

1 An Act establishing expanded gaming in the commonwealth.

2 **SECTION 1.** Section 7 of chapter 4 of the General Laws, as  
3 appearing in the 2008 Official Edition, is hereby amended by  
4 striking out clause Tenth and inserting in place thereof the  
5 following clause:-

6 Tenth, "Illegal gaming," any banking or percentage game played  
7 with cards, dice, tiles, dominoes, or any electronic, electrical  
8 or mechanical device or machine for money, property, checks,  
9 credit or any representative of value, but excluding: (i) any  
10 lottery game conducted by the state lottery commission, pursuant  
11 to sections 24, 24A and 27 of chapter 10; (ii) any game  
12 conducted pursuant to chapter 23K; (iii) pari-mutuel wagering on  
13 horse races, whether live or simulcast, pursuant to chapter 128A  
14 and chapter 128C; (iv) the game of bingo conducted pursuant to  
15 chapter 271; and (v) any charitable gaming, so called, conducted  
16 pursuant to chapter 271.

17 **SECTION 2.** Section 17 of chapter 6 of the General Laws, as so  
18 appearing, is hereby amended by striking out, in lines 7 and 8,  
19 the words "the state racing commission,".

20 **SECTION 3.** Section 48 of said chapter 6 is hereby repealed.

21 **SECTION 4.** Sections 64 and 65 of chapter 10 of the General Laws  
22 are hereby repealed.

23 **SECTION 5.** Chapter 12 of the General Laws is hereby amended by  
24 inserting after section 11L the following section:-

25 Section 11M. (a) As used in this section the following words  
26 shall, unless the context clearly requires otherwise, have the  
27 following meanings:-

28 "Commission", the Massachusetts gaming commission established  
29 pursuant to chapter 23K.

30 "Division", the division of gaming enforcement established  
31 pursuant to subsection (b).

32 "Gaming establishment", as defined in section 1 of chapter 23K.

33 (b) There shall be in the department of the attorney general a  
34 division of gaming enforcement. The attorney general shall  
35 designate an assistant attorney general as director of the  
36 division. The director may appoint and remove, subject to the  
37 approval of the attorney general, such expert, clerical or other  
38 assistants as the work of the division may require.

39 (c) The division shall have jurisdiction to enforce criminal  
40 violations of chapter 23K including, but not limited to, the  
41 power to: (1) investigate allegations of criminal activity  
42 related to or impacting the operation of gaming establishments  
43 or games; (2) receive and take appropriate action on referrals

44 for criminal prosecution from the commission; (3) provide  
45 assistance, upon request, to the commission in the consideration  
46 and promulgation of rules and regulations; (4) ensure that there  
47 is no duplication of duties and responsibilities between it and  
48 the commission; and (5) recommend persons to be placed on the  
49 list of excluded persons maintained by the commission.

50 No employee of the division, or any person engaged by the  
51 division in the course of an investigation, other than those in  
52 the performance of their official duties, shall place a wager in  
53 any gaming establishment licensed pursuant to chapter 23K during  
54 the period of their employment or assignment with the division.  
55 The attorney general shall establish a code of ethics for all  
56 division employees that is more restrictive than the provisions  
57 of chapters 268A and 268B; a copy of which shall be filed with  
58 the state ethics commission.

59 **SECTION 6.** Chapter 12B of the General Laws is hereby repealed.

60 **SECTION 7.** Subsection (b) of section 9 of chapter 13 of the  
61 General Laws, is hereby amended by striking out the words “, as  
62 well as the state racing commission established by section 48 of  
63 chapter 6,” inserted by section 29 of chapter 4 of the acts of  
64 2009.

65 **SECTION 8.** Subsection (e) of section 9B of said chapter 13 is  
66 hereby amended by striking out the words ", as well as the state  
67 racing commission established by section 48 of chapter 6" ,  
68 inserted by section 30 of said chapter 4.

69 **SECTION 9.** Said subsection (e) of said section 9B of said  
70 chapter 13, inserted by section 31 of said chapter is hereby  
71 amended by striking out the words "or regulated by the state  
72 racing commission, as established by section 48 of chapter 6" ,  
73 inserted by section 30 of said chapter 4,

74 **SECTION 10.** Section 38 of chapter 22C of the General Laws, as  
75 appearing in the 2008 Official Edition, is hereby amended by  
76 inserting after the word "involving", in lines 36 and 37, the  
77 following word:- illegal.

78 **SECTION 11.** Said chapter 22C is hereby amended by adding the  
79 following section:-

80 Section 70. The colonel of state police shall establish a  
81 gaming enforcement unit whose responsibilities shall include,  
82 but not be limited to, the investigation of criminal violations  
83 of chapter 23K or any other general or special law that pertains  
84 to gaming.

85 The gaming enforcement unit shall work in conjunction and  
86 cooperation with the bureau of investigations and enforcement

87 under the Massachusetts gaming commission established pursuant  
88 to chapter 23K on the enforcement of chapter 23K as well as the  
89 division of gaming enforcement in the office of the attorney  
90 general established pursuant to section 11M of chapter 12 to  
91 investigate any criminal activity related to gaming in the  
92 commonwealth. Officers and employees from the unit shall be  
93 assigned to the bureau of investigations and enforcement and  
94 shall report to the deputy director of said bureau as well as  
95 the colonel of the department of state police pursuant to  
96 section 34 of chapter 23K. No officer of the unit, other than  
97 in the performance of official duties, shall place a wager in  
98 any gaming establishment licensed under chapter 23K.

99 **SECTION 12.** The General Laws are hereby amended by inserting  
100 after chapter 23J the following chapter:-

101 **CHAPTER 23K.**

102 **THE MASSACHUSETTS GAMING COMMISSION**

103 **Section 1.** The General Court finds and declares that:

104 (1) ensuring public confidence in the integrity of the gaming  
105 licensing process and in the strict oversight of all gaming  
106 establishments through a rigorous regulatory scheme is the  
107 paramount policy objective of this chapter;

108 (2) establishing the financial stability and integrity of  
109 gaming licensees, as well as the integrity of their sources of  
110 financing, is an integral and essential element of the  
111 regulation and control of gaming under this chapter;

112 (3) gaming licensees shall be held to the highest standards of  
113 licensing and shall have a continuing duty to maintain their  
114 integrity and financial stability;

115 (4) enhancing and supporting the performance of the state  
116 lottery and continuing the commonwealth's dedication to local  
117 aid is imperative to the policy objectives of this chapter;.

118 (5) the commonwealth must provide for new employment  
119 opportunities in all sectors of the economy, particularly  
120 opportunities for the unemployed; this chapter sets forth a  
121 robust licensing process where applicants for a gaming license  
122 shall submit a comprehensive plan for operating a gaming  
123 establishment which includes how they will foster and encourage  
124 new construction through capital investment and provide  
125 permanent employment opportunities to residents of the  
126 commonwealth;

127 (6) promoting local small businesses and the tourism industry,  
128 including the development of new and existing small business and  
129 tourism amenities such as lodging, dining, retail and cultural

130 and social facilities, is fundamental to the policy objectives  
131 of this chapter;

132 (7) recognizing the importance of the commonwealth's unique  
133 cultural and social resources and integrating them into new  
134 development opportunities shall be a key component of a decision  
135 to the award of any gaming license under this chapter;

136 (8) applicants for gaming licenses and gaming licensees shall  
137 demonstrate their commitment to efforts to combat compulsive  
138 gambling and a dedication to community mitigation, and shall  
139 recognize that the privilege of licensure bears a concomitant  
140 responsibility to identify, address and minimize any potential  
141 negative consequences of their business operations;

142 (9) any license awarded by the commission shall be a revocable  
143 privilege and may be conditioned, suspended or revoked upon: (i)  
144 a breach of the conditions of licensure, (ii) any civil or  
145 criminal violations of the laws of the commonwealth or other  
146 jurisdictions; or (iii) a finding by the commission that a  
147 licensee is unsuitable to operate a gaming establishment or  
148 perform the duties of their licensed position;

149 (10) the power and authority granted to the commission shall  
150 be construed as broadly as necessary for the implementation,  
151 administration and enforcement of this chapter.

152 **Section 2.** As used in this chapter the following words shall,  
153 unless the context clear requires otherwise, have the following  
154 meanings:-

155 "Affiliate", a person who, directly or indirectly, controls or  
156 is controlled by, or is under common control with, a specified  
157 person.

158 "Applicant", any person who has applied for a license to engage  
159 in activity regulated under this chapter.

160 "Application", a written request for a finding of suitability to  
161 receive a license or engage in an activity which is regulated  
162 under this chapter.

163 "Bureau", the investigations and enforcement bureau under the  
164 commission.

165 "Business", a corporation, sole proprietorship, partnership,  
166 limited liability company or any other organization formed for  
167 the purpose of carrying on commercial enterprise.

168 "Category 1 license", a license issued by the commission that  
169 permits the licensee to operate a gaming facility with table  
170 games and slot machines .

171 "Category 2 license", a license issued by the commission to a  
172 thoroughbred horse racing facility or to a harness racing  
173 facility to operate up to 750 slot machines at its gaming  
174 facility.

175 "Category 3 license", a license issued by the commission to a  
176 greyhound racing facility to operate up to 750 slot machines at  
177 its gaming facility.

178 "Chair", the chair of the commission.

179 "Cheat", alter the selection of criteria which determines the  
180 results of a game or the amount or frequency of payment in a  
181 game.

182 "Close associate", a person who holds any relevant financial  
183 interest in, or is entitled to exercise any power in, the  
184 business of an applicant or licensee and, by virtue of that  
185 interest or power is able to exercise a significant influence  
186 over the management or operation of a gaming establishment or  
187 business licensed under this chapter.

188 "Conservator", a person appointed by the commission under  
189 section 33 to temporarily manage the operation of a gaming  
190 establishment.

191 "Credit card", a card, code or other device with which a person  
192 may defer payment of debt, incur debt and defer its payment, or  
193 purchase property or services and defer payment therefor, but  
194 not a card, code or other device used to activate a preexisting  
195 agreement between a person and a financial institution to extend  
196 credit when the person's account at the financial institution is  
197 overdrawn or to maintain a specified minimum balance in the  
198 person's account at the financial institution.

199 "Credit instrument", a writing which evidences a gaming debt  
200 owed to a person who holds a gaming license at the time the debt  
201 is created, and includes any writing taken in consolidation,  
202 redemption or payment of a previous credit instrument.

203 "Commission", the Massachusetts gaming commission.

204 "Commissioner", a member of the commission.

205 "Complimentary service or item" - a service or item provided at  
206 no cost or at a reduced price.

207 "Deputy director", the director of the bureau.

208 "Division", the division of gaming enforcement under the office  
209 of the attorney general.

210 "Executive director", the executive director of the  
211 Massachusetts gaming commission.

212 "Foreign business", any business that was organized outside of  
213 the United States or under the laws of a foreign country.

214 "Gambling", the playing of a game by a patron of a gaming  
215 establishment.

216 "Game", any banking or percentage game played with cards, dice,  
217 tiles, dominoes, or any electronic, electrical or mechanical  
218 device or machine played for money, property, checks, credit or  
219 any representative of value which has been approved by the  
220 commission pursuant to this chapter.

221 "Gaming", the dealing, operating, carrying on, conducting,  
222 maintaining or exposing for pay of any game.

223 "Gaming employee", any employee of a gaming establishment who  
224 is: (i) directly connected to the operation or maintenance of  
225 any slot machine or game taking place in the establishment, (ii)  
226 provides security in a gaming establishment or (iii) has access  
227 to a restricted area of the gaming establishment.

228 "Gaming establishment", any premise approved under a gaming  
229 license which includes a gaming facility and any other nongaming

230 structures related thereto, including, but not limited to,  
231 hotels, restaurants, or other amenities.

232 "Gaming facility", any premises of a gaming establishment  
233 wherein or whereon any gaming is done.

234 "Gaming key employee", any employee of a gaming establishment:  
235 (i) in a supervisory capacity, (ii) empowered to make  
236 discretionary decisions which regulate gaming facility  
237 operations or (iii) so designated by the commission.

238 "Gaming device" or "Gaming equipment", any electronic,  
239 electrical, or mechanical contrivance or machine used in  
240 connection with gaming or any game.

241 "Gaming license", a category 1, category 2 or category 3  
242 license.

243 "Gaming licensee", any licensee who holds a category 1, category  
244 2 or category 3 gaming license.

245 "Gaming position", a designated seat or standing position where  
246 a patron of a gaming establishment can play a game.

247 "Gaming service employee", any employee of a gaming  
248 establishment who is not classified as a gaming employee or a  
249 gaming key employee. but is still required to register with the  
250 commission.

251 "Gaming vendor", any person who offers goods or services to a  
252 gaming applicant or licensee on a regular or continuing basis  
253 which directly relates to gaming, including, but not limited to,  
254 gaming equipment and simulcast wagering equipment manufacturers,  
255 suppliers, repairers and independent testing laboratories.

256 "Greyhound racing facility", a greyhound racing facility located  
257 in Suffolk or Bristol county that was licensed pursuant to  
258 chapter 128A to conduct live greyhound racing in calendar year  
259 2009; and (ii) is licensed pursuant to chapter 128C to conduct  
260 simulcast wagering.

261 "Gross revenue" or "gross gaming revenue", the total of all  
262 sums actually received by a gaming licensee from gaming  
263 operations less the total of all sums paid out as winnings to  
264 patrons; provided however, that the cash equivalent value of any  
265 merchandise or thing of value included in a jackpot or payout  
266 shall not be included in the total of all sums paid out as  
267 winnings to patrons for the purpose of determining gross  
268 revenue. Gross revenue shall not include any amount received by  
269 a gaming licensee from simulcast wagering and shall not include  
270 credit extended or collected by the licensee for purposes other  
271 than gaming.

272 "Harness horse racing facility", a harness horse racing  
273 facility located in Norfolk county that was licensed pursuant  
274 to chapter 128A to conduct live harness horse racing in calendar  
275 year 2009; and (ii) is licensed pursuant to chapter 128A to  
276 conduct live harness horse racing and licensed pursuant to  
277 chapter 128C to conduct simulcast wagering.

278 "Holding company", any corporation, association, firm,  
279 partnership, trust or other form of business organization other  
280 than a natural person which, directly or indirectly, owns, has  
281 the power or right to control, or has the power to vote any  
282 significant part of the outstanding voting securities of a  
283 corporation or other form of business organization which holds  
284 or applies for a gaming license. For the purposes of this  
285 definition, in addition to other reasonable meaning of the words  
286 used, a holding company indirectly has, holds or owns any such  
287 power, right or security if it does so through any interest in a  
288 subsidiary or successive subsidiaries, however many such  
289 subsidiaries may intervene between the holding company and the  
290 gaming licensee or applicant.

291 "Host community", any municipality in which a gaming  
292 establishment is or may be located.

293 "Institutional investor", any of the following entities having  
294 a 5 per cent or greater ownership interest in a gaming  
295 establishment or gaming licensee: a corporation, bank, insurance  
296 company, pension fund or pension fund trust, retirement fund,  
297 including funds administered by a public agency, employees'  
298 profit-sharing fund or employees' profit-sharing trust, an  
299 association engaged, as a substantial part of its business or  
300 operation, in purchasing or holding securities, or any trust in  
301 respect of which a bank is a trustee or co-trustee, investment  
302 company registered under the federal Investment Company Act of  
303 1940, collective investment trust organized by banks under part  
304 nine of the Rules of the Comptroller of Currency, closed end  
305 investment trust, chartered or licensed life insurance company  
306 or property and casualty insurance company, investment advisor  
307 registered pursuant to the federal Investment Advisors Act of  
308 1940, and such other persons as the commission may reasonably  
309 determine to qualify as an institutional investor for reasons  
310 consistent with this chapter.

311 "Intermediary company", any corporation, association, firm,  
312 partnership, trust or any other form of business organization  
313 other than a natural person which is a holding company with  
314 respect to a corporation or other form of business organization

315 which holds or applies for a gaming license, and is a subsidiary  
316 with respect to any holding company.

317 "Junket", an arrangement intended to induce any person to come  
318 to a gaming establishment to gamble, where the person is  
319 selected or approved for participation on the basis of his  
320 ability to satisfy a financial qualification obligation related  
321 to his ability or willingness to gamble or on any other basis  
322 related to his propensity to gamble, and pursuant to which, and  
323 as consideration for which, any or all of the cost of  
324 transportation, food, lodging, and entertainment for said person  
325 is directly or indirectly paid by a gaming licensee or affiliate  
326 thereof.

327 "Junket enterprise", any person, other than an applicant for a  
328 gaming license or gaming licensee, who employs or otherwise  
329 engages the services of a junket representative in connection  
330 with a junket to a licensed casino, regardless of whether or not  
331 those activities occur within the commonwealth.

332 "Junket representative", any individual who negotiates the terms  
333 of, or engages in the referral, procurement or selection of  
334 persons who may participate in, any junket to a gaming  
335 establishment, regardless of whether or not those activities  
336 occur within the commonwealth.

337 "License", any license required under this chapter.

338 "List", the list of excluded persons maintained by the  
339 commission pursuant to section 39.

340 "Lottery", the Massachusetts state lottery established pursuant  
341 to section 23 of chapter 10.

342 "Major policy making position", the executive or administrative  
343 head or heads of the commission and any person whose salary  
344 equals or exceeds that of a state employee classified in step  
345 one of job group XXV of the general salary schedule contained in  
346 section 46 of chapter 30 and who reports directly to said  
347 executive or administrative head; the head of each bureau,  
348 bureau, or other major administrative unit within the commission  
349 and persons exercising similar authority.

350 "Operation certificate", a certificate issued by the commission  
351 pursuant to section 27.

352 "Qualification" or "qualified", the process of licensure set  
353 forth by the commission to determine that all persons who have a  
354 professional interest in a gaming license, or gaming vendor  
355 license, or the business of a gaming licensee or gaming  
356 vendor, meet the same standards of suitability to operate or  
357 conduct business with a gaming establishment in the  
358 commonwealth.

359 "Person", any individual, corporation, association, operation,  
360 firm, partnership, trust or other form of business association.

361 "Promotional gaming credit", a slot machine credit or other item  
362 issued by a gaming licensee to a patron for the purpose of  
363 enabling the placement of a wager at a slot machine.

364 "Regulated entity", any person engaged in any business which  
365 is, or the persons engaged in which are, in any respect made  
366 subject to the supervision or regulation of the commission by  
367 any provision of law.

368 "Resort casino", a gaming establishment that includes a gaming  
369 facility, at least 1 hotel and may include other non-gaming  
370 amenities, such as entertainment venues, retail stores,  
371 recreational facilities and restaurants.

372 "Slot machine", any mechanical, electrical or other device,  
373 contrivance or machine which, upon insertion of a coin, token or  
374 similar object therein, or upon payment of any consideration  
375 whatsoever, is available to play or operate, the play or  
376 operation of which, whether by reason of the skill of the  
377 operator or application of the element of chance, or both, may  
378 deliver or entitle the individual playing or operating the  
379 machine to receive cash or tokens to be exchanged for cash, or  
380 to receive merchandise or anything of value whatsoever, whether

381 the payoff is made automatically from the machine or in any  
382 other manner whatsoever, except that the cash equivalent value  
383 of any merchandise or other thing of value shall not be included  
384 in determining the payout percentage of any slot machine.

385 "State police", the Massachusetts state police established  
386 pursuant to chapter 22C.

387 "Subsidiary", any corporation, any significant part of whose  
388 outstanding equity securities are owned, subject to a power or  
389 right of control, or held with power to vote, by a holding  
390 company or an intermediary company; or a significant interest in  
391 any firm, association, partnership, trust or other form of  
392 business organization, other than a natural person, which is  
393 owned, subject to a power or right of control, or held with  
394 power to vote, by a holding company or an intermediary company.

395 "Table game", any game, other than a slot machine, which is  
396 authorized by the commission to be played in a gaming facility.

397 "Thoroughbred horse racing facility", a thoroughbred racing  
398 facility located in Suffolk county that was licensed pursuant to  
399 chapter 128A to conduct live running horse racing in calendar  
400 year 2009; and (ii) is licensed pursuant to chapter 128A to  
401 conduct live harness horse racing and licensed pursuant to  
402 chapter 128C to conduct simulcast wagering.

403 "Transfer", the sale and every other method, direct or indirect,  
404 of disposing of or parting with property or with an interest  
405 therein, or with the possession thereof, or of fixing a lien  
406 upon property or upon an interest therein, absolutely or  
407 conditionally, voluntarily or involuntarily, by or without  
408 judicial proceedings, as a conveyance, sale, payment, pledge,  
409 mortgage, lien, encumbrance, gift, security or otherwise; the  
410 retention of a security interest in property delivered to a  
411 corporation shall be deemed a transfer suffered by such  
412 corporation.

413 "Wager", a sum of money or representative of value that is  
414 risked on an occurrence for which the outcome is uncertain.

415 **Section 3.** (a) There shall be established a Massachusetts gaming  
416 commission which shall consist of 5 commissioners who shall be  
417 appointed by a majority vote of the governor, attorney general  
418 and state treasurer, 1 of whom shall have experience in legal  
419 and policy issues related to gaming, 1 of whom shall have  
420 experience in corporate finance and securities, 1 of whom shall  
421 have experience with criminal investigations and law  
422 enforcement, 1 of whom shall be a certified public accountant  
423 who has a comprehensive knowledge of corporate auditing, and 1  
424 of whom shall have at least 5 years experience in public or  
425 business administration. The governor, attorney general and

426 treasurer shall, by majority vote, appoint a commissioner to  
427 serve as chair. The commissioner appointed to chair shall serve  
428 in such capacity throughout such commissioner's entire term and  
429 until his successor shall be been appointed. Prior to  
430 appointment a background investigation shall be conducted into  
431 the financial stability, integrity and responsibility of a  
432 candidate for appointment to the commission as well as the  
433 candidate's reputation for good character, honesty and  
434 integrity. No person who has been convicted of a felony shall be  
435 eligible to serve on the commission.

436 (b) Each commissioner shall be a resident of the commonwealth  
437 and, while serving on the commission, shall not: (i) hold, or be  
438 a candidate for, federal, state or local elected office; (ii)  
439 hold an appointed office in federal, state, or local government;  
440 or (iii) serve as an official in a political party. Not more  
441 than 3 commissioners shall be from the same political party.

442 (c) Each commissioner shall serve for a term of 5 years or  
443 until a successor is appointed and shall be eligible for  
444 reappointment; provided, however, that no commissioner shall  
445 serve more than 10 years. Any person appointed to fill a vacancy  
446 in the office of a commissioner shall be appointed in a like  
447 manner and shall serve for only the unexpired term of such  
448 commissioner. Any commissioner may be removed from his

449 appointment only for cause and upon a unanimous vote of the  
450 governor, the attorney general and the state treasurer which  
451 shall be final and not subject to review.

452 (d) Three commissioners shall constitute a quorum and the  
453 affirmative vote of a majority of the commissioners present  
454 shall be necessary for any action to be taken by the commission  
455 at a duly called meeting.

456 Commissioners shall receive salaries equal to the salary of  
457 the commissioner of administration established pursuant to  
458 section 4 of chapter 7; provided, however, that the chair shall  
459 receive a stipend, in addition to the base salary, in an amount  
460 equal to 7 per cent of the base salary. Commissioners shall  
461 devote their full time and attention to the duties of their  
462 office.

463 (e) The commission shall annually elect 1 of its commissioners  
464 to serve as secretary and 1 of its members to serve as  
465 treasurer. The secretary shall keep a record of the proceedings  
466 of the commission and shall be the custodian and keeper of the  
467 records of all books, documents, and papers filed by the  
468 commission and of its minute book. The secretary shall cause  
469 copies to be made of all minutes and other records and documents  
470 of the commission and shall certify that such copies are true

471 copies, and all persons dealing with the commission may rely  
472 upon such certification.

473 (f) The chair shall have and exercise supervision and control  
474 over all the affairs of the commission. He shall preside at all  
475 hearings at which he is present, and shall designate a  
476 commissioner to act as chair in his absence. He shall not,  
477 except as is otherwise provided herein, be charged with any  
478 administrative functions. To promote efficiency in  
479 administration, he shall from time to time make such division or  
480 re-division of the work of the commission among the  
481 commissioners as he deems expedient. All of the commissioners  
482 shall, if so directed by the chair, participate in the hearing  
483 and decision of any matter before the commission. In the hearing  
484 of all matters other than those of formal or administrative  
485 character coming before the commission, at least 2 commissioners  
486 shall participate and in the decision of all such matters at  
487 least 2 commissioners shall participate; provided, however, that  
488 any such matter may be heard, examined and investigated by an  
489 employee of the commission designated and assigned thereto by  
490 the chair with the concurrence of 1 other commissioner. Such  
491 employee shall make a report in writing relative to every such  
492 matter to the commission for its decision thereon. For the  
493 purposes of hearing, examining and investigating any such matter

494 such employee shall have all of the powers conferred upon a  
495 commissioner by this section, and all pertinent provisions of  
496 this section shall apply to such proceedings. In every hearing  
497 the concurrence of a majority of the commissioners participating  
498 in the decision shall be necessary therefor.

499 (g) The commission shall appoint an executive director. The  
500 executive director shall serve at the pleasure of the  
501 commission, shall receive such salary as may be determined by  
502 the commission, and shall devote full time and attention to the  
503 duties of the office. The executive director shall be a person  
504 with skill and experience in management and shall be the  
505 executive and administrative head of the commission and shall be  
506 responsible for administering and enforcing the provisions of  
507 law relative to the commission and to each administrative unit  
508 thereof. The executive director shall appoint and employ a chief  
509 financial and accounting officer and may, subject to the  
510 approval of the commission, employ other employees, consultants,  
511 agents, and advisors, including legal counsel, and shall attend  
512 meetings of the commission. The chief financial and accounting  
513 officer of the commission shall be in charge of its funds, books  
514 of account and accounting records. No funds shall be transferred  
515 by the commission without the approval of the commission and the

516 signatures of the chief financial and accounting officer and the  
517 treasurer.

518 In the case of an absence or vacancy in the office of the  
519 executive director, or in the case of disability as determined  
520 by the commission, the commission may designate an acting  
521 executive director to serve as executive director until the  
522 vacancy is filled or the absence or disability ceases. The  
523 acting executive director shall have all the powers and duties  
524 of the executive director and shall have similar qualifications  
525 as the executive director.

526 (h) The executive director may from time to time, subject to  
527 the approval of the commission, establish within the commission  
528 such administrative units as may be necessary for the efficient  
529 and economical administration of the commission, and when  
530 necessary for such purpose, may abolish any such administrative  
531 unit, or may merge any 2 or more units. The executive director  
532 shall prepare and keep current a plan of the organization of the  
533 commission, of the assignment of its functions to its various  
534 administrative units, offices and employees, and of the places  
535 at which and the methods whereby the public may receive  
536 information or make requests. A current copy of the plan of  
537 organization shall be kept on file with the state secretary and  
538 in the office of the secretary of administration.

539 (i) The executive director may appoint such persons as he  
540 shall deem necessary to perform the functions of the commission;  
541 provided that chapter 31 and section 9A of chapter 30 shall not  
542 apply to any commission employee. If an employee serving in a  
543 position which is classified under said chapter 31 or in which  
544 an employee has tenure by reason of said section 9A of chapter  
545 30 shall be appointed to a position within this office which is  
546 not subject to the provisions of said chapter 31, the employee  
547 shall, upon termination of his service in such position, be  
548 restored to the position which he held immediately prior to such  
549 appointment; provided, however, that his service in such  
550 position shall be determined by the civil service commission in  
551 accordance with the standards applied by said commission in  
552 administering said chapter 31. Such restoration shall be made  
553 without impairment of his civil service status or tenure under  
554 said section 9A of chapter 30 and without loss of seniority,  
555 retirement or other rights to which uninterrupted service in  
556 such prior position would have entitled him. During the period  
557 of such appointment, each person so appointed from a position in  
558 the classified civil service shall be eligible to take any  
559 competitive promotional examination for which he would otherwise  
560 have been eligible.

561 The commission may require a prospective employee to: (i)  
562 submit an application and a personal disclosure on a form  
563 prescribed by the commission which shall include a complete  
564 criminal history, including convictions and current charges for  
565 all felonies and misdemeanors; (ii) undergo testing which  
566 detects the presence of illegal substances in the body; or (iii)  
567 provide fingerprints and a photograph consistent with standards  
568 adopted by the state police. The commission shall verify the  
569 identification, employment and education of each prospective  
570 employee, including: (i) legal name, including any alias; (ii)  
571 all secondary and post secondary educational institutions  
572 attended regardless of graduation status; (iii) place of  
573 residence; and (iv) employment history.

574 The commission shall not hire a prospective employee if the  
575 prospective employee has: (i) been convicted of a felony or a  
576 misdemeanor that, in the discretion of the commission, bears a  
577 close relationship to the duties and responsibilities of the  
578 position for which employment is sought; (ii) been dismissed  
579 from prior employment for gross misconduct or incompetence; or  
580 (iii) intentionally made a false statement concerning a material  
581 fact in connection with the application to the commission. If  
582 an employee of the commission is charged with a felony or  
583 misdemeanor while employed by the commission, the commission may

584 suspend the employee or terminate employment with the  
585 commission.

586 (j) The provisions of chapters 268A and 268B shall apply to  
587 all commissioners and employees of the commission; provided,  
588 however, that the commission shall establish a code of ethics  
589 for all members and employees that is more restrictive than said  
590 chapter 268A or 268B. A copy of such code shall be filed with  
591 the state ethics commission. The code shall include provisions  
592 for recusal of a commissioner in any licensing decision due to a  
593 potential conflict of interest.

594 (k) Immediately upon assuming office, each commissioner and  
595 employee of the commission, except for secretarial and clerical  
596 personnel, shall swear or affirm that the commissioner or  
597 employee possesses no interest in any regulated entity.

598 (l) No individual shall be employed by the commission if,  
599 during the period commencing 3 years prior to employment, that  
600 individual held any direct or indirect interest in, or was  
601 employed by a licensee under this chapter.

602 (m) No employee of the commission shall pursue any other  
603 business or occupation or other gainful employment outside of  
604 the commission without the prior written approval of the

605 commission that such employment shall not interfere or be in  
606 conflict with the employee's duties to the commission.

607 (n) No commissioner shall hold any direct or indirect interest  
608 in, or be employed by, any applicant or by any person licensed  
609 by the commission for a period of 3 years after the termination  
610 of employment with the commission.

611 No employee of the commission holding a major policy making  
612 position shall acquire interest in, or accept employment with,  
613 any applicant or licensee under this chapter for a period of 2  
614 years after the termination of employment with the commission.

615 No employee of the commission in a non-major policy making  
616 position shall acquire interest in, or accept employment with,  
617 any applicant or licensee under this chapter for a period of 1  
618 year after termination of employment with the commission.

619 (o) Any commission employee assigned to a gaming facility  
620 shall be considered an essential state employee.

621 (p) No commissioner or employee, other than in the performance  
622 of his official duties, shall place a wager in any licensed  
623 entity.

624 (q) The commissioners, executive director and those employees  
625 holding a major policy-making position shall be sworn to the

626 faithful performance of their official duties. Each  
627 commissioner, executive director and those employees holding a  
628 major policy making position shall conduct themselves in a  
629 manner so as to render decisions that are fair and impartial and  
630 in the public interest; avoid impropriety and the appearance of  
631 impropriety in all matters under their jurisdiction; avoid all  
632 prohibited communications; require staff and personnel subject  
633 to their direction and control to observe the same standards of  
634 fidelity and diligence; disqualify themselves from proceedings  
635 in which their impartiality might reasonably be questioned; and  
636 refrain from financial or business dealings which would tend to  
637 reflect adversely on impartiality.

638 (r) The commissioners and employees shall not own, or be in  
639 the employ of, or own any stock in, any business which holds a  
640 license under this chapter, nor shall they have in any way  
641 directly or indirectly a pecuniary interest in, or be connected  
642 with, any such business or in the employ or connected with any  
643 person financing any such business; provided further, that  
644 immediate family members of commissioners and employees holding  
645 major policy making positions shall not own, or be in the employ  
646 of, or own stock in, any business which holds a license under  
647 this chapter. The commissioners and employees shall not  
648 personally, or through any partner or agent, render any

649 professional service or make or perform any business contract  
650 with or for any regulated entity, except contracts made with the  
651 commissioners for furnishing of services, nor shall he or she  
652 directly or indirectly receive any commission, bonus, discount,  
653 gift or reward from any regulated entity.

654 (s) Neither the commission nor any of its officers, agents,  
655 employees, consultants or advisors shall be subject to the  
656 provisions of sections 9A, 45, 46 and 52 of chapter 30, or to  
657 chapter 31, or to chapter 200 of the acts of 1976.

658 (t) The Massachusetts gaming commission shall be a commission  
659 for the purposes of section 3 of chapter 12.

660 **Section 4.** The commission shall have all powers necessary or  
661 convenient to carry out and effectuate its purposes, including,  
662 but not limited to, the power to:

- 663 (1) appoint officers and hire employees;
- 664 (2) establish, and from time to time amend, such a plan of  
665 organization as it may deem expedient pursuant to  
666 subsection (h) of section 3;
- 667 (3) execute all instruments necessary or convenient  
668 thereto for accomplishing the purposes of this chapter;
- 669 (4) enter into agreements or other transactions with any  
670 person, including, but not limited to, any public entity or

- 671 other governmental instrumentality or authority in  
672 connection with its powers and duties under this chapter;
- 673 (5) appear on its own behalf before boards, commissions,  
674 departments or other agencies of municipal, state or  
675 federal government;
- 676 (6) apply for and accept subventions, grants, loans,  
677 advances and contributions from any source of money,  
678 property, labor or other things of value, to be held, used  
679 and applied for its purposes;
- 680 (7) provide and pay for advisory services and technical  
681 assistance as may be necessary in its judgment to carry out  
682 the purpose of this chapter and fix their compensation;
- 683 (8) prepare, publish and distribute, with or without  
684 charge, as the commission may determine, such studies,  
685 reports and bulletins and other material as the commission  
686 deems appropriate;
- 687 (9) assure that licenses shall not be issued to nor held  
688 by, nor shall there be any material involvement, directly  
689 or indirectly, with a gaming operation or the ownership  
690 thereof, by unqualified, disqualified, or unsuitable  
691 persons or persons whose operations are conducted in a  
692 manner not conforming with this chapter;

693 (10) require any person to apply for a license as provided  
694 in this chapter and approve or disapprove any such  
695 application or other transactions, events, and processes as  
696 provided in this chapter;

697 (11) require any person who has any kind of business  
698 association with a gaming licensee or applicant to be  
699 qualified for licensure under this chapter;

700 (12) develop criteria, in addition to those outlined in  
701 this chapter, to assess which applications for gaming  
702 licenses will provide the highest and best value to the  
703 commonwealth;

704 (13) determine which applicants shall be awarded gaming  
705 licenses and other licenses in accordance with the terms of  
706 this chapter;

707 (14) gather facts and information applicable to the  
708 commission's obligation to issue, suspend or revoke  
709 licenses, work permits, or registrations granted to any  
710 person for: (i) violation of any provision of this chapter  
711 or regulation adopted hereunder; (ii) willfully violating  
712 an order of the commission directed to such person; (iii)  
713 the conviction of any criminal offense under this chapter;  
714 or (iv) the commission of any violation of this chapter or

715 other offense which would disqualify such person from  
716 holding a license, work permit or registration;

717 (15) conduct investigations into the qualifications of all  
718 applicants for employment by the commission and by any  
719 regulated entity and all applicants for licensure;

720 (16) request and receive from the state police, the  
721 criminal history systems board, or other criminal justice  
722 agencies, including but not limited to the United States  
723 Federal Bureau of Investigation and the federal Internal  
724 Revenue Service, such criminal offender record information  
725 relating to criminal and background investigations as  
726 necessary for the purpose of evaluating employees of, and  
727 applicants for employment by, the commission and any  
728 regulated entity, and evaluating licensees and applicants  
729 for licensure.

730 (17) be present through its inspectors and agents at all  
731 times in gaming establishments for the purposes of: (i)  
732 certifying the revenue thereof, (ii) receiving complaints  
733 from the public relating to the conduct of gaming and  
734 wagering operations, (iii) examining records of revenues  
735 and procedures, inspecting and auditing all books,  
736 documents, and records of any licensee, (iv) conducting  
737 periodic reviews of operations and facilities for the

738           purpose of regulations adopted thereunder, and (v)  
739           otherwise exercising its oversight responsibilities with  
740           respect to gaming;

741       (18)     inspect and have access to all equipment and supplies  
742           in any licensed gaming establishment or in any premises  
743           where gaming equipment is manufactured, sold or  
744           distributed;

745       (19)     seize and remove from the premises of any gaming  
746           licensee and impound any equipment, supplies, documents or  
747           records for the purpose of examination and inspection;

748       (20)     demand access to and inspect, examine, photocopy and  
749           audit all papers, books and records of any affiliate of a  
750           licensee whom the commission suspects is involved in the  
751           financing, operation or management of the licensee. The  
752           inspection, examination, photocopying and audit may take  
753           place on the affiliate's premises or elsewhere as  
754           practicable, and in the presence of the affiliate or its  
755           agent;

756       (21)     require that the books and financial or other records  
757           or statements of any licensee be kept in a manner that the  
758           commission deems proper;

- 759 (22) levy and collect assessments, fees and fines and  
760 impose penalties and sanctions for the violation of this  
761 chapter and the regulations promulgated hereunder;
- 762 (23) collect taxes;
- 763 (24) restrict, suspend or revoke licenses issued under this  
764 chapter;
- 765 (25) conduct adjudicatory proceedings and promulgate  
766 regulations in accordance with the provisions of chapter  
767 30A;
- 768 (26) refer cases for criminal prosecution to the  
769 appropriate federal, state or local authorities;
- 770 (27) issue subpoenas and compel the attendance of witnesses  
771 at any place within the commonwealth, administer oaths and  
772 require testimony under oath before the commission in the  
773 course of any investigation or hearing conducted under this  
774 chapter; and
- 775 (28) maintain an official Internet website for the  
776 commission;
- 777 (29)
- 778 (30) adopt, amend, or repeal regulations for the  
779 administration and enforcement of this chapter. Act as  
780 trustees for any gaming related trust funds.

781

782 **Section 5.** The commission shall promulgate regulations for the  
783 implementation, administration and enforcement of this chapter  
784 including without limitation regulations that:

785 (1) prescribe the method and form of application which any  
786 applicant for licensure shall follow and complete before  
787 consideration of an application by the commission;

788 (2) prescribe the information to be furnished by any applicant  
789 or licensee concerning his antecedents, habits, character,  
790 associates, criminal record, business activities and financial  
791 affairs, past or present;

792 (3) prescribe the information to be furnished by a gaming  
793 licensee relating to his gaming employees;

794 (4) require fingerprinting of an applicant for a gaming  
795 license, a gaming licensee or employee of a gaming licensee or  
796 other methods of identification;

797 (5) prescribe the manner and method of collection and payment  
798 of fees and issuance of licenses;

799 (6) prescribe grounds and procedures for the revocation or  
800 suspension of licenses;

801 (7) require quarterly financial reports and an annual audit  
802 prepared by a certified public accountant attesting to the  
803 financial condition of a gaming licensee and disclosing whether  
804 the accounts, records and control procedures examined are

805 maintained by the gaming licensee as required by this chapter  
806 and the regulations promulgated thereunder;

807 (8) prescribe the minimum procedures for effective control  
808 over the internal fiscal affairs of a gaming licensee, including  
809 provisions for the safeguarding of assets and revenues, the  
810 recording of cash and evidence of indebtedness and the  
811 maintenance of reliable records, accounts and reports of  
812 transactions, operations and events, including reports by the  
813 commission;

814 (9) provide for a minimum uniform standard of accounting  
815 procedures;

816 (10) establish licensure and work permits for employees  
817 working at the gaming establishment and minimum training  
818 requirements; provided further that the commission may establish  
819 certification procedures for any training schools in the  
820 commonwealth as well as the minimum requirements for reciprocal  
821 licensing for out of out-of-state gaming employees; and

822 (11) require that all gaming establishment employees be  
823 properly trained in their respective professions.

824

825 The commission may, pursuant to section 2 of chapter 30A,  
826 promulgate, amend, or repeal any regulation promulgated under  
827 this chapter as an emergency regulation if such regulation is

828 necessary to protect the interests of the commonwealth in  
829 regulating a gaming establishment.

830

831 **Section 6.** The commission shall administer and enforce chapter  
832 128A and 128C and any other general or special law related to  
833 pari-mutuel wagering or simulcasting. The commission shall serve  
834 as a host racing commission and an off-track betting commission  
835 for purposes of 15 U.S.C.A.30001, et seq.

836 **Section 7.** (a) In addition to any other tax or fee imposed by  
837 this chapter, there shall be imposed an annual license fee of  
838 \$600 for each machine approved by the commission for use by a  
839 gaming licensee at a gaming establishment; provided, however,  
840 that, no sooner than 5 years after award of original license the  
841 commission may annually adjust the fee for inflation. The fee  
842 shall be imposed as of July 1 of each year for all approved slot  
843 machines on that date and shall be assessed on a pro rata basis  
844 for any slot machine approved for use thereafter during the  
845 year.

846 (b) The commission shall, by regulation, establish fees for  
847 any investigation into a violation of this chapter or regulation  
848 promulgated thereunder by a gaming licensee to be paid by the  
849 licensee, including, but not limited to, billable hours by  
850 commission staff involved in the investigation and the costs of

851 services, equipment or other expenses that are incurred by the  
852 commission during the investigation.

853 (c) Any remaining costs of the commission necessary to  
854 maintain regulatory control over gaming establishments that are  
855 not covered by: (i) the fees set forth in subsections (a) and  
856 (b), (ii) any other fees assessed pursuant to this chapter or  
857 (ii) any other designated source of funding shall be assessed  
858 annually on gaming licensees under this chapter in proportion to  
859 the number of gaming positions at each gaming facility. Each  
860 licensee shall pay the amount assessed against it within 30 days  
861 after the date of the notice of assessment from the commission.

862 (d) If the fees collected in subsections (a) and (b) exceed  
863 the cost required to maintain regulatory control, the surplus  
864 funds shall be credited in proportional shares against each  
865 gaming licensee's next assessment.

866 (e) In addition to the fees collected under this section and  
867 any additional costs of the commission, the commission shall  
868 assess an annual fee of not less than \$5,000,000 in proportional  
869 shares against each gaming licensee in proportion to the number  
870 of gaming positions at each gaming facility for the costs of  
871 service and public health programs dedicated to addressing  
872 problems associated with compulsive gambling. Such assessed fees

873 shall be deposited into the Public Health Trust Fund established  
874 pursuant to section 9.

875 (f) All fees and assessments collected under this section,  
876 except those collected pursuant to subsection (e), shall be  
877 deposited into the Gaming Control Fund established pursuant to  
878 section 8.

879 **Section 8.** (a) There shall be established and set up on the  
880 books of the commonwealth a separate fund to be known as the  
881 Massachusetts Gaming Control Fund, hereinafter in this section  
882 referred to as the fund. The commission shall be the trustee of  
883 the fund expend monies to finance operational activities of the  
884 commission. The fund shall be credited any appropriations, bond  
885 proceeds or other monies authorized by the general court and  
886 specifically designated to be credited thereto, the proceeds of  
887 the assessments levied pursuant to section 7, application fees  
888 for licenses issued under this chapter and such additional funds  
889 as are subject to the direction and control of the commission.  
890 All available monies in the fund that are unexpended at the end  
891 of each fiscal year shall not revert to the General Fund and  
892 shall be available for expenditure in the subsequent fiscal  
893 year. Any funds unexpended in any fiscal year for the purposes  
894 of which such assessments were made shall be credited against  
895 the assessment to be made in the following fiscal year and the

896 assessment in the following fiscal year shall be reduced by any  
897 such unexpended amount. The commission shall record all  
898 expenditures made by subsidiary on the Massachusetts management  
899 and accounting reporting system, so-called according to  
900 regulations established by the state comptroller.

901 (b) The commission shall, for the purposes of compliance with  
902 state finance law, operate as a state agency as defined in  
903 section 1 of chapter 29 and shall be subject to the provisions  
904 applicable to agencies under the control of the governor  
905 including, but not limited to, chapter 7A, chapter 7, chapter 10  
906 and chapter 29; provided, however, that the comptroller may  
907 identify any additional instructions or actions necessary for  
908 the commission to manage fiscal operations in the state  
909 accounting system and meet statewide and other governmental  
910 accounting and audit standards. Unless otherwise exempted by law  
911 or the applicable central service agency, the commission shall  
912 participate in any other available commonwealth central services  
913 including, but not limited, to the state payroll system pursuant  
914 to section 31 of chapter 29, and may purchase other goods and  
915 services provided by state agencies in accordance with  
916 comptroller provisions. The comptroller may chargeback the  
917 commission for the transition and ongoing costs for  
918 participation in the state accounting and payroll systems and

919 may retain and expend such costs without further appropriation  
920 for the purposes of this section. The commission shall be  
921 subject to section 5D of chapter 29 and subsection (f) of  
922 section 6B of chapter 29.

923 The commission shall annually submit a finance plan to the  
924 secretary of administration and finance, the chairs of the house  
925 and senate committees on ways and means and the chairs of the  
926 joint committee on economic development and emerging  
927 technologies.

928 **Section 9.** There is hereby established and placed on the books  
929 of the commonwealth a separate fund to be known as the Public  
930 Health Trust Fund. The public health trust fund shall consist of  
931 fees assessed pursuant to section 7 and all other monies  
932 credited or transferred to said fund from any other source  
933 pursuant to law. The secretary of health and human services  
934 shall be the trustee of the public health trust fund and shall  
935 expend monies in the fund, without further appropriation, to  
936 assist social service and public health programs dedicated to  
937 addressing problems associated with compulsive gambling,  
938 including, but not limited to, gambling prevention and addiction  
939 services, educational campaigns to mitigate the potential  
940 addictive nature of gambling and any studies and evaluations  
941 necessary to ensure the proper and most effective strategies.

942 **Section 10.** (a) The commission shall issue a request for  
943 applications for gaming licenses which shall include:

944 (i) the time and date for receipt of responses to the  
945 request for applications, the manner they are to be received and  
946 the address of the office to which the applications are to be  
947 delivered;

948 (ii) the form of the application and the method for  
949 submission;

950 (iii) a general description of the anticipated schedule for  
951 processing the application;

952 (iv) the contact information of commission employees  
953 responsible for handling applicant questions; and

954 (v) any other information that the commission determines.

955 (b) Any request for applicants in subsection (a) shall be  
956 advertised in a newspaper of general circulation in the  
957 commonwealth and on the official internet website of the  
958 commission.

959 (c) The commission shall establish deadlines for the receipt  
960 of all applications for a gaming license. Applications received  
961 after the deadline shall not be eligible for review by the  
962 commission. Applicants who are eligible for a category 2 or

963 category 3 license who choose to apply for a category 1 license  
964 shall submit applications for both gaming licenses by the  
965 deadline set by the commission.

966 **Section 11.** (a) All applicants for a gaming license, and any  
967 person required by the commission to be qualified for licensure,  
968 shall establish their individual qualifications for licensure to  
969 the commission by clear and convincing evidence.

970 (b) All applicants, licensees, registrants and any other  
971 person who shall be qualified pursuant to this chapter shall  
972 have the continuing duty to provide any assistance or  
973 information required by the commission and to cooperate in any  
974 inquiry or investigation conducted by the commission. Refusal  
975 to answer or produce information, evidence or testimony by an  
976 applicant, licensee, registrant or person required to be  
977 qualified under this chapter may result in denial of the  
978 application or suspension or revocation of license or  
979 registration by the commission.

980 (c) No applicant, licensee, registrant or person required to  
981 be qualified under this chapter shall willfully withhold  
982 information from, or knowingly give false or misleading  
983 information to, the commission.

984 If the commission determines that an applicant or a close  
985 associate of an applicant, has willfully provided false or  
986 misleading information, such applicant shall no longer be  
987 eligible to receive a license under this chapter.

988 Any licensee or other person required to be qualified for  
989 licensure under this chapter who willfully provides false or  
990 misleading information shall have their license conditioned,  
991 suspended or revoked by the commission.

992 **Section 12.** (a) The commission shall have the power to require  
993 anyone with an interest in the gaming establishment, an interest  
994 in the business of the gaming licensee or who is a close  
995 associate of a gaming licensee to be qualified for licensure  
996 under this chapter pursuant to the criteria set forth in  
997 sections 14 and 19.

998 ( b) For every business which applies for a gaming license,  
999 the commission shall determine whether each officer and director  
1000 of a corporation, other than a publicly traded corporation,  
1001 general partner and limited partner of a limited partnership,  
1002 and member, transferee of a member's interest in a limited-  
1003 liability company, director and manager of a limited-liability  
1004 company which holds or applies for a gaming license meets the  
1005 standards for qualification of licensure pursuant to sections 14

1006 and 19, as well as, in the judgment of the commission, any or  
1007 all of a business's individual stockholders, lenders, holders of  
1008 evidence of indebtedness, underwriters, key executives, agents  
1009 or employees.

1010 (c) Any person owning more than 5 per cent of the common stock  
1011 of the applicant company or a holding, intermediary or  
1012 subsidiary of an applicant company shall be required to file for  
1013 licensure. The commission may waive the licensing requirements  
1014 for institutional investors holding up to 15 per cent of the  
1015 stock of the applicant company or holding, intermediary or  
1016 subsidiary company of the applicant company upon a showing by  
1017 the person seeking the waiver that the applicant purchased the  
1018 securities for investment purposes only and does not have any  
1019 intention to influence or affect the affairs or operations of  
1020 the applicant company or a holding, intermediary or subsidiary  
1021 of the applicant company. Any institutional investor granted a  
1022 waiver which subsequently determines to influence or affect the  
1023 affairs or operations of the applicant company or a holding,  
1024 intermediary or subsidiary of the applicant company shall  
1025 provide not less than 30 days notice to the commission of such  
1026 intent and shall file an application and be subject to the  
1027 licensing requirements of this chapter before taking any action  
1028 that may influence or affect the affairs of the applicant

1029 company or a holding, intermediary or subsidiary of the  
1030 applicant company. Any company holding over 15 per cent of the  
1031 applicant company, or a holding, intermediary or subsidiary of  
1032 an applicant company shall be deemed to be a qualifier and shall  
1033 file an application form with the commission and be subject to  
1034 the licensing requirements of this chapter.

1035 (d) A person who is required to be qualified for licensure by  
1036 this section as a general or limited partner shall not serve in  
1037 that position until he secures the required approval of the  
1038 commission.

1039 (e) The commission shall require any person involved in the  
1040 financing of a gaming facility to be qualified for licensure  
1041 pursuant to sections 14 and 19 and may allow such person to seek  
1042 a waiver pursuant to the standards in subsection (c).

1043 (f) A person required to be qualified for licensure shall  
1044 apply for qualification within 30 days after taking a position  
1045 with the business. A person who is required to be qualified for  
1046 licensure pursuant to a decision of the commission shall apply  
1047 for qualification within 30 days after said decision.

1048 (g) If a corporation or other form of business organization  
1049 applying for a gaming license is, or if a corporation or other  
1050 form of business organization holding a gaming license is to

1051 become, a subsidiary, each holding company, intermediary  
1052 company, and other entity shall be required to qualify for  
1053 licensure.

1054 (h) The commission shall have the authority to require the  
1055 licensing of any company or individual that can presently or was  
1056 able to exercise control or provide direction to any applicant  
1057 or licensee company or a holding, intermediary or subsidiary of  
1058 an applicant or licensee company.

1059 **Section 13.** The commission shall deny an application for a  
1060 gaming license, or any license or registration issued under this  
1061 chapter, if the applicant: (i) has been convicted of a felony or  
1062 other convictions involving embezzlement, theft, fraud or  
1063 perjury; provided, however that for convictions which occurred  
1064 before the 10-year period immediately preceding application for  
1065 licensure, an applicant may demonstrate, and the commission  
1066 shall consider, their rehabilitation and why such conviction  
1067 should not be an automatic disqualification under this section;  
1068 (ii) submitted an application for a license under this chapter  
1069 that contains false or misleading information; (iii) committed  
1070 prior acts which have not been prosecuted or convicted but form  
1071 a pattern of misconduct that make the applicant unsuitable for a  
1072 license under this chapter; or (iv) has affiliates or close  
1073 associates that would not qualify under the provisions of this

1074 chapter or whose relationship with the applicant could pose an  
1075 injurious threat to the interests of the commonwealth in  
1076 awarding a gaming license to the applicant.

1077 **Section 14.** No applicant shall be eligible to receive a gaming  
1078 license unless the applicant meets the following criteria and  
1079 clearly states as part of an application that the applicant:

1080 (1) agrees to be a state lottery reseller for the purpose of  
1081 lottery, multi-jurisdictional lottery and keno games, and to  
1082 demonstrate that state lottery and keno games are readily  
1083 accessible to its guests;

1084 (2) has suitable capital to finance its operations and the  
1085 proposed capital investment; provided, however, that such  
1086 investment shall not include the purchase or lease price of the  
1087 land where the gaming establishment will be located or any  
1088 infrastructure designed to support the site, including, but not  
1089 limited to, drainage, utility support, roadways, interchanges,  
1090 fill and soil or groundwater or surface water contamination  
1091 issues whether or not the applicant is an eligible owner or  
1092 operator under chapter 206 of the acts of 1998;

1093 (3) will have ownership of the land where the gaming  
1094 establishment will be located within 60 days after a license has  
1095 been awarded;

1096 (4) shall demonstrate that it is able to pay and shall commit  
1097 to paying the gaming licensing fee;

1098 (5) shall demonstrate to the commission how the applicant  
1099 proposes to address lottery mitigation, compulsive gambling  
1100 problems, workforce development and community development.

1101 (6) shall identify the infrastructure costs of the host and  
1102 surrounding communities incurred in direct relation to the  
1103 construction and operation of a gaming establishment and shall  
1104 commit to a community mitigation plan for those communities;

1105 (7) shall provide to the commission a signed agreement between  
1106 the host community and the applicant setting forth the  
1107 conditions to have a gaming establishment located within the  
1108 host community; provided that the agreement shall include a  
1109 community impact fee for the host community and all stipulations  
1110 of responsibilities between the host community and the  
1111 applicant; and

1112 (8) shall comply with state and local building codes.

1113 **Section 15.** (a) In addition to the requirements set forth in  
1114 section 14, no business shall be eligible to apply for a gaming  
1115 license unless it: (i) is organized under the laws of the  
1116 commonwealth, although such business organization may be a  
1117 wholly or partially owned subsidiary of a foreign business; (ii)

1118 maintains an office in the gaming establishment; (iii) maintains  
1119 a ledger in the gaming establishment of the business  
1120 organization reflecting the current ownership of the business  
1121 organization, and in the case of a corporation, of every class  
1122 of security issued by the corporation; (iv) maintains all  
1123 operating accounts required by the commission in a bank  
1124 chartered in the commonwealth or in a bank with a full service  
1125 branch present in the commonwealth; (v) includes among the  
1126 purposes stated in its official filings with the state secretary  
1127 the conduct of gaming; (vi) in the case of a non-publicly traded  
1128 corporation, files with the commission such adopted corporate  
1129 charter provisions as may be necessary to establish the right of  
1130 prior approval by the commission with regard to transfers of  
1131 securities, shares, and other interests in the applicant  
1132 corporation; (vii) in the case of a publicly traded corporation,  
1133 provides in its corporate charter that any securities of such  
1134 corporation are held subject to the condition that if a holder  
1135 thereof is found to be disqualified by the authority pursuant to  
1136 the provisions of this chapter, such holder shall dispose of his  
1137 interest in the corporation; provided, however, that nothing  
1138 herein shall be deemed to require that any security of such  
1139 corporation bear any legend to this effect; and (viii) in the  
1140 case of a non-publicly traded corporation, establishes that

1141 appropriate charter provisions create the absolute right of such  
1142 non-publicly traded corporations and companies to repurchase at  
1143 the market price or the purchase price, whichever is the lesser,  
1144 any security, share or other interest in the corporation in the  
1145 event that the commission disapproves a transfer in accordance  
1146 with the provisions of this chapter.

1147 (b) Any publicly traded holding, intermediary, or subsidiary  
1148 of the corporation, whether the corporation is publicly traded  
1149 or not, shall contain in its corporate charter the same  
1150 provisions required under subsection (a) for a publicly traded  
1151 corporation to be eligible to apply for a gaming license.

1152 (c) Any non-publicly traded holding, intermediary or  
1153 subsidiary of the corporation, whether the corporation is  
1154 publicly traded or not, shall establish that its charter  
1155 provisions are the same as those required under subsection (a)  
1156 for a non-publicly traded corporation to be eligible to apply  
1157 for a gaming license.

1158 **Section 16.** (a) No person shall be eligible to receive a  
1159 category 1 license without a certified and binding vote in favor  
1160 of such license on a ballot question at an election in the host  
1161 community where the category 1 facility will be located;  
1162 provided further that the host community shall be reimbursed for

1163 its expenses related to the election by the applicant for a  
1164 category 1 license.

1165 An applicant for a category 1 license shall have certification  
1166 of ballot approval by the host community within 3 months of  
1167 submitting an application for a category 1 license to the  
1168 commission; provided, however, that the applicant shall include  
1169 with the application a certified letter from the clerk of the  
1170 host community of a date certain for the election within the 3  
1171 month period.

1172 (b) No person shall be eligible to apply for a category 2 or  
1173 category 3 license without a binding vote in the host community  
1174 where the gaming establishment will be located by a majority of  
1175 members of the town council, or in a city having a Plan D or  
1176 Plan E charter, the city manager and the city council and in any  
1177 other city the mayor and city council and in towns a majority  
1178 vote of those present and voting at a town meeting and approval  
1179 by the board of selectmen; provided further that an applicant  
1180 for a category 2 or category 3 license who has received such a  
1181 vote shall be required to obtain a vote on a ballot question  
1182 pursuant to subsection (a) if said applicant is applying for a  
1183 category 1 license.

1184 (c) The governing body of a host community which has adopted  
1185 the provisions of chapter 43D shall file a proposal with the  
1186 interagency permitting board to designate the site proposed for  
1187 a category 1 facility as priority development site. A community  
1188 which has not adopted the provisions of 43D shall establish a  
1189 permitting board consisting of 1 representative from the  
1190 planning board, 1 member from the zoning board of appeals, 1  
1191 member from the conservation commission, 1 member from the  
1192 police department, 1 member from the fire department and 1  
1193 member from the department of public works to act as a central  
1194 coordinating authority for the purpose of expediting permitting  
1195 of the category 1 facility.

1196 **Section 17.** (a) The commission shall prescribe the form of the  
1197 application for gaming licenses which shall require, but not be  
1198 limited to, the following:

1199 (i) the name of the applicant;

1200 (ii) the mailing address and, if a corporation, the name of  
1201 the state under the laws of which it is incorporated, the  
1202 location of its principal place of business and the names and  
1203 addresses of its directors and stockholders;

1204 (iii) the identity of every person having a direct or  
1205 indirect interest in the business, and the nature of such

1206 interest; provided further, that if the disclosed entity is a  
1207 trust, the application shall disclose the names and addresses of  
1208 all beneficiaries; provided further, that if a partnership, the  
1209 names and addresses of all partners, both general and limited;  
1210 and provided further, that if a limited liability company, the  
1211 names and addresses of all members;

1212 (iv) an independent audit report of all financial  
1213 activities and interests including, but not limited to, the  
1214 disclosure of all contributions, donations, loans or any other  
1215 financial transactions to or from any gaming entity or operator  
1216 in the past 5 years;

1217 (v) clear and convincing evidence of financial stability  
1218 including, but not limited to, bank references, business and  
1219 personal income and disbursement schedules, tax returns and  
1220 other reports filed by government agencies, and business and  
1221 personal accounting check records and ledgers;

1222 (vi) information and documentation to demonstrate that the  
1223 applicant has sufficient business ability and experience as to  
1224 establish the likelihood of creation and maintenance of a  
1225 successful gaming establishment;

1226 (vii) a full description the proposed internal controls and  
1227 security systems for the proposed gaming establishment and any  
1228 related facilities;

1229 (viii) whether the applicant is partnering with a federally  
1230 recognized native American tribe located in the commonwealth for  
1231 the purposes of the proposed gaming establishment;

1232 (ix) a statement that the applicant will comply, in case  
1233 such a gaming license is issued, with all applicable laws and  
1234 with all applicable rules and regulations prescribed by the  
1235 commission or any other relevant entity;

1236 (x) proof of approval by the host municipality pursuant to  
1237 section 16;

1238 (xi) acknowledgement that the commission has authorization  
1239 to conduct warrantless searches of the gaming establishment;

1240 (xii) an agreement that the applicant shall mitigate the  
1241 potential negative public health consequences associated with  
1242 gambling and the operation of a gaming establishment including:  
1243 (1) maintaining a smoke-free environment within the gaming  
1244 facility pursuant to the provisions of section 22 of chapter  
1245 270; (2) providing complimentary on-site space for an  
1246 independent substance abuse and mental health counseling service  
1247 to be selected by the commission; (3) prominently displaying

1248 information on the signs of problem gambling and how to access  
1249 assistance; (4) describing a process for individuals to exclude  
1250 their names and contact information from the licensee's database  
1251 or any other list held by the licensee for use in marketing or  
1252 promotional communications; and (5) instituting other public  
1253 health strategies as determined by the commission;

1254 (xiii) the designs for the proposed gaming establishment,  
1255 including the names and addresses of the architects, engineers  
1256 and designers, and a timeline of construction that includes  
1257 detailed stages of construction for the gaming facility,  
1258 nongaming structures, and racecourse, where applicable;

1259 (xiv) a description of the ancillary entertainment services  
1260 and amenities to be provided at the proposed gaming  
1261 establishment;

1262 (xv) the number of employees to be employed at the proposed  
1263 gaming establishment, including detailed information on the pay  
1264 rate and benefits for employees;

1265 (xvi) completed studies and reports as required by the  
1266 commission, including reports on the economic benefits of the  
1267 proposed gaming establishment, the environmental, traffic and  
1268 local infrastructure impacts, the impact of the proposed gaming  
1269 establishment to the local and regional economy, the cost to the

1270 municipality and the commonwealth for the proposed gaming  
1271 establishment to be at its proposed location, and the total  
1272 amount of municipal and state tax revenue to be generated by the  
1273 applicant; including ancillary revenues generated by employees  
1274 and vendors;

1275 (b) In addition to the information included in subsection  
1276 (a), an applicant for a category 1 license shall include the  
1277 following information:

1278 (i) the location of the proposed category 1 establishment,  
1279 which shall include the address, maps, book and page numbers  
1280 from the appropriate registry of deeds, assessed value of the  
1281 land at the time of application, and ownership interests over  
1282 the past 20 years including all interests, options, agreements  
1283 in property, and demographic, geographic, and environmental  
1284 information, and any other information requested by the  
1285 authority;

1286 (ii) the types of games and gaming to be conducted at the  
1287 resort casino, number of tables and slot machines that are  
1288 proposed to be employed at the casino, and the specific location  
1289 of gaming at the casino site;

1290 (iii) the number of hotels and rooms and other amenities  
1291 located at the proposed category 1 establishment as well as how  
1292 they measure in quality to other area hotels and amenities;

1293 (iv) whether the applicant's category 1 establishment is  
1294 part of a regional or local economic plan; and

1295 (v) whether the applicant will be using publicly owned land  
1296 for the category 1 establishment.

1297 (c) No application for a gaming license shall be considered by  
1298 the commission unless accompanied by a nonrefundable application  
1299 fee of \$250,000, to defray the costs associated with the  
1300 processing of the application and investigation of the  
1301 applicant. If the costs of the investigation exceed the initial  
1302 application fee, the applicant shall pay the additional amount  
1303 to the commission within 30 days or the application shall be  
1304 rejected.

1305 (d) Applications for licenses shall be public records for the  
1306 purposes of section 10 of chapter 66; provided, however, that  
1307 information required by the commission that pertains to: (i)  
1308 confidential finances, earnings, revenue or trade secrets of any  
1309 applicant; (ii) an applicant's criminal record or background  
1310 information; (iii) the suitability of an applicant for a  
1311 particular endeavor and (iv) information personal in nature

1312 submitted by an applicant pursuant to this section shall be  
1313 deemed confidential, are not public records and shall not be  
1314 disclosed. Personal information shall include any information  
1315 concerning: (i) a minor child of an applicant; (ii) the social  
1316 security number of an applicant or the spouse of an applicant;  
1317 (iii) the home telephone number or address of an applicant or  
1318 the spouse or children of an applicant; (iv) the birth  
1319 certificate of the applicant or information relating to the date  
1320 or place of birth of an applicant's spouse; (v) the driver's  
1321 license number of an applicant or an applicant's spouse; (vi)  
1322 the name or address of a previous spouse of the applicant; (vii)  
1323 the personal financial information and records of an applicant  
1324 or the spouse or minor child of an applicant, including tax  
1325 returns and any and all records of criminal proceedings; (viii)  
1326 any information concerning a victim of domestic violence, sexual  
1327 assault or stalking; (ix) the personal electronic mail address  
1328 of an applicant or spouse or family member of the applicant; (x)  
1329 and any other information deemed necessary by the commission to  
1330 protect the privacy of an applicant or the applicant's family.  
1331 Any information concerning an applicant collected by the  
1332 commission may be released by the commission to an authorized  
1333 agent of the state or federal government.

1334 **Section 18.** (a) Upon receipt of an application for a gaming  
1335 license, the commission shall commence an investigation into the  
1336 suitability of an applicant. In evaluating the suitability of  
1337 an applicant, the commission shall consider the overall  
1338 reputation of the applicant including, without limitation:

1339 (i) the integrity, honesty, good character and reputation of  
1340 the applicant;

1341 (ii) the financial stability, integrity, and background of the  
1342 applicant;

1343 (iii) the business practices and the business ability of an  
1344 applicant to establish and maintain a successful gaming  
1345 establishment;

1346 (iv) whether the applicant has a history of compliance with  
1347 gaming licensing requirements in other jurisdictions;

1348 (v) whether the applicant, at the time of application, is a  
1349 defendant in litigation involving its business practices;

1350 (vi) the suitability of all parties in interest to the gaming  
1351 license, including affiliates, close associates and the  
1352 financial resources of the applicant; and

1353 (vii) whether the applicant is disqualified from receiving a  
1354 license pursuant to section 13; provided, however, that in

1355 considering the rehabilitation of an applicant for a gaming  
1356 license, the commission shall not automatically disqualify any  
1357 applicant if the applicant affirmatively demonstrates, by clear  
1358 and convincing evidence, that the applicant has financial  
1359 responsibility, character, reputation, integrity and general  
1360 fitness as such to warrant belief by the commission that the  
1361 applicant will act honestly, fairly, soundly and efficiently as  
1362 a gaming licensee.

1363 (b) If the commission determines during its investigation that  
1364 an applicant has failed to: (i) establish his integrity or the  
1365 integrity of any affiliate, close associate, financial source or  
1366 any person required to be qualified by the commission; (ii)  
1367 demonstrate responsible business practices in any jurisdiction;  
1368 or (iii) overcome any other reason, as determined by the  
1369 commission, as to why it would be injurious to the interests of  
1370 the commonwealth in awarding said applicant a gaming license,  
1371 the commission shall cease any further review and deny the  
1372 application pursuant to the procedures in subsection (f).

1373 (c) If the commission has determined an applicant is suitable  
1374 to receive a gaming license, the commission shall commence a  
1375 review of the applicant's entire application. After a review of  
1376 the entire application and any independent evaluations, the  
1377 commission shall conduct a public hearing on the application

1378 pursuant to section 11 ½ of chapter 30A. An applicant for a  
1379 gaming license shall be given at least 30 days notice of the  
1380 public hearing.

1381 (d) The public hearing shall provide the commission the  
1382 opportunity to address questions and concerns relative to the  
1383 proposal of a gaming applicant to build a gaming establishment  
1384 including the breadth and quality of the gaming facility and  
1385 amenities, the integration of the facility into the surrounding  
1386 community and the extent of required mitigation plans. During  
1387 the hearing, the commission may take the opportunity to read  
1388 into the record any letters of support, opposition or concern  
1389 from members of the communities in the vicinity of the proposed  
1390 gaming establishment.

1391 (e) Within 90 days of the conclusion of the public hearing,  
1392 the commission shall take action on the application. The  
1393 commission, by majority vote of all commissioners, may: (i) deny  
1394 the application; (ii) extend the period for issuing a decision  
1395 in order to obtain any additional information necessary for a  
1396 complete evaluation of the application; provided, however, that  
1397 the extension shall be 30 days or less; or (iii) grant the  
1398 application for a gaming license.

1399 (f) Upon denial of an application, the commission shall  
1400 prepare and file its order and, if requested by the applicant,  
1401 shall further prepare and file a statement of the reasons for  
1402 the denial, including specific findings of fact.

1403 (g) The issuance of a license is discretionary. Applicants  
1404 have no legal right or privilege to a gaming license and are not  
1405 entitled to any further review if denied.

1406 **Section 19.** (a) In determining whether an applicant should  
1407 receive a gaming license, the commission shall evaluate how an  
1408 applicant, through the application submitted and any statements  
1409 made at the public hearing, proposes to advance the following  
1410 objectives:

1411 (i) protecting the lottery from any adverse impacts due to  
1412 expanded gaming, including, but not limited to, developing  
1413 cross-marketing strategies with the lottery and increasing  
1414 ticket sales to out-of-state residents;

1415 (ii) promoting local businesses in host and surrounding  
1416 communities, including developing cross-marketing strategies  
1417 with local restaurants, hotels, retail outlets and performing  
1418 arts organizations;

1419 (iii) implementing a workforce development plan to utilize  
1420 the existing labor force in the commonwealth, including the

1421 estimated number of construction jobs a proposed gaming  
1422 establishment will generate, the development of workforce  
1423 training programs that serve the unemployed, and methods for  
1424 accessing employment at the gaming establishment;

1425 (iv) building a gaming establishment of high caliber with a  
1426 variety of quality amenities to be included as part of the  
1427 gaming establishment and operated in partnership with any local  
1428 hotels, dining, retail and entertainment facilities so that  
1429 patrons experience the diversified regional tourism industry;

1430 (v) taking additional measures to address problem gambling,  
1431 including, but not limited to, training of gaming employee to  
1432 identify patrons exhibiting problems with gambling and  
1433 prevention programs targeted toward vulnerable populations;

1434 (vi) providing a market analysis detailing the benefits of  
1435 the site location of the gaming establishment and the estimated  
1436 recapture rate of gaming-related spending by residents  
1437 travelling to out-of-state gaming establishments; and

1438 (vii) developing innovative strategies that further address  
1439 the public policy goals of the commonwealth established pursuant  
1440 to section 1.

1441 (b) The commission shall also take into consideration the  
1442 extent to which an applicant will commit to the following:

1443 (i) utilizing sustainable development principles,  
1444 including, but not limited to: (1) being certified or capable of  
1445 being certified as gold or higher pursuant to the U.S. Green  
1446 Building Council Neighborhood Development Rating System, the  
1447 green building rating system established by the Leadership in  
1448 Environmental and Energy Design, or an alternative rating system  
1449 approved by the executive office of energy and environmental  
1450 affairs; (2) meeting United States Environmental Protection  
1451 Agency efficiency standards for the electrical equipment and  
1452 appliances used by the resort casino; and (3) procuring 10  
1453 percent of its annual electricity consumption from renewable  
1454 sources identified by the division of energy resources pursuant  
1455 to section 11F of chapter 25A;

1456 (ii) establishing, funding, and maintaining human resource  
1457 hiring and training practices that promote the development of a  
1458 skilled and diverse workforce and access to promotion  
1459 opportunities through a workforce training program that: (1)  
1460 establishes transparent career paths with measurable criteria  
1461 within the gaming establishment that lead to increased  
1462 responsibility and higher pay grades that are designed to allow  
1463 employees to pursue career advancement and promotion; (2)  
1464 provides employee access to additional resources, such as  
1465 tuition reimbursement or stipend policies, to enable employees

1466 to acquire the education or job training needed to advance  
1467 career paths based on increased responsibility and pay grades;  
1468 and (3) establishes an on-site child day care program; and

1469 (iii) contracting with local business owners for the  
1470 provision of services and goods to the gaming establishment,  
1471 including developing plans designed to assist businesses in the  
1472 commonwealth in identifying the needs for goods and services to  
1473 the establishment.

1474 **Section 20.** (a) The commission may issue 2 category 1 licenses;  
1475 provided, however, that the category 1 licenses shall only be  
1476 issued to applicants who are qualified under the criteria set  
1477 forth in this chapter as determined by the commission. In  
1478 evaluating the location of the category 1 facilities, the  
1479 commission shall take into consideration their proximity to each  
1480 other and how that may impact the policy goals established  
1481 pursuant to section 1.

1482 (b) No other gaming license, or authorization to increase the  
1483 gaming positions in a category 2 or category 3 license, shall be  
1484 issued by the commonwealth for a period of 15 years; provided,  
1485 however, that such exclusivity shall not include the interests  
1486 of the commonwealth in compacting with any federally recognized  
1487 Native American tribe for gaming rights in the commonwealth.

1488 (c) No category 1 licensee shall transfer a license or any  
1489 direct or indirect interest in the license or licensed premises  
1490 without the majority approval of the commission. Any person  
1491 seeking to acquire a license through a transfer shall satisfy  
1492 the requirement for licensure pursuant to this chapter. The  
1493 commission shall reject any license transfer or transfer of  
1494 interest to an unsuitable person and may reject a proposed  
1495 transfer that, in the opinion of the commission, would be  
1496 disadvantageous to the interests of the commonwealth in the  
1497 gaming establishment.

1498 (d) The commission may issue 2 category 2 licenses; provided,  
1499 however, that the commission shall issue 1 category 2 license to  
1500 a qualified harness horse racing facility and 1 category 2  
1501 license to a qualified thoroughbred horse racing facility. A  
1502 category 2 license issued shall be contingent upon the  
1503 licensee's completion of the annual live racing season pursuant  
1504 to chapter 128A. An applicant who is eligible for a category 2  
1505 license pursuant to this section may apply for a category 1  
1506 license; provided, however, that upon receipt of a category 1  
1507 license said applicant shall continue to conduct live racing and  
1508 abide by all the live racing terms pursuant to section 23 and  
1509 shall continue to pay the applicable live racing tax required of  
1510 category 2 licensees.

1511 (e) The commission may issue 2 category 3 licenses; provided,  
1512 however, that the commission shall issue each category 3 license  
1513 to a qualified greyhound racing facility. Any category 3 license  
1514 issued shall be contingent upon the licensee's simulcasting of  
1515 live thoroughbred, harness and greyhound races pursuant to  
1516 chapter 128A. An applicant who is eligible for a category 3  
1517 license pursuant to this section may apply for a category 1  
1518 license.

1519 A category 3 licensee shall maintain a simulcasting license  
1520 pursuant to chapter 128C. Upon failure to conduct simulcast  
1521 wagering the commission shall suspend the category 3 license.

1522 (f) A category 2 license and a category 3 license issued  
1523 pursuant to this chapter shall not be transferrable or  
1524 assignable without the approval of the commission for a period  
1525 of 5 years after issuance unless: (i) the licensee experiences  
1526 financial hardship; (ii) a change in ownership; or (iii) fails  
1527 to maintain suitability or other circumstances which the  
1528 commission may consider, which impact a licensee's ability to  
1529 successfully operate a gaming establishment.

1530 (g) Notwithstanding the foregoing, and upon approval by the  
1531 commission, a category 3 licensee may merge its license with a  
1532 category 2 licensee and locate the total number of slot machines

1533 allotted to each licensee at a thoroughbred or harness racing  
1534 track. A category 2 licensee may not merge with more than 1  
1535 category 3 licensee.

1536 An applicant for a category 2 license shall apply for a merged  
1537 license with an eligible applicant for a category 3 license in  
1538 their initial application to the commission. The commission  
1539 shall approve any merger agreement and shall require parties to  
1540 the merger to be qualified for licensure pursuant to the  
1541 criteria set forth in sections 13 and 19.

1542 (h) A category 1 license issued pursuant to this chapter shall  
1543 be for a period of 15 years from the date of first issuance;  
1544 provided, however, that 5 years after issuance, and every 5  
1545 years thereafter, the commission shall perform a thorough review  
1546 of the business strategy of the resort casino which shall  
1547 include plans for expansion and marketing submitted by the  
1548 licensee. The commission shall establish procedures for renewal  
1549 and set the renewal fee based on the cost of fees associated  
1550 with the evaluation of a licensee requesting a renewed category  
1551 1 license.

1552 A category 2 and category 3 license issued pursuant to this  
1553 chapter shall be for a period of 5 years. The commission shall  
1554 establish procedures for renewal and set the renewal fee based

1555 on the cost of fees associated with the evaluation of a  
1556 licensee; provided, however, that the cost of renewal shall not  
1557 be less than \$100,000.

1558 Nothing in this section shall preclude the commission at any  
1559 time from reviewing the business operations of any gaming  
1560 licensee to ensure that the conditions of licensure are being  
1561 met, including, but not limited to, the suitability of the  
1562 licensee and any affiliates and the fiscal stability of the  
1563 gaming establishment.

1564 (i) The commission shall have the power to condition, suspend  
1565 or revoke any gaming license upon a finding that a licensee: (i)  
1566 has committed a criminal or civil offense under this chapter or  
1567 any other laws of the commonwealth; (ii) is not in compliance  
1568 with gaming regulations or is under criminal investigation in  
1569 another jurisdiction; (iii) has breached a condition of  
1570 licensure; (iv) has affiliates, close associates or employees  
1571 that are not qualified or licensed pursuant to this chapter with  
1572 whom the gaming licensee continues to conduct business or  
1573 employ; (v) is no longer capable of maintaining operations at a  
1574 gaming establishment; or (vi) whose business practice, upon a  
1575 determination by the commission, is injurious to the policy  
1576 objectives of this chapter.

1577 (j) Whenever any person contracts to transfer any property  
1578 relating to an ongoing gaming operation, including a security  
1579 holding in a gaming licensee or holding or intermediary company,  
1580 under circumstances which require that the transferee obtain  
1581 licensure under this chapter, the contract shall not specify a  
1582 closing or settlement date which is earlier than the 121st day  
1583 after the submission of a completed application for licensure or  
1584 qualification, which application shall include a fully executed  
1585 and approved trust agreement.

1586 The commission shall hold a hearing and render a decision on  
1587 the interim authorization of the applicant. If the commission  
1588 grants interim authorization, then the closing or settlement may  
1589 occur without interruption of casino operations. If the  
1590 commission denies interim authorization, there shall be no  
1591 closing or settlement until the commission makes a determination  
1592 on the qualification of the applicant, and if the commission  
1593 then denies qualification the contract shall thereby be  
1594 terminated for all purposes without liability on the part of the  
1595 transferor.

1596 The commission shall promulgate further regulations for  
1597 interim authorization of a gaming establishment.

1598 (k) No person or affiliate shall be awarded, purchase or  
1599 otherwise hold or have a financial interest in more than 1  
1600 license issued by the commission.

1601 **Section 21.** (a) Applicants for a category 1 license shall invest  
1602 not less than \$500,000,000 into the resort casino which shall  
1603 include the gaming facility, at least 1 hotel, and other  
1604 amenities as proposed in the application for a category 1  
1605 license. Upon award of a category 1 license by the commission,  
1606 the applicant shall be required to deposit 10 per cent of the  
1607 total investment proposed in the application into an interest-  
1608 bearing account. Monies received from the applicant shall be  
1609 held in escrow until the final stage of construction, as  
1610 approved by the commission, at which time the deposit shall be  
1611 returned to the applicant to be applied for such final stage.  
1612 Should the applicant be unable to complete the resort casino,  
1613 the deposit shall be forfeited to the commonwealth. In place of  
1614 a cash deposit, the commission may allow for an applicant to  
1615 secure a deposit bond insuring that 10 per cent of the proposed  
1616 capital investment shall be forfeited to the commonwealth.

1617 (b) Applicants for a category 1 license shall submit their  
1618 proposed capital investment with their application to the  
1619 commission which shall include stages of construction of the  
1620 resort casino and the deadline by which construction and any

1621 infrastructure improvements will be completed. In awarding a  
1622 category 1 license, the commission shall determine at what stage  
1623 of construction a licensee shall be approved to open for  
1624 business; provided, however, that a licensee shall not be  
1625 permitted to open for business until the commission has  
1626 determined that at least the gaming facility and hotel have been  
1627 built and are of a superior quality as set forth in the  
1628 conditions of licensure; provided, further, that total  
1629 infrastructure improvements onsite and around the vicinity of  
1630 the resort casino, including projects to account for traffic  
1631 mitigation, shall be completed before the resort casino shall be  
1632 approved for opening by the commission.

1633 (c) A category 1 licensee shall pay to the commission a fee of  
1634 not less than \$100,000,000. Applicants may propose to pay a  
1635 higher licensing fee; provided, however, that the commission  
1636 shall consider the impact of a higher fee upon an application  
1637 only after consideration of the proposed capital investment and  
1638 the applicant's ability to address the conditions for licensure  
1639 set forth in section 19. Applicants may pay the total amount of  
1640 the licensing fee up to the time the resort casino is approved  
1641 to open for business; provided, however, that the gaming  
1642 licensee shall pay \$100,000,000 at the time the license is  
1643 awarded.

1644 (d) The commission shall determine the sources and total  
1645 amount of an applicant's proposed capitalization to develop,  
1646 construct, maintain and operate a proposed gaming establishment  
1647 under this chapter. Upon award of a gaming license, the  
1648 commission shall continue to assess the capitalization of a  
1649 licensee for the duration of construction of the proposed gaming  
1650 establishment and the term of the license.

1651 **Section 22.** (a) Applicants for a category 2 or category 3  
1652 license shall invest not less than \$75,000,000 into the gaming  
1653 facility and racecourse, if applicable.

1654 The investment required under this section shall be made  
1655 within 2 years of receiving a gaming license; provided, however,  
1656 that any infrastructure improvements necessary to increase  
1657 visitor capacity and account for traffic mitigation, as  
1658 determined by the commission, shall be completed before the  
1659 category 2 or category 3 licensee shall be authorized to operate  
1660 any slot machine at the gaming facility.

1661 (b) The required licensing fee for a category 2 or category 3  
1662 license shall be not less than \$15,000,000. The commission shall  
1663 raise the license fee if an applicant for a category 2 or  
1664 category 3 license cannot demonstrate to the satisfaction of the

1665 commission that the applicant will advance any of the objectives  
1666 set forth in section 19.

1667 (c) If the commission approves the merger of a category 2 and  
1668 category 3 licensee pursuant to section 20 and grants a merged  
1669 license, the applicants shall pay \$30,000,000 and shall agree to  
1670 invest \$150,000,000 into the gaming facility and racecourse.

1671 (d) The commission shall determine the sources and total  
1672 amount of an applicant's proposed capitalization to develop,  
1673 construct, maintain and operate a proposed gaming establishment  
1674 under this chapter. Upon award of a gaming license, the  
1675 commission shall continue to assess the capitalization of a  
1676 licensee for the duration of construction of the proposed gaming  
1677 establishment and the term of the license.

1678 **Section 23.** (a) An applicant for a category 2 licensee shall  
1679 maintain any racing facility on the premises; provided, however,  
1680 that said licensee shall increase the number of live racing days  
1681 to a minimum of 125 days according to the following schedule:

1682 (i) in the first calendar year of operation a licensee  
1683 shall hold 105 racing days;

1684 (ii) in the second calendar year of operation a licensee  
1685 shall hold 115 racing days; and

1686 (iii) in the third calendar year of operation a licensee  
1687 shall hold 125 racing days.

1688 (b) A category 2 licensee may increase the number of live  
1689 racing days if said licensee is holding a minimum of 125 racing  
1690 days within 3 years of receiving a category 2 license. If a  
1691 category 2 licensee does not conduct live racing for the minimum  
1692 number of days set forth in subsection (a), the commission shall  
1693 suspend the category 2 license.

1694 (c) After 3 years of operation, and in consultation with the  
1695 parties to the purse agreement, the commission may adjust the  
1696 amount of required racing days at a category 2 facility based on  
1697 fields, demand and racing performance.

1698 (d) A category 2 licensee shall have an annual purse agreement  
1699 in effect by December thirty-first of each year for the following  
1700 year's racing; provided, however, that if the parties to a purse  
1701 agreement at a category 2 facility cannot in good faith  
1702 negotiate an agreement by December thirty-first, the purse  
1703 agreement shall be arbitrated by the commission.

1704 **Section 24.** (a) No person shall be employed by a gaming licensee  
1705 unless such person has been licensed by or registered with the  
1706 commission.

1707 (b) Any person seeking a valid key gaming employee license or  
1708 a gaming employee license shall file an application with the  
1709 commission. Such application shall be on a form prescribed by  
1710 the commission and shall include, but shall not be limited to,  
1711 the following: (1) the name of the applicant; (2) the address of  
1712 the applicant; (3) a detailed employment history of the  
1713 applicant; (4) fingerprints; (5) a criminal and arrest record;  
1714 and (6) any civil judgments obtained against the person  
1715 pertaining to antitrust or security regulation. Each applicant  
1716 shall be a resident of the commonwealth prior to the issuance of  
1717 a gaming employee license, provided, however, that the  
1718 commission may waive this requirement upon certification from  
1719 the gaming licensee that an applicant's particular position will  
1720 require the applicant to be reside outside of the commonwealth.  
1721 The commission may require such other information as it deems  
1722 appropriate including, without limitation, information related  
1723 to the financial integrity of the applicant and may require the  
1724 applicant to submit other documentation it deems appropriate  
1725 including, without limitation, bank accounts and records, bank  
1726 references, business and personal income and disbursement  
1727 schedules, tax returns and other reports filed by government  
1728 agencies, and business and personal accounting check records and  
1729 ledgers.

1730 (c) All other employees in a gaming establishment who are not  
1731 considered to be gaming employees, key gaming employees, or who  
1732 have restricted access to an area of the gaming establishment or  
1733 knowledge of security procedures, shall be required to register  
1734 with the commission as a gaming service employee and shall  
1735 produce such information as the commission may require to become  
1736 registered under this chapter.

1737 (d) Upon receipt of an application for a key gaming employee  
1738 license and a gaming employee license the commission shall  
1739 conduct an investigation of each applicant which shall include  
1740 obtaining criminal offender record information from the criminal  
1741 history systems board as well as exchanging fingerprint data and  
1742 criminal history with the state police and the federal bureau of  
1743 investigation.

1744 (e) Upon petition by a gaming licensee, the commission may  
1745 issue a temporary license to an applicant for a gaming key  
1746 employee license or a gaming employee license provided that: (i)  
1747 the applicant for a gaming key employee license or gaming  
1748 employee license has filed a complete application with the  
1749 commission; and (ii) the gaming licensee certifies, and the  
1750 commission finds, that the issuance of a temporary license is  
1751 necessary for the operation of the gaming facility and is not  
1752 designed to circumvent the normal licensing procedures.

1753 Unless otherwise stated by the commission, a temporary license  
1754 issued pursuant to this section shall expire 6 months from the  
1755 date of its issuance and may be renewed, at the discretion of  
1756 the commission, for an additional 6 month period.

1757 (f) The commission may deny any application for a key gaming  
1758 employee or gaming employee license or the registration of any  
1759 other employee of a gaming establishment if the commission finds  
1760 that any applicant or registrant is disqualified pursuant to  
1761 section 14 or may be unsuitable for licensure under any of the  
1762 criteria set forth in section 19; provided, however, that the  
1763 commission, in its discretion, may issue a license to an  
1764 applicant for a gaming employee license or register a gaming  
1765 service employee who has a prior conviction if said applicant or  
1766 registrant can affirmatively demonstrate his rehabilitation. In  
1767 considering the rehabilitation of an applicant for a license  
1768 under this section, the commission shall consider the following:  
1769 (i) the nature and duties of the position of the applicant; (ii)  
1770 the nature and seriousness of the offense or conduct; (iii) the  
1771 circumstances under which the offense or conduct occurred; (iv)  
1772 the date of the offense or conduct; (v) the age of the applicant  
1773 when the offense or conduct was committed; (vi) whether the  
1774 offense or conduct was an isolated or repeated incident; (vii)  
1775 any social conditions which may have contributed to the offense

1776 or conduct; and (viii) any evidence of rehabilitation, including  
1777 recommendations and references of persons supervising the  
1778 applicant since the offense or conduct was committed.

1779 Any orders denying an application under this section shall be  
1780 accompanied with an explanation of why an applicant did not meet  
1781 the qualifications for licensure under this chapter.

1782 (g) The commission shall be authorized to condition, suspend  
1783 or revoke any license or registration under this section if the  
1784 commission finds that a licensee or registrant has: (i) been  
1785 arrested or convicted of a crime while employed by a gaming  
1786 establishment and failed to report charges or the conviction to  
1787 the commission; (ii) failed to comply with the provisions of  
1788 section 12; or (iii) failed to comply with any of the provisions  
1789 of this chapter pertaining to licensees.

1790 (h) A license or registration issued pursuant to this section  
1791 shall be issued for a term of 3 years. It shall be the  
1792 responsibility of the employee to ensure that their license is  
1793 current.

1794 (i) The commission shall establish fees for a key gaming  
1795 employee and a gaming employee license which shall include costs  
1796 incurred for conducting a background investigation into an  
1797 applicant said license.

1798 **Section 25.** (a) No person or business shall conduct any business  
1799 with a gaming licensee unless such person has been licensed by  
1800 or registered with the commission.

1801 (b) Any person seeking a gaming vendor license shall file an  
1802 application with the commission. Such application shall be on a  
1803 form prescribed by the commission and shall include, but shall  
1804 not be limited to, the following: (i) the name of the applicant;  
1805 (ii) the post office address and if a corporation, the name of  
1806 the state under the laws of which it is incorporated, the  
1807 location of its principal place of business and the names and  
1808 addresses of its directors and stockholders; (iii) a criminal  
1809 and arrest record; (iv) any civil judgments obtained against the  
1810 person pertaining to antitrust or security regulation; (v) the  
1811 identity of every person having a direct or indirect interest in  
1812 the business, and the nature of such interest; provided further,  
1813 that if the disclosed entity is a trust, the application shall  
1814 disclose the names and addresses of all beneficiaries; provided  
1815 further, that if the disclosed entity is a partnership, the  
1816 names and addresses of all partners, both general and limited;  
1817 and provided further, that if the disclosed entity is a limited  
1818 liability company, the names and addresses of all members; (vi)  
1819 an independent audit report of all financial activities and  
1820 interests including, but not limited to, the disclosure of all

1821 contributions, donations, loans or any other financial  
1822 transactions to or from any gaming entity or operator in the  
1823 past 5 years; and (vii) clear and convincing evidence of  
1824 financial stability including, but not limited to, bank  
1825 references, business and personal income and disbursement  
1826 schedules, tax returns and other reports filed by government  
1827 agencies, and business and personal accounting check records and  
1828 ledgers. The commission may require such other information as it  
1829 deems appropriate including, without limitation, information  
1830 related to the financial integrity of the applicant and may  
1831 require the applicant to submit other documentation it deems  
1832 appropriate including, without limitation, bank accounts and  
1833 records, bank references, business and personal income and  
1834 disbursement schedules, tax returns and other reports filed by  
1835 government agencies, and business and personal accounting check  
1836 records and ledgers.

1837 (c) No person shall manufacture, sell, distribute, test or  
1838 repair slot machines, other than antique slot machines as  
1839 defined in section 5A of chapter 271, without a valid gaming  
1840 vendor license issued by the commission

1841 (d) All other suppliers or vendors who are not considered to  
1842 be gaming vendors including, but not limited to, construction  
1843 companies, vending machine providers, linen suppliers, garbage

1844 handlers, maintenance companies, limousine services, food  
1845 purveyors or suppliers of alcoholic beverages, shall be  
1846 considered non-gaming vendors and shall be required to register  
1847 with the commission and shall produce such information as the  
1848 commission may require; provided, however, that the commission  
1849 may require any vendor regularly conducting over \$250,000 of  
1850 business with a gaming licensee within a 12 month period, or  
1851 \$100,000 of business within a 3 year period, to be licensed as a  
1852 gaming vendor.

1853 (e) Any person owning more than 5 per cent of the common stock  
1854 of a company required to be licensed as a gaming vendor, or a  
1855 holding, intermediary or subsidiary of such company, shall be  
1856 required to file for licensure. The commission may waive the  
1857 licensing requirements for institutional investors holding up to  
1858 15 per cent of the stock of the company, or holding,  
1859 intermediary or subsidiary company of the such company, upon a  
1860 showing by the person seeking the waiver that the applicant  
1861 purchased the securities for investment purposes only and does  
1862 not have any intention to influence or affect the affairs or  
1863 operations of the company or a holding, intermediary or  
1864 subsidiary of the such company. Any institutional investor  
1865 granted a waiver which subsequently determines to influence or  
1866 affect the affairs or operations of the gaming vendor, or a

1867 holding, intermediary or subsidiary of the gaming vendor, shall  
1868 provide not less than 30 days notice to the commission of such  
1869 intent and shall file an application and be subject to the  
1870 licensing requirements of this chapter before taking any action  
1871 that may influence or affect the affairs of the applicant  
1872 company or a holding, intermediary or subsidiary of the  
1873 applicant company. Any company holding over 15 per cent of a  
1874 gaming vendor, or a holding, intermediary or subsidiary of a  
1875 gaming vendor, shall be deemed to be a qualifier and shall file  
1876 an application form with the commission and be subject to the  
1877 licensing requirements of this chapter.

1878 (f) If an applicant for a gaming vendor license or vendor  
1879 or supplier registration is licensed or registered in another  
1880 jurisdiction within the United States and is in good standing in  
1881 all the jurisdictions in which it holds a license or  
1882 registration, the commission may enter into a reciprocal  
1883 agreement with the applicant and to allow for an abbreviated  
1884 licensing or registration process and issue a gaming vendor  
1885 license or registration pursuant to this section, provided,  
1886 however, that the commission shall reserve its rights to  
1887 investigate the qualifications of an applicant at any time and  
1888 may require the applicant to submit to a full application for a

1889 gaming vendor license or provide further information for  
1890 registration.

1891 (g) The commission shall deny any application for a gaming  
1892 vendor license or the registration of any other vendor or  
1893 supplier if the commission finds that any applicant or  
1894 registrant is disqualified pursuant to section 14 or may be  
1895 unsuitable for licensure under any of the criteria set forth in  
1896 section 19.

1897 (h) The commission shall be authorized to condition, suspend  
1898 or revoke any license or registration under this section if the  
1899 commission finds that a licensee or registrant has: (i) been  
1900 arrested or convicted of a crime; (ii) failed to comply with the  
1901 provisions of section 12; or (iii) failed to comply with any of  
1902 the provisions of this chapter pertaining to licensees.

1903 (i) The commission shall establish a master vendor list to  
1904 monitor all vendor contracts with a gaming establishment. Any  
1905 vendor doing business with a gaming establishment who has failed  
1906 to submit an application for licensure or registration shall be  
1907 prohibited from engaging in any future business with any gaming  
1908 establishment; provided further that the commission shall be  
1909 authorized to terminate any contracts that have been entered  
1910 into with an unlicensed or unregistered vendor.

1911 (j) Gaming licensees shall have a continuing duty to inform  
1912 the commission of all vendor contracts.

1913 (k) A license or registration issued pursuant to this section  
1914 shall be issued for a term of 3 years. It shall be the  
1915 responsibility of the employee to ensure that their license is  
1916 current.

1917 (l) The commission shall establish fees for gaming vendor  
1918 licenses which shall include costs incurred for conducting a  
1919 background investigation into an applicant for said license.

1920 **Section 26.** (a) Each labor organization, union or affiliate  
1921 seeking to represent employees who are employed at a gaming  
1922 establishment, including any related facilities, shall register  
1923 with the commission.

1924 (b) Neither a labor organization, nor its officers who are not  
1925 otherwise licensed or registered under this chapter, may hold  
1926 any financial interest in a gaming establishment whose employees  
1927 they represent.

1928 **Section 27.** (a) No category 1, category 2 or category 3 licensee  
1929 shall conduct gaming without an operations certificate issued by  
1930 the commission. An operations certificate shall only be issued  
1931 upon compliance with the requirements of this chapter including;

1932 (1) implementation of all management controls required by the

1933 commission including, without limitation, controls on  
1934 accounting, wagering and auditing; (2) implementation of all  
1935 security precautions required by the commission; (3) an up to  
1936 date listing of all gaming employees; (4) licensing of all  
1937 gaming employees; (5) the provision of office space at the  
1938 facility for use by the commission employees; (6) the hours of  
1939 operation of the facility; and that its personnel and procedures  
1940 are efficient and prepared to entertain the public.

1941 The operations certificate shall be conspicuously posted and  
1942 shall state the number of slot machines, table games or other  
1943 authorized games, if applicable.

1944 (b) A category 1, category 2, or category 3 licensee may  
1945 operate a gaming establishment from 6:00 am to 5:59 am;  
1946 provided, however, that said licensee registers their hours of  
1947 operation with the commission.

1948 (c) Each gaming licensee shall arrange its gaming facility in  
1949 such a manner as to promote optimum security for the gaming  
1950 facility operations , including but not limited to: (1) a  
1951 closed circuit television system according to specifications  
1952 approved by the commission, with access on the licensed premises  
1953 to the system or its signal provided to the commission; (2) one  
1954 or more rooms or locations approved by the commission for use by

1955 commission employees; and (3) design specifications that insure  
1956 that visibility in a facility is not obstructed in any way that  
1957 might interfere with the ability of the commission or the  
1958 division to supervise facility operations.

1959 (d) Each applicant for a gaming license shall submit to the  
1960 commission a description of its minimum system of internal  
1961 procedures and administrative and accounting controls for gaming  
1962 and any simulcast wagering operations accompanied by a  
1963 certification by its chief legal officer that the submitted  
1964 procedures conform to the provisions of this chapter and any  
1965 regulations promulgated thereunder as well as a certification by  
1966 its chief financial officer that the submitted procedures  
1967 provide adequate and effective controls, establish a consistent  
1968 overall system of internal procedures and administrative and  
1969 accounting controls and conform to generally accepted accounting  
1970 principles and any additional standards required by the  
1971 commission. Each applicant shall make its submission at least  
1972 30 business days before such operations are to commence unless  
1973 otherwise directed by the commission; provided, however, that no  
1974 gaming licensee shall commence gaming operations or alter its  
1975 minimum internal controls until such system of minimum controls  
1976 is approved by the commission. The commission shall establish

1977 regulations for the information required in said internal  
1978 control submission.

1979 Any proposed changes to a gaming licensee's system of internal  
1980 procedures and controls shall be submitted to the commission  
1981 along with 2 new certifications from its chief legal and  
1982 financial officers. Pending no objections from the commission,  
1983 the gaming licensee may make said changes 15 business days after  
1984 submitting a description of the changes to the commission.

1985 (e) Gaming equipment shall not be possessed, maintained or  
1986 exhibited by any person on the premises of a gaming  
1987 establishment except in a gaming area approved by the commission  
1988 or in a restricted area used for the inspection, repair or  
1989 storage of such equipment and specifically designated for that  
1990 purpose.

1991 (f) Each gaming facility shall contain a count room and such  
1992 other secure facilities as may be required by the commission for  
1993 the counting and storage of cash, coins, tokens, checks,  
1994 plaques, gaming vouchers, coupons and other devices or items of  
1995 value used in wagering and approved by the commission that are  
1996 received in the conduct of gaming and for the inspection,  
1997 counting and storage of dice, cards, chips and other  
1998 representatives of value.

1999 (g) A dealer may accept tips or gratuities from a patron at  
2000 the table game where such dealer is conducting play; provided,  
2001 however, that such tips or gratuities shall be placed in a pool  
2002 for distribution among other dealers. The commission shall  
2003 determine how tips and gratuities shall be set aside for the  
2004 dealer pool as well as the manner of distribution among dealers.

2005 (h) No person under the age of 21 shall be permitted to wager  
2006 or be in an area of a facility where gaming is conducted;  
2007 provided, however, that a person 18 years or over of age who is  
2008 a licensed employee of the gaming operation may be in an area of  
2009 a facility where gaming is conducted if in the performance of  
2010 the duties he is licensed to undertake.

2011 (i) No category 1, category 2 or category 3 licensee shall  
2012 operate unless the facility manager or his designee is on the  
2013 premises and representatives of the commission are present at  
2014 the facility; provided, further that the commission may allow a  
2015 gaming licensee to conduct gaming operations for a period not to  
2016 exceed 48 hours pursuant to a duly filed emergency operations  
2017 plan previously filed with, and approved by, the commission that  
2018 addresses the internal procedures to be followed during such an  
2019 emergency to ensure that the gaming licensee and its employees  
2020 comply with all pertinent statutes and regulations.

2021 (j) Each gaming establishment shall file an emergency response  
2022 plan with the fire department and police department of the host  
2023 community which shall include without limitation: (1) a layout  
2024 identifying all areas within the facility and grounds including  
2025 support systems and the internal and external access routes; (2)  
2026 the location and inventory of emergency response equipment and  
2027 the contact information of the emergency response coordinator  
2028 for the facility; (3) the location of any hazardous substances  
2029 as well as a description of any public health or safety hazards  
2030 present on site; (4) a description of any special equipment  
2031 needed to respond to an emergency at the facility; (5) an  
2032 evacuation plan; and (6) any other information relating to  
2033 emergency response as requested by the fire department or the  
2034 police department of the host community.

2035 **Section 28.** (a) Notwithstanding any general or special law, rule  
2036 or regulation to the contrary, an applicant for a category 1  
2037 license may request with their gaming license application, and  
2038 the commission may grant, a resort casino beverage license for  
2039 the sale and distribution of alcoholic beverages to be drunk on  
2040 the premises of a resort casino. No alcoholic beverages shall  
2041 be sold or distributed on the premises of a gaming establishment  
2042 without such a license. The authority to enforce, regulate and

2043 control the distribution of alcoholic beverages in the resort  
2044 casino shall be exclusively vested in the commission.

2045 (b) Except as otherwise provided in this section, or by  
2046 regulations promulgated by the commission, the provisions of  
2047 chapter 138 and the rules and regulations promulgated by the  
2048 alcoholic beverages control commission shall apply to a resort  
2049 casino and a resort casino beverage license.

2050 (c) Issuance fees for the casino beverage license shall be  
2051 included with the gaming application fee. If a category 1  
2052 licensee does not apply for a casino beverage license at the  
2053 time of application, said licensee shall be subject to an  
2054 additional licensing fee determined by the commission.

2055 (d) A licensee under this section shall be permitted to  
2056 distribute alcohol free of charge and for on-premise consumption  
2057 to patrons on the casino floor or as a complimentary service or  
2058 item in the gaming establishment; provided, however, that the  
2059 commission shall promulgate regulations on such distribution as  
2060 well as the forms of identification that may be presented to the  
2061 licensee to demonstrate proof that a person has attained the age  
2062 of 21.

2063 (e) A licensee under this section shall be permitted to sell  
2064 alcohol daily after 8 antemeridian and before 2 antemeridian.

2065 (f) The request submitted to the commission for a resort  
2066 casino beverage license by an applicant or licensee for a  
2067 category 1 license shall detail all areas where alcoholic  
2068 beverages will be served within the resort casino. In issuing  
2069 said license, the commission shall describe the scope of the  
2070 particular license and any restrictions and limitations.

2071 (g) A category 1 licensee shall be responsible for any  
2072 violations of their casino beverages license in the gaming  
2073 establishment. The commission may revoke, suspend, refuse to  
2074 renew or refuse to transfer any resort casino beverage license  
2075 for violations of any provision of chapter 138, regulations  
2076 promulgated by the alcoholic beverages control commission and  
2077 the regulations promulgated by the commission. If, at any time,  
2078 a licensee elects temporary suspension of their category 1  
2079 license due to violations of this section, said licensee shall  
2080 owe the commonwealth the average tax on gross gaming revenue  
2081 based on an appropriate period of time as determined by the  
2082 commission for the number of days operation was suspended.

2083 (h) A resort casino beverage license shall be nontransferable  
2084 without prior approval from the commission. If the license  
2085 granted under this act is cancelled, revoked or no longer in  
2086 use, it shall be returned physically, with all the legal rights,  
2087 privileges and restrictions pertaining thereto, to the

2088 commission and the commission may then grant the license to a  
2089 new gaming licensee under the same conditions as specified in  
2090 this section.

2091 (i) A license granted under this section shall not decrease  
2092 the number of such licenses authorized to be granted to the host  
2093 community under the provisions of chapter 138.

2094 **Section 29.** (a) A gaming licensee shall be permitted to issue  
2095 credit to a patron of a gaming establishment in accordance with  
2096 regulations promulgated by the commission. Such regulations  
2097 shall include, but not be limited to: (i) procedures for  
2098 confirming that a patron has an established credit history and  
2099 is in good standing; (ii) whether the patron has a good credit  
2100 history with the gaming establishment; (iii) authorization of  
2101 any credit instrument; (iv) methods for acknowledging a credit  
2102 instrument and payment of debt; and (v) information to be  
2103 provided by the patron to the gaming establishment to be shared  
2104 with the commission for auditing purposes.

2105 (b) Except as otherwise authorized by the commission through  
2106 regulations pursuant to this chapter, no facility , nor any  
2107 person acting on behalf of said facility shall: (1) cash any  
2108 check, make any loan, or otherwise provide or allow to any  
2109 person any credit or advance of anything of value, or which

2110 represents value, to enable any person to place a wager; or (2)  
2111 release or discharge any debt, either in whole or in part, or  
2112 make any loan which represents any losses incurred by any player  
2113 in gaming or simulcast wagering activity, without maintaining a  
2114 written record thereof in accordance with the rules of the  
2115 commission. Nothing in this section shall prohibit a facility  
2116 from accepting credit cards for non-gaming related purchases or  
2117 services.

2118 (c) Checks cashed in conformity with the requirements of this  
2119 chapter shall be valid instruments enforceable under the laws of  
2120 the commonwealth. Any check cashed, transferred, conveyed or  
2121 given in violation of this chapter or regulations promulgated  
2122 thereunder shall be invalid and unenforceable.

2123 (d) The commission shall establish, by regulation, procedures  
2124 and standards for approving promotional gaming credits, provided  
2125 that no such credit shall be reported as a promotional gaming  
2126 credit by an operator of a licensed gaming establishment unless  
2127 the operator can establish that the credit was issued by the  
2128 gaming establishment and received from a patron as a wager at a  
2129 slot machine in the gaming establishment, provided further that  
2130 such promotional gaming credit shall not be taxable for the  
2131 purposes of determining gross revenue.

2132 (e) No other person or entity, other than a gaming licensee  
2133 licensed pursuant to this chapter, shall issue credit to a  
2134 patron of a gaming establishment.

2135 (f) A person may petition the commission to place his name on  
2136 a list of persons to whom the extension of credit by a gaming  
2137 establishment shall be prohibited. Any person filing such  
2138 petition shall submit to the commission the person's name,  
2139 address, and date of birth. The person shall not be required to  
2140 provide a reason for said request. The commission shall provide  
2141 this list to the credit department of each gaming establishment;  
2142 provided, however, that neither the commission nor the credit  
2143 department of a gaming establishment shall divulge the names on  
2144 this list to any person or entity other than those provided for  
2145 in this subsection. If such a person wishes to have their name  
2146 removed from the list, the person shall petition the commission  
2147 in accordance with procedures for removal set forth by the  
2148 commission. If the commission approves the request, the  
2149 commission shall so inform the credit department of the gaming  
2150 establishments no later than 7 days after approving the request.

2151 (g) Debt collections pursuant to this section and regulations  
2152 promulgated thereunder shall be limited to gaming key employees  
2153 or attorneys acting directly on behalf of gaming licensees;  
2154 provided further that a gaming key employee shall be prohibited

2155 from making any such collections if they serve as a junket  
2156 representative for the gaming licensee.

2157 **Section 30.** (a) No junkets may be organized or permitted and no  
2158 person may act as a junket representative or junket enterprise  
2159 except as authorized by the commission pursuant to this chapter.

2160 (b) A junket representative employed by a gaming licensee or  
2161 affiliate of said licensee shall be licensed as a gaming  
2162 employee in accordance with the provisions set forth in **section**  
2163 **25**, including provisions for the issuance of a temporary  
2164 license; provided, however that said licensee need not be a  
2165 resident of the commonwealth. Any person who holds a valid  
2166 gaming employee license may act as a junket representative while  
2167 employed by a gaming license or an affiliate. No gaming  
2168 licensee shall employ or otherwise engage a junket  
2169 representative who is not licensed pursuant to this chapter.

2170 (c) The commission shall deny an application for a license  
2171 under this section if the commission finds that an applicant is  
2172 disqualified pursuant to **section 14** or may be unsuitable for  
2173 licensure under any of the criteria set forth in **section 19**.

2174 (d) Each gaming licensee, junket representative or junket  
2175 enterprise shall file a report with the bureau with respect to  
2176 each list of junket patrons or potential junket patrons

2177 purchased directly or indirectly by the gaming licensee, junket  
2178 representative or enterprise.

2179 (e) No junket enterprise or junket representative or person  
2180 acting as a junket representative shall: (i) engage in efforts  
2181 to collect upon checks that have been returned by banks without  
2182 full and final payment; (ii) exercise approval authority with  
2183 regard to the authorization or issuance of credit pursuant to  
2184 this chapter; (iii) act on behalf of or under any arrangement  
2185 with a gaming licensee or a gaming patron with regard to the  
2186 redemption, consolidation, or substitution of the gaming  
2187 patron's checks awaiting deposit; (iv) individually receive or  
2188 retain any fee from a patron for the privilege of participating  
2189 in a junket; or (v) pay for any services, including  
2190 transportation, or other items of value provided to, or for the  
2191 benefit of, any patron participating in a junket.

2192 (f) The commission shall promulgate further regulations  
2193 concerning the conduct of junkets and conditions of junket  
2194 agreements between gaming licensees and junket representatives.

2195 **Section 31.** (a) No gaming licensee shall offer to provide any  
2196 complimentary services, gifts, cash or other items of value to  
2197 any person unless the complimentary consists of room, food,  
2198 beverage, transportation, or entertainment expenses provided

2199 directly to the patron and his guests by the licensee or  
2200 indirectly to the patron and his guests on behalf of a third  
2201 party, or the complimentary consists of coins, tokens, cash or  
2202 other complimentary items or services provided through a  
2203 complimentary distribution program which shall be filed and  
2204 approved by the commission upon the implementation of the  
2205 program or maintained pursuant to regulation.

2206 (b) A gaming licensee may offer and provide complimentary cash  
2207 or noncash gifts which are not otherwise included in subsection  
2208 (a) to any person, provided that any such gifts in excess of  
2209 \$2,000 are documented by the licensee and detail the reasons why  
2210 such gifts were provided to the patron.

2211 (c) Each gaming licensee shall maintain a regulated  
2212 complimentary service account for those complimentaries which  
2213 are permitted under this section, and shall submit a quarterly  
2214 report to the commission based upon such account and covering  
2215 all complimentary services offered or engaged in by the licensee  
2216 during the immediately preceding quarter. Such reports shall  
2217 include identification of the regulated complimentary service  
2218 and their respective costs, the number of persons by category of  
2219 service who received the same and such other information as the  
2220 commission may require.

2221 (d) The furnishing of a complimentary service or item by a  
2222 casino licensee shall be deemed to constitute the indirect  
2223 payment for the service or item by the casino licensee, and  
2224 shall be valued in an amount based upon the retail price  
2225 normally charged by the casino licensee for the service or  
2226 item. The value of a complimentary service or item not normally  
2227 offered for sale by a casino licensee or provided by a third  
2228 party on behalf of a casino licensee shall be the cost to the  
2229 casino licensee of providing the service or item, as determined  
2230 in accordance with the rules of the commission.

2231 **Section 32.** (a) Upon revocation or suspension of a gaming  
2232 license pursuant to **section 20**, or upon the failure or refusal  
2233 to renew a gaming license the commission may appoint a  
2234 conservator to temporarily manage and operate the business of  
2235 the licensee relating to the gaming establishment. Such  
2236 conservator shall be a person of similar experience in the field  
2237 of gaming management and, in the case of replacing a gaming  
2238 licensee, shall have experience operating a gaming facility of  
2239 similar caliber in another jurisdiction, and shall be in good  
2240 standing in all jurisdictions in which they operate any gaming  
2241 facility.

2242 Upon appointment, a conservator shall agree to all licensing  
2243 provisions of the former licensee.

2244 (b) A conservator shall, before assuming his duties, execute  
2245 and file a bond for the faithful performance of his duties  
2246 payable to the commission with such surety and in such form and  
2247 amount as the commission shall approve.

2248 (c) The commission shall require that the former or suspended  
2249 licensee purchase liability insurance, in an amount determined  
2250 by the commission, to protect a conservator from liability for  
2251 any acts or omissions of the conservator during his appointment  
2252 which are reasonably related to, and within the scope of the  
2253 conservator's duties.

2254 (d) During the period of temporary management of the resort  
2255 casino, the commission shall initiate proceedings pursuant to  
2256 this chapter to award a new gaming license to a qualified  
2257 applicant whose gaming facility shall be located at the site of  
2258 the preexisting gaming facility.

2259 (e) Applicants for a new gaming license shall be qualified for  
2260 licensure pursuant to this chapter; provided, however, that the  
2261 commission shall determine an appropriate level of investment by  
2262 an applicant into the preexisting gaming facility.

2263 (f) Upon award of a gaming license, applicants shall pay the  
2264 licensing fee for a category 1, category 2 or category 3  
2265 license.

2266 **Section 33.** (a) There shall be within the commission an  
2267 investigations and enforcement bureau, which shall be the  
2268 primary enforcement agent for regulatory matters under this  
2269 chapter and shall perform such functions as the executive  
2270 director may determine in relation to such enforcement including  
2271 the investigations of all licensees under this chapter..The  
2272 bureau shall be under the supervision and control of the deputy  
2273 director. The deputy director shall be the executive and  
2274 administrative head of the bureau and shall be responsible for  
2275 administering and enforcing the provisions of law relative to  
2276 the bureau and to each administrative unit thereof. The duties  
2277 given to the deputy director in this chapter and in any other  
2278 general or special law shall be exercised and discharged subject  
2279 to the direction, control and supervision of the executive  
2280 director.

2281 (b) The bureau shall be a law enforcement agency and its  
2282 employees shall have such law enforcement powers as to  
2283 effectuate the purposes of this chapter, including the power to  
2284 receive intelligence on any applicant or licensee under this  
2285 chapter and to investigate any suspected violation of the  
2286 provisions of this chapter.

2287 (c) Officers and employees of the gaming enforcement unit of  
2288 the state police assigned to the commission pursuant to section  
2289 70 of chapter 22C shall work with employees of the bureau, under  
2290 the direction of the deputy director, to investigate violations  
2291 of this chapter by any licensee under this chapter or any  
2292 activity taking place on the premises of a gaming establishment.  
2293 Officers assigned to work with the commission shall record their  
2294 time and submit total hours to the commission. The commission  
2295 shall reimburse the state police through monies appropriated  
2296 from the gaming control fund pursuant to section 8.

2297 (d) The bureau shall notify the division of gaming enforcement  
2298 in the office of the attorney general of any criminal violations  
2299 by a gaming licensee. The bureau and the division shall  
2300 cooperate on the regulatory and criminal enforcement of this  
2301 chapter and may determine whether to proceed with civil or  
2302 criminal sanctions, or both against said licensee.

2303 (e) To further effectuate the purposes of this chapter with  
2304 respect to the investigation and enforcement of licensed gaming  
2305 establishments and licensees, the bureau may obtain or provide  
2306 pertinent information regarding applicants or licensees from or  
2307 to law enforcement entities or gaming authorities and other  
2308 domestic, federal or foreign jurisdictions, including the

2309 federal bureau of investigation, and may transmit such  
2310 information to each other electronically.

2311 (f) The bureau, the division and the gaming enforcement unit  
2312 of the department of state police shall have exclusive  
2313 enforcement of any criminal violation that occurs inside a  
2314 licensed gaming establishment under this chapter.

2315 **Section 34.** (a) The bureau shall have the authority to issue  
2316 orders requiring persons to cease any activity which is in  
2317 violation of the provisions of this chapter, any regulation  
2318 adopted hereunder, or any law related to gaming in the  
2319 commonwealth. The commission or bureau may, in its order,  
2320 require compliance with such terms and conditions as are  
2321 reasonably necessary to effect the purposes of this chapter.

2322 (b) If the bureau finds, in accordance with the procedures  
2323 established in section 35 and the regulations adopted  
2324 thereunder, that any person is not in compliance with any order  
2325 issued pursuant to this section, it shall assess a civil  
2326 administrative penalty on such person as provided in said  
2327 section 35 and the regulations adopted thereunder. The penalty  
2328 may be assessed whether or not the violation was willful. In  
2329 determining the amount of the civil penalty, the bureau shall  
2330 consider: (i) the nature of the violation; (ii) the length of

2331 time the violation occurred; (iii) the risk to the public and to  
2332 the integrity of gaming operations created by the conduct of the  
2333 licensee or registrant; (iv) the seriousness of the conduct of  
2334 the licensee or registrant; (v) any justification or excuse for  
2335 such conduct by the licensee or registrant; (vi) the prior  
2336 history of the particular license or registrant involved with  
2337 respect to gaming activity; (vii) any corrective action taken by  
2338 the licensee or registrant to prevent future misconduct; (viii)  
2339 and other relevant factors.

2340 (c) In addition to collecting any civil penalties recoverable  
2341 under this chapter or any other general or special law, the  
2342 bureau may bring an action in the superior court to restrain,  
2343 prevent or enjoin any conduct prohibited by this chapter or to  
2344 compel action to comply immediately and fully with any order  
2345 issued by the bureau. Except in cases of emergency where, in the  
2346 opinion of the court, immediate abatement of the unlawful  
2347 conduct is required to protect the public interest, the court  
2348 may in its decree fix a reasonable time during which the person  
2349 responsible for the unlawful conduct may abate and correct the  
2350 violation. The expense of the proceeding shall be recoverable  
2351 from the licensee and deposited into the gaming revenue fund  
2352 pursuant to section 52.

2353 (d) Upon a recommendation from the bureau, the commission  
2354 shall issue orders to condition, suspend or revoke a license or  
2355 permit issued under this chapter.

2356 (e) Notwithstanding the foregoing, the bureau shall be  
2357 authorized to issue an order to cease and desist any activity if  
2358 the bureau finds that a licensee has engaged in or is about to  
2359 engage in an act or practice which constitutes a violation of  
2360 this chapter or laws of the commonwealth and may take such  
2361 affirmative action to effect the order. If the bureau finds  
2362 that the licensee is engaged in an act or practice that would  
2363 cause irreparable harm to the security and integrity of the  
2364 gaming establishment or the interests of the commonwealth in  
2365 ensuring the security and integrity of gaming under this  
2366 chapter, the bureau may issue a temporary suspension of the  
2367 license.

2368 (f) Any licensee who has been issued a temporary order of  
2369 suspension by the bureau shall be entitled to a hearing before  
2370 the commission on such suspension within 7 days that the order  
2371 was issued. At the conclusion of the hearing, the commission  
2372 may issue a final order to condition, suspend or revoke the  
2373 license in question.

2374 (g) Any licensee shall have the right to an adjudicatory  
2375 hearing on an order issued by the bureau or commission pursuant  
2376 to chapter 30A.

2377 **Section 35.** (a) The bureau may assess a civil administrative  
2378 penalty on a licensee or registrant who fails to comply with any  
2379 provision of this chapter or any regulation or order adopted by  
2380 the commission; provided, however, that such noncompliance  
2381 occurred after the bureau had given such person written notice  
2382 of such noncompliance and the time stated in said notice for  
2383 coming into compliance had elapsed; provided, however, that the  
2384 bureau may assess such penalty without providing such written  
2385 notice if such failure to comply: (i) was part of a pattern of  
2386 noncompliance and not an isolated instance; (ii) was willful or  
2387 neglectful and not the result of error; (iii) resulted in a  
2388 significant breach to the integrity of the gaming establishment  
2389 or gaming laws of the commonwealth; and (iv) consisted of  
2390 failure to promptly report any knowledge of a potential  
2391 violation of this chapter to the commission. Any such penalty  
2392 shall be in addition to any other civil penalty that may be  
2393 prescribed by law.

2394 (b) For the purpose of determining whether such noncompliance  
2395 was part of a pattern of noncompliance and not an isolated

2396 instance, the bureau shall consider without limitation the  
2397 following: (i) whether the bureau had previously notified the  
2398 person of such noncompliance on more than one occasion during  
2399 the previous month or of any noncompliance with the same  
2400 provision of a law, regulation, order, license or approval as  
2401 the current noncompliance during the previous 6 month period; or  
2402 (ii) whether the current and previous noncompliances, considered  
2403 together, indicate a potential threat to the integrity of the  
2404 gaming establishment and gaming in the commonwealth or an  
2405 interference with the commission's ability to efficiently and  
2406 effectively regulate gaming in the commonwealth and enforce any  
2407 regulation, license or order. If a licensee or registrant who  
2408 has received a notice of noncompliance fails to come into  
2409 compliance within the time period stated in such notice, the  
2410 civil administrative penalty may be assessed by the bureau upon  
2411 such licensee or registrant from the date of receipt of such  
2412 notice.

2413 (c) Whenever the bureau seeks to assess a civil administrative  
2414 penalty on any licensee or registrant, the bureau shall cause to  
2415 be served upon such licensee or registrant, either by service,  
2416 in hand, or by certified mail, return receipt requested, a  
2417 written notice of its intent to assess a civil administrative  
2418 penalty which shall include a concise statement of the alleged

2419 act or omission for which such civil administrative penalty is  
2420 sought to be assessed, each law, regulation, order, license or  
2421 approval which has not been complied with as a result of such  
2422 alleged act or omission, the amount which the bureau seeks to  
2423 assess as a civil administrative penalty for each such alleged  
2424 act or omission, a statement of such licensee's or registrant's  
2425 right to an adjudicatory hearing on the proposed assessment, the  
2426 requirements such licensee or registrant must comply with to  
2427 avoid being deemed to have waived the right to an adjudicatory  
2428 hearing and the manner of payment thereof if such person elects  
2429 to pay the penalty and waive an adjudicatory hearing. After  
2430 written notice of noncompliance or intent to assess a civil  
2431 administrative penalty has been given, each such day thereafter  
2432 during which such noncompliance occurs or continues shall  
2433 constitute a separate offense and shall be subject to a separate  
2434 civil administrative penalty if reasonable efforts have not been  
2435 made to promptly come into compliance.

2436 (d) Whenever the bureau seeks to assess a civil administrative  
2437 penalty on any licensee or registrant, such licensee or  
2438 registrant shall have the right to an adjudicatory hearing under  
2439 chapter 30A whose provisions shall apply except when they are  
2440 inconsistent with the provisions of this chapter.

2441 (e) Such licensee or registrant shall be deemed to have waived  
2442 such right to an adjudicatory hearing unless, within 21 days of  
2443 the date of the bureau's notice that it seeks to assess a civil  
2444 administrative penalty, such licensee or registrant files with  
2445 the bureau a written statement denying the occurrence of any of  
2446 the acts or omissions alleged by the bureau in such notice, or  
2447 asserting that the money amount of the proposed civil  
2448 administrative penalty is excessive. In any adjudicatory hearing  
2449 authorized pursuant to chapter 30A, the bureau shall, by a  
2450 preponderance of the evidence, prove the occurrence of each act  
2451 or omission alleged by the bureau.

2452 (f) If a licensee or registrant waives his right to an  
2453 adjudicatory hearing, the proposed civil administrative penalty  
2454 shall be final immediately upon such waiver. If a civil  
2455 administrative penalty is assessed at the conclusion of an  
2456 adjudicatory hearing, said civil administrative penalty shall be  
2457 final upon the expiration of 30 days if no action for judicial  
2458 review of such decision is commenced pursuant to chapter 30A.

2459 (g) Any licensee or registrant who institutes proceedings for  
2460 judicial review of the final assessment of a civil  
2461 administrative penalty shall place the full amount of the final  
2462 assessment in an interest-bearing escrow account in the custody

2463 of the clerk or magistrate of the reviewing court. The  
2464 establishment of such an interest-bearing escrow account shall  
2465 be a condition precedent to the jurisdiction of the reviewing  
2466 court unless the party seeking judicial review demonstrates in a  
2467 preliminary hearing held within 20 days of the filing of the  
2468 complaint either the presence of a substantial question for  
2469 review by the court or an inability to pay. Upon such a  
2470 demonstration, the court may grant an extension or waiver of the  
2471 interest-bearing escrow account or may require, in lieu of such  
2472 interest-bearing escrow account, the posting of a bond payable  
2473 directly to the commonwealth in the amount of 125 per cent of  
2474 the assessed penalty. If, after judicial review, in a case where  
2475 the requirement for an escrow account has been waived, and in  
2476 cases where a bond has been posted in lieu of such requirement,  
2477 the court affirms, in whole or in part, the assessment of a  
2478 civil administrative penalty the commission shall be paid the  
2479 amount thereof together with interest at the rate set forth in  
2480 section 6C of chapter 231. If, after such review in a case where  
2481 an interest-bearing escrow account has been established, the  
2482 court affirms the assessment of such penalty, in whole or in  
2483 part, the commission shall be paid the amount thereof together  
2484 with the accumulated interest thereon in such interest-bearing  
2485 escrow account. If the court sets aside the assessment of a

2486 civil administrative penalty in a case where the amount of such  
2487 penalty has been deposited in an interest-bearing escrow  
2488 account, the licensee or registrant on whom the civil  
2489 administrative penalty was assessed shall be repaid the amount  
2490 so set aside, together with the accumulated interest thereon.

2491 (h) Each licensee or registrant who fails to pay a civil  
2492 administrative penalty on time, and each person who issues a  
2493 bond pursuant to this section and who fails to pay to the  
2494 commission on time the amount required hereunder, shall be  
2495 liable to the commonwealth for up to 3 times the amount of the  
2496 civil administrative penalty, together with costs, plus interest  
2497 from the time the civil administrative penalty became final and  
2498 attorneys' fees, including all costs and attorneys' fees  
2499 incurred directly in the collection thereof. The rate of  
2500 interest shall be the rate set forth in section 6C of chapter  
2501 231. The bureau shall be authorized to require that the amount  
2502 of a civil administrative penalty imposed pursuant to this  
2503 section exceed any economic benefit realized by a person for  
2504 noncompliance.

2505 **Section 36.** (a) Any person who willfully fails to report, pay,  
2506 or truthfully account for and pay over any license fee or tax  
2507 imposed by the provisions of this chapter or by the regulations

2508 promulgated hereunder, or willfully attempts in any manner to  
2509 evade or defeat any such license fee, tax or payment thereof  
2510 shall be punished by imprisonment in the state prison for not  
2511 more than 5 years or in a jail or house of correction for not  
2512 more than 2 and one-half years, or a fine of not more than  
2513 \$100,000, or both such fine and imprisonment, and in the case  
2514 of a person other than a natural person, the amount of a fine up  
2515 to \$5,000,000.

2516 (b) Any person who willfully resists, prevents, impedes,  
2517 interferes with, or makes any false, fictitious, or fraudulent  
2518 statement or representation to the authority or to the division  
2519 or to their agents or employees in the performance of their  
2520 duties pursuant to this chapter shall be punished by  
2521 imprisonment in the state prison for not more than 5 years or in  
2522 a jail or house of correction for not more than 2 and one-half  
2523 years, or a fine of not more than \$25,000, or both such fine or  
2524 imprisonment.

2525 (c) Any person who conducts or operates, or permits to be  
2526 conducted or operated, any game, electronic gaming equipment in  
2527 violation of the licensing provisions of this chapter or the  
2528 regulations adopted hereunder shall be punished by imprisonment  
2529 in the state prison for not more than 5 years or imprisonment in  
2530 a jail or house of correction for not more than 2 and one-half

2531 years, or a fine of not more than \$25,000, or both such fine or  
2532 imprisonment, and in the case of a person other than a natural  
2533 person, the amount of a fine up to \$100,000.

2534 (d) Any licensee who, without the permission of the authority,  
2535 (1) places controlled games or electronic gaming equipment into  
2536 play or displays such controlled games or electronic gaming  
2537 equipment in gaming establishment or (2) receives, directly or  
2538 indirectly, any compensation or reward or any percentage or  
2539 share of the revenue, for keeping, running, or carrying on any  
2540 controlled game, or owning the real property or location in  
2541 which any controlled game occurs, shall be punished by  
2542 imprisonment in a jail or house of correction for not more than  
2543 2 and one-half years, or by a fine of not more than \$25,000, or  
2544 both, and in the case of a person other than a natural person,  
2545 the amount of a fine up to \$100,000.

2546 (e) Any person who conducts or operates any controlled game or  
2547 electronic gaming equipment after his license has expired and  
2548 prior to the actual renewal thereof shall be punished by  
2549 imprisonment in a jail or house of correction for not more than  
2550 1 and one-half years, or a fine of not more than \$25,000, or  
2551 both such fine or imprisonment, and in the case of a person  
2552 other than a natural person, the amount of a fine up to  
2553 \$100,000.

2554 (f) In addition to the provisions of section 75 of chapter  
2555 266, a person is guilty of swindling and cheating if the person  
2556 purposely or knowingly by any trick or sleight of hand  
2557 performance or by a fraud or fraudulent scheme, cards, dice, or  
2558 other gaming equipment, for himself or for another or a  
2559 representative of either, wins or attempts to win money or  
2560 property, , or reduces a losing wager or attempts to reduce a  
2561 losing wager in connection to controlled gaming.

2562 (g) The penalties for swindling and cheating offenses shall be  
2563 as follows:

2564 Any person who swindles or cheats where the amount involved is  
2565 \$75,000 or more shall be punished by imprisonment in the state  
2566 prison for not more than 10 years, or in a jail or house of  
2567 correction for not more than 2 and one-half years or by a fine  
2568 of not more than \$1,000,000, or both such fine or imprisonment.

2569 Any person who swindles or cheats where the amount involved is  
2570 \$10,000 or more and less than \$75,000 shall be punished by  
2571 imprisonment in the state prison for not more than 5 years, or  
2572 in a jail or house of correction for not more than 2 and one-  
2573 half years or by a fine of not more than \$500,000, or both.

2574 Any person who swindles or cheats where the amount involved is  
2575 \$1,000 or more and less than \$10,000 shall be punished by

2576 imprisonment in the state prison for not more than 3 years or  
2577 imprisonment in a jail or house of correction for not more than  
2578 2 and one-half years, or by a fine of not more than \$100,000, or  
2579 both such fine and imprisonment.

2580 Any person who swindles or cheats where the amount involved is  
2581 less than \$1,000 shall be punished by imprisonment in a jail or  
2582 house of correction for not more than 2 and one-half years, or  
2583 by a fine of not more than \$10,000, or both such fine or  
2584 imprisonment.

2585 (h) Each episode or transaction of swindling or cheating may  
2586 be the subject of a separate prosecution and conviction. In the  
2587 discretion of the prosecutor, multiple episodes or transactions  
2588 of swindling and cheating committed as part of a single scheme  
2589 or course of conduct may be treated as a single offense, and the  
2590 amounts involved in acts of swindling and cheating committed  
2591 according to a scheme or course of conduct, whether by the same  
2592 person or several persons, may be aggregated in determining the  
2593 amount involved in the offense.

2594 (i) Any person, who in playing, conducting or operating a game  
2595 in a licensed gaming establishment, uses or assists another in  
2596 the use of (1) a computerized, electronic, electrical, or  
2597 mechanical device, which is designed, constructed, or programmed

2598 specifically for use in obtaining an advantage in any game in a  
2599 licensed casino or gaming establishment or (2) any other  
2600 swindling or cheating device, including, but not limited to,  
2601 bogus or counterfeit chips, coins or dice; coins or tokens  
2602 attached to strings or wires; marked cards; electronic or  
2603 magnetic devices; or tools, drills, wires, keys, or devices  
2604 designed for the purpose of and suitable for opening, entering,  
2605 or affecting the operation of any gaming equipment, or for  
2606 removing money or other contents there from, shall be punished  
2607 by imprisonment in the state prison for not more than 5 years or  
2608 imprisonment in a jail or house of correction for not more than  
2609 2 and one-half years, or by a fine of not more than \$25,000, or  
2610 both such fine and imprisonment.

2611 (j) Any person who possesses any computerized, electronic,  
2612 electrical, or mechanical device or other swindling or cheating  
2613 device described in clause (1) of subsection (i) with the intent  
2614 to defraud, cheat, or swindle shall be punished by imprisonment  
2615 in a jail or house of correction for not more than 2 and one-  
2616 half years, or a fine of not more than \$10,000, or both such  
2617 fine or imprisonment.

2618 (k) Possession of any computerized, electronic, electrical, or  
2619 mechanical device or other swindling or cheating device  
2620 described in clause (1) of subsection (i) within a casino or

2621 gaming establishment shall constitute prima facie evidence of an  
2622 intent to defraud, cheat or swindle, except that possession by  
2623 any licensee, or employee of a licensee, acting in furtherance  
2624 of his employment within a licensed casino or gaming  
2625 establishment shall not constitute such prima facie evidence.

2626 (l) Any swindling or cheating device used or possessed in  
2627 violation of this section shall be subject to seizure and  
2628 forfeiture by the bureau.

2629 (m) It shall be unlawful for any licensee or employee to:  
2630 knowingly conduct or operate, or allow to be conducted or  
2631 operated, any swindling or cheating game or device; or knowingly  
2632 conduct or operate or expose for play any game or games played  
2633 with cards, dice, or any electronic or mechanical device, or any  
2634 combination of games or devices, which have in any manner been  
2635 marked or tampered with, or placed in a condition, or operated  
2636 in a manner, the result of which tends to deceive the public or  
2637 tends to alter the normal random selection of characteristics or  
2638 the normal chance of the game or to alter the result of the  
2639 game.

2640 (n) Any person who violates this section shall be punished by  
2641 imprisonment in the state prison for not more than 5 years or  
2642 imprisonment in a jail or house of correction for not more than

2643 2 and one-half years, or by a fine of not more than \$25,000, or  
2644 both such fine and imprisonment, and in the case of a person  
2645 other than a natural person, the amount of a fine up to  
2646 \$100,000.

2647 (o) Any swindling or cheating game or device used in violation  
2648 of this section shall be subject to seizure and forfeiture by  
2649 the division.

2650 (p) Any person who manufactures, distributes, sells, or  
2651 services any gaming equipment in violation of the provisions of  
2652 this chapter or the regulations promulgated by the authority for  
2653 the purposes of defrauding, cheating, or swindling any person  
2654 playing, operating, or conducting a controlled game at a casino  
2655 or gaming establishment shall be punished by imprisonment in the  
2656 state prison for not more than 5 years or imprisonment in a jail  
2657 or house of correction for not more than 2 and one-half years,  
2658 or a fine of not more than \$25,000, or both such fine and  
2659 imprisonment.

2660 (q) Any such unlawfully manufactured, distributed, sold, or  
2661 serviced gaming equipment shall be subject to seizure and  
2662 forfeiture by the division.

2663 (r) Any person who, without obtaining the requisite license or  
2664 registration as provided in this chapter, works or is employed

2665 in a position whose duties would require licensing or  
2666 registration under the provisions of this chapter shall be  
2667 punished by imprisonment in a house of correction for not more  
2668 than 6 months, or a fine of not more than \$10,000, or both.

2669 (s) Any person who employs or continues to employ an  
2670 individual not duly licensed or registered under the provisions  
2671 of this chapter in a position the duties of which require a  
2672 license or registration under the provisions of this chapter  
2673 shall be punished by imprisonment in a jail or house of  
2674 correction for not more than 6 months, or by a fine of not more  
2675 than \$10,000, or both such fine or imprisonment, and in the case  
2676 of a person other than a natural person, the amount of a fine up  
2677 to \$100,000.

2678 (t) Any person under the age of 21 who plays, places wagers  
2679 at, or collects winnings from, whether personally or through an  
2680 agent, any controlled game shall be punished by imprisonment in  
2681 a jail or house of correction for not more than 6 months, or a  
2682 fine of not more than \$1,000, or both such fine or imprisonment.

2683 (u) Any licensee or employee who knowingly allows a person  
2684 under the age of 21 to play, place wagers at, or collect  
2685 winnings from any controlled game, whether personally or through  
2686 an agent, shall be punished by imprisonment in a jail or house

2687 of correction for not more than 1 year, or a fine of not more  
2688 than \$10,000, or both such fine or imprisonment, and in the case  
2689 of a person other than a natural person, the amount of a fine  
2690 may be up to \$500,000. A subsequent violation of this section  
2691 shall subject the licensee or employee to imprisonment in a  
2692 house of correction for not more than 2 years, or a fine of not  
2693 more than \$50,000, or both such fine or imprisonment, and in the  
2694 case of a person other than a natural person, the amount of a  
2695 fine up to \$1,000,000.

2696 ( v) Any person who knowingly transmits or receives a wager of  
2697 any type by any telecommunication device, including telephone,  
2698 cellular phone, Internet, local area network, including wireless  
2699 local networks, or any other similar device or equipment or  
2700 other medium of communication, or knowingly installs or  
2701 maintains said device or equipment for the transmission or  
2702 receipt of wagering information shall be punished by  
2703 imprisonment in a jail or house of correction for not more than  
2704 2 years, or by a fine of not more than \$25,000, or both such  
2705 fine or imprisonment.

2706 (w) This section shall apply to any person who, from within  
2707 the commonwealth, transmits a wager to, or receives a wager  
2708 from, another person or gaming establishment within or outside  
2709 of the commonwealth (x) This section shall not apply to the use

2710 of a local area network as a means to place authorized wagers in  
2711 a licensed gaming establishment, or use of said devices or  
2712 equipment by the authority in its duties in regulating, enforcing  
2713 or auditing a licensed gaming operator.

2714 (y) A licensee of a gaming establishment who knowingly fails  
2715 to exclude from the premises of their licensed gaming  
2716 establishment any person placed by the commission on the list of  
2717 excluded persons shall be punished by a fine of not more than  
2718 \$5,000 or by imprisonment in a jail or house of correction for  
2719 not more than one year, or by both such fine and imprisonment.

2720 **Section 37.** All penalties collected pursuant to this chapter and  
2721 any renewal fees for a gaming establishment shall be deposited  
2722 into the gaming revenue fund established by section 52.

2723 **Section 38.** (a) The commission shall, by regulation, provide for  
2724 the establishment of a list of excluded persons who are to be  
2725 excluded or ejected from a gaming establishment. Such  
2726 provisions shall include standards relating to persons: (1) who  
2727 are repeat offenders as defined by the commission; (2) who are  
2728 convicted of a criminal offense under the laws of any state or  
2729 the United States, punishable by more than 6 months in prison or  
2730 is a crime of moral turpitude; or (3) whose presence in a  
2731 licensed gaming establishment would, in the opinion of the

2732 commission, pose an injurious threat to the interests of the  
2733 commonwealth in the gaming establishment.

2734 (b) The commission shall further define categories of persons  
2735 who shall be excluded pursuant to this section, including cheats  
2736 and persons whose privileges for licensure or registration have  
2737 been revoked. No person shall be placed on the list of excluded  
2738 persons due to race, color, religion, national origin, ancestry,  
2739 sexual orientation, disability or sex.

2740 (c) The commission shall impose sanctions upon a licensed  
2741 gaming establishment if such establishment knowingly fails to  
2742 exclude or eject from its premises any person placed by the  
2743 commission on the list of excluded persons.

2744 (d) The list compiled by the commission of persons to be  
2745 excluded shall not be deemed an all-inclusive list, and licensed  
2746 gaming establishments shall have a duty to keep from their  
2747 premises persons known to them to be within the classifications  
2748 in subsection (a) or who whose presence in their establishment  
2749 would be injurious to the interests of the gaming establishment  
2750 itself or to the commonwealth, or both, as defined by standards  
2751 set forth by the commission.

2752 (e) Upon petition by any unit under the commission or the  
2753 division that the name of a person be placed on the list , the

2754 commission shall serve written notice upon such person by  
2755 personal service, registered or certified mail return receipt  
2756 requested to the last ascertainable address, or by publication  
2757 in a daily newspaper of general circulation for 1 week.

2758 (f) Within 30 days of receipt of service by mail or 60 days  
2759 after the last publication pursuant to subsection (c), a person  
2760 placed on the list may request an adjudicatory hearing before  
2761 the commission pursuant to chapter 30A and show cause as to why  
2762 the name of said person should be removed from the list. If the  
2763 commission determines that the regulation should not apply to  
2764 the person, the commission shall remove them from the list and  
2765 notify all gaming licensees under the chapter. Any such person  
2766 aggrieved by a final decision of the commission in any  
2767 adjudicatory proceeding under this section may petition for  
2768 judicial review in accordance with the provisions of section 14  
2769 of chapter 30A.

2770 (g) The commission shall establish a list of self-excluded  
2771 persons from gaming activity at gaming establishments. A person  
2772 may request his name to be placed on the list of self-excluded  
2773 persons by filing a statement with the commission acknowledging  
2774 that said person is a problem gambler and by agreeing that,  
2775 during any period of voluntary exclusion, said person may not  
2776 collect any winnings or recover any losses resulting from any

2777 gaming activity at a gaming establishment. The commission shall  
2778 promulgate further regulations for the list of self-excluded  
2779 persons including procedures for placement, removal and  
2780 transmittal of such self-exclusion to gaming establishments.

2781 (h) A person who is prohibited from gaming in a gaming  
2782 establishment pursuant to this section shall not collect any  
2783 winnings or recover any losses arising as a result of any  
2784 prohibited activity. Any winnings obtained by a prohibited  
2785 persons shall be forfeited to the commission and deposited into  
2786 the gaming revenue fund established by section 52.

2787 **Section 39.** (a) No applicant for a gaming license, nor any  
2788 holding, intermediary or subsidiary company thereof, nor any  
2789 officer, director, gaming key employee or principal employee of  
2790 an applicant for or holder of a gaming license or of any  
2791 holding, intermediary or subsidiary company thereof nor any  
2792 person or agent on behalf of any such applicant, holder, company  
2793 or person, shall directly or indirectly, pay or contribute any  
2794 money or thing of value to any candidate for nomination or  
2795 election to any public office in the commonwealth or to any  
2796 group, political party, committee or association organized in  
2797 support of any such candidate or political party; except that  
2798 the provisions of this section shall not be construed to

2799 prohibit any individual who is a candidate for public office  
2800 from contributing to the candidate's own campaign.

2801 (b) No political contributions or contributions in kind shall be  
2802 made to the governing body of a host community of any gaming  
2803 establishment by a gaming licensee under this act outside of the  
2804 host community agreement approved by the Massachusetts gaming  
2805 commission. Any such contributions made to a host community by  
2806 an applicant prior to issuance of a gaming license by the  
2807 commission shall be disclosed by the applicant. This provision  
2808 shall not preclude charitable contributions to a host community  
2809 which shall be disclosed by a licensee to the commission.

2810 **Section 40.** (a) A category 1 licensee shall pay a daily tax of  
2811 25 per cent on gross gaming revenues.

2812 (b) Category 2 and category 3 licensees shall pay a daily tax  
2813 of 40 per cent on gross gaming revenue.

2814 (c) In addition to the tax imposed under subsection (b),  
2815 category 2 licensees shall pay a daily assessment of 8 per cent  
2816 and category 3 licensees shall pay a daily assessment of 10 per  
2817 cent of their gross gaming revenue to the Massachusetts race  
2818 horse development fund established by section 53.

2819 (d) If a category 2 and a category 3 license merger is  
2820 approved by the commission pursuant to section 20, the new

2821 category 2 licensee shall pay a daily assessment of 9 per cent  
2822 of their gross gaming revenue to the Massachusetts race Horse  
2823 Development Fund established by section 53.

2824 (e) Taxes imposed under this section shall be remitted to the  
2825 commission by a gaming licensee the day following each day of  
2826 wagering.

2827 **Section 41.** A category 1 licensee, a category 2 licensee and a  
2828 category 3 licensee shall be subject to chapters 62 through 62E,  
2829 inclusive, and chapters 63 through 63B, inclusive.

2830 **Section 42** Any liability to the commonwealth under this chapter  
2831 shall constitute a debt to the commonwealth. Any such debt shall  
2832 constitute a lien on all commercial property owned by a gaming  
2833 licensee in the commonwealth, once a statement naming such  
2834 licensee is recorded, registered or filed, and shall have  
2835 priority over any encumbrance theretofore recorded, registered  
2836 or filed with respect to any site.

2837 **Section 43.** Prior to disbursement of a prize in excess of \$600,  
2838 a licensee shall review information furnished by the IV-D agency  
2839 and by the department of revenue, as set forth in chapter 119A  
2840 and in this section to ascertain whether the holder of a winning  
2841 ticket owes past due child support to the commonwealth or to an  
2842 individual to whom the IV-D agency is providing services, and to

2843 ascertain whether the holder of a winning ticket owes any past-  
2844 due tax liability to the commonwealth. If the holder owes past-  
2845 due child support or a past-due tax liability, the licensee  
2846 shall notify the IV-D agency or the commonwealth, respectively,  
2847 of the holder's name, address and social security number.  
2848 Subsequent to statutory state and federal tax withholding, the  
2849 licensee shall first disburse to the IV-D agency the full amount  
2850 of the prize or such portion of the prize that satisfies the  
2851 holder's past-due child support obligation and, if funds remain  
2852 available after that disbursement, the licensee shall disburse  
2853 to the department of revenue the full amount of the prize or  
2854 such portion of the prize that satisfies the holder's past-due  
2855 tax liability. The licensee shall disburse to the holder only  
2856 that portion of the prize, if any, remaining after the holder's  
2857 past-due child support obligation and the holder's past-due tax  
2858 liability have been satisfied.

2859 **Section 44.** The division shall, on a monthly basis, transmit to  
2860 the department of transitional assistance and to the IV-D  
2861 agency, as set forth in chapter 119A, a list of all persons who  
2862 were the holders of any winning ticket in excess of \$600.00 in  
2863 the prior month. The information shall be provided in a format  
2864 which is compatible with the automated data processing systems  
2865 of said departments, to ensure the immediate identification of

2866 persons who may be receiving public assistance benefits. The  
2867 information provided shall include the name, address and social  
2868 security number of the holder of the winning ticket.

2869 **Section 45.** Unclaimed prize money shall be retained by the  
2870 licensee for the person entitled thereto for 1 year after the  
2871 drawing in which the prize was won. If no claim is made for said  
2872 money within such year, the prize money shall be deposited in  
2873 the gaming revenue fund established by section 52.

2874 **Section 46.** If the person entitled to a prize or any winning  
2875 ticket is under the age of 21 years said prize shall be remitted  
2876 to the commission and deposited into the gaming revenue fund  
2877 established by section 52.

2878 **Section 47.** A gaming establishment, including any business  
2879 located within such establishment, shall not be a certified  
2880 project within the meaning of section 3F of chapter 23A. Gaming  
2881 establishments shall not be designated an economic opportunity  
2882 area within the meaning of section 3E of chapter 23A. Gaming  
2883 establishments are not eligible for tax increment financing as  
2884 set forth in section 59 of chapter 40 or special tax assessments  
2885 set forth in section 3E of chapter 23A. Gaming establishments  
2886 may not be classified and taxed as recreational land under the  
2887 provisions of chapter 61B. Gaming establishments may not be

2888 designated as a development district within the meaning of  
2889 chapter 40Q. Unless otherwise provided, a gaming establishment  
2890 or any business located or to be located within a resort casino  
2891 is not eligible for the following credits or deductions listed  
2892 in chapter 62 or chapter 63: the investment tax credit under  
2893 section 31A of chapter 63, the employment credit under section  
2894 31C of chapter 63, the van pool credit under section 31E of  
2895 chapter 63, the deduction for expenditures for industrial waste  
2896 treatment or air pollution control under section 38D of chapter  
2897 63, the deduction for compensation paid to an eligible business  
2898 facility's employees domiciled in a section of substantial  
2899 poverty under section 38F of chapter 63, the alternative energy  
2900 sources deduction under section 38H of chapter 63, the research  
2901 expense credit under section 38M of chapter 63, the economic  
2902 opportunity area credit under section 6(g) of chapter 62, and  
2903 section 38N of chapter 63, the abandoned building deduction  
2904 under section 3B(a)(10) of chapter 62, and section 38O of  
2905 chapter 63, the harbor maintenance tax credit under section 38P  
2906 of chapter 63, the brownfields credit under section 6(j) of  
2907 chapter 62, and section 38Q of chapter 63, the historic  
2908 rehabilitation tax credit under section 6J of chapter 62 and  
2909 section 38R of chapter 63, the automatic sprinkler system  
2910 depreciation deduction under section 38S of chapter 63, and the

2911 credit for a solar water heating system under section 38T of  
2912 chapter 63.

2913 **Section 48** The sale, assignment, transfer, pledge or other  
2914 disposition of any security issued by a corporation, which holds  
2915 a gaming license is conditional and shall be ineffective if  
2916 disapproved by the commission. If at any time the commission  
2917 finds that an individual owner or holder of any security of a  
2918 corporate licensee or of a holding or intermediary company with  
2919 respect thereto is not qualified under this chapter, and if as a  
2920 result the corporate licensee is no longer qualified to continue  
2921 as a gaming licensee in the commonwealth, the commission shall  
2922 take any action necessary to protect the interests of the  
2923 commonwealth including, but not limited to, suspension or  
2924 revocation of the gaming license of the corporation.

2925 Each corporation which has been issued a gaming license  
2926 pursuant to the provisions of this chapter shall file a report  
2927 of any change of its corporate officers or members of its board  
2928 of directors with the commission. No officer or director shall  
2929 be entitled to exercise any powers of office until qualified by  
2930 the commission.

2931 **Section 49.** The commission shall audit as often as the  
2932 commission determines necessary, but not less than annually,

2933 the accounts, programs, activities, and functions of all  
2934 licensees, and for said purpose the authorized officers and  
2935 employees of the commission shall have access to such accounts  
2936 at reasonable times and the commission may require the  
2937 production of books, documents, vouchers and other records  
2938 relating to any matter within the scope of such audit, except  
2939 tax returns. The superior court shall have jurisdiction to  
2940 enforce the production of records that the commission requires  
2941 to be produced pursuant to this section, and the court shall  
2942 order the production of all such records within the scope of any  
2943 such audit. All such audits shall be conducted in accordance  
2944 with generally accepted auditing standards established by the  
2945 American Institute of Certified Public Accountants. In any audit  
2946 report of the accounts, funds, programs, activities, and  
2947 functions of a licensee issued by the commission, containing  
2948 adverse or critical audit results, the commission may require a  
2949 response, in writing, to such audit results. Such response shall  
2950 be forwarded to the commission within 15 days of notification by  
2951 the commission.

2952 On or before April 1 of each year, the commission shall submit  
2953 a report to the clerks of the house of representatives and the  
2954 senate who shall forward the same to the house and senate  
2955 committees on ways and means which shall include, but not be

2956 limited to: (i) the number of audits performed under this  
2957 section; (ii) a summary of findings under said audits; and (iii)  
2958 the cost of each audit.

2959 **Section 50.** Unless the commission otherwise determines it to be  
2960 in the best fiscal interests of the commonwealth, the commission  
2961 shall utilize the services of a private testing laboratory that  
2962 has obtained a license as a gaming vendor pursuant to section 26  
2963 to perform the testing of slot machines and other gaming  
2964 equipment, and may also utilize applicable data from any such  
2965 private testing laboratory, or from a governmental agency of a  
2966 state other than the Massachusetts, authorized to regulate slot  
2967 machines and other gaming equipment.

2968 **Section 51.** There is hereby established and placed upon the books  
2969 of the commonwealth a Gaming Licensing Fund which shall receive  
2970 all licensing fees collected from applicants in receipt of a  
2971 category 1, 2 or 3 gaming license. The fund shall expire on  
2972 December 31, 2015. The commission shall be the trustee of the  
2973 fund and shall transfer monies in the fund in order of the  
2974 following provisions:-

2975 (1) \$15,000,000 to the community mitigation fund  
2976 established by section 54;

- 2977 (2) \$5,000,000 to the General Fund to reimburse the  
2978 General Fund for the initial regulatory costs of the  
2979 commission;
- 2980 (3) \$40,000,000 to the local capital projects fund  
2981 established by section 58;
- 2982 (4) \$50,000,000 shall be transferred to the Manufacturing  
2983 Fund established by section 56;
- 2984 (5) \$25,000,000 shall be transferred to the Community  
2985 College Fund established by section 57;
- 2986 (6) \$3,000,000 to the Massachusetts tourism fund  
2987 established pursuant to section 35J of chapter 10;
- 2988 (7) Any remaining monies in the fund after disbursement to  
2989 sections 1 through 6 shall be transferred to the  
2990 commonwealth stabilization fund established by section 2H  
2991 of chapter 29;

2992 **Section 52.** There is hereby established and placed upon the  
2993 books of the commonwealth a Gaming Revenue Fund which shall  
2994 receive revenues collected from the tax on gross gaming revenue  
2995 received from gaming licensees. The commission shall be the  
2996 trustee of the fund and shall transfer monies in the fund in  
2997 accordance with the following provisions:-

2998 (1) Until a category 1 facility is operational, one hundred per  
2999 cent of the revenue received from category 2 and category 3  
3000 licensees shall be transferred to the gaming local aid fund  
3001 established by section 55.

3002 (2) Upon the opening of a category 1 facility, all monies  
3003 received into the fund shall be transferred as follows:-

3004 (a) One per cent shall be transferred to the Massachusetts  
3005 tourism fund established pursuant to section 35J of chapter  
3006 10;

3007 (b) Two per cent shall be transferred to the community  
3008 mitigation fund established by section 54; provided,  
3009 however, that said fund balance shall not exceed  
3010 \$15,000,000. Funds in excess of \$15,000,000 shall be  
3011 transferred to the local capital projects fund established  
3012 by section 58;

3013 (c) Seven per cent shall be transferred to the local capital  
3014 projects fund established by section 58;

3015 (d) Thirty per cent shall be transferred to the Gaming Local  
3016 Aid Fund established by section 55.

3017 (e) Thirty per cent shall be transferred to the Commonwealth  
3018 Stabilization Fund established by section 2H of chapter 29;  
3019 and

3020 (f) Thirty per cent shall be transferred to the Education Fund  
3021 established by section 59.

3022 **Section 53** (a) There is hereby established and placed upon the  
3023 books of the commonwealth a Race Horse Development Fund to be  
3024 administered by the commission. The commission shall make  
3025 distributions from the race horse fund to each of the active and  
3026 operating category 2 licensees conducting live racing.

3027 (b) Funds from the race horse development fund shall be  
3028 distributed in proportion to the gross gaming revenue of each  
3029 category 2 licensee; provided that the funds received by each  
3030 licensee shall be allocated in accordance with the following  
3031 provisions:

3032 (i) eighty per cent shall be deposited weekly into a  
3033 separate, interest-bearing purse account to be established by  
3034 and for the benefit of the horsemen. The earned interest on the  
3035 account shall be credited to the purse account. Licensees shall  
3036 combine these funds with revenues from existing purse agreements  
3037 to fund purses for live races consistent with those agreements  
3038 with the advice and consent of the horsemen;

3039           (ii) for a thoroughbred track, 16 per cent shall be  
3040 deposited on a monthly basis into the Massachusetts thoroughbred  
3041 breeding program authorized by the commission pursuant to  
3042 section 2 of chapter 128;

3043           (iii) for a harness track, 8 per cent shall be deposited on  
3044 a monthly basis into the Massachusetts standardbred breeding  
3045 program authorized by the commission pursuant to section 2 of  
3046 chapter 128 and an additional 8 per cent shall be deposited on a  
3047 monthly basis into a standardbred breeder development program  
3048 authorized by the commission;

3049           (iv) four per cent shall be used to fund health and pension  
3050 benefits for the members of the horsemen's organizations  
3051 representing the owners and trainers at the racetrack at which  
3052 the category 2 licensee operates for the benefit of the  
3053 organization's members, their families, employees and others in  
3054 accordance with the rule and eligibility requirements of the  
3055 organization, as approved by the commission. This amount shall  
3056 be deposited within 5 business days of the end of each month  
3057 into a separate account to be established by each respective  
3058 horsemen's organization at a banking institution of its choice.  
3059 Of this amount, the commission shall determine how much should  
3060 be paid annually by the horsemen's organization to the  
3061 thoroughbred jockeys or standardbred drivers organization at the

3062 racetrack at which the licensed racing entity operates for  
3063 health insurance, life insurance or other benefits to active and  
3064 disabled thoroughbred jockeys or standardbred drivers in  
3065 accordance with the rules and eligibility requirements of that  
3066 organization.

3067 **Section 54** (a) There shall be established and set up on the  
3068 books of the commonwealth a separate fund to be known as the  
3069 Community Mitigation Fund. The community fund shall consist of  
3070 monies transferred under section **52** and all other monies  
3071 credited or transferred to the fund from any other fund or  
3072 source pursuant to law; provided, however, that the balance of  
3073 the fund shall not exceed \$15,000,000.

3074 (b) The commission shall administer the fund and, without  
3075 further appropriation, shall expend monies in the fund to assist  
3076 contiguous communities in offsetting costs related to the  
3077 construction and operation of a gaming facility including, but  
3078 not limited to, communities and water and sewer districts in the  
3079 vicinity of a gaming facility and public safety, including the  
3080 office of the county district attorney.

3081 (c) Parties requesting appropriations from the community fund  
3082 shall submit a written request for funding to the commission  
3083 before February 1 of each year. The commission may hold a

3084 public hearing in the region of a gaming facility to provide  
3085 parties with the opportunity to provide further information  
3086 about their request for funds and shall distribute funds to  
3087 requesting parties based on demonstrated need.

3088 **Section 55** There shall be established and set up on the books of  
3089 the commonwealth a fund to be known as the Gaming Local Aid  
3090 Fund. The gaming local aid fund shall consist of monies  
3091 transferred under section 52 and all monies credited or  
3092 transferred to the fund from any other fund or source pursuant  
3093 to law.

3094 Notwithstanding any general or special law, rule or regulation  
3095 to the contrary, monies from the gaming local aid fund shall be  
3096 used in addition to the balance of the state lottery fund for  
3097 distribution to cities and towns in accordance with the  
3098 provisions of clause (c) of section 35 of chapter 10 and any  
3099 monies so distributed shall be considered part of "General  
3100 revenue sharing aid" for purposes of annual aid and contribution  
3101 requirements established pursuant to chapter 70 or section 3 of  
3102 the annual general appropriation act.

3103 **Section 56** There is hereby established and set up on the books  
3104 of the commonwealth a fund to be known as the Manufacturing  
3105 Fund. The manufacturing fund shall be credited any monies

3106 transferred under section 51 and all monies credited to or  
3107 transferred to the fund from any other fund or source pursuant  
3108 to law.

3109 **Section 57** There is hereby established and set up on the books  
3110 of the commonwealth a fund to be known as the Community College  
3111 Fund. The community college fund shall be credited any monies  
3112 transferred under section 51 and all monies credited to or  
3113 transferred to the fund from any other fund or source pursuant  
3114 to law.

3115 **Section 58** There is hereby established and set up on the books  
3116 of the commonwealth a fund to be known as the Local Capital  
3117 Projects Fund. The local capital projects fund shall be credited  
3118 any monies transferred under sections 51 or 52 and all monies  
3119 credited to or transferred to the fund from any other fund or  
3120 source pursuant to law.

3121 **Section 59** There is hereby established and set up on the books  
3122 of the commonwealth a fund to be known as the Education Fund.  
3123 The education fund shall be credited any monies transferred  
3124 under section 52 and all monies credited to or transferred to  
3125 the fund from any other fund or source pursuant to law.

3126 **Section 60** The commission shall continue to evaluate the  
3127 progress of federally recognized tribes in the commonwealth as

3128 they proceed with any applications to place land into trust for  
3129 the purposes of tribal economic development. The commission  
3130 shall determine whether it would be in the best interest of the  
3131 commonwealth to enter into any negotiations with said tribes for  
3132 the purposes of establishing Class III gaming on tribal land and  
3133 shall submit reports as it deems necessary, but not less than  
3134 once a year, to the governor and the clerks of the senate and  
3135 house of representatives detailing any land in trust issues as  
3136 well as the financing capabilities of a proposed tribal casino.

3137 **Section 61.** There shall be a gaming policy advisory council  
3138 consisting of 12 members: 1 of whom shall be the state  
3139 treasurer, or his designee; 1 of whom shall be the attorney  
3140 general, or his designee; 1 of whom shall be the chair of the  
3141 commission; 1 of whom shall be the secretary of administration  
3142 and finance, or his designee; 1 of whom shall be appointed by  
3143 the senate president; 1 of whom shall be appointed by the  
3144 speaker of the house of representatives; and 6 of whom shall be  
3145 appointed by the governor, 1 of whom shall have an expertise in  
3146 the treatment of gambling addiction, 1 of whom shall be a  
3147 representative from the tourism industry, 1 of whom shall be a  
3148 member of organized labor, 1 of whom shall be a representative  
3149 from a licensed gaming establishment; and 2 of whom shall be  
3150 appointed from the vicinity of each resort casino upon

3151 determination of the licensee and site location by the  
3152 commission. Members of the council shall serve for a term of  
3153 two years. The council shall convene after all members have  
3154 been appointed to the commission and annually thereafter unless  
3155 otherwise convened by the governor for the purpose of discussing  
3156 matters of gaming policy. The recommendations concerning gaming  
3157 policy made by the council pursuant to this section shall not be  
3158 binding on the commission.

3159 **Section 62.** The commission shall annually submit a complete and  
3160 detailed report of the commission's activities within 90 days  
3161 after the end of the fiscal year to the clerk of the house of  
3162 representatives, the clerk of the senate, the chairs of the  
3163 joint committee on economic development and emerging  
3164 technologies and the chairs of the house and senate committees  
3165 on ways and means.

3166 **SECTION 13** Section 1 of chapter 32 of the General Laws, as  
3167 appearing in the 2008 Official Edition, is hereby amended by  
3168 inserting after the word "connector", in line 211, the following  
3169 words:- , the Massachusetts Gaming Commission, .

3170

3171 **SECTION 14.** Section 2 of chapter 32A of the General Laws, as so  
3172 appearing, is hereby amended by inserting after the word

3173 "authority", in line 12, the following words:- , the  
3174 Massachusetts gaming commission.

3175 **SECTION 15.** Section 94 of chapter 41 of the General Laws, as so  
3176 appearing, is hereby amended by inserting after the word "and",  
3177 in line 7, the first time it appears, the following word:  
3178 illegal.

3179 **SECTION 16.** Section 18D of chapter 58 of the General Laws is  
3180 hereby repealed

3181 **SECTION 17.** Subsection (d)(1) of section 2 of chapter 62 of the  
3182 General Laws, as so appearing, is hereby amended by inserting  
3183 after paragraph (P) the following paragraph:-

3184 (Q) Losses from wagering transactions shall be allowed only to  
3185 the extent of the gains from such transactions pursuant to  
3186 section 165 of the Code..

3187 **SECTION 18.** Section 2 of chapter 62B of the General Laws, as so  
3188 appearing, is hereby amended by striking out the seventh  
3189 paragraph and inserting in place thereof the following  
3190 paragraph:-

3191 Every person, including the United States, the commonwealth  
3192 or any other state, or any political subdivision or  
3193 instrumentality of the foregoing, making any payment of lottery

3194 or wagering winnings, which are subject to tax under chapter 62  
3195 and which are subject to withholding under section 3402(q)  
3196 without the exception for slot machines, and keno, and bingo  
3197 played at licensed casinos in the commonwealth in subsection  
3198 (q) (5) and (r) of the Internal Revenue Code shall deduct and  
3199 withhold from such payment an amount equal to 5 percent of such  
3200 payment, except that such withholding for purposes of this  
3201 chapter shall apply to payments of winnings of \$600 or greater  
3202 notwithstanding any contrary provisions of the Internal Revenue  
3203 Code, as amended from time to time. For purposes of this  
3204 chapter and chapter 62C, such payment of winnings shall be  
3205 treated as if it were wages paid by an employer to an employee.  
3206 Every person who is to receive a payment of winnings which is  
3207 subject to withholding under this section shall furnish to the  
3208 person making such payment a statement, made under penalties of  
3209 perjury, containing the name, address and taxpayer  
3210 identification number of the person receiving the payment and of  
3211 each person entitled to any portion of such payment.

3212 **SECTION 19.** Said chapter 62Bis hereby further amended by  
3213 striking out section 5, as so appearing, and inserting in place  
3214 thereof the following section:-

3215 Section 5. Every employer required to deduct and withhold from  
3216 an employee or payee a tax under section 2, or who would have

3217 been required under said section in the case of an employee to  
3218 deduct and withhold a tax if the employee had not claimed any  
3219 personal exemption or dependency exemptions, shall furnish to  
3220 each such employee or payee in respect of the wages or other  
3221 payments paid by such employer to such employee or payee during  
3222 the calendar year, on or before January 31 of the succeeding  
3223 year, or, if an employee's employment is terminated before the  
3224 close of such calendar year, within 30 days from the day on  
3225 which the last payment of wages is made, a written statement in  
3226 duplicate showing the name of the employer, the name of the  
3227 employee or payee and his social security account number, if  
3228 any, the total amount of wages or other amounts subject to  
3229 taxation under chapter 62, and the total amount deducted and  
3230 withheld as tax. This statement may contain such other  
3231 information as the commissioner may prescribe. The commissioner  
3232 may grant reasonable extensions of time, not exceeding 60 days,  
3233 for the furnishing of the statement.

3234 Every employer who fails to withhold or pay to the commissioner  
3235 any sums required by this chapter to be withheld or paid shall  
3236 be personally and individually liable therefore to the  
3237 commonwealth. The term "employer," as used in this section and  
3238 in section 11, includes any person or entity required to  
3239 withhold tax from any payee, and includes an officer or employee

3240 of a corporation, or a member or employee of a partnership or  
3241 limited liability company, who as such officer, employee or  
3242 member is under a duty to withhold and pay over taxes in  
3243 accordance with this section and section 2. Any sum withheld in  
3244 accordance with section 2 shall be considered to be held in  
3245 trust for the commonwealth.

3246 If an employer in violation of the provisions of this chapter  
3247 fails to withhold the tax in accordance with section 2, and  
3248 thereafter the tax against which such tax may be credited,  
3249 pursuant to section 9, is paid, the tax so required to be  
3250 withheld shall not be collected from the employer; but this  
3251 paragraph shall in no case relieve the employer from liability  
3252 for any penalties or addition to the tax otherwise applicable in  
3253 respect of such failure to withhold.

3254 **SECTION 20.** The first paragraph of section 8 of chapter 62C of  
3255 the General Laws, as so appearing, is hereby amended by striking  
3256 out the last sentence and inserting in place thereof the  
3257 following sentence:-The same basis of reporting shall be  
3258 utilized for income that is subject to taxation or withholding  
3259 under chapter 62 or 62B but is not subject to taxation or  
3260 withholding under the Code.

3261 **SECTION 21.** Subsection (f) of section 38 of chapter 63 of the  
3262 General Laws, as so appearing, is hereby amended by striking  
3263 out the third paragraph and inserting in place thereof the  
3264 following paragraph:- ",

3265 For the purposes of this subsection: (1) in the case of the  
3266 licensing of intangible property, the income-producing activity  
3267 shall be considered to be performed in the commonwealth to the  
3268 extent that the intangible property is used in the commonwealth;

3269 (2) the corporation shall be considered to be taxable in the  
3270 state of the purchaser if the tangible personal property is  
3271 delivered or shipped to a purchaser in a foreign country; (3)  
3272 sales of tangible personal property to the United States  
3273 government or any agency or instrumentality thereof for purposes  
3274 of resale to a foreign government or any agency or

3275 instrumentality thereof are not sales made in the commonwealth;

3276 (4) in the case of the sale, exchange or other disposition of a  
3277 capital asset, as defined in paragraph (m) of section 1 of  
3278 chapter 62, used in a taxpayer's trade or business, including a  
3279 deemed sale or exchange of such asset, "sales" are measured by  
3280 the gain from the transaction; (5) "security" means any  
3281 interest or instrument commonly treated as a security as well as  
3282 other instruments which are customarily sold in the open market  
3283 or on a recognized exchange, including, but not limited to,

3284 transferable shares of a beneficial interest in any corporation  
3285 or other entity, bonds, debentures, notes, and other evidences  
3286 of indebtedness, accounts receivable and notes receivable, cash  
3287 and cash equivalents including foreign currencies, and  
3288 repurchase and futures contracts; (6) in the case of a sale or  
3289 deemed sale of a business, the term "sales" does not include  
3290 receipts from the sale of the business "good will" or similar  
3291 intangible value, including, without limitation, "going concern  
3292 value" and "workforce in place."; (7) to the extent authorized  
3293 pursuant to the life sciences tax incentive program established  
3294 by section 5 of chapter 23I, a certified life sciences company  
3295 may be deemed a research and development corporation for  
3296 purposes of exemptions under chapters 64H and 64I; and (8) in  
3297 the case of a business deriving receipts from operating a gaming  
3298 facility or otherwise deriving receipts from conducting a  
3299 wagering business or activity, income-producing activity shall  
3300 be considered to be performed in this commonwealth to the extent  
3301 that the location of wagering transactions or activity that  
3302 generated the receipts is in this commonwealth.

3303 **SECTION 22.** Section 2 of chapter 128 of the General Laws, as so  
3304 appearing, is hereby amended by striking out, in line 99, the  
3305 words "or dog".

3306 **SECTION 23.** Said section 2 of said chapter 128, as so  
3307 appearing, is hereby further amended by striking out subsection  
3308 (i).

3309 **SECTION 24.** Section 1 of chapter 128A of the General Laws, as so  
3310 appearing, is hereby amended by striking out, in line 6, the  
3311 words "state racing commission" and inserting in place thereof  
3312 the following words:- Massachusetts gaming commission  
3313 established pursuant to chapter 23K.

3314 **SECTION 25.** Chapter 128A of the General Laws is hereby  
3315 repealed. .

3316 **SECTION 26.** Section 1 of chapter 128C of the General Laws, as  
3317 appearing in the 2008 Official Edition, is hereby amended by  
3318 striking out, in line 12, the words "state racing commission"  
3319 and inserting in place thereof the following words:-  
3320 Massachusetts gaming commission established pursuant to chapter  
3321 23K.

3322 **SECTION 27.** Said chapter 128C of the General Laws is hereby  
3323 repealed.

3324 **SECTION 28.** Section 1 of chapter 137 of the General Laws, as  
3325 appearing in the 2008 Official Edition, is hereby amended by  
3326 inserting after the words "gaming," in line 2, the following

3327 words:- ,except for gaming conducted in licensed gaming  
3328 establishments pursuant to chapter 23K.

3329 **SECTION 29.** Section 2 of said chapter 137, as so appearing, is  
3330 hereby amended by striking out, in line 2, the word "where" and  
3331 inserting in place thereof the following words:- , except for  
3332 an owner or operator of a licensed gaming establishment pursuant  
3333 to chapter 23K, where.

3334 **SECTION 30.** Section 3 of said chapter 137, as so appearing, is  
3335 hereby amended by inserting after the words "betting,", in line  
3336 5, the following words:- ,except for legalized gaming conducted  
3337 pursuant to chapter 23K.

3338

3339 **SECTION 31.** Section 18 of chapter 139 of the General Laws, as so  
3340 appearing, is hereby amended by inserting after the word "of",  
3341 in line 6, the word:- illegal.

3342 **SECTION 32.** Section 177A of chapter 140 of the General Laws, as  
3343 so appearing, is hereby amended by inserting after the word  
3344 "machines", in line 12, the following words:- , and excluding  
3345 slot machines as defined by chapter 23K.

3346 **SECTION 33.** Section 26A of chapter 180 of the General Laws, as  
3347 so appearing, is hereby amended by striking out, in lines 4 and  
3348 16, the following words " or dog".

3349 **SECTION 34.** The General Laws are hereby amended by inserting  
3350 after chapter 267 the following chapter:-

3351 Chapter 267A

3352 Money Laundering

3353 Section 1. As used in this chapter, the following words shall,  
3354 unless the context clearly requires otherwise, have the  
3355 following meanings:-

3356 "Conducts", initiates, concludes or participates in initiating  
3357 or concluding a transaction.

3358 "Criminal activity", a criminal offense punishable under the  
3359 laws of the commonwealth by imprisonment in a state prison or a  
3360 criminal offense committed in another jurisdiction punishable  
3361 under the laws of that jurisdiction as a felony.

3362 "Financial institution", any: (1) bank as defined in section 1  
3363 of chapter 167; (2) national banking association, bank, savings  
3364 and loan, savings bank, cooperative bank, building and loan, or  
3365 credit union organized under the laws of the United States; (3)  
3366 banking association, bank, savings and loan, savings bank,  
3367 cooperative bank, building and loan or credit union organized  
3368 under the laws of any state; (4) any agency, agent, or branch of  
3369 a foreign bank; (5) currency dealer or exchange; (6) any person

3370 or business engaged primarily in the cashing of checks; (7)  
3371 person or business regularly engaged in the issuing, selling, or  
3372 redeeming of traveler's checks, money orders or similar  
3373 instruments; (8) broker or dealer in securities or commodities;  
3374 (9) licensed transmitter of funds or other person or business  
3375 regularly engaged in the transmission of funds to a foreign  
3376 nation for others; (10) investment banker or investment company;  
3377 (11) insurer; (12) dealer in precious metals, stones or jewels;  
3378 (13) pawnbroker or scrap metal dealer; (14) telegraph or other  
3379 communications company; (15) personal property or real estate  
3380 broker; (16) dealer in vehicles, including, but not limited to,  
3381 automobiles, aircraft and vessels; (17) operator of a betting or  
3382 gambling facility; (18) travel agent; any thrift institution;  
3383 any operator of a credit card system; or (19) any loan or  
3384 finance company.

3385 "Monetary instrument", the currency and coin of the United  
3386 States or any foreign country; any bank check, money order,  
3387 stock, investment security, or negotiable instrument in bearer  
3388 form or otherwise in such form that title passes upon delivery;  
3389 gold, silver or platinum bullion or coins; diamonds, emeralds,  
3390 rubies, or sapphires; any negotiable instrument including: bank  
3391 checks, cashier's checks, traveler's checks, or monetary orders  
3392 made payable to the order of a named party that have not been

3393 endorsed or which bear restrictive endorsements; poker chips,  
3394 vouchers or other tokens exchangeable for cash by gaming  
3395 entities; and credit cards, debit cards, gift cards, gift  
3396 certificates, calling cards, or scrips.

3397 "Transaction", a purchase, sale, loan, pledge, gift, transfer,  
3398 delivery, or other disposition, and with respect to a financial  
3399 institution includes a deposit, withdrawal, bailment, transfer  
3400 between accounts, exchange of currency, loan, extension of  
3401 credit, purchase or sale of any stock, bond, certificate of  
3402 deposit, or other monetary instrument, use of a safe deposit  
3403 box, or any other payment, transfer, or delivery by, through, or  
3404 to a financial institution, by whatever means effected.

3405 Section 2. Whoever knowingly: (1) engages in a transaction  
3406 involving a monetary instrument or other property known to be  
3407 derived from criminal activity with the intent to promote, carry  
3408 on or facilitate criminal activity, or knowing that the  
3409 transaction is designed in whole or in part either to conceal or  
3410 disguise the nature, location, source, ownership or control of  
3411 the property derived from criminal activity or to avoid a  
3412 transaction reporting requirement of this chapter, of the United  
3413 States, or of any other state; (2) transports or possesses a  
3414 monetary instrument or other property that was derived from  
3415 criminal activity; or (3) directs, organizes, finances, plans,

3416 manages, supervises, or controls the transportation of or  
3417 transactions in monetary instruments or other property known to  
3418 be derived from criminal activity or which a reasonable person  
3419 would believe to be derived from criminal activity; is guilty of  
3420 the crime of money laundering and shall be punished by  
3421 imprisonment in the state prison for not more than 6 years or by  
3422 a fine of not more than \$250,000 or twice the value of the  
3423 property transacted, whichever is greater, or by both such  
3424 imprisonment and fine; and for any subsequent offense shall be  
3425 punished by imprisonment in the state prison for not less than 2  
3426 years, but not more than 8 years or by a fine of not more than  
3427 \$500,000 or 3 times the value of the property transacted,  
3428 whichever is greater, or by both such imprisonment and fine.

3429 Section 3. (a) A financial institution shall file with the  
3430 attorney general a copy of any and all reports required by the  
3431 Currency and Foreign Transactions Act, set forth in 31 U.S.C.,  
3432 sections 5311 through 5315, 31 C.F.R. 103.

3433 (b) A financial institution, or any officer, employee, or  
3434 agent thereof that maintains and files a record in reliance of  
3435 this section shall not be liable to its customer, to a state or  
3436 local agency, or to any person for any loss or damage caused in  
3437 whole or in part by the making, filing, or governmental use of

3438 the report, or any information contained therein. Nothing in  
3439 this chapter shall be construed to give rise to a private cause  
3440 of action for relief or damages. This paragraph does not  
3441 preclude a financial institution, in its discretion, from  
3442 instituting contact with, and thereafter communicating with and  
3443 disclosing customer financial records to appropriate federal,  
3444 state, or local law enforcement agencies when the financial  
3445 institution has reason to suspect that the records or  
3446 information demonstrate that the customer has violated any  
3447 provisions of this chapter.

3448 (c) Any report, record, or information obtained by the  
3449 attorney general pursuant to this section is not a public record  
3450 and is not subject to disclosure, except to other state and  
3451 federal law enforcement agencies.

3452 (d) Any violation of this section, which is not a violation of  
3453 section 2, shall be punished by a fine of \$100 for each report  
3454 not filed.

3455 Section 4. All monetary instruments or other property, real or  
3456 personal, obtained directly as a result of a violation of  
3457 section 2 of this chapter, shall be subject to forfeiture to the  
3458 commonwealth.

3459 **SECTION 35.** Section 1 of chapter 271 of the General Laws, as  
3460 appearing in the 2008 Official Edition, is hereby amended by  
3461 inserting after the word "gaming", in lines 3 and 4, the  
3462 following words:- ,except as permitted under chapter 23K.

3463 **SECTION 36.** Section 2 of said chapter 271, as so appearing, is  
3464 hereby amended by inserting after the words "playing", in line  
3465 4, the following words:- ,except as permitted under chapter 23K.

3466 **SECTION 37.** Section 3 of said chapter 271, as so appearing, is  
3467 hereby amended by inserting after the words "gaming", in line 3,  
3468 the following words:- ,except as permitted under chapter 23K.

3469 **SECTION 38.** Section 5 of said chapter 271, as so appearing, is  
3470 hereby amended by inserting after the words "thing,", in line 7,  
3471 the following words:- except as permitted under chapter 23K.

3472

3473 **SECTION 39.** The second paragraph of section 5A of chapter 271,  
3474 as so appearing, is hereby amended by adding the following  
3475 sentence:-

3476

3477 This section shall not apply to persons who manufacture,  
3478 transport, sell, offer for sale, store, display, repair,  
3479 recondition, possess or use any gambling device or parts for use  
3480 therein for controlled gaming conducted under chapter 23K.

3481

3482 **SECTION 40.** Section 6 of said chapter 271, as so appearing, is  
3483 hereby amended by striking out, in lines 3 and 4, the words  
3484 "gambling or unlawful game and inserting in place thereof the  
3485 words:- illegal gaming.

3486 **SECTION 41.** Section 7 of said chapter 271, as so appearing, is  
3487 hereby amended by inserting after the word "device", in line 7,  
3488 the first time it appears, the following words:- that is taking  
3489 place in a legalized gaming establishment pursuant to chapter  
3490 23K, .

3491 **SECTION 42.** Said chapter 271 is hereby further amended by  
3492 striking out section 8, as so appearing, and inserting in place  
3493 thereof the following section:

3494

3495 Section 8. Whoever owns, occupies, or is in control of a house,  
3496 shop or building and knowingly permits the establishing,  
3497 managing or drawing of such lottery, or such disposal or attempt  
3498 to dispose of property, or the sale of a lottery ticket or share  
3499 of a ticket, or any other writing, certificate, bill, token or  
3500 other device purporting or intended to entitle the holder,  
3501 bearer or any other person to a prize or to a share of or  
3502 interest in a prize to be drawn in a lottery, or in such  
3503 disposal or property, and whoever knowingly suffers money or

3504 other property to be raffled for or won by throwing or using  
3505 dice or by any other game of chance that is not being conducted  
3506 in a legalized gaming facility pursuant to chapter 23K, shall be  
3507 punished by a fine of not more than \$2000 or by imprisonment in  
3508 a jail or house of correction for not more than 1 year.

3509

3510 **SECTION 43.** Section 14 of said chapter 271, as so appearing, is  
3511 hereby further amended by inserting after the word " by", in  
3512 line 3, the first time it appears, the following words:-  
3513 illegal games of.

3514

3515 **SECTION 44.** Section 16A of said chapter 271, as so appearing, is  
3516 hereby amended by inserting after the word "wagerers", in line  
3517 14, the following words:- or to persons who organize, supervise,  
3518 manage or finance persons for the purpose of controlled gaming  
3519 conducted under chapter 23K.

3520 **SECTION 45.** Section 17 of said chapter 271, as so appearing, is  
3521 hereby amended by adding the following sentence:-

3522 This section shall not apply to persons who organize, supervise,  
3523 manage or finance persons for the purpose of controlled gaming  
3524 conducted under chapter 23K.

3525 **SECTION 46.** Section 19 of said chapter 271, as so appearing, is  
3526 hereby amended by inserting after the word "hazard", in line 16,  
3527 the following words:- ; provided, however, that this section  
3528 shall not apply to advertising of legalized gaming conducted  
3529 pursuant to chapter 23K.

3530

3531 **SECTION 47.** Section 20 of said chapter 271, as so appearing, is  
3532 hereby amended by inserting after the word "used", in line 17,  
3533 the following words:- ;provided, however that this section  
3534 shall not apply to advertising of legalized gaming conducted  
3535 pursuant to chapter 23K.

3536

3537 **SECTION 48.** Section 22 of said chapter 271, as so appearing, is  
3538 hereby amended by inserting after the word " of", in line 6, the  
3539 third time it appears, the following word:- illegal.

3540 **SECTION 49.** Section 23 of said chapter 271, as so appearing, is  
3541 hereby amended by inserting after the word "for", in line 28,  
3542 the following words:-; provided, however, that such provision  
3543 shall not apply to legalized gaming conducted pursuant chapter  
3544 23K.

3545

3546 **SECTION 50.** Section 28 of said chapter 271, as so appearing, is  
3547 hereby amended by inserting after the word "of", in line 3, the  
3548 third time it appears, the following word:- illegal.

3549 **SECTION 51.** Section 31 of said chapter 271, as so appearing, is  
3550 hereby amended by inserting after the word "both", in line 8,  
3551 the following words:- ;provided, however, that this section  
3552 shall not apply to legalized racing conducted pursuant to  
3553 chapter 23K.

3554

3555 **SECTION 52.** The General Laws are hereby amended by inserting  
3556 after chapter 271 the following new chapter:-

3557

3558 Chapter 271A

3559 Enterprise Crime

3560

3561 Section 1. As used in this chapter, the following words shall,  
3562 unless the context clearly requires otherwise, have the  
3563 following meanings:-

3564 "Criminal enterprise activity", to commit ,attempt to commit,  
3565 conspire to commit, or solicit, coerce, aid, abet, or intimidate  
3566 another to commit any of the following criminal activity under  
3567 the laws of the commonwealth or equivalent crimes under the laws  
3568 of any other jurisdiction: murder; rape; manslaughter; assault;

3569 assault and battery; mayhem; robbery; extortion; stalking;  
3570 criminal harassment; kidnapping; arson; burglary; malicious  
3571 destruction of property; commission of a felony for hire;  
3572 breaking and entering; child exploitation; poison; human  
3573 trafficking; violation of constitutional rights; usury;  
3574 uttering; misuse or fraudulent use of credit cards; identity  
3575 fraud; misappropriation of funds; gross fraud; insurance fraud;  
3576 prize fighting; boxing matches; counterfeiting; perjury;  
3577 subornation of perjury; obstruction of justice; money  
3578 laundering; witness intimidation; bribery; electronic  
3579 eavesdropping; prostitution; receiving stolen property; larceny  
3580 over \$250.00; larceny by false pretenses or/embezzlement;  
3581 forgery; prohibited financial interest; procurement fraud; false  
3582 claims; tax evasion; filing false tax return; crimes involving  
3583 violations of laws relating to gambling and lottery; gift;  
3584 liquor; tobacco s; firearms; securities; lobbying; ethics;  
3585 conflict of interest child and elder abuse; or any conduct  
3586 defined as a racketeering activity under Title 18, U.S.C. s.  
3587 1961(1) (A) (B) and (D).  
3588  
3589 "Enterprise", any individual, sole proprietorship, partnership,  
3590 corporation, trust or other legal entity, or any unchartered  
3591 union, association or group of persons associated in fact

3592 although not a legally recognized entity, and including unlawful  
3593 and lawful enterprises and governmental and other entities.

3594

3595 "Pattern of criminal enterprise activity", engaging in at least  
3596 two incidents of criminal enterprise activity that have the same  
3597 or similar pattern, intents, results, accomplices, victims or  
3598 methods of commission, or are otherwise interrelated by  
3599 distinguishing characteristics and are not isolated incidents;  
3600 provided Y at least 1 of the acts occurred after the effective  
3601 date of this act and the last of the incidents occurred within 5  
3602 years after a prior commission of criminal enterprise activity.

3603

3604 "Unlawful debt", a debt incurred or contracted in an illegal  
3605 gambling activity or business or which is unenforceable under  
3606 state or federal law in whole or part as to principal or  
3607 interest because of the law relating to usury.

3608

3609 Section 2. Whoever knowingly: (1) through a pattern of criminal  
3610 enterprise activity or through the collection of an unlawful  
3611 debt, receives anything of value or acquires or maintains,  
3612 directly or indirectly, any interest in or control of any  
3613 enterprise; (2) has received any proceeds derived, directly or  
3614 indirectly, from a pattern of criminal enterprise activity or

3615 through the collection of an unlawful debt, to use or invest,  
3616 directly or indirectly, any part of the proceeds including  
3617 proceeds derived from the investment, in the acquisition of any  
3618 interest in real property, or in the establishment or operation  
3619 of, any enterprise; (3) is employed by or associated with any  
3620 enterprise to conduct or participate, directly or indirectly, in  
3621 the conduct of the enterprise's affairs by engaging in a pattern  
3622 of criminal enterprise activity or through the collection of an  
3623 unlawful debt; or (4) conspires or attempts to violate  
3624 subsections (a), (b), or (c) of this section; is guilty of  
3625 enterprise crime and shall be punished by imprisonment in the  
3626 state prison for not more than 3 years and not more than 15  
3627 years or by a fine of not more than \$25,000, or by both such  
3628 imprisonment and fine.

3629 A purchase of securities on the open market for purposes of  
3630 investment, and without the intention of controlling or  
3631 participating in the control of the issuer, or of assisting  
3632 another to do so, shall not be unlawful under this section if  
3633 the securities of the issuer held by the purchaser, the members  
3634 of his immediate family, and his or their accomplices in any  
3635 pattern of criminal activity or the collection of an unlawful  
3636 debt after such purchase do not amount in the aggregate to one  
3637 percent of the outstanding securities of any one class and do

3638 not confer, either in law or in fact, the power to elect one or  
3639 more directors of the issuer.

3640 Section 3. All monetary proceeds or other property, real or  
3641 personal, obtained directly as a result of a violation of this  
3642 chapter, shall be subject to seizure and forfeiture to the  
3643 commonwealth.

3644

3645 **SECTION 53.** Section 39 of chapter 272 of the General Laws, as  
3646 appearing in the 2008 Official Edition, is hereby amended by  
3647 inserting after the word "in", in line 7, the following word:-  
3648 illegal.

3649

3650 **SECTION 54.** Section 99 of said chapter 272, as so appearing, is  
3651 hereby amended by inserting after the word "forgery,", in line  
3652 68, the word:- illegal.

3653

3654 **SECTION 55 .** Said section 13 of said chapter 494, as most  
3655 recently amended by section 2 of chapter 114 of the acts of  
3656 1991, is hereby further amended by striking out clause (c ).

3657 **SECTION 56.** Clause (d) of said section 13 of said chapter 494,  
3658 as appearing in said section 2 of said chapter 114, is hereby  
3659 amended by striking out, in line 21, the words "(b) or (c )" and  
3660 inserting in place thereof the following words:- and (b).

3661 **SECTION 57.** Said section 13 of said chapter 494, as most  
3662 recently amended by said section 2 of said chapter 114, is  
3663 hereby further amended by striking out subsection (f)

3664

3665 **SECTION 58.** The first paragraph of section 12A of chapter 494 of  
3666 the acts of 1978 is hereby amended by striking out the words  
3667 "and until July 31, 2010", inserted by section 1 of chapter 167  
3668 of the acts of 2009, and inserting in place thereof the  
3669 following words:- December 31, 2014.

3670 **SECTION 59.** The last paragraph of said section 12A of said  
3671 chapter 494 is hereby amended by striking out the words "July  
3672 31, 2010", inserted by section 2 of said chapter 167, and  
3673 inserting in place thereof the following words:- December 31,  
3674 2014.

3675 **SECTION 60.** The introductory paragraph of section 13 of said  
3676 chapter 494 is hereby amended by striking out the words "and  
3677 until July 31, 2010", inserted by section 3 of said chapter 167,  
3678 and inserting in place thereof the following words:- and until  
3679 December 31, 2014.

3680

3681 **SECTION 61.** Section 15 of said chapter 494 is hereby amended by  
3682 striking out the words "and until July 31, 2010", inserted by  
3683 section 4 of said chapter 167, and inserting in place thereof

3684 the following words:- and until December 31, 2014.

3685

3686 **SECTION 62.** The first paragraph of section 9 of chapter 277 of  
3687 the acts of 1986 is hereby amended by striking out the words  
3688 "and until July 31, 2010", inserted by section 5 of said chapter  
3689 167, and inserting in place thereof the following words:- and  
3690 until December 31, 2014.

3691 **SECTION 63.** The first sentence of the first paragraph of  
3692 section 3 of chapter 114 of the acts of 1991 is hereby amended  
3693 by striking out the words "and until July 31, 2010", inserted by  
3694 section 6 of said chapter 167, and inserting in place thereof  
3695 the following words:- and until December 31, 2014.

3696

3697 **SECTION 64.** The last paragraph of said section 3 of said  
3698 chapter 114 is hereby amended by striking out the words "July  
3699 31, 2010", inserted by section 7 of said chapter 167, and  
3700 inserting in place thereof the following words:- December 31,  
3701 2014.

3702

3703 **SECTION 65.** The first paragraph of section 4 of said chapter  
3704 114 is hereby amended by striking out the words "and until July  
3705 31, 2010", inserted by section 8 of said chapter 167, and  
3706 inserting in place thereof the following words:- and until

3707 December 31, 2014.

3708

3709 **SECTION 66.** The last paragraph of said section 4 of said  
3710 chapter 114 is hereby amended by striking out the words "July  
3711 31, 2010", inserted by section 9 of said chapter 167, and  
3712 inserting in place thereof the following words:- December 31,  
3713 2014.

3714

3715 **SECTION 67.** The first paragraph of section 5 of said chapter  
3716 114 is hereby amended by striking out the words "and until July  
3717 31, 2010", inserted by section 10 of said chapter 167, and  
3718 inserting in place thereof the following words:- and until  
3719 December 31, 2014.

3720

3721 **SECTION 68.** Section 13 of chapter 101 of the acts of 1992 is  
3722 hereby amended by striking out the words "July 31, 2010",  
3723 inserted by section 11 of said chapter 167, and inserting in  
3724 place thereof the following words:- December 31, 2014.

3725

3726 **SECTION 69.** Section 45 of chapter 139 of the acts of 2001 is  
3727 hereby amended by striking out the words "July 31, 2010",  
3728 inserted by section 12 of said chapter 167, and inserting in  
3729 place thereof the following words:- December 31, 2014.

3730

3731 **SECTION 70.** Section 20 of chapter 449 of the acts of 2006 is  
3732 hereby amended by striking out the words "July 31, 2010",  
3733 inserted by section 13 of said chapter 167, and inserting in  
3734 place thereof the following words:- December 31, 2014.

3735 **SECTION 71.** Notwithstanding any general or special law to the  
3736 contrary, in making initial appointments to the board of  
3737 directors of the Massachusetts gaming commission established  
3738 pursuant to section 3 of chapter 23K of the General Laws, the  
3739 governor, the attorney general and the treasurer and receiver  
3740 general, by majority agreement, shall appoint 1 commissioner to  
3741 serve for a term of 3 years, 1 commissioner to serve for a term  
3742 of 4 years, 1 commissioner to serve for a term of 5 years, 1  
3743 commissioner to serve for a term of 6 years, and 1 commissioner  
3744 to serve for a term of 7 years.

3745 **SECTION 72.** Notwithstanding any general or special law to the  
3746 contrary, the vote of a municipality required pursuant to  
3747 section 16 of chapter 23K of the General Laws shall occur after  
3748 the effective date of this act.

3749 **SECTION 73.** Pursuant to section 2 of chapter 1194, 64 Stat.  
3750 1134, 15 U.S.C. 1171-1177, approved January 2, 1951, the  
3751 commonwealth, acting by and through duly elected and qualified

3752 members of the general court, does declare and proclaim that the  
3753 commonwealth shall be exempt from the provisions of chapter  
3754 1194, 64 Stat. 1134, 15 U.S.C. 1171 to 1178 for any gambling  
3755 device authorized for use and transport under chapter 23K of the  
3756 General Laws and any regulations promulgated thereunder.

3757 **SECTION 74.** All shipments of gambling devices into the  
3758 commonwealth, including slot machines, the registering,  
3759 recording and labeling of which has been duly had by the  
3760 manufacturer or dealer thereof in accordance with sections 3 and  
3761 4 of an Act of Congress of the United States entitled "An act to  
3762 prohibit transportation of gambling devices in interstate and  
3763 foreign commerce," approved January 2, 1951, being chapter 1194,  
3764 64 Stat. 1134, and also designated as 15 USC §§ 1171-1177 ,  
3765 shall be deemed legal shipments thereof into this commonwealth.

3766 **SECTION 75.** Notwithstanding any general or special law to the  
3767 contrary, the Massachusetts gaming commission shall analyze the  
3768 pari-mutuel and simulcasting statutes in effect as of the  
3769 effective date of this act. Said analysis shall include a review  
3770 of the efficacy of said statutes and the need to replace said  
3771 statutes pursuant to the sunset of chapters 128A and 128C of the  
3772 General Laws established under this act. Said review shall not  
3773 include a review of whether to increase the number of running  
3774 horse, harness horse or greyhound racing meeting licensees. Said

3775 commission shall report its finding together with legislation,  
3776 if any, to the clerks of the house of representatives and senate  
3777 and to the chairs of the joint committee on economic development  
3778 and emerging technologies no later than January 1, 2013.

3779 **SECTION 76.** Section 25 and 27 of this act shall take effect on  
3780 July 31, 2014.