, the commission may grant, deny, suspend, or impose conditions, restrictions, or limitations on any license, permit, or approval provided for in the act, and may reinstate any license that has been revoked, suspended, or terminated.

The bill would authorize the commission to adopt regulations providing for the temporary issuance of key employee licenses and work permits. The bill would provide that this provision shall become inoperative on January 1, 2003, and that all temporary licenses or permits granted thereunder shall then expire, unless a later enacted statute extends or deletes this date.

The bill would also authorize the commission to issue temporary licenses to own a gambling establishment to the heir of a licensee, to a beneficiary or trustee of a trust in which an ownership interest in a gambling establishment is held, or to a purchaser of a gambling establishment. The bill would provide that a temporary license may be issued only for the purpose of operating a gambling establishment owned by the previous licensee, that the commission may attach limits and



conditions on temporary licenses and may summarily revoke temporary licenses, and that the issuance of a temporary license does not create any right whatsoever to the ultimate issuance of an owner's license, nor does it imply a presumption of suitability for such a license.

(2) Existing law provides that the division or commission shall not deny a gambling license to a private gambling establishment solely because it is not open to the public, provided that the establishment is located in a jurisdiction that authorizes private clubs only and was in operation and in compliance with local law as of a specified date. Existing law also provides that these clubs may be licensed to operate only until July 1, 2000, or until a change in ownership, and thereafter only if the local jurisdiction adopts an enabling ordinance in an election as specified.

This bill would provide that if the gambling ordinance of a county provides for the operation of gambling establishments as private clubs, and this ordinance was adopted by the electors in a countywide election, the election requirement is deemed satisfied and a gambling establishment in that county may be licensed to operated as a private club so long as the current licenseholder owns and operates the gambling establishment and it otherwise meets the requirements of the act.

(3) Existing law requires every key employee of a gambling establishment, as defined, to apply for and obtain a key employee license.

This bill would provide that any person licensed as a key employee may transfer that license to another gambling establishment upon request by providing the division with notice of his or her intent to transfer, and notice of the new employer's intent to hire the key employee, and if the division does not object to the transfer within 30 days, that the key employee license shall become attached to the license of the new employer.

(4) Existing law requires the commission to consider denying a gambling license for certain specified reasons, including if the issuance of the license would tend unduly to create law enforcement problems in a local jurisdiction other



than that which has regulatory jurisdiction over the applicant's premises.

This bill would instead require the commission to deny a gambling license for those reasons and would also require the commission to deny a license if it determines that there is an overconcentration of gambling establishments or gambling tables in that jurisdiction.

(5) Existing law generally provides that no local jurisdiction may adopt a new ordinance authorizing gambling, and no local jurisdiction may amend an existing ordinance to expand gambling, until January 1, 2001, or in the case of Alameda, Contra Costa, Los Angeles, San Mateo, and Santa Clara Counties, until January 1, 2003. Existing law also provides that after this date, any amendment to a gambling ordinance which would result in an expansion of gaming, as defined, shall not be valid unless submitted to and adopted by a majority of the voters of the city, county, or city and county. Existing law exempts gambling establishments with 5 or fewer tables from this requirement.

This bill would extend the operative date of the restrictions on the expansion of gambling in the 5 counties specified above from January 1, 2003, to January 1, 2005. The bill would limit the exemption applicable to gambling establishments with 5 or fewer tables to an increase of up to 3 additional tables.

(6) Existing law specifies certain conditions relative to the operation of a gambling establishment.

This bill would authorize the owner of a gambling establishment to temporarily close the establishment or limit the hours of operation, but would require notice thereof to be provided to the Division of Gambling Control in the Department of Justice. This bill would repeal these provisions on January 1, 2003, unless a later enacted statute extends or deletes this date.

(7) Existing law provides that if the commission denies a license to an individual owner of any security issued by a corporation that applies for or holds a license to own a gambling establishment, that the owner shall offer and the corporation shall purchase the security for cash in an amount not greater than fair market value with 30 calendar days after the date of the offer.



This bill would provide that the corporation shall purchase the security so offered within 30 calendar days after the date of the offer for book value in cash as provided for in the articles of incorporation or the bylaws, but in no event for an amount greater than fair market value. The bill would permit the purchase of the security within a period of up to 90 calendar days if the book value of the security or its fair market value exceeds \$1,000,000.

(8) Existing law provides that every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employer, whether for hire or not, any of a list of specified gambling games, including the game of twenty-one, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or any representative of value, and any person who plays or bets at or against such a game, is guilty of a misdemeanor and punishable as specified.

This bill would provide that notwithstanding these prohibitions, a licensed owner of a gambling establishment, upon approval by the Gambling Control Commission and the Division of Gambling Control, may deal, play, or carry on, open or cause to be opened, at the gambling establishment, the game commonly known as blackjack or twenty-one. The bill would require the owner of the gambling establishment to provide patrons with ample notice of the rules, would allow the owner to collect fees on twenty-one games in accordance with existing rules, would double the fees for issuance or renewal of a state gambling license based on the number of twenty-one tables, and would provide that twenty-one may be played at a limited number of the gambling establishment's tables, as specified.

This bill would also provide that notwithstanding the restrictions in existing law, the licensed owner of a gambling establishment may operate any controlled game as either a player-banked game, or as a player-pool banked game. With respect to player-pool banked games, the bill would impose specified restrictions on the use of the funds in the player pool, would prohibit any person other than the owner or on-duty employee of a gambling establishment from participating as a player-banker or dealer, and would impose specified



accounting practices on funds deposited in and withdrawn from the player-pool, with specified reports required to be sent to the division. The bill would authorize the owner of a gambling establishment to extend an interest-free loan to initiate a pool, to withdraw each month not to exceed 5% of the average daily balance of the player-pool to offset the costs of maintaining the player-pool and meeting reporting requirements, and to withdraw each month not to exceed 2% of the average daily balance of the player-pool to offset in-house promotional activities as specified. The bill would also provide that if a gambling establishment ceases to offer player-pool banked games for play, all funds remaining in a player pool shall be forwarded to the Gambling Control Fund for use by the commission and division in discharging their duties and responsibilities under the act.

The bill would make various conforming changes to implement these provisions.

(9) This bill would delete or correct certain obsolete references to operative and effective dates, revise erroneous references to the board to instead refer to the commission, and make other technical changes.

~~(9)~~

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Notwithstanding any other provision of
2 law, the Division of Gambling Control shall have the
3 authority to amend, repeal, and enforce regulations
4 adopted pursuant to subdivision (b) of the former Section
5 19830 of the Business and Professions Code, until the
6 Governor, by executive order, declares that the
7 California Gambling Control Commission is prepared to
8 assume the responsibilities and exercise the powers
9 conferred by Sections 4 to 52, inclusive, of Chapter 867 of
10 the Statutes of 1997.



1 SEC. 2. *Section 19801 of the Business and Professions*
2 *Code is amended to read:*

3 19801. The Legislature hereby finds and declares all
4 of the following:

5 (a) The longstanding public policy of this state
6 disfavors the business of gambling. State law prohibits
7 commercially operated lotteries, ~~banked~~ or
8 *house-banked games*, percentage games, and gambling
9 machines, and strictly regulates parimutuel wagering on
10 horse racing. To the extent that state law categorically
11 prohibits certain forms of gambling and prohibits
12 gambling devices, nothing herein shall be construed, in
13 any manner, to reflect a legislative intent to relax those
14 prohibitions.

15 (b) Gambling can become addictive and is not an
16 activity to be promoted or legitimized as entertainment
17 for children and families.

18 (c) (1) Unregulated gambling enterprises are
19 inimical to the public health, safety, welfare, and good
20 order. Accordingly, no person in this state has a right to
21 operate a gambling enterprise except as may be expressly
22 permitted by the laws of this state and by the ordinances
23 of local governmental bodies.

24 (2) The State of California has permitted the operation
25 of gambling establishments for more than one hundred
26 years. Gambling establishments were first regulated by
27 the State of California pursuant to legislation which was
28 enacted in 1984. Gambling establishments currently
29 employ more than twenty thousand people in the State
30 of California, and contribute more than one hundred
31 million dollars in taxes and fees to California's
32 government. Gambling establishments are lawful
33 enterprises in the State of California, and are entitled to
34 full protection of the laws of this state. The industry is
35 currently in significant decline, with more than half the
36 gambling establishments in this state closing within the
37 past four years.

38 (d) It is the policy of this state that gambling activities
39 that are not expressly prohibited or regulated by state law
40 may be prohibited or regulated by local government.



1 Moreover, it is the policy of this state that no new
2 gambling establishment may be opened in a city, county,
3 or city and county in which a gambling establishment was
4 not operating on and before January 1, 1984, except upon
5 the affirmative vote of the electors of that city, county, or
6 city and county.

7 (e) It is not the purpose of this chapter to expand
8 opportunities for gambling, or to create any right to
9 operate a gambling enterprise in this state or to have a
10 financial interest in any gambling enterprise. Rather, it is
11 the purpose of this chapter to regulate businesses that
12 offer otherwise lawful forms of gambling games.

13 (f) Public trust that permissible gambling will not
14 endanger public health, safety, or welfare requires that
15 comprehensive measures be enacted to ensure that such
16 gambling is free from criminal and corruptive elements,
17 that it is conducted honestly and competitively, and that
18 it is conducted in suitable locations.

19 (g) Public trust and confidence can only be
20 maintained by strict and comprehensive regulation of all
21 persons, locations, practices, associations, and activities
22 related to the operation of lawful gambling
23 establishments and the manufacture or distribution of
24 permissible gambling equipment.

25 (h) All gambling operations, all persons having a
26 significant involvement in gambling operations, all
27 establishments where gambling is conducted, and all
28 manufacturers, sellers, and distributors of gambling
29 equipment must be licensed and regulated to protect the
30 public health, safety, and general welfare of the residents
31 of this state as an exercise of the police powers of the state.

32 (i) To ensure that gambling is conducted honestly,
33 competitively, and free of criminal and corruptive
34 elements, all licensed gambling establishments in this
35 state must remain open to the general public and the
36 access of the general public to licensed gambling
37 activities must not be restricted in any manner, except as
38 provided by the Legislature. However, subject to state
39 and federal prohibitions against discrimination, nothing
40 herein shall be construed to preclude exclusion of



1 unsuitable persons from licensed gambling
2 establishments in the exercise of reasonable business
3 judgment.

4 (j) In order to effectuate state policy as declared
5 herein, it is necessary that gambling establishments,
6 activities, and equipment be licensed, that persons
7 participating in those activities be licensed or registered,
8 that certain transactions, events, and processes involving
9 gambling establishments and owners of gambling
10 establishments be subject to prior approval or permission,
11 that unsuitable persons not be permitted to associate with
12 gambling activities or gambling establishments, and that
13 gambling activities take place only in suitable locations.
14 Any license or permit issued, or other approval granted
15 pursuant to this chapter, is declared to be a revocable
16 privilege, and no holder acquires any vested right therein
17 or thereunder.

18 (k) The location of lawful gambling premises, the
19 hours of operation of those premises, the number of tables
20 permitted in those premises, and wagering limits in
21 permissible games conducted in those premises are
22 proper subjects for regulation by local governmental
23 bodies. However, consideration of those same subjects by
24 a state regulatory agency, as specified in this chapter, is
25 warranted when local governmental regulation
26 respecting those subjects is inadequate or the regulation
27 fails to safeguard the legitimate interests of residents in
28 other governmental jurisdictions.

29 (l) The exclusion or ejection of certain persons from
30 gambling establishments is necessary to effectuate the
31 policies of this chapter and to maintain effectively the
32 strict regulation of licensed gambling.

33 (m) Records and reports of cash and credit
34 transactions involving gambling establishments may
35 have a high degree of usefulness in criminal and
36 regulatory investigations and, therefore, licensed
37 gambling operators may be required to keep records and
38 make reports concerning significant cash and credit
39 transactions.



1 SEC. 3. Section 19805 of the Business and Professions
2 Code is amended to read:

3 19805. As used in this chapter, the following
4 definitions shall apply:

5 (a) “Affiliate” means a person who, directly or
6 indirectly through one or more intermediaries, controls,
7 is controlled by, or is under common control with, a
8 specified person.

9 (b) “Applicant” means any person who has applied
10 for, or is about to apply for, a state gambling license, a key
11 employee license, a registration, a finding of suitability, a
12 commercial player-bank enterprise license, a work
13 permit, a game authorization, a manufacturer’s or
14 distributor’s license, or an approval of any act or
15 transaction for which commission or division approval or
16 authorization is required or permitted under this
17 chapter.

18 (c) “Bank” or “banked” means the pool of money
19 from which winnings are paid to the players of a hand or
20 round, and into which losses that are collected from those
21 players are deposited.

22 (d) “Board” means the California Gambling Control
23 Board.

24 ~~(d)~~

25 (e) “Commercial player-bank enterprise” means any
26 enterprise, undertaking, or endeavor that has as one of its
27 purposes the maintenance of a player-bank through the
28 engagement and financing of one or more contract
29 players in player-banked games in this state. A
30 commercial player-bank enterprise does not include a
31 friend or relative who finances a player on a purely
32 limited and social basis, nor does it include any natural
33 person to whom the following apply: (1) the person is
34 playing with his or her own funds (2) the person retains
35 all of his or her winnings and absorbs all of his or her losses,
36 and (3) the person is not paid any type of consideration
37 by another person to participate in the play of a
38 controlled game, except for consideration paid solely in
39 connection with his or her employment as a shill by a
40 gambling establishment.



1 (f) “Commercial player-bank enterprise license”
2 means any license issued pursuant to this chapter that
3 authorizes the person named therein to operate a
4 commercial player-bank enterprise.

5 (g) “Commission” means the California Gambling
6 Control Commission.

7 (h) “Contract player” means a person who is engaged
8 or financed by a commercial player-bank enterprise for
9 the purpose of playing in a controlled game. A licensed
10 commercial player-bank enterprise shall ensure that
11 every contract player playing in a controlled game is
12 clearly identified as a contract player to every other
13 player participating in the controlled game.

14 (i) “Controlled gambling” means to deal, operate,
15 carry on, conduct, maintain, or expose for play any
16 controlled game.

17 ~~(e)~~

18 (j) “Controlled game” means any controlled game, as
19 defined by subdivision (e) of Section 337j of the Penal
20 Code.

21 ~~(f)~~

22 (k) “Director,” when used in connection with a
23 corporation, means any director of a corporation or any
24 person performing similar functions with respect to any
25 organization. In any other case, “director” means the
26 Director of the Division of Gambling Control.

27 ~~(g)~~

28 (l) “Division” means the Division of Gambling
29 Control in the Department of Justice.

30 ~~(h)~~

31 (m) “Finding of suitability” means a finding that a
32 person meets the qualification criteria described in
33 subdivisions (a) and (b) of Section 19848, and that the
34 person would not be disqualified from holding a state
35 gambling license on any of the grounds specified in
36 subdivision (a) of Section 19850.

37 ~~(i)~~

38 (n) “Game” and “gambling game” means any
39 controlled game.

40 ~~(j)~~



1 (o) “Gambling” means to deal, operate, carry on,
2 conduct, maintain, or expose for play any controlled
3 game.

4 ~~(k)~~

5 (p) “Gambling enterprise employee” means any
6 natural person employed in the operation of a gambling
7 enterprise, including, without limitation, dealers,
8 floormen, security employees, countroom personnel,
9 cage personnel, collection personnel, surveillance
10 personnel, data processing personnel, appropriate
11 maintenance personnel, waiters and waitresses, and
12 secretaries, or any other natural person whose
13 employment duties require or authorize access to
14 restricted gambling establishment areas.

15 ~~(l)~~

16 (q) “Gambling establishment” ~~or “establishment”~~
17 *establishment,* “*establishment,*” or “*licensed premises*”
18 means one or more rooms where any controlled gambling
19 occurs.

20 ~~(m)~~

21 (r) “Gambling license” or “*state gambling license*”
22 means any license issued by the state that authorizes the
23 person named therein to conduct a gambling operation.

24 ~~(n) “Gambling operation” means one or more~~
25 ~~controlled games that are dealt, operated, carried on,~~
26 ~~conducted, maintained, or exposed for play for~~
27 ~~commercial gain.~~

28 ~~(o) Except as provided by regulation, “gross~~

29 (s) “Gross revenue” means the total of all
30 compensation received for conducting any controlled
31 game, and includes interest received in payment for
32 credit extended by an owner licensee to a patron for
33 purposes of gambling, *except as provided by regulation.*

34 ~~(p) Except as determined by regulation,~~
35 ~~“independent~~

36 (t) “*House-banked game*” means any game in which
37 the licensed owner of a gambling establishment
38 maintains or operates a bank in a controlled game for the
39 benefit of any person or entity other than the player pool.



1 (u) “Independent agent,” except as provided by
2 regulation, means any person who does either of the
3 following:

4 (1) Approves or grants the extension of gambling
5 credit on behalf of a gambling licensee or collects debt
6 evidenced by a credit instrument.

7 (2) Contracts with an owner licensee, or an affiliate
8 thereof, to provide services consisting of arranging
9 transportation or lodging for guests at a gambling
10 establishment.

11 ~~(v)~~

12 (v) “Institutional investor” means any retirement
13 fund administered by a public agency for the exclusive
14 benefit of federal, state, or local public employees, any
15 investment company registered under the Investment
16 Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any
17 collective investment trust organized by banks under
18 Part Nine of the Rules of the Comptroller of the
19 Currency, any closed-end investment trust, any
20 chartered or licensed life insurance company or property
21 and casualty insurance company, any banking and other
22 chartered or licensed lending institution, any investment
23 advisor registered under the Investment Advisors Act of
24 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity,
25 and such other persons as the board may determine for
26 reasons consistent with the policies of this chapter.

27 ~~(w)~~

28 (w) “Key employee” means any natural person
29 employed in the operation of a gambling enterprise in
30 supervisory capacity or empowered to make
31 discretionary decisions that regulate gambling
32 operations, including, without limitation, pit bosses, shift
33 bosses, credit executives, cashier operations supervisors,
34 gambling operation managers and assistant managers,
35 managers or supervisors of security employees, or any
36 other natural person designated as a key employee by the
37 division for reasons consistent with the policies of this
38 chapter.

39 ~~(s)~~



- 1 (x) “Key employee license” means a state license
 2 authorizing the holder to be associated with a gambling
 3 enterprise as a key employee.
 4 ~~(t)~~
 5 (y) “Licensed gambling establishment” means the
 6 gambling premises encompassed by a state gambling
 7 license.
 8 ~~(u)~~
 9 (z) “Limited partnership” means a partnership
 10 formed by two or more persons having as members one
 11 or more general partners and one or more limited
 12 partners.
 13 ~~(v)~~
 14 (aa) “Limited partnership interest” means the right of
 15 a general or limited partner to any of the following:
 16 (1) To receive from a limited partnership any of the
 17 following:
 18 (A) A share of the revenue.
 19 (B) Any other compensation by way of income.
 20 (C) A return of any or all of his or her contribution to
 21 capital of the limited partnership.
 22 (2) To exercise any of the rights provided under state
 23 law.
 24 ~~(w)~~
 25 (bb) “Owner licensee” means an owner of a gambling
 26 enterprise who holds a state gambling license.
 27 ~~(x) Unless otherwise indicated, “person”~~
 28 (cc) “Person,” unless otherwise indicated, includes a
 29 natural person, corporation, partnership, limited
 30 partnership, trust, joint venture, association, or any other
 31 business organization.
 32 ~~(y)~~
 33 (dd) “Player-banked game” means any game in which
 34 a player or players maintain or operate the bank.
 35 (ee) “Player-pool banked game” means any game in
 36 which the bank is maintained or operated by the licensed
 37 owner of the gambling establishment for the sole and
 38 exclusive benefit of the player-pool.
 39 (ff) “Publicly traded racing association” means a
 40 corporation licensed to conduct horseracing and



1 simulcast wagering pursuant to Chapter 4 (commencing
2 with Section 19400) whose stock is publicly traded.

3 ~~(z)~~

4 (gg) “Qualified racing association” means a
5 corporation licensed to conduct horseracing and
6 simulcast wagering pursuant to Chapter 4 (commencing
7 with Section 19400) that is a wholly owned subsidiary of
8 a corporation whose stock is publicly traded.

9 (hh) “*Shill*” means an on-duty employee of a gambling
10 establishment who is hired solely to participate in the play
11 of a game, as provided in this chapter, in order to attract
12 business or stimulate action. The licensed owner of a
13 gambling establishment shall ensure that every shill
14 playing in a controlled game is clearly identified as a shill
15 to every other player participating in the controlled
16 game.

17 ~~(aa)~~

18 (ii) “Work permit” means any card, certificate, or
19 permit issued by the division or by a county, city, or city
20 and county, whether denominated as a work permit,
21 registration card, or otherwise, authorizing the holder to
22 be employed as a gambling enterprise employee or to
23 serve as an independent agent. A document issued by any
24 governmental authority for any employment other than
25 gambling is not a valid work permit for the purposes of
26 this chapter.

27 SEC. 4. Section 19818 of the Business and Professions
28 Code is amended to read:

29 19818. The executive secretary of the commission
30 may appoint no more than two attorneys as counsel to the
31 commission. However, in lieu of representation by the
32 attorneys appointed pursuant to this section, the
33 commission may request representation by the Attorney
34 General in any proceeding before any court.

35 ~~SEC. 3.~~

36 SEC. 5. Section 19823.1 is added to the Business and
37 Professions Code, to read:

38 19823.1. (a) In addition to the other powers and
39 duties specified in this chapter, the commission may
40 grant, deny, revoke, suspend, or impose conditions,



1 restrictions, or limitations on any license, permit, or
2 approval provided for in this chapter.

3 (b) The commission may reinstate a license to own a
4 gambling establishment, a key employee license, or any
5 other license provided for under this chapter that has
6 been revoked, suspended, or terminated.

7 (c) The commission shall adopt regulations to
8 implement this section.

9 ~~SEC. 4.~~

10 *SEC. 6.* Section 19830A of the Business and
11 Professions Code is amended to read:

12 19830A. (a) The commission may adopt regulations
13 for the administration and enforcement of this chapter.
14 To the extent appropriate, regulations of the commission
15 and the division shall take into consideration the
16 operational differences of large and small establishments.

17 (b) Subject to subdivision (d), Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3
19 of Title 2 of the Government Code does not apply to the
20 following regulations of the commission, if adopted
21 within 90 days after the Governor, by executive order,
22 declares that the California Gambling Control
23 Commission is prepared to assume the responsibilities
24 and exercise the powers conferred by Sections 4 to 52,
25 inclusive, of Chapter 867 of the Statutes of 1997:

26 (1) Regulations described in subdivisions (a), (b), (e),
27 (g), (h), (i) to (n), inclusive, (p), and (q) of Section
28 19834A.

29 (2) Regulations adopted for the purpose of
30 implementing Section 62 of the act that enacted this
31 chapter.

32 (c) Any regulation adopted pursuant to subdivision
33 (b) shall be filed with the Secretary of State and shall be
34 effective immediately upon that filing.

35 (d) Except as otherwise provided in this subdivision,
36 no regulation adopted by the division pursuant to
37 subdivision (b) of former Section 19830 shall be valid after
38 the issuance of the executive order described in
39 subdivision (b), unless the regulation is subsequently
40 readopted by the commission in accordance with



1 Chapter 3.5 (commencing with Section 11340) of Part 1
2 of Division 3 of Title 2 of the Government Code, subject
3 to all of the following:

4 (1) This subdivision does not apply to a regulation that
5 is exempted from Article 5 (commencing with Section
6 11346) of Chapter 3.5 of Division 3 of Title 2 of the
7 Government Code, by operation of subdivision (a) of
8 Section 11346.1 of the Government Code.

9 (2) If, prior to September 1, 1998, the division mailed
10 a notice described in Section 11346.4 of the Government
11 Code with respect to a regulation adopted pursuant to
12 subdivision (b) of former Section 19830, the regulation
13 shall not cease to be effective pursuant to this subdivision
14 until the earlier of one of the following events:

15 (A) The readopted regulation is filed with the
16 Secretary of State pursuant to subdivision (a) of Section
17 11349.3, or subdivision (e) of Section 11349.5, of the
18 Government Code.

19 (B) The readopted regulation has been disapproved
20 by the Office of Administrative Law and the time within
21 which a request for review may be filed pursuant to
22 Section 11349.5 of the Government Code has expired.

23 (C) The readopted regulation is disapproved by the
24 Office of Administrative Law, and the Governor
25 transmits a decision pursuant to subdivision (c) of Section
26 11349.5 of the Government Code affirming the
27 disapproval.

28 ~~SEC. 5.~~

29 *SEC. 7.* Section 19844 of the Business and Professions
30 Code is amended to read:

31 19844. (a) Every key employee shall apply for and
32 obtain a key employee license.

33 (b) Licenses issued to key employees shall be for
34 specified positions only, and those positions shall be
35 enumerated in the endorsement described in subdivision
36 (b) of Section 19840.5.

37 (c) No person may be issued a key employee license
38 unless the person would qualify for a state gambling
39 license.



1 (d) No person may be issued a key employee license
2 unless the person is a resident of this state.

3 (e) Any person licensed as a key employee pursuant to
4 Section 19840 may transfer the key employee license to
5 another gambling establishment upon his or her request
6 and the request of that gambling establishment. To
7 effectuate a transfer, the key employee shall provide the
8 division with written notice of his or her intent to transfer
9 the license and the new employer shall submit written
10 notice of its intent to hire that person as a key employee.
11 If the division does not object to the transfer of the key
12 employee license within 30 days after the receipt of
13 written notice from both the employee and employer,
14 the key employee license shall become attached to the
15 license of the new employer.

16 ~~SEC. 6.~~

17 *SEC. 8.* Section 19846A of the Business and
18 Professions Code is amended and renumbered to read:

19 19846. (a) Every person who, by statute or
20 regulation, is required to hold a state license shall obtain
21 the license prior to engaging in the activity or occupying
22 the position with respect to which the license is required.
23 Every person who, by order of the commission, is
24 required to apply for a gambling license or a finding of
25 suitability shall file the application within 30 calendar
26 days after receipt of the order.

27 (b) The commission may adopt regulations providing
28 for the temporary issuance of key employee licenses and
29 work permits. This subdivision shall become inoperative
30 on January 1, 2003, and all temporary licenses or permits
31 granted thereunder shall then expire, unless a later
32 enacted statute, that is enacted before January 1, 2003,
33 deletes or extends that date.

34 ~~SEC. 7.~~

35 *SEC. 9.* Section 19851.5 of the Business and
36 Professions Code is amended to read:

37 19851.5. (a) Notwithstanding subdivision (i) of
38 Section 19801, the division or commission shall not deny
39 a license to a gambling establishment solely because it is



1 not open to the public, provided that all of the following
2 are true:

3 (1) The gambling establishment is situated in a local
4 jurisdiction that has an ordinance allowing only private
5 clubs, and the gambling establishment was in operation
6 as a private club under that ordinance on December 31,
7 1997, and met all applicable state and local gaming
8 registration requirements.

9 (2) The gambling establishment consists of no more
10 than five gaming tables.

11 (3) Videotaped recordings of the entrance to the
12 gambling room or rooms and all tables situated therein
13 are made during all hours of operation by means of closed
14 circuit television cameras, and these tapes are retained
15 for a period of 30 days and are made available for review
16 by the division or commission upon request.

17 (4) The gambling establishment is open to members of
18 the private club and their spouses in accordance with
19 membership criteria in effect as of December 31, 1997.

20 A gambling establishment meeting these criteria, in
21 addition to the other requirements of this chapter, may
22 be licensed to operate as a private club gambling
23 establishment until July 1, 2000, or until the ownership or
24 operation of the gambling establishment changes from
25 the ownership or operation as of January 1, 1998,
26 whichever occurs first. Operation of the gambling
27 establishments after this date shall only be permitted if
28 the local jurisdiction approves an ordinance, pursuant to
29 Sections 19950.1 and 19950.2, authorizing the operation of
30 gambling establishments that are open to the public. The
31 commission shall adopt regulations implementing this
32 section.

33 (b) Notwithstanding subdivision (i) of Section 19801,
34 if the gambling ordinance of a county provides for the
35 operation of gambling establishments as private clubs,
36 and this ordinance was adopted by the electors thereof in
37 a countywide election, then the election requirement
38 contained in subdivision (a) shall be deemed satisfied and
39 a gambling establishment located in that county may be
40 licensed to operate as a private club gambling



1 establishment so long as the current licenseholder owns
2 and operates the club and provided that it otherwise
3 meets all the requirements of this chapter.

4 ~~SEC. 8.~~

5 *SEC. 10.* Section 19852A of the Business and
6 Professions Code is amended and renumbered to read:

7 19852. (a) In addition to other grounds stated in this
8 chapter, the commission shall deny a gambling license for
9 any of the following reasons:

10 (1) If issuance of the license with respect to the
11 proposed gambling establishment or expansion would
12 tend unduly to create law enforcement problems in a city,
13 county, or city and county other than the city, county, or
14 city and county that has regulatory jurisdiction over the
15 applicant's premises.

16 (2) If an applicant fails to conduct an economic
17 feasibility study that demonstrates to the satisfaction of
18 the commission that the proposed gambling
19 establishment will be economically viable, that there is
20 not an overconcentration of gambling establishments or
21 gambling tables in that jurisdiction, and that the owners
22 have sufficient resources to make the gambling
23 establishment successful. The commission shall hold a
24 public hearing for the purpose of reviewing the feasibility
25 study. All papers, studies, projections, pro formas, and
26 other materials filed with the commission pursuant to an
27 economic feasibility study are public records and shall be
28 disclosed to all interested parties.

29 (3) If issuance of the license is sought in respect to a
30 new gambling establishment, or the expansion of an
31 existing gambling establishment, that is to be located or
32 is located near an existing school, an existing building
33 used primarily as a place of worship, an existing
34 playground or other area of juvenile congregation, an
35 existing hospital, convalescence facility, or near another
36 similarly unsuitable area, as determined by regulation of
37 the commission, which is located in a city, county, or city
38 and county other than the city, county, or city and county
39 that has regulatory jurisdiction over the applicant's
40 gambling premises.



1 (b) For the purposes of this section, “expansion”
2 means an increase of 25 percent or more in the number
3 of authorized gambling tables in a gambling
4 establishment, based on the number of gambling tables
5 for which a license was initially issued pursuant to this
6 chapter.

7 ~~SEC. 9.~~

8 *SEC. 11.* Section 19861.5 is added to the Business and
9 Professions Code, to read:

10 19861.5. (a) The commission may issue a temporary
11 license to own a gambling establishment to any applicant
12 listed in subdivision (b) after determining that the
13 applicant is not disqualified pursuant to Section 19850A.
14 The commission may attach limits and conditions on
15 temporary licenses issued pursuant to this section as it
16 deems necessary, and may summarily revoke a
17 temporary license if subsequent information indicates
18 that the temporary licensee is unsuitable to be licensed,
19 if the licensee violates any provision of this chapter or of
20 Chapter 10 (commencing with Section 330) of the Penal
21 Code, or if the licensee fails to comply with any limitation
22 or condition attached to the license.

23 (b) A temporary license may be issued only for the
24 purpose of operating a gambling establishment owned by
25 the previous licensee, and may be issued only to an heir
26 of the previous licensee, to a beneficiary or trustee of a
27 trust in which an ownership interest in the gambling
28 establishment is held, or to a purchaser of an ownership
29 interest in the existing gambling establishment.

30 (c) The issuance of a temporary license does not create
31 any right whatsoever to the ultimate issuance of a state
32 license to own a gambling establishment, nor does it
33 imply a presumption of suitability for that license.

34 ~~SEC. 10.~~

35 *SEC. 12.* Section 19872A of the Business and
36 Professions Code is amended and renumbered to read:

37 19872. (a) If at any time the commission denies a
38 license to an individual owner of any security issued by a
39 corporation that applies for or holds an owner license, the
40 owner of the security shall immediately offer the security



1 to the issuing corporation for purchase. The corporation
2 shall purchase the security so offered within 30 calendar
3 days after the date of the offer for book value in cash as
4 provided for in the articles of incorporation or the bylaws,
5 but in no event for an amount greater than fair market
6 value. If the book value or the fair market value of the
7 security exceeds one million dollars (\$1,000,000), the
8 commission may allow the issuing corporation a period of
9 not to exceed 90 calendar days within which to purchase
10 the security.

11 (b) Beginning upon the date when the division serves
12 notice of the denial upon the corporation, it is unlawful
13 for the denied security owner to do any of the following:

14 (1) Receive any dividend or interest upon any security
15 described in subdivision (a).

16 (2) Exercise, directly or through any trustee or
17 nominee, any voting right conferred by any security
18 described in subdivision (a).

19 (3) Receive any remuneration in any form from the
20 corporation for services rendered or for any other
21 purpose.

22 (c) Every security issued by a corporate owner
23 licensee shall bear a statement, on both sides of the
24 certificate evidencing the security, of the restrictions
25 imposed by this section.

26 (d) This section shall become operative on the
27 occurrence of one of the events specified in Section 66 of
28 the act that added this section to the Business and
29 Professions Code.

30 ~~SEC. 11.~~

31 *SEC. 13. Section 19940 of the Business and Professions*
32 *Code is amended to read:*

33 19940. (a) All fines and penalties collected pursuant
34 to this chapter shall be deposited in a special account in
35 the General Fund, and, upon appropriation, may be
36 expended by the Department of Justice to offset costs
37 incurred pursuant to this chapter.

38 (b) Except as otherwise provided in subdivision (a),
39 all fees ~~and~~, revenue, *and transfers* collected pursuant to
40 this chapter shall be deposited in the Gambling Control



1 Fund, which is hereby created in the State Treasury.
2 Notwithstanding Section 13340 of the Government Code,
3 five million four hundred thousand dollars (\$5,400,000) of
4 the funds deposited in the Gambling Control Fund shall
5 be available, upon appropriation by the Legislature, to
6 the Department of Justice each fiscal year, commencing
7 with the 1998–99 fiscal year, for expenditure by the
8 division and ~~board~~ *commission* exclusively for the support
9 of the division and ~~board~~ *commission* in carrying out their
10 duties and responsibilities under this chapter. Section
11 19919 is added to the Business and Professions Code, to
12 read:

13 19919. (a) The owner of a gambling establishment
14 may temporarily close the establishment or limit the
15 hours of operation but shall provide notice to the division
16 of the temporary closure or the limited operation.

17 (b) This section shall remain in effect only until
18 January 1, 2003, and as of that date is repealed, unless a
19 later enacted statute, that is enacted before January 1,
20 2003, deletes or extends that date.

21 ~~SEC. 12.~~

22 *SEC. 15.* Section 19950.1 of the Business and
23 Professions Code is amended to read:

24 19950.1. (a) On or after the effective date of this
25 chapter, any amendment to any ordinance that would
26 result in an expansion of gambling in the city, county, or
27 city and county, shall not be valid unless the amendment
28 is submitted for approval to the voters of the city, county,
29 or city and county, and is approved by a majority of the
30 electors voting thereon. An ordinance may be amended
31 without the approval of the electors one time on or after
32 the effective date of this chapter to expand gambling by
33 a change that results in an increase of less than 25 percent
34 with respect to any of the matters set forth in paragraphs
35 (1), (2), (3), (5), and (6) of subdivision (b). Thereafter,
36 any additional expansion shall be approved by a majority
37 of the electors voting thereon. This subdivision does not
38 apply to a licensed gambling establishment that claimed
39 the operation of five or fewer tables in its initial



1 application, provided that no more than three tables are
2 added.

3 (b) For the purposes of this section, “expansion of
4 gambling” means, when compared to that authorized on
5 January 1, 1996, or under an ordinance adopted pursuant
6 to subdivision (a) of Section 19851, whichever is the lesser
7 number, a change that results in any of the following:

8 (1) An increase of 25 percent or more in the number
9 of gambling tables in the city, county, or city and county.

10 (2) An increase of 25 percent or more in the number
11 of licensed card rooms in the city, county, or city and
12 county.

13 (3) An increase of 25 percent or more in the number
14 of gambling tables that may be operated in a gambling
15 establishment in the city, county, or city and county.

16 (4) The authorization of any additional form of
17 gambling, other than card games, that may be legally
18 played in this state, to be played at a gambling
19 establishment in the city, county, or city and county.

20 (5) An increase of 25 percent or more in the hours of
21 operation of a gambling establishment in the city, county,
22 or city and county.

23 (6) An increase of 25 percent or more in the maximum
24 amount permitted to be wagered in a game.

25 (c) The measure to expand gambling shall appear on
26 the ballot in substantially the following form:

27
28 “Shall gambling be expanded in _____ beyond that
29 operated or authorized on January 1, 1996, by _____
30 (describe expansion)? Yes _____ No _____.”

31
32 ~~SEC. 13.~~

33 *SEC. 16.* Section 19950.2 of the Business and
34 Professions Code is amended to read:

35 19950.2. (a) On and after the effective date of this
36 chapter, neither the governing body nor the electors of
37 a county, city, or city and county that has not authorized
38 legal gaming within its boundaries prior to January 1,
39 1996, shall authorize legal gaming.



1 (b) No ordinance in effect on January 1, 1996, that
2 authorizes legal gaming within a city, county, or city and
3 county may be amended to expand gaming in that
4 jurisdiction beyond that permitted on January 1, 1996.

5 (c) Except as provided in subdivision (d), this section
6 shall remain operative only until January 1, 2001.

7 (d) With respect to Alameda, Contra Costa, Los
8 Angeles, San Mateo, and Santa Clara Counties only, due
9 the overconcentration of gambling establishments in
10 those counties, this section shall remain operative with
11 respect to those counties until January 1, 2005, and as of
12 that date is repealed.

13 ~~SEC. 14.~~

14 *SEC. 17. Article 15 (commencing with Section 19970)*
15 *is added to Chapter 5 of Division 8 of the Business and*
16 *Professions Code, to read:*

17

18 *Article 15. Twenty-One*

19

20 *19970. Upon approval by the commission and*
21 *division, the licensed owner of a gambling establishment*
22 *may deal, play, or carry on, open or cause to be opened,*
23 *at the gambling establishment, the game commonly*
24 *known as blackjack or twenty-one, the object of which is*
25 *for a player to obtain a higher total card count that the*
26 *dealer by reaching 21, or as close to 21 as possible without*
27 *going over that number.*

28 *19970.1. The owner of a gambling establishment shall*
29 *provide ample notice of the rules for the game of*
30 *twenty-one, as approved for play at the gambling*
31 *establishment by the commission and division, to the*
32 *patrons of the gambling establishment, subject to*
33 *regulations of the commission and division.*

34 *19970.2. The maximum number of tables at which the*
35 *game of twenty-one may be offered for play at a gambling*
36 *establishment shall be limited by the number of tables the*
37 *gambling establishment is authorized to operate, as*
38 *follows:*



1 (a) A gambling establishment authorized to operate a
 2 total of one to four tables, inclusive, may operate one table
 3 where twenty-one is played.

4 (b) A gambling establishment authorized to operate a
 5 total of five to nine tables may operate up to two tables
 6 where twenty-one is played.

7 (c) A gambling establishment authorized to operate a
 8 total of 10 to 19, inclusive, tables may operate up to four
 9 tables where twenty-one is played.

10 (d) A gambling establishment authorized to operate a
 11 total of 20 to 39, inclusive, tables may operate up to six
 12 tables where twenty-one is played.

13 (e) A gambling establishment authorized to operate a
 14 total of 40 to 59, inclusive, tables may operate up to eight
 15 tables where twenty-one is played.

16 (f) A gambling establishment authorized to operate a
 17 total of 60 or more tables may operate up to 20 tables
 18 where twenty-one is played.

19 19970.3. The fees for issuance or renewal of a state
 20 gambling license, which are based upon the number of
 21 tables that are authorized to be operated at a gambling
 22 establishment as specified in Section 19941, shall be
 23 doubled with respect to tables where twenty-one is
 24 played.

25 19970.4. The owner of a gambling establishment may
 26 collect a fee from each person playing twenty-one in a
 27 manner that complies with Section 337j of the Penal
 28 Code.

29 SEC. 18. Article 16 (commencing with Section 19980)
 30 is added to Chapter 5 of Division 8 of the Business and
 31 Professions Code, to read:

32

33

Article 16. Banked Games

34

35 19980. (a) The licensed owner of a gambling
 36 establishment may elect to operate a controlled game in
 37 one of two ways. The game may either be player-pool
 38 banked or player-banked. A game shall not be played if
 39 the rules of the game would allow the game to be banked
 40 in any other manner.



1 (b) If the licensed owner of a gambling establishment
2 elects to operate a controlled game as a player-pool
3 banked game, then:

4 (1) The game shall not be played if the rules of the
5 game would allow an owner or on-duty employee of the
6 gambling establishment to participate in the play of the
7 game for the benefit of any owner. An owner or on-duty
8 employee of the gambling establishment shall participate
9 in the play of the game solely as a player-banker and
10 dealer, and this participation shall be limited to only
11 dealing the cards and playing for the benefit of the
12 player-pool. Notwithstanding the foregoing, one or more
13 shills may participate in the game solely for the purpose
14 of attracting business or stimulating the action.

15 (2) The game shall not be played if the rules of the
16 game would allow any person other than an owner or
17 on-duty employee of the gambling establishment to
18 participate as a player-banker or dealer.

19 19981. If the licensed owner of a gambling
20 establishment elects to operate a controlled game as a
21 player-pool banked game, then the player-pool shall be a
22 pool of money that is used as the bank in the play of the
23 game. The player-pool shall be the only pool of money
24 from which all winnings are paid to players of a game and
25 into which all losses collected from players are deposited.
26 An owner or on-duty employee of the gambling
27 establishment shall participate in the game as the
28 player-banker and dealer exclusively on behalf of, and for
29 the benefit of, the player-pool. If for any reason the
30 gambling establishment ceases to offer player-pool
31 banked games for play, all remaining funds in the
32 player-pool at the time of the cessation of play shall be
33 forwarded to the Gambling Control Fund for use by the
34 division and commission in discharging their duties and
35 responsibilities under the Gambling Control Act.

36 19981.1. If the licensed owner of a gambling
37 establishment elects to operate a controlled game as a
38 player-pool banked game, then the following
39 requirements shall apply to the player-pool:



1 (a) *The licensed owner of the gambling establishment*
2 *shall maintain a separate, interest-bearing account or*
3 *accounts for the benefit and security of the player-pool.*
4 *All moneys attributable to the player-pool shall be kept*
5 *in this account or accounts. It is from this account or*
6 *accounts that all winnings are paid to players of*
7 *player-pool banked games and into which are deposited*
8 *all losses collected from those players. This account or*
9 *accounts shall not be used or considered as an asset of any*
10 *licensed owner of a gambling establishment, nor may*
11 *these funds be used as security, hypothecated, or*
12 *encumbered, in any fashion or for any reason whatsoever.*

13 (b) *The funds in the player-pool account or accounts*
14 *shall be used by the licensed owner of a gambling*
15 *establishment only for the purpose of paying winnings to*
16 *players in player-pool banked games, except as follows:*

17 (1) *To initiate the player-pool, the licensed owner of*
18 *the gambling establishment may extend an interest-free,*
19 *unsecured loan to the player-pool, which shall be*
20 *deposited into the player-pool account or accounts.*
21 *Payments from a player-pool account on that loan shall*
22 *not commence unless and until the balance in the*
23 *player-pool account is equal to at least 200 percent of the*
24 *amount of the loan. A loan to initiate a player-pool shall*
25 *not be made by any person other than the licensed owner*
26 *of the gambling establishment, and any terms of such a*
27 *loan that contradict or attempt to circumvent any of the*
28 *requirements, restrictions, or provisions of this chapter*
29 *shall be null and void.*

30 (2) *The licensed owner of the gambling establishment*
31 *may collect from a player-pool account a fee to help offset*
32 *the costs of maintaining the player-pool account and*
33 *meeting the reporting requirements of this article. Such*
34 *a fee shall not be collected more frequently than once per*
35 *month and shall not exceed 5 percent of the player-pool*
36 *account's average daily balance for the month in which*
37 *the fee is collected.*

38 (3) *The licensed owner of the gambling establishment*
39 *may use funds from a player-pool account to help offset*
40 *the cost of in-house promotional activities designed to*



1 *promote the play of player-pool banked games. These*
2 *funds shall not be collected from a player-pool account*
3 *more than once per month, and shall not exceed 2*
4 *percent of the player-pool account's average daily*
5 *balance for the month in which the fee is collected.*
6 *However, no later than January 1 and July 1 of each year,*
7 *the licensed owner of the gambling establishment shall*
8 *determine the actual cost of in-house promotional*
9 *activities for the prior six months and if that actual cost is*
10 *less than the amount that was collected, then the*
11 *difference shall be immediately refunded to the player*
12 *pool. Funds collected from a player-pool account to offset*
13 *the cost of in-house promotional activities shall not be*
14 *used to offset the cost of any advertisement or solicitation*
15 *of any nature or type that is broadcasted, disseminated,*
16 *or displayed outside of the physical boundaries of the*
17 *gambling establishment. These funds shall not be used to*
18 *offset the cost of any complimentary alcohol provided to*
19 *any patron of the gambling establishment, or to offset the*
20 *cost of any other complimentary item of gift given to a*
21 *patron if the cost of that item or gift exceeds five hundred*
22 *dollars (\$500).*

23 *19981.2. If the licensed owner of a gambling*
24 *establishment elects to operate a controlled game as a*
25 *player-pool banked game, then:*

26 *(a) He or she shall maintain detailed records in a*
27 *manner satisfactory to the division reflecting the*
28 *following:*

29 *(1) The amounts of all deposits into, and withdrawals*
30 *from, the player-pool account or accounts.*

31 *(2) The nature and purpose of all deposits into, and*
32 *withdrawals from, the player-pool account or accounts.*

33 *(3) All in-house promotional activities for which funds*
34 *from a player-pool account are used.*

35 *(4) The actual cost of all in-house promotional*
36 *activities.*

37 *(5) Any other information required by the division.*

38 *(b) No later than the 10th day of each month, the*
39 *licensed owner of the gambling establishment shall send*
40 *copies of all records specified in subdivision (a) for the*



1 *prior month to the division. Nothing in this section shall*
2 *be construed to limit the division's investigatory powers*
3 *pursuant to Section 19825.*

4 *SEC. 19. Section 186.9 of the Penal Code is amended*
5 *to read:*

6 186.9. As used in this chapter:

7 (a) "Conducts" includes, but is not limited to,
8 initiating, concluding, or participating in conducting,
9 initiating, or concluding a transaction.

10 (b) "Financial institution" means, when located or
11 doing business in this state, any national bank or banking
12 association, state bank or banking association,
13 commercial bank or trust company organized under the
14 laws of the United States or any state, any private bank,
15 industrial savings bank, savings bank or thrift institution,
16 savings and loan association, or building and loan
17 association organized under the laws of the United States
18 or any state, any insured institution as defined in Section
19 401 of the National Housing Act (12 U.S.C. Sec. 1724(a)),
20 any credit union organized under the laws of the United
21 States or any state, any national banking association or
22 corporation acting under Chapter 6 (commencing with
23 Section 601) of Title 12 of the United States Code, any
24 agency, agent or branch of a foreign bank, any currency
25 dealer or exchange, any person or business engaged
26 primarily in the cashing of checks, any person or business
27 who regularly engages in the issuing, selling, or
28 redeeming of traveler's checks, money orders, or similar
29 instruments, any broker or dealer in securities registered
30 or required to be registered with the Securities and
31 Exchange Commission under the Securities Exchange
32 Act of 1934 or with the Commissioner of Corporations
33 under Part 3 (commencing with Section 25200) of
34 Division 1 of Title 4 of the Corporations Code, any
35 licensed transmitter of funds or other person or business
36 regularly engaged in transmitting funds to a foreign
37 nation for others, any investment banker or investment
38 company, any insurer, any dealer in gold, silver, or
39 platinum bullion or coins, diamonds, emeralds, rubies, or
40 sapphires, any pawnbroker, any telegraph company, any



1 person or business regularly engaged in the delivery,
2 transmittal, or holding of mail or packages, any person or
3 business that conducts a transaction involving the
4 transfer of title to any real property, vehicle, vessel, or
5 aircraft, any personal property broker, any person or
6 business acting as a real property securities dealer within
7 the meaning of Section 10237 of the Business and
8 Professions Code, whether licensed to do so or not, any
9 person or business acting within the meaning and scope
10 of subdivisions (d) and (e) of Section 10131 and Section
11 10131.1 of the Business and Professions Code, whether
12 licensed to do so or not, any person or business regularly
13 engaged in gaming within the meaning and scope of
14 Section 330, any person or business regularly engaged in
15 pool selling or bookmaking within the meaning and scope
16 of Section 337a, any person or business regularly engaged
17 in horseracing whether licensed to do so or not under the
18 Business and Professions Code, any person or business
19 engaged in the operation of a gambling ship within the
20 meaning and scope of Section 11317, any person or
21 business engaged in controlled gambling within the
22 meaning and scope of subdivision ~~(d)~~ (i) of Section 19805
23 of the Business and Professions Code, whether registered
24 to do so or not, and any person or business defined as a
25 “bank,” “financial agency,” or “financial institution” by
26 Section 5312 of Title 31 of the United States Code or
27 Section 103.11 of Title 31 of the Code of Federal
28 Regulations and any successor provisions thereto.

29 (c) “Transaction” includes the deposit, withdrawal,
30 transfer, bailment, loan, pledge, payment, or exchange of
31 currency, or a monetary instrument, as defined by
32 subdivision (d), or the electronic, wire, magnetic, or
33 manual transfer of funds between accounts by, through,
34 or to, a financial institution as defined by subdivision (b).

35 (d) “Monetary instrument” means United States
36 currency and coin; the currency, coin, and foreign bank
37 drafts of any foreign country; payment warrants issued by
38 the United States, this state, or any city, county, or city
39 and county of this state or any other political subdivision
40 thereof; any bank check, cashier’s check, traveler’s check,



1 or money order; any personal check, stock, investment
2 security, or negotiable instrument in bearer form or
3 otherwise in a form in which title thereto passes upon
4 delivery; gold, silver, or platinum bullion or coins; and
5 diamonds, emeralds, rubies, or sapphires. Except for
6 foreign bank drafts and federal, state, county, or city
7 warrants, “monetary instrument” does not include
8 personal checks made payable to the order of a named
9 party which have not been endorsed or which bear
10 restrictive endorsements, and also does not include
11 personal checks which have been endorsed by the named
12 party and deposited by the named party into the named
13 party’s account with a financial institution.

14 (e) “Criminal activity” means a criminal offense
15 punishable under the laws of this state by death or
16 imprisonment in the state prison or from a criminal
17 offense committed in another jurisdiction punishable
18 under the laws of that jurisdiction by death or
19 imprisonment for a term exceeding one year.

20 (f) “Foreign bank draft” means a bank draft or check
21 issued or made out by a foreign bank, savings and loan,
22 casa de cambio, credit union, currency dealer or
23 exchanger, check cashing business, money transmitter,
24 insurance company, investment or private bank, or any
25 other foreign financial institution that provides similar
26 financial services, on an account in the name of the
27 foreign bank or foreign financial institution held at a bank
28 or other financial institution located in the United States
29 or a territory of the United States.

30 *SEC. 20. Section 337j of the Penal Code is amended to*
31 *read:*

32 337j. (a) It is unlawful for any person, as owner,
33 lessee, or employee, whether for hire or not, either solely
34 or in conjunction with others, to do any of the following
35 without having first procured and thereafter maintained
36 in effect all federal, state, and local licenses required by
37 law:

38 (1) To deal, operate, carry on, conduct, maintain, or
39 expose for play in this state any controlled game.



1 (2) To receive, directly or indirectly, any
2 compensation or reward or any percentage or share of the
3 revenue, for keeping, running, or carrying on any
4 controlled game.

5 (3) To manufacture, distribute, or repair any
6 gambling equipment within the boundaries of this state,
7 or to receive, directly or indirectly, any compensation or
8 reward for the manufacture, distribution, or repair of any
9 gambling equipment within the boundaries of this state.

10 (b) It is unlawful for any person to knowingly permit
11 any controlled game to be conducted, operated, dealt, or
12 carried on in any house or building or other premises that
13 he or she owns or leases, in whole or in part, if that activity
14 is undertaken by a person who is not licensed as required
15 by state law, or by an employee of that person.

16 (c) It is unlawful for any person to knowingly permit
17 any gambling equipment to be manufactured, stored, or
18 repaired in any house or building or other premises that
19 the person owns or leases, in whole or in part, if that
20 activity is undertaken by a person who is not licensed as
21 required by state law, or by an employee of that person.

22 (d) Any person who violates, attempts to violate, or
23 conspires to violate this section shall be punished by
24 imprisonment in a county jail for not more than one year,
25 or by a fine of not more than five thousand dollars
26 (\$5,000), or by both that imprisonment and fine.

27 (e) (1) As used in this section, “controlled game”
28 means any game of chance, including any gambling
29 device, played for currency, check, credit, or any other
30 thing of value that is not prohibited and made unlawful
31 by statute or local ordinance.

32 (2) As used in this section, “controlled game” does not
33 include any of the following:

34 (A) The game of bingo conducted pursuant to Section
35 326.5.

36 (B) Parimutuel racing on horse races regulated by the
37 California Horse Racing Board.

38 (C) Any lottery game conducted by the California
39 State Lottery.



1 (D) Games played with cards in private homes or
2 residences, in which no person makes money for
3 operating the game, except as a player.

4 ~~(f) This subdivision is intended to be dispositive of the~~
5 ~~law relating to the collection of player fees in gambling~~
6 ~~establishments. No fee may be calculated as a portion of~~
7 ~~wagers made or from winnings earned. The licensed~~
8 ~~owner of a gambling establishment may collect from each~~
9 ~~person who participates in the play of a game at the~~
10 ~~gambling establishment a flat fee for each wager made by~~
11 ~~the person. Fees charged for all wagers shall be~~
12 ~~determined and collected prior to the start of play of any~~
13 ~~hand or round. Ample notice shall be provided to the~~
14 ~~patrons of gambling establishments relating to the~~
15 ~~assessment of fees. Flat fees on each wager may be~~
16 ~~assessed at different collection rates, but no more than~~
17 ~~three collection rates may be established per table. The~~
18 ~~owner of the gambling establishment shall provide ample~~
19 ~~notice related to the assessment of player fees to the~~
20 ~~patrons of the gambling establishment, which shall~~
21 ~~include providing that notice at each table where~~
22 ~~controlled gambling is conducted. This legislation~~
23 ~~codifies the holding in Sullivan v. Fox (1987) 189~~
24 ~~Cal.App.3d 673, as to the collection of player fees in~~
25 ~~licensed gambling establishments, that no fee shall be~~
26 ~~calculated as a portion of wagers made or winnings~~
27 ~~earned, exclusive of charges or fees for the use of space~~
28 ~~and facilities.~~

29 *SEC. 21. Section 337k is added to the Penal Code, to*
30 *read:*

31 *337k. Notwithstanding Section 330, the licensed*
32 *owner of a gambling establishment may deal, play, or*
33 *carry on, open, or cause to be opened, at the gambling*
34 *establishment, the game of twenty-one, provided that the*
35 *game is conducted in compliance with the Gambling*
36 *Control Act, Chapter 5 (commencing with Section*
37 *19800) of Division 8 of the Business and Professions Code.*

38 *SEC. 22. Section 337l is added to the Penal Code, to*
39 *read:*



1 337l. Notwithstanding Section 330, the licensed
2 owner of a gambling establishment may deal, play, or
3 carry on, open, or cause to be opened, at the gambling
4 establishment, any controlled game, as defined in
5 subdivision (e) of Section 337j, played with cards, in
6 which a player in that game acts as the bank for the game,
7 provided that the game is conducted in compliance with
8 the Gambling Control Act, Chapter 5 (commencing with
9 Section 19800) of Division 8 of the Business and
10 Professions Code.

11 SEC. 23. Section 337m is added to the Penal Code, to
12 read:

13 337m. Notwithstanding Section 330, the licensed
14 owner of a gambling establishment may deal, play, or
15 carry on, open, or cause to be opened, at the gambling
16 establishment, any controlled game, as defined in
17 subdivision (e) of Section 337j, played with cards, in
18 which a pool of money, which is funded by the players and
19 is maintained and operated by the licensed owner of the
20 gambling establishment for the sole and exclusive benefit
21 of the players, is the bank for the game, provided that the
22 game is conducted in compliance with the Gambling
23 Control Act, Chapter 5 (commencing with Section
24 19800) of Division 8 of the Business and Professions Code.

25 SEC. 24. Section 14161 of the Penal Code is amended
26 to read:

27 14161. As used in this title:

28 (a) "Financial institution" means, when located or
29 doing business in this state, any national bank or banking
30 association, state bank or banking association,
31 commercial bank or trust company organized under the
32 laws of the United States or any state, any private bank,
33 industrial savings bank, savings bank or thrift institution,
34 savings and loan association, or building and loan
35 association organized under the laws of the United States
36 or any state, any insured institution as defined in Section
37 401 of the National Housing Act, any credit union
38 organized under the laws of the United States or any state,
39 any national banking association or corporation acting
40 under Chapter 6 (commencing with Section 601) of Title



1 12 of the United States Code, any foreign bank, any
2 currency dealer or exchange, any person or business
3 engaged primarily in the cashing of checks, any person or
4 business who regularly engages in the issuing, selling, or
5 redeeming of traveler's checks, money orders, or similar
6 instruments, any broker or dealer in securities registered
7 or required to be registered with the Securities and
8 Exchange Commission under the Securities Exchange
9 Act of 1934, any licensed sender of money, any
10 investment banker or investment company, any
11 insurance company, any dealer in coins, precious metals,
12 stones, or jewelry, any pawnbroker, any telegraph
13 company, any person or business engaged in controlled
14 gambling within the meaning of subdivision—(e) (i) of
15 Section 19805 of the Business and Professions Code,
16 whether registered or licensed to do so or not, and any
17 person or business defined as a "bank," "financial
18 agency," or "financial institution" by Section 5312 of Title
19 31 of the United States Code or Section 103.11 of Title 31
20 of the Code of Federal Regulations and any successor
21 provisions thereto.

22 (b) "Transaction" includes the deposit, withdrawal,
23 transfer, bailment, loan, payment, or exchange of
24 currency, or a monetary instrument, as defined by
25 subdivision (c), by, through, or to, a financial institution,
26 as defined by subdivision (a). "Transaction" does not
27 include the purchase of gold, silver, or platinum bullion
28 or coins, or diamonds, emeralds, rubies, or sapphires by a
29 bona fide dealer therein, and does not include the sale of
30 gold, silver, or platinum bullion or coins, or diamonds,
31 emeralds, rubies, or sapphires by a bona fide dealer
32 therein in exchange for other than a monetary
33 instrument, and does not include the exchange of gold,
34 silver, or platinum bullion or coins, or diamonds,
35 emeralds, rubies, or sapphires by a bona fide dealer
36 therein for gold, silver, or platinum bullion or coins, or
37 diamonds, emeralds, rubies, or sapphires.

38 (c) "Monetary instrument" means United States
39 currency and coin; the currency and coin of any foreign
40 country; and any instrument defined as a "monetary



1 instrument” by Section 5312 of Title 31 of the United
2 States Code or Section 103.11 of Title 31 of the Code of
3 Federal Regulations, or the successor of either.
4 Notwithstanding any other provision of this subdivision,
5 “monetary instrument” does not include bank checks,
6 cashier’s checks, traveler’s checks, personal checks, or
7 money orders made payable to the order of a named
8 party that have not been endorsed or that bear restrictive
9 endorsements.

10 (d) “Department” means the Department of Justice.

11 (e) “Criminal justice agency” means the Department
12 of Justice and any district attorney’s office, sheriff’s
13 department, police department, or city attorney’s office
14 of this state.

15 (f) “Currency” means United States currency or coin,
16 the currency or coin of any foreign country, and any legal
17 tender or coin defined as currency by Section 103.11 of
18 Title 31 of the Code of Federal Regulations or any
19 succeeding provision.

20 *SEC. 25.* This act is an urgency statute necessary for
21 the immediate preservation of the public peace, health,
22 or safety within the meaning of Article IV of the
23 Constitution and shall go into immediate effect. The facts
24 constituting the necessity are:

25 In order to clarify several issues surrounding *the*
26 *legality of the game of twenty-one, player-banked, and*
27 *player-pool banked games, and the issuance of gambling*
28 licenses by the California Gambling Control Commission
29 at the earliest possible time, it is necessary that this act
30 take effect immediately.

