

ASSEMBLY BILL

No. 9

Introduced by Assembly Member Gatto

December 1, 2014

An act to add Chapter 5.2 (commencing with Section 19990.101) to Division 8 of the Business and Professions Code, relating to gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 9, as introduced, Gatto. Gambling: Internet poker: unlawful gambling activity.

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

This bill, which would be known as the Internet Poker Consumer Protection Act of 2015, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply to the commission for a 10-year nontransferable license to operate an intrastate Internet poker Web site offering the play of authorized Internet poker games to registered players within California, as specified. The bill would require that the license be automatically renewed every 10 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker game permitted by the

state pursuant to this bill. The bill would provide that it is unlawful for a person to aggregate computers or any other device with Internet access capabilities in a place of public accommodation within the state, including a public or private club or other association, in a public or private setting, that can accommodate multiple players to simultaneously play authorized games on the Internet, or to promote, facilitate, or market that activity. The bill would provide that any violation of the Internet Poker Consumer Protection Act of 2015 is punishable as a misdemeanor. By creating new crimes, the bill would impose a state-mandated local program.

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, to adopt regulations within 180 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes, to implement these provisions, and to facilitate the operation of authorized poker Web sites and expedite the state's receipt of revenues. The bill would require an eligible entity, as defined, to pay an application processing fee sufficient to cover all reasonable costs associated with the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts necessary to perform their duties pursuant to this bill. An operator license applicant that is a federally recognized Indian tribe also would be required to submit a limited waiver of its sovereign immunity. The bill would require a service provider to apply to the commission for a service provider license before providing goods or services to a licensed operator in connection with the operation of an authorized poker Web site and pay an application processing fee sufficient to cover the reasonable costs associated with the issuance of the license. The bill would require the department to review the suitability of a service provider applicant and would require the department, prior to issuing a service provider license, to issue a finding of suitability and conduct a full investigation of the service provider license applicant. The bill would require a marketing affiliate to apply to the commission for a marketing affiliate license or registration before providing marketing services to a licensed operator in connection with the operation of an authorized poker Web site and pay an application processing fee sufficient to cover the reasonable costs associated with the issuance of the license. Except as provided, the bill would require the department to review the suitability of a marketing affiliate license or registration applicant and would require

the department, prior to issuing a license or registration, to issue a finding of suitability and conduct a full investigation of the marketing affiliate license or registration applicant.

The bill would require employees of a licensed operator, a licensed service provider, or a licensed or registered marketing affiliate to obtain employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits, and would authorize the commission to refuse to issue a license to, or suspend or revoke a license of, a licensed operator that fails to comply with these requirements. The bill would establish a tribal gaming regulatory authority process for the purpose of processing employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would authorize the commission to revoke or suspend any license or work permit upon reaching a finding that the licensee or employee is in violation of the provisions described above, or any regulation adopted pursuant to these provisions. However, the bill would prohibit a tribal licensee from having its license suspended or revoked, or being fined or otherwise penalized for complying with any applicable federal law or regulation when operating an authorized poker Web site on Indian lands. The bill would specify that to the extent that any state requirement is more strict than any applicable federal law requirement, the tribal licensee is required to comply with the state requirement.

This bill would require a registered player account to be established in person, and would also require that specified deposits into and withdrawals out of those accounts be made in person. In order to satisfy those in-person requirements, the bill would authorize a licensed operator to enter into an agreement for the operation of one or more satellite service centers, which would be authorized to act on behalf of, or in coordination with, the licensed operator in carrying out those in-person requirements. The bill would require a licensed operator to ensure, among other things, that the satellite service center is financially, logistically, and technologically capable of performing specified duties in accordance with the bill's provisions. The bill would provide that both the satellite service center and the licensed operator may be held liable for any violation of the bill's provisions arising out of an agreement between the satellite service center and the licensed operator to provide specified in-person services. The bill would also authorize the commission to promulgate regulations regarding satellite service centers for the protection of licensed operators, registered players, and

intrastate Internet poker, or that otherwise serve the purposes of the bill.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee to pay a one-time license deposit into the General Fund in the amount of \$5,000,000. The license deposit would be credited against quarterly fees equivalent to 5% of the licensee's gross gaming revenue proceeds, as specified. The bill would require an applicant for an operator license to provide documentation establishing that the applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified.

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

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

This bill would require the state to affirmatively elect to be subject to a federal Internet gambling law, and would prohibit the state from participating in any Internet gambling agreement between states or foreign jurisdictions without an affirmative legislative act. The bill would provide that if the state elects to be subject to a federal Internet gambling law or to participate in an Internet gambling agreement between states or foreign jurisdictions, an operator licensee shall not

be required to pay the one-time license fee or the quarterly fees described above and would require the state to refund within 30 days all unused license fees paid to the state, as specified. The bill would authorize a licensee to enforce this provision in the superior court.

The bill would provide that specified provisions are not severable.

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

This bill would make legislative findings to that effect.

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

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

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Chapter 5.2 (commencing with Section
2 19990.101) is added to Division 8 of the Business and Professions
3 Code, to read:

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

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

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

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

15 (a) Since the development of the Internet, Web sites offering
16 gambling have raised consumer protection and enforcement
17 concerns for federal and state governments as these Internet Web

1 sites are often operated by unknown persons located in many
2 different countries, subject to little or no oversight, and have sought
3 to attract customers from the United States.

4 (b) Californians participate in illegal online gambling on
5 unregulated Internet Web sites every week. Neither federal nor
6 California laws provide any consumer protections for California
7 players. California players assume all risks, any negative social or
8 financial impacts are borne by the citizens of California, and the
9 revenues generated from online gambling are being realized by
10 offshore operators and do not provide any benefits to the citizens
11 of California.

12 (c) The presence, operation, and expansion of offshore,
13 unlicensed, and unregulated Internet gambling Web sites available
14 to Californians endanger Californians because the current Internet
15 gambling Web sites operate illegally and without regulation as
16 demonstrated by criminal investigations of some Internet gambling
17 purveyors, and questions have arisen about the honesty and the
18 fairness of the games played on Internet gambling Web sites as
19 well as the true purpose for, and use of, proceeds generated by
20 these unregulated Internet gambling Web sites. In addition, some
21 of the unlicensed and unregulated Internet gambling activity
22 interferes with rights Californians preserved to federally recognized
23 tribal governments when amending the state's Constitution, with
24 that amendment providing federally recognized tribes the sole and
25 exclusive right to engage in slot machine and house-banked
26 casino-style gaming in California. California, thus, has a state
27 interest in authorizing and regulating legitimate Internet poker and
28 in ensuring that those activities are consistent with existing public
29 policy regarding the playing of poker games within the state. The
30 public interest will be best served by requiring that those entities
31 who desire to own or operate Internet poker Web sites within the
32 state continue to comply with the existing standards and rigorous
33 scrutiny that must be met in order to qualify to offer poker games
34 within the state.

35 (d) These rights were separately guaranteed in 1999, and at
36 various times thereafter, when the state negotiated and entered into
37 compacts with tribes pursuant to the federal Indian Gaming
38 Regulatory Act of 1988 (IGRA), under which signatory tribes
39 possess the exclusive right within the state to operate "gaming
40 devices." "Gaming device" is defined in those compacts to include

1 any electronic, electromechanical, electrical, or video device that,
2 for consideration, permits: individual play with or against that
3 device or the participation in any electronic, electromechanical,
4 electrical, or video system to which that device is connected; the
5 playing of games thereon or therewith, including, but not limited
6 to, the playing of facsimiles of games of chance or skill; the
7 possible delivery of, or entitlement by the player to, a prize or
8 something of value as a result of the application of an element of
9 chance; and a method for viewing the outcome, prize won, and
10 other information regarding the playing of games thereon or
11 therewith. Internet gaming necessitates the use of an electronic
12 device, whether in a private or a public setting, to participate in a
13 game. The authorization of Internet gaming could, therefore,
14 constitute a breach of those compacts and jeopardize the payments
15 being made to the state. As such, the Legislature recognizes that
16 the forms of Internet gaming authorized to be played within the
17 state must be strictly limited and that the authorization of any form
18 of Internet gaming, with the exception of poker as described in
19 this chapter, would violate compact exclusivity. This includes, but
20 is not limited to, any slot or casino-style game.

21 (e) Tribally owned and operated casinos have contributed to
22 local economies, generated tens of thousands of jobs for
23 Californians, provided hundreds of millions of dollars in revenues
24 for the state since the advent of Indian gaming, and are entitled to
25 the full protection of the laws of this state. As such, the state is
26 presently engaged in regulatory and enforcement efforts to combat
27 the rise of illegal gambling activity that threatens not only protected
28 rights, but the health and welfare of all Californians.

29 (f) Card rooms have been offering poker games in California
30 since before California became a state. Card rooms have
31 contributed to local economies, generated tens of thousands of
32 jobs for Californians, provided hundreds of millions of dollars in
33 revenues for state and local governments, and are entitled to the
34 full protection of the laws of this state.

35 (g) In October 2006, Congress passed the SAFE Port Act (Public
36 Law 109-347), to increase the security of United States ports.
37 Embedded within the language of that act was a section entitled
38 the Unlawful Internet Gambling Enforcement Act of 2006
39 (UIGEA), which prohibits the use of banking instruments,
40 including credit cards, checks, or fund transfers, for interstate

1 Internet gambling. UIGEA includes exceptions, including, but not
2 limited to, one that permits individual states to create a regulatory
3 framework to enable intrastate Internet gambling, provided the
4 bets or wagers are made exclusively within a single state whose
5 state laws or regulations comply with all of the following:

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

8 (A) Age and location verification requirements.
9 (B) Data security standards designed to prevent access to minors
10 and persons located outside of that state.

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

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

15 (A) The Interstate Horseracing Act of 1978.
16 (B) The Professional and Amateur Sports Protection Act.
17 (C) The Gambling Devices Transportation Act.
18 (D) IGRA.

19 (h) State authorization to operate Internet poker consistent with
20 federal law, and heightened regulation and enforcement regarding
21 Internet gambling activity that goes beyond poker, provides
22 California with the means to protect its citizens and consumers
23 under certain conditions by providing a framework to ensure that,
24 among other things, the state is not subject to an unnecessary and
25 unprecedented expansion of gambling, minors are prevented from
26 gambling, citizens participating in Internet poker activities are
27 protected, and the state is not deprived of income tax revenues to
28 which it would otherwise be entitled from these activities.

29 (i) The Legislature recognizes that the regulation of gambling
30 activities within the state's jurisdiction is of particular concern to
31 the public interest, particularly with the advent of the Internet, and
32 inherent dangers associated with online gambling activities, and
33 accordingly recognizes the need to protect Californians from an
34 unprecedented expansion of gambling activities within the state.
35 This chapter is a vehicle to generate additional resources to protect
36 Californians from this increased illegal Internet gambling activity.

37 (j) The state currently maintains and implements substantial
38 regulatory and law enforcement efforts to protect thousands of
39 Californians who gamble and play, among other things, real-money
40 poker in licensed California card rooms.

1 (k) Federally recognized Indian tribes in California offer
2 real-money poker, including electronically aided poker, on their
3 Indian lands as a “class II” game under IGRA.

4 (l) While the state, federal government, and tribal governments
5 exercise regulatory authority over various real-money poker games
6 offered in California, none of those entities presently provide
7 licensing requirements, regulatory structure, or law enforcement
8 tools to protect millions of Californians who play the same games
9 daily for money on the Internet.

10 (m) In order to protect Californians who gamble online, allow
11 state law enforcement to ensure consumer protection, and ensure
12 compliance with the California Constitution and negotiated
13 compacts and secretarial procedures, it is in the best interest of the
14 state and its citizens to authorize, implement, and create a legal
15 system for intrastate Internet gambling that is limited to the game
16 of poker.

17 (n) The California Gambling Control Commission and the
18 Department of Justice, in conjunction with other state agencies
19 and tribal gaming regulatory authorities, have the expertise to issue
20 licenses to conduct intrastate Internet poker to existing operators
21 of regulated gaming that are otherwise eligible to conduct
22 real-money poker games in California. Further, strict suitability
23 standards must be imposed on those persons and entities seeking
24 to work for or provide services to licensed operators in order to
25 ensure that the highest level of integrity is maintained.

26 (o) The state also possesses a legitimate interest in protecting
27 the integrity of state-authorized intrastate Internet poker by
28 licensing only those entities that are otherwise eligible to offer
29 real-money poker games within the state that have significant
30 experience operating in a regulated land-based gaming facility
31 environment. The state’s interests are best met, therefore, by
32 licensing only those entities in California that have experience
33 operating card rooms and tribal gaming facilities that are currently
34 permitted to offer live real-money poker games and are in good
35 standing with the appropriate state, federal, and tribal regulatory
36 agencies.

37 (p) In granting licenses to engage in intrastate Internet poker,
38 the state also has a substantial interest in carefully assessing the
39 suitability of any entity or person who seeks to operate Internet
40 poker games in the state. In order to protect the integrity of, and

1 promote public confidence in, intrastate Internet poker, the
2 Legislature finds that licenses should not be granted to those
3 entities and persons who knowingly engaged in unlawful Internet
4 gaming after December 31, 2006. In addition, the Legislature finds
5 that the use for intrastate Internet poker of brand names,
6 trademarks, customer lists, software, and other data associated
7 with, or developed or used in connection with, unlawful Internet
8 gaming after December 31, 2006, is likely to undermine public
9 confidence in intrastate Internet poker and to be inconsistent with
10 the purpose of this chapter to protect the people of California by
11 permitting regulated intrastate Internet poker that has no connection
12 to previous unlawful Internet gaming activity. In the Legislature's
13 judgment, a knowing decision to purchase or otherwise acquire
14 that data for use in connection with Internet poker in the state bears
15 directly on the applicant's suitability and must be considered in
16 any determination whether to license that applicant under this
17 chapter.

18 (q) This chapter will permit a qualified card room to obtain a
19 license from the state to operate poker games via the Internet for
20 players within the jurisdiction of California. In addition, this
21 chapter will permit a qualified federally recognized California
22 Indian tribe to obtain a license from the state to operate poker
23 games via the Internet for players physically located within
24 California.

25 (r) Participation by tribes will further the interests of the state
26 because tribes have significant experience operating and regulating
27 real-money games.

28 (s) The authorization of intrastate Internet poker pursuant to
29 this chapter does not violate any tribal-state compact or the
30 California Constitution. Application of UIGEA in California, as
31 set forth in this chapter, also does not violate federal Indian law
32 by impinging upon protected tribal sovereignty. Accordingly,
33 nothing in this chapter shall alter, diminish, or impact the rights
34 and obligations of tribes in existing tribal-state compacts or
35 secretarial procedures approved pursuant to IGRA, or require that
36 those compacts be renegotiated. At the same time, a tribal licensee
37 does not relinquish any rights under its compact with the state by
38 virtue of participating in intrastate Internet poker pursuant to this
39 chapter, which is intended to respect the regulatory obligations
40 and responsibilities of state, tribal, and federal authorities.

1 19990.103. It is the intent of the Legislature to create a
2 licensing and regulatory framework and enforcement mechanisms
3 to do all of the following:

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

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

11 (c) Authorize and direct the commission to issue a license to
12 certain existing operators of card rooms and gaming facilities in
13 California, at which regulated real-money poker games may be
14 offered, and that meet the eligibility requirements and timely
15 submit the required application and registration fees.

16 (d) Ensure that each licensee complies with applicable laws and
17 regulations.

18 (e) Grant power to the state agencies authorized in this chapter
19 to oversee the operations of each licensee, including the operations
20 of those licensed by a tribal gaming regulatory authority under this
21 chapter whose licenses and permits have been reviewed and
22 approved by the commission in accordance with this chapter, and
23 to enforce the provisions of this chapter to ensure that the interests
24 of the state and registered players are protected.

25 (f) Establish a process that includes a background investigation
26 of owners, officers, directors, and key employees, requires that
27 each employee of a licensee receives all necessary work permits
28 from the state, and coordinates that investigation with any
29 suitability review undertaken by a participating tribe's gaming
30 regulatory authority.

31 (g) Ensure that the state is able to collect income tax revenues
32 from registered players participating in Internet poker activity in
33 the state.

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

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

- 1 (2) Other purposes related to this chapter as the Legislature may
- 2 decide, including, but not limited to, enforcement efforts related
- 3 to illegal Internet gambling activities.
- 4 (i) Create systems to protect each registered player’s private
- 5 information and prevent fraud and identity theft.
- 6 (j) Ensure that registered players are able to have their financial
- 7 transactions processed in a secure, timely, and transparent fashion.
- 8 (k) Require that each licensed operator provide registered players
- 9 with accessible customer service.
- 10 (l) Require that each licensed operator’s Internet poker Web
- 11 site contain information relating to problem gambling, including
- 12 a telephone number that an individual may call to seek information
- 13 and assistance for a potential gambling addiction.
- 14 (m) Ensure that the licensed operator maintains responsibility
- 15 for the Internet poker business and is not serving as a facade for
- 16 an entity not eligible to be a licensed operator. The Internet poker
- 17 Web site shall identify who is the actual licensed operator to ensure
- 18 protection of players.
- 19 (n) Create an express exemption from disclosure, pursuant to
- 20 the California Public Records Act under subdivision (b) of Section
- 21 6253 of the Government Code, that exempts from public disclosure
- 22 proprietary information of a license applicant or a licensee in order
- 23 to permit disclosure of confidential information to state agencies
- 24 while achieving the public policy goals of deploying secure systems
- 25 that protect the interests of both the state and players.
- 26 (o) As a matter of statewide concern, preempt any city, county,
- 27 or city and county from enacting any law or ordinance regulating
- 28 or taxing any matter covered in this chapter.

Article 2. Definitions

- 31
- 32 19990.201. For the purposes of this chapter, the following
- 33 words have the following meanings:
- 34 (a) “Authorized Internet poker game” means any of several card
- 35 games, duly authorized by the commission and played on an
- 36 authorized poker Web site, that meet the definition of poker as
- 37 specified by this section.
- 38 (b) “Authorized poker Web site” means a Web site on which
- 39 authorized Internet poker games are offered for play by a licensed
- 40 operator pursuant to this chapter.

1 (c) “Background investigation” means a process of reviewing
2 and compiling personal and criminal history and financial
3 information through inquiries of various law enforcement and
4 public sources to establish a person’s qualifications and suitability
5 for any necessary license or employee work permit issued pursuant
6 to this chapter.

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

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

10 (f) “Commission” means the California Gambling Control
11 Commission.

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

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

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

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

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

29 (i) “Covered asset” means any brand or business name, including
30 any derivative brand name with the same or similar wording, or
31 any trade or service mark, software, technology, operational
32 system, customer information, or other data acquired, derived, or
33 developed directly or indirectly from, or associated with, any
34 operation that has accepted a bet or engaged in a financial
35 transaction related to that bet from any person in the United States
36 on any form of Internet gaming after December 31, 2006, except
37 when permitted under federal law and laws of the state where the
38 player was located.

39 (j) “Department” means the Department of Justice.

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

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

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

10 (B) An entity identified in this paragraph shall have operated
11 its card room or gaming facility for at least three years immediately
12 preceding its application to secure a license to operate an Internet
13 poker Web site pursuant to this chapter, and shall be in good
14 standing during that time period with the applicable federal, state,
15 and tribal regulatory authorities. However, an incorporation or
16 other change in legal form of ownership during the three years
17 immediately preceding application for licensure that did not alter
18 the beneficial ownership of a card room, shall not disqualify a card
19 room otherwise eligible for licensure.

20 (2) A group of federally recognized California tribes or
21 California card rooms is eligible to jointly apply for a license
22 pursuant to this chapter, through an entity organized under state
23 or federal law, if each entity within the group independently
24 satisfies the requisite eligibility requirements identified in this
25 chapter.

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

33 (4) (A) This chapter does not restrict a card room owner from
34 forming a separate business entity organized under state law to
35 apply for or hold any license issued pursuant to this chapter.

36 (B) The beneficial owners of an entity described in subparagraph
37 (A) shall be the card room owner, except for permitted ownership
38 transfers pursuant to Section 19990.522.

39 (C) The entities described in this paragraph are “eligible
40 entities.”

1 (5) A federally recognized California Indian tribe that operates
2 a gaming facility that accepts bets from players within this state
3 but who are not physically present on Indian lands when making
4 those bets is not an eligible entity, unless those bets are accepted
5 in accordance with this chapter on authorized Internet poker games
6 played on an authorized poker Web site.

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

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

15 (n) “Finding of suitability” or “determination of suitability”
16 means a finding by the commission that a licensee meets the
17 qualification criteria described in Article 4 (commencing with
18 Section 19990.401), and that the licensee would not be disqualified
19 on any of the grounds specified in that article.

20 (o) “Gambling” means to deal, operate, carry on, conduct,
21 maintain, or expose for play any game for money.

22 (p) “Game” means any gambling game.

23 (q) “Gaming system” means the technology, including hardware
24 and software, used by a licensee to facilitate the offering of
25 authorized Internet poker games to registered players.

26 (r) “Good standing” means that a person has not had a gambling
27 license suspended or revoked by a final decision of the commission
28 or been finally ordered by a court of competent jurisdiction to
29 cease conducting gaming activities.

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

34 (2) “Gross gaming revenues” does not include player account
35 deposits or amounts bet, except to the extent any portion of those
36 bets are retained as fees by the operator, discounts on goods or
37 services, rebates or promotional awards, discounts or stakes
38 provided to players, or revenues from nongaming sources, such
39 as from food, beverages, souvenirs, advertising, clothing, and other
40 nongaming sources.

1 (t) “IGRA” means the federal Indian Gaming Regulatory Act
2 of 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et
3 seq.).

4 (u) “Initial operator license” means an operator license that is
5 issued pursuant to subdivision (h) of Section 19990.402.

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

8 (w) “Intrastate” means within the borders and jurisdiction of
9 California.

10 (x) “Key employee” means any natural person employed by a
11 licensed operator, service provider, or marketing affiliate, or by a
12 holding or intermediary company of a licensed operator, service
13 provider, or marketing affiliate, who is an officer or director of
14 the licensed operator or service provider, or who, in the judgment
15 of the commission, has the authority to exercise significant
16 influence over decisions concerning the operation of the licensed
17 operator or service provider as that operation relates to the Internet
18 poker authorized by this chapter.

19 (y) “Land-based gaming facility” means a card room operated
20 pursuant to Chapter 5 (commencing with Section 19800) or a
21 casino operated by a federally recognized Indian tribe on Indian
22 land in California.

23 (z) “Licensed operator” means an eligible entity licensed
24 pursuant to this chapter to offer the play of authorized Internet
25 poker games to registered players on an authorized poker Web
26 site.

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

30 (ab) “Licensee” means a licensed operator, licensed service
31 provider, or registered or licensed marketing affiliate.

32 (ac) (1) “Marketing affiliate” means either of the following:

33 (A) Any person other than the licensed operator who, for a fee
34 or other consideration, provides or refers players to the licensed
35 operator’s authorized poker Web site.

36 (B) Any subaffiliate of a person described in subparagraph (A)
37 who, for a fee or other consideration, provides or refers players to
38 the licensed operator’s authorized poker Web site.

39 (2) “Marketing affiliate” does not include a provider of goods
40 or services who provides similar advertising or marketing for

1 purposes other than the operation of Internet gambling activities
2 for the same rates or fees, cost or pay per impression, or click as
3 charged nongambling businesses, and is not otherwise directly or
4 indirectly involved in the operation of an authorized poker Web
5 site.

6 (ad) “Net position” means the residual difference between assets
7 and liabilities, as defined by generally accepted accounting
8 principles.

9 (ae) “Online self-exclusion form” means a form on which an
10 individual notifies a licensed operator that he or she must be
11 excluded from participation in authorized Internet poker games
12 for a stated period of time.

13 (af) “Owner” means any person that is eligible to own a
14 land-based gaming facility in California and that has a financial
15 interest in, or control of, a person or entity required to be found
16 suitable under this chapter, including shareholders, partners, and
17 members of limited liability companies holding more than 10
18 percent of the equity or voting control of the person or entity and
19 any person found by the commission to be exerting management
20 or control of the person or entity in fact. “Owner” does not include
21 the members or government officials of a federally recognized
22 California Indian tribe.

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

25 (ah) “Per hand game” means an authorized Internet poker game
26 for which the licensed operator charges the player for each hand
27 played.

28 (ai) “Person” means an individual, corporation, business trust,
29 estate, trust, partnership, limited liability company, association,
30 joint venture, government, governmental subdivision, agency, or
31 instrumentality, public corporation, or any other legal or
32 commercial entity, including any federally recognized California
33 Indian tribe, or an entity that is wholly owned by the tribe.

34 (aj) “Play-for-fun game” means a version of a lawfully played
35 gambling game in which there is no requirement to pay to play or
36 any possibility of winning any prize or other consideration of value,
37 including, but not limited to, games offered only for purposes of
38 training, education, marketing, or amusement.

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

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

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

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

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

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

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

37 (E) All bets are placed in a common pot. At one or more
38 predetermined points during the game a player may resign,
39 challenge other players to make additional bets into the pot, or

1 demand that players reveal their hand so a winner can be
2 determined.

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

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

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

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

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

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

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

37 (an) “Promotion” includes a jackpot, high hand bonus, royal
38 flush bonus, aces cracked, splash pot, or other promotional prize
39 that is appended to the play of an authorized Internet poker game,

1 provided that the promotion is approved by the commission and
2 does not create a banked or illegal game.

3 (ao) “Proprietary information” means all information, including,
4 but not limited to, computer programs, databases, data, algorithms,
5 formulae, expertise, improvements, discoveries, concepts,
6 inventions, developments, methods, designs, analyses, drawings,
7 techniques, strategies, new products, reports, unpublished financial
8 statements, budgets, projections, billing practices, pricing data,
9 contacts, client and supplier lists, business and marketing records,
10 working papers, files, systems, plans, and all related registrations
11 and applications that, whether or not patentable or registerable
12 under patent, copyright, trademark, or similar statutes, meet either
13 of the following:

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

17 (2) The information derives independent economic value, actual
18 or potential, from not being generally known to the public or to
19 other persons that can obtain economic value from its disclosure
20 or use.

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

24 (aq) “Registered player” means a player who has registered with
25 a licensed operator to play authorized Internet poker games on the
26 licensed operator’s authorized poker Web site.

27 (ar) “Registration information” means the information provided
28 by a person to a licensed operator in order to become a registered
29 player.

30 (as) “Robotic play” means the use of a machine or software to
31 automate the next player action at any point in a game, including
32 the use of a proxy player.

33 (at) “Satellite service center” means a facility operated pursuant
34 to subdivision (c) of Section 19990.505

35 (au) (1) “Service provider” means any person, other than an
36 employee, that does any of the following:

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

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

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

6 (D) Sells, licenses, or otherwise receives compensation for
7 selling or licensing, information on individuals in California, and
8 that person is not a marketing affiliate.

9 (E) Provides any product, service, financing, or intellectual
10 property, including patents related to the gaming system, and the
11 trademarks, trade names, or service marks to a licensed operator
12 and is paid a percentage of gaming revenue by the licensed
13 operator, other than employees, not including fees to financial
14 institutions, legal settlements, and payment providers for
15 facilitating a deposit by a customer.

16 (2) “Service provider” does not include either of the following:

17 (A) A provider of goods or services that provides similar goods
18 or services to the public for purposes other than the operation of
19 Internet gambling activities.

20 (B) A provider of goods or services that is not otherwise directly
21 or indirectly involved in the control or operation of an authorized
22 poker Web site, including via any person controlled by or under
23 common control with a service provider.

24 (av) “State” means the State of California.

25 (aw) “Terms of Use Registered Player’s Agreement” means the
26 agreement offered by a licensed operator and accepted by a
27 registered player delineating, among other things, permissible and
28 impermissible activities on an authorized poker Web site and the
29 consequences of engaging in impermissible activities.

30 (ax) “Tournament” means a competition approved by the
31 commission in which registered players play a series of authorized
32 Internet poker games to decide the winner.

33 (ay) “Tournament charge” means the amount charged by the
34 licensed operator for registered players to play in a tournament.

35 (az) “Tournament winnings” means the amount of any prize
36 awarded to a registered player in a tournament.

37 (ba) “Tribal gaming regulatory authority” means the gaming
38 regulatory authority of a federally recognized California Indian
39 tribe that has the authority to regulate gaming on the tribe’s Indian
40 lands pursuant to IGRA.

1 (bb) “Tribe” means a federally recognized California Indian
2 tribe, including, but not limited to, the governing body of that tribe
3 or any entity that is wholly owned by the tribe.

4 (bc) “Unlawful Gambling Enforcement Fund” means the fund
5 established pursuant to Section 19990.802, the revenue of which
6 is dedicated to enforcing the prohibitions of this chapter.

7

8 Article 3. Authorized Internet Poker Games Offered in
9 California

10

11 19990.301. Under the federal Unlawful Internet Gambling
12 Enforcement Act of 2006, California is permitted to authorize
13 games played via the Internet as long as all players and the online
14 wagering is located within the jurisdiction of the state and the
15 games are not played by minors.

16 19990.302. Notwithstanding any other law, a person who is
17 21 years of age or older and located within California is hereby
18 permitted to participate as a registered player in an authorized
19 Internet poker game provided by a licensed operator on an
20 authorized poker Web site.

21 19990.303. (a) A person shall not do any of the following:

22 (1) Offer any game of poker on the Internet in this state unless
23 that person holds a valid license issued by the state to offer the
24 play of authorized Internet poker games on an authorized poker
25 Web site pursuant to this chapter.

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

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

32 (b) Subject to an opportunity to cure pursuant to Section
33 19990.521, a violation of this chapter is punishable as a
34 misdemeanor.

35 19990.304. This chapter does not limit or restrict activities or
36 conduct permitted pursuant to Chapter 5 (commencing with Section
37 19800) or IGRA.

38 19990.305. This chapter does not authorize any game offered
39 in Nevada or New Jersey other than poker.

40 19990.306. A person shall not do either of the following:

1 (a) Aggregate computers or any other device with Internet access
2 capabilities in a place of public accommodation within the state,
3 including any public or private club or other association, in a public
4 or other setting, that can accommodate multiple players to
5 simultaneously play authorized games on the Internet.

6 (b) Promote, facilitate, or market the activity described in
7 subdivision (a).

8 19990.307. (a) If a federal law authorizing Internet gambling
9 in the state is enacted, and that federal law provides that states may
10 elect to be governed by its provisions, that election by the state
11 shall only be through an affirmative legislative act.

12 (b) If a federal law authorizing Internet gambling agreements
13 between states or foreign jurisdictions is enacted, the state shall
14 participate in those agreements only through an affirmative
15 legislative act.

16 (c) If the state elects to be governed by a federal law authorizing
17 Internet gambling pursuant to subdivision (a) or to participate in
18 Internet gambling agreements between states or foreign
19 jurisdictions pursuant to subdivision (b), a licensed operator shall
20 not be required to pay the fees set forth in subdivisions (b) and (c)
21 of Section 19990.519. In that event, a licensed operator may apply
22 to the commission for a refund of any unused license deposit fee
23 paid to the state pursuant to subdivision (a) of Section 19990.519,
24 which shall be refunded to the licensed operator as follows:

25 (1) The state shall provide any refund owed to licensed operators
26 from the Unlawful Gambling Enforcement Fund.

27 (2) If there are insufficient funds in the Unlawful Gambling
28 Enforcement Fund to provide these refunds, the state shall provide
29 the remaining amount from the General Fund.

30 (d) A licensed operator may bring suit to enforce subdivision
31 (c) in the superior court.

32
33 Article 4. Licensing of Operators, Service Providers, and
34 Marketing Affiliates
35

36 19990.401. (a) (1) Within 180 days after the effective date of
37 this chapter, the commission, and any other state agency with a
38 duty pursuant to this chapter, shall, in consultation with the
39 department and tribes, adopt regulations pursuant to the
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code) to implement this chapter, and to facilitate the operation of
3 authorized poker Web sites and expedite the state's receipt of
4 revenues in compliance with this chapter. The initial adoption,
5 amendment, or repeal of a regulation authorized by this section is
6 deemed to address an emergency, for purposes of Sections 11346.1
7 and 11349.6 of the Government Code, and the commission and
8 those other state agencies are hereby exempted for that purpose
9 from the requirements of subdivision (b) of Section 11346.1 of
10 the Government Code. After the initial adoption, amendment, or
11 repeal of an emergency regulation pursuant to this section, the
12 commission and those other state agencies shall not request
13 approval from the Office of Administrative Law to readopt the
14 regulation as an emergency regulation pursuant to Section 11346.1
15 of the Government Code, but shall promulgate permanent
16 regulations in accordance with all applicable law.

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

- 19 (A) Underage gambling and problem gambling.
- 20 (B) Resolution of player disputes and complaints.
- 21 (C) Gaming system technical standards and practices.
- 22 (D) Approval of games and game rules.
- 23 (E) Hardware and software standards and compliance.
- 24 (F) License, registration, and work permit issuance,
25 investigation, and processes.
- 26 (G) Suitability standards and determinations.
- 27 (H) Temporary, provisional, and emergency approvals.
- 28 (I) Temporary licensing of, licensing of, or findings of suitability
29 for receivers, trustees, beneficiaries, executors, administrators,
30 conservators, or successors in interest affecting the ownership or
31 control of a licensee.
- 32 (J) The disclosure of the source of assets, including any covered
33 asset, intended to be used by the applicant or licensee or on the
34 applicant's or licensee's behalf, including, but not limited to,
35 software and marketing information or data.
- 36 (K) Appeals from adverse decisions.
- 37 (L) Accusations, disciplinary proceedings, and hearings.
- 38 (M) Accounting, minimum internal controls, and reporting
39 practices.
- 40 (N) Marketing affiliate agreements and reporting.

1 (O) Promotions.

2 (P) Work permits, approvals, suitability determinations, and
3 renewals permitting a person to use a single permit, approval,
4 determination or renewal for work, services, or association with
5 land-based gaming facilities and licensees under this chapter.

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

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

12 (3) Unless otherwise provided by this chapter, notice by a
13 licensee to the state shall be deemed effectively given upon
14 personal delivery, three days after deposit in the United States mail
15 by certified or registered mail, return receipt requested, one
16 business day after its deposit with any return receipt express
17 courier, prepaid, or one business day after electronically confirmed
18 transmission by facsimile.

19 19990.402. (a) Authorized Internet poker games may be
20 offered only by entities licensed pursuant to this chapter. An
21 eligible entity seeking to offer authorized Internet poker games
22 shall apply to the commission for an operator license. The
23 commission shall require an application processing fee sufficient
24 to cover the reasonable costs associated with the issuance of the
25 license.

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

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

1 financial institution not involved with the core functions of the
2 authorized poker Web site, that is entirely secured by an equivalent
3 amount of its own net position, to pay the license deposit required
4 by subdivision (a) of Section 19990.519. In addition, a licensed
5 operator shall submit regular financial reports to the department
6 establishing that the operator meets financial viability requirements,
7 as determined by the commission. The commission may terminate
8 a license if the operator fails to submit the required reports or meet
9 the financial viability requirements.

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

17 (e) The commission shall issue an operator license to an
18 applicant determined by the commission to qualify as an eligible
19 entity within 90 days of receiving an application, if the applicant
20 submits a completed application form and pays the required
21 application processing fee described in subdivision (a).

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

27 (g) An operator license shall be issued for a term of 10 years.
28 Subject to the power of the commission to revoke, suspend,
29 condition, or limit any license, as provided in this chapter, a license
30 shall be automatically renewed every 10 years thereafter upon
31 application. Failure of a licensed operator to file an application for
32 renewal may be deemed a surrender of the license.

33 (h) Each initial operator license issued pursuant to this section
34 shall take effect on the same date. That date shall be one year after
35 this chapter becomes effective, unless the commission determines
36 that good cause exists for those licenses to take effect in unison
37 on a subsequent date.

38 (i) A licensed operator may cease its operations after providing
39 the department with a 90-day advance notice of its intent and a
40 statement explaining its reasons for doing so, which may include

1 the fact that continuing to operate the authorized poker Web site
2 is commercially infeasible. In response to that notice, the state
3 may file an action in the Superior Court of the County of
4 Sacramento as it deems necessary to protect any state interests,
5 including, but not limited to, the interests of registered players.

6 (j) This chapter does not apply to play-for-fun or play-for-free
7 games.

8 19990.403. (a) A licensee's employees in direct,
9 individual-to-individual contact with registered players shall be
10 physically present in the state.

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

17 (c) Notwithstanding subdivisions (a) and (b), a licensee shall
18 have discretion to use the expertise of personnel, facilities, bank
19 accounts, and accounting records not physically present in the state
20 when necessary to protect registered players and state interests for
21 the purposes of diagnosing and addressing technological problems,
22 investigating fraud and collusion, and developing and supervising
23 software and configuration changes.

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

35 (e) A license applicant shall submit to the commission, together
36 with its application, an application processing fee as specified in
37 subdivision (a) of Section 19990.402. All moneys collected by the
38 state pursuant to this subdivision shall be deposited into the Internet
39 Poker Fund.

1 19990.404. (a) An entity seeking to act as a service provider
2 shall apply to the commission for a service provider license, and
3 obtain a service provider license, before providing goods or
4 services to a licensed operator in connection with the operation of
5 an authorized poker Web site.

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

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

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

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

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

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

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

26 (f) (1) Unless the service provider or its affiliate was licensed
27 or authorized pursuant to this chapter or comparable federal or
28 state law in the jurisdiction in which the bet was accepted or the
29 transaction was permitted, there is a rebuttable presumption that
30 an applicant for a service provider license is unsuitable if either
31 of the following apply:

32 (A) The service provider, or any corporate or marketing affiliate
33 of the service provider, accepted any bet, or engaged in transactions
34 related to those bets, from persons in the United States in any form
35 of Internet gaming after December 31, 2006.

36 (B) The service provider, or any corporate or marketing affiliate
37 of the service provider, proposes to use covered assets, whether
38 owned by the applicant or any other entity, that were used to accept
39 the bets described in subparagraph (A) or engage in a financial
40 transaction related to those bets.

1 (2) (A) A service provider may rebut the presumption described
2 in subparagraph (A) of paragraph (1) by presenting clear and
3 convincing evidence of both of the following:

4 (i) The acceptance of the bet or engagement in the transaction
5 was not knowing or intentional.

6 (ii) The bet was accepted or the related financial transaction
7 was engaged in notwithstanding reasonable efforts by the service
8 provider, its affiliate or subsidiary, to exclude bets from persons
9 located in a jurisdiction in which it was not licensed or authorized
10 to accept bets.

11 (B) A service provider may rebut the presumption described in
12 subparagraph (B) of paragraph (1) by presenting clear and
13 convincing evidence of either of the following:

14 (i) The applicant did not know, and should not reasonably have
15 known, of the prior unauthorized activity when it purchased or
16 acquired the covered assets.

17 (ii) Use of the covered assets would not adversely affect the
18 integrity of, or undermine public confidence in, intrastate Internet
19 poker or otherwise pose a threat to the public interest or to the
20 effective regulation and control of intrastate Internet poker. In
21 making that determination, the department shall consider, along
22 with any other factors the department deems relevant, the extent
23 to which the service provider proposes to make use of covered
24 assets for intrastate Internet poker and the extent to which the
25 covered assets have been developed or used in connection with,
26 or publicly associated or identified with, unlawful gaming activity.

27 (g) An institutional investor holding less than 10 percent of the
28 equity securities of a service provider's holding or intermediary
29 companies shall be granted a waiver of an investigation for a
30 finding of suitability or other requirement if all of the following
31 apply:

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

34 (2) Holdings of those securities were purchased for investment
35 purposes only.

36 (3) The institutional investor annually files a certified statement
37 with the department to the effect that it has no intention of
38 influencing or affecting the affairs of the issuer, the licensee, or
39 service provider, as applicable, or its holding or intermediary
40 companies.

1 (4) Notwithstanding paragraph (3), the institutional investor
2 may vote on matters submitted to the vote of the outstanding
3 security holders.

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

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

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

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

20 (6) An institutional investor granted a waiver under this
21 subdivision that subsequently decides to influence or affect the
22 affairs of the issuer shall provide not less than 30 days' notice of
23 that intent and shall file with the department a request for
24 determination of suitability before taking an action that may
25 influence or affect the affairs of the issuer. However, the
26 institutional investor may vote on matters submitted to the vote of
27 the outstanding security holders. If an institutional investor changes
28 its investment intent, or the department finds reasonable cause to
29 believe that the institutional investor may be found unsuitable, the
30 institutional investor shall take no action other than divestiture
31 with respect to its security holdings until it has complied with any
32 requirements established by the department, which may include
33 the execution of a trust agreement. The institutional investor and
34 its relevant holding, related, or subsidiary companies shall
35 immediately notify the department and, if a tribal license is
36 involved, the tribal gaming regulatory authority, of any information
37 about, or actions of, an institutional investor holding its equity
38 securities when that information or action may impact upon the
39 eligibility of the institutional investor for a waiver pursuant to
40 paragraph (2).

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

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

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

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

18 (C) A collective investment trust organized by banks under Part
19 9 of the Rules of the Office of the Comptroller of the Currency
20 (12 C.F.R. Sec. 9.1 et seq.).

21 (D) A closed-end investment trust.

22 (E) A chartered or licensed life insurance company or property
23 and casualty insurance company.

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

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

28 (h) The commission and department shall give priority
29 consideration to service provider applications from persons with
30 contractual agreements with licensed operators or licensed operator
31 applicants.

32 19990.405. (a) An entity seeking to act as a marketing affiliate
33 shall apply to the commission for a marketing affiliate license or
34 registration, and obtain a marketing affiliate license or registration,
35 before providing marketing services to a licensed operator in
36 connection with the operation of an authorized poker Web site.

37 (b) (1) A marketing affiliate that is a card room or a tribe
38 operating a land-based gambling facility in good standing shall
39 register with the commission as a marketing affiliate.

1 (2) A background investigation shall not be required for a
2 marketing affiliate registrant described in this subdivision.

3 (3) A marketing affiliate registrant described in this subdivision
4 shall pay a registration processing fee sufficient to cover the
5 reasonable costs associated with the issuance of the registration.

6 (4) A marketing affiliate registrant described in this subdivision
7 shall provide annual reports to the commission regarding its
8 marketing affiliate activity.

9 (c) (1) A marketing affiliate that is not eligible to register
10 pursuant to subdivision (b) and that receives a flat fee per customer
11 referral or customer registration that is not directly or indirectly
12 related to player deposits or activity, and with revenues from those
13 referrals of less than thirty thousand dollars (\$30,000) per quarter
14 shall register with the commission.

15 (2) The department shall conduct a background investigation
16 of the registrants described in this subdivision, as provided in
17 commission regulations. The investigation shall include for the
18 applicant and its owners fingerprint-based state and federal criminal
19 history checks and clearances, work and business history, and
20 inquiries into various public databases regarding any criminal
21 proceedings or civil litigation.

22 (3) A marketing affiliate registrant described in this subdivision
23 shall pay a registration processing fee sufficient to cover the
24 reasonable costs associated with the issuance of the registration
25 and background investigation.

26 (4) A marketing affiliate registrant described in this subdivision
27 shall provide quarterly reports to the commission regarding its
28 marketing affiliate activity.

29 (d) Notwithstanding subdivisions (b) and (c), the commission
30 may, at its discretion, require any person to apply for a marketing
31 affiliate license under subdivision (e), including any person
32 suspected of having any financial interest in any business or
33 organization that is or was engaged in any form of gaming or
34 transactions related to gaming prohibited by the law of the federal
35 or state jurisdiction in which those activities or transactions
36 originated or took place.

37 (e) A marketing affiliate that is not eligible to register pursuant
38 to subdivision (b) or (c), or that is required by the commission
39 pursuant to subdivision (d), shall apply to the commission for a
40 marketing affiliate license. The department shall review the

1 suitability of an applicant for a marketing affiliate license. An
2 applicant for a marketing affiliate license shall pay a license
3 processing fee sufficient to cover the reasonable costs associated
4 with the issuance of the license. Before issuing a marketing affiliate
5 license to an applicant, the department shall conduct the full
6 investigation required by this section of all of the following
7 persons:

- 8 (1) All officers of the license applicant.
- 9 (2) The owner or owners of either of the following:
 - 10 (A) The license applicant.
 - 11 (B) Any corporate affiliate of the license applicant.
- 12 (3) Any persons otherwise providing goods to, or performing
13 services for, the license applicant in exchange for a payment based
14 on volume or revenues.
- 15 (4) Any person deemed by the department to have significant
16 influence over the license applicant.
- 17 (5) Any other person specified by the commission.
- 18 (f) A full investigation shall include a review and evaluation of
19 the information necessary for the department to make a
20 determination of suitability, as specified in regulations adopted
21 pursuant to this chapter, consisting of, but not limited to, personal
22 history, prior activities and associations, credit history, civil
23 litigation, past and present financial affairs and standing, and
24 business activities, including whether the applicant or an affiliate
25 of the applicant has a financial interest in any business or
26 organization that is or was engaged in any form of gaming or
27 transactions related to gaming prohibited by the law of the federal
28 or state jurisdiction in which those activities or transactions
29 originated or took place. The commission or department may
30 specify additional information or documentation required to be
31 submitted.
- 32 (g) (1) Unless the applicant for a marketing affiliate license or
33 registration or its affiliate was licensed or authorized pursuant to
34 this chapter or comparable federal or state law in the jurisdiction
35 in which the bet was accepted or the transaction was permitted,
36 there is a rebuttable presumption that an applicant for a marketing
37 affiliate license or registration is unsuitable if either of the
38 following apply:
 - 39 (A) The applicant, an owner of the applicant, or any affiliate of
40 the applicant accepted any bet, or engaged in transactions related

1 to those bets, from persons in the United States in any form of
2 Internet gaming after December 31, 2006.

3 (B) The applicant, an owner of the applicant, or any affiliate of
4 the applicant proposes to use covered assets, whether owned by
5 the applicant or any other entity, that were used to accept the bets
6 described in subparagraph (A) or engage in a financial transaction
7 related to those bets.

8 (2) An applicant may rebut the presumption described in
9 paragraph (1) by presenting clear and convincing evidence of both
10 of the following:

11 (A) The acceptance of the bet or engagement in the transaction
12 was not knowing or intentional.

13 (B) The bet was accepted or the related financial transaction
14 was engaged in notwithstanding reasonable efforts by the applicant,
15 an owner of the applicant, or any affiliate of the applicant to
16 exclude bets from persons located in a jurisdiction in which it was
17 not licensed or authorized to accept bets.

18 (h) The commission and department shall give priority
19 consideration to marketing affiliate applications from persons with
20 contractual agreements with licensed operators or licensed operator
21 applicants.

22 19990.406. (a) The department may issue a finding of
23 suitability for a license applicant to obtain a license only if, based
24 on all of the information and documents submitted, the commission
25 is satisfied that each of the persons subject to investigation pursuant
26 to Section 19990.404 is both of the following:

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

31 (2) A person whose prior activities, criminal record, if any,
32 reputation, habits, and associations do not pose a threat to the
33 public interest of the state, or to the effective regulation and control
34 of authorized Internet poker games, or create or enhance the
35 dangers of unsuitable, unfair, or illegal practices, methods, and
36 activities in the conduct of authorized Internet poker games or in
37 the carrying on of the business and financial arrangements
38 incidental thereto.

39 (b) The commission shall issue a finding that a license applicant
40 is not suitable to obtain a license if it finds that a person subject

1 to investigation pursuant to this article is described by any of the
2 following:

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

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

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

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

24 (5) Has associated with criminal profiteering activity or
25 organized crime, as defined in Section 186.2 of the Penal Code.

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

32 (7) Is less than 21 years of age.

33 (8) Has knowingly and willfully accepted a bet, or engaged in
34 a financial transaction related to that bet, after December 31, 2006,
35 from a person located in the United States on any form of Internet
36 gambling, including, but not limited to, poker, that has not been
37 affirmatively authorized by the law of the United States or of the
38 state in which the person initiating the bet or where the related
39 financial transaction was located, or has been the holder of a direct

1 or indirect financial interest in a person or entity that has accepted
2 that bet or engaged in that transaction.

3 (9) Has knowingly facilitated or otherwise provided services
4 with respect to bets or gambling games using the Internet, or
5 engaged in financial transactions related to those bets, involving
6 persons located in the United States for a person described in
7 paragraph (8), acting with knowledge of the fact that these bets,
8 financial transactions, or gambling games involved persons located
9 in the United States, except when these bets were accepted after
10 December 31, 2006, by the holder of a federal or state license
11 making the acceptance of these bets or related financial transactions
12 lawful.

13 (10) Has purchased or acquired the covered assets of any entity
14 described in paragraph (8) or (9), and will use any of those assets
15 in connection with Internet poker in the state.

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

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

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

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

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

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

1 application, absent knowledge of a specific reason to suspect that
2 the person or entity may be found unsuitable.

3 (6) The commission shall waive the application of paragraph
4 (8) or (9) of subdivision (b) for an applicant who demonstrates by
5 clear and convincing evidence that its conduct in connection with
6 bets and games involving persons located in the United States was
7 not unlawful under federal law and the laws of each state in which
8 persons making the bets were located. In making this
9 determination, the commission may consider evidence that the
10 applicant was prosecuted under the laws of any state, the United
11 States, or another jurisdiction. However, the termination of a
12 prosecution in a manner other than a conviction does not
13 demonstrate that the applicant's conduct was lawful. This section
14 does not waive the need to comply with all otherwise applicable
15 license and suitability requirements.

16 (7) The commission shall waive the application of paragraph
17 (10) of subdivision (b) for an applicant who demonstrates by clear
18 and convincing evidence any of the following:

19 (A) The applicant did not know and should not reasonably have
20 known that the covered assets were acquired, derived, or developed
21 directly or indirectly from or associated with any operation that
22 has accepted a bet or engaged in a financial transaction related to
23 that bet from any person in the United States on any form of
24 Internet gaming after December 31, 2006.

25 (B) (i) The applicant's conduct involving the covered assets in
26 connection with bets and gambling games involving persons
27 located in the United States was not unlawful under federal law
28 and the laws of each state in which persons making the bets were
29 located.

30 (ii) In making a determination pursuant to this subparagraph,
31 the commission may consider evidence that the applicant was
32 prosecuted under the laws of any state, the United States, or another
33 jurisdiction. However, the termination of a prosecution in a manner
34 other than a conviction does not demonstrate that the applicant's
35 conduct was lawful.

36 (C) (i) The applicant's use of the covered assets in connection
37 with intrastate Internet gaming will not adversely affect the
38 integrity of, or undermine public confidence in, intrastate Internet
39 poker or otherwise pose a threat to the public interest or to the
40 effective regulation and control of intrastate Internet poker.

1 (ii) In making a determination pursuant to this subparagraph,
2 the commission shall consider, along with any other factors the
3 commission deems relevant, the extent to which the applicant
4 proposes to make use of covered assets for intrastate Internet poker
5 and the extent to which the covered assets have been developed
6 or used in connection with, or publicly associated or identified
7 with, unlawful gaming activity.

8 19990.407. (a) This chapter does not restrict the authority of
9 a tribe that is a licensed operator or that owns a tribal enterprise
10 that is a licensed operator to conduct suitability reviews of its
11 service providers.

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

16
17 Article 5. Requirements for the Operation of an Authorized
18 Poker Web Site
19

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

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

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

28 (d) Each licensed operator shall do all of the following, whether
29 directly or through the actions of its licensed service providers or
30 a satellite service center:

31 (1) Prior to registering a person as a registered player or
32 permitting a person to play an authorized Internet poker game, the
33 licensed operator shall verify that the person is 21 years of age or
34 older. The licensed operator shall attempt to match the name,
35 address, and date of birth provided by the person to information
36 contained in records in a database of individuals who have been
37 verified to be 21 years of age or older by reference to an appropriate
38 database of government records.

39 (2) The licensed operator shall require the person to submit
40 age-verification documents consisting of an attestation signed by

1 the person that he or she is 21 years of age or older and a copy of
2 a valid form of government identification. For the purposes of this
3 section, a valid form of government identification includes a
4 driver's license, state identification card, passport, official
5 naturalization or immigration document, such as an alien
6 registration receipt card or an immigrant visa, or United States
7 military identification.

8 (3) The licensed operator shall verify that the name and physical
9 billing address associated with any financial instrument provided
10 by a person to make deposits matches the name and, if applicable,
11 the physical billing address that was verified at the time of that
12 person's registration.

13 (4) (A) The licensed operator shall require a registered player
14 to make the initial deposit into his or her registered player account
15 in person at the land-based gaming facility operated by the licensed
16 operator or at a satellite service center operated pursuant to
17 subdivision (c) of Section 19990.505.

18 (B) The licensed operator shall require a registered player to
19 make a withdrawal from his or her registered player account in
20 person at the land-based gaming facility operated by the licensed
21 operator or at a satellite service center operated pursuant to
22 subdivision (c) of Section 19990.505 if either of the following
23 apply:

24 (i) The withdrawal is ____ dollars (\$____) or more.

25 (ii) The registered player's cumulative withdrawals in a
26 seven-day period total ____ dollars (\$____) or more.

27 (C) Except as provided in subparagraphs (A) and (B), the
28 licensed operator may permit a registered player to make deposits
29 and withdrawals by any electronic means or in person at the
30 land-based gaming facility operated by the licensed operator or at
31 a satellite service center operated pursuant to subdivision (c) of
32 Section 19990.505.

33 (5) The licensed operator shall submit information to each
34 payment provider through which it makes sales, in an appropriate
35 form and format so that the words "Internet poker" or equivalent
36 description is printed on the purchaser's statement with that
37 payment provider, when a payment to a licensed operator is made
38 and the transaction is categorized as required by law.

39 (e) A licensed operator is not in violation of this section if the
40 operator can demonstrate that it has complied with the requirements

1 of paragraphs (1) and (2) of subdivision (d), and a person under
2 21 years of age participates in an authorized Internet poker game
3 provided by the licensed operator.

4 (f) The department may assess civil penalties against a person
5 who violates this section, whether a licensed operator, owner,
6 service provider, or player, according to the following schedule:

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

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

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

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

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

19 (g) The commission shall, by regulation, provide a process for
20 a person to voluntarily restrict his or her play on an authorized
21 poker Web site, and for a licensee to exclude from play any person
22 who has filled out an online self-exclusion form. The regulations
23 shall also provide for a voluntary self-exclusion program that
24 restricts play with all licensed operators. A person shall not
25 self-restrict or self-exclude for more than five years at a time unless
26 the regulations give a person the right to petition for a change in
27 his or her status.

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

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

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

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

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

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

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

8 19990.502. A licensed operator shall offer only authorized
9 Internet poker games and process bets in accordance with the
10 specified game and betting rules established by the licensed
11 operator and approved by the commission pursuant to Section
12 19990.503.

13 19990.503. (a) In order to propose a game for play, a licensed
14 operator shall provide the commission with both of the following:

15 (1) Game rules and betting rules it proposes to offer to registered
16 players.

17 (2) Documentation relating to development and testing of the
18 game’s software.

19 (b) A licensed operator shall not offer a game for play until the
20 commission has approved the game rules and betting rules.

21 19990.504. (a) A licensed operator shall ensure that games
22 are fair.

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

26 (1) The name of the game.

27 (2) Any restrictions on play.

28 (3) The rules of the game.

29 (4) All instructions on how to play.

30 (5) The unit and total bets permitted.

31 (6) The registered player’s current account balance, which shall
32 be updated in real time.

33 (7) Any other information that a licensed operator determines
34 is necessary for the registered player to have in real time to compete
35 fairly in the game.

36 (c) Data used to create game results shall be unpredictable so
37 that it is infeasible to predict the next occurrence in a game.

38 (d) A licensed operator shall deploy controls and technology to
39 minimize fraud or cheating through collusion, including external

1 exchange of information between different players, or any other
2 means.

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

7 (2) The department shall not impose a fine against a licensed
8 operator to prevent fraud or cheating if the licensed operator can
9 demonstrate that it acted responsibly to prevent those activities as
10 soon as the licensed operator became aware of them.

11 (e) In a per hand game, if the gaming server or software does
12 not allow a game to be completed, the game shall be void and all
13 funds relating to the incomplete game shall be returned to the
14 registered player's account.

15 (f) In a tournament, if the gaming server or software does not
16 allow the tournament to be completed, all prize money shall be
17 distributed among players in accordance with the procedure
18 published by the licensed operator prior to the commencement of
19 the tournament.

20 (g) A licensed operator shall display or allow the results from
21 any authorized Internet poker game, including the redemption of
22 winnings from any game, to be displayed or represented only by
23 showing the card faces of the winning hand and the dollar amount
24 won.

25 (h) A licensed operator shall not do any of the following:

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

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

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

36 19990.505. (a) A licensed operator shall register players and
37 establish registered player accounts prior to play.

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

1 (c) (1) A registered player account shall be established in person
2 at the land-based gaming facility operated by the licensed operator
3 or at a satellite service center operated pursuant to paragraph (2).

4 (2) (A) In order to satisfy the in-person registration and
5 transactional requirements of paragraph (1) of this subdivision and
6 paragraph (4) of subdivision (d) of Section 19990.501, a licensed
7 operator may enter into an agreement for the operation of one or
8 more satellite service centers. A satellite service center may act
9 on behalf of, or in coordination with, the licensed operator in
10 carrying out those requirements.

11 (B) Both the satellite service center and the licensed operator
12 may be held liable for any violation of this chapter arising out of
13 an agreement between the satellite service center and the licensed
14 operator to provide the in-person services described in clause (ii)
15 of subparagraph (C).

16 (C) A licensed operator shall ensure that a satellite service center
17 meets both of the following:

18 (i) Is either of the following:

19 (I) A card room with a land-based gaming facility licensed
20 pursuant to Chapter 5 (commencing with Section 19800).

21 (II) A tribe that operates a casino pursuant to a tribal-state
22 compact.

23 (ii) Is financially, logistically, and technologically capable of
24 performing all of the following in-person services at the satellite
25 service center in accordance with this chapter:

26 (I) Registering players for registered player accounts.

27 (II) Accepting funds from registered players for deposit into
28 registered player accounts.

29 (III) Making payouts from registered player accounts to
30 registered players.

31 (D) A satellite service center may make agreements to act on
32 behalf of, or in coordination with, any one or more licensed
33 operators.

34 (E) The commission may promulgate regulations regarding
35 satellite service centers for the protection of licensed operators,
36 registered players, and intrastate Internet poker, or that otherwise
37 serve the purposes of this chapter.

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

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

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

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

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

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

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

17 (1) To pay per hand, participation, or tournament charges owed
18 by a registered player to the licensed operator for play of authorized
19 Internet poker games.

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

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

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

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

31 (6) To purchase or use goods or services supplied by the licensed
32 operator.

33 19990.507. Prior to completing the registration process, a
34 licensed operator shall explain to the person who is registering the
35 privacy policies of the authorized poker Web site, and the person
36 shall assent to the following policies:

37 (a) Personally identifiable information shall not be shared with
38 any nongovernmental third parties, except as provided in Section
39 19990.512.

1 (b) All personally identifiable information about registered
2 players shall be shared with state agencies, including, but not
3 limited to, the department, the commission, the Franchise Tax
4 Board, and the Department of Child Support Services as necessary
5 to assist them in fulfilling their obligations under applicable law.

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

9 19990.508. A licensed operator may require that a registered
10 player, or a person registering as a player, agree to a Terms of Use
11 Registered Player’s Agreement.

12 19990.509. A licensed operator may suspend or revoke the
13 account of a registered player for any of the following reasons:

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

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

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

21 (d) The person has already been registered.

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

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

27 19990.510. Upon registration, and each time a registered player
28 logs into an authorized poker Web site, the licensed operator shall
29 permit a registered player to adjust his or her play settings to:

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

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

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

35 19990.511. (a) A licensed operator shall offer customer support
36 that shall be available to registered players 24 hours per day, 365
37 days per year.

38 (b) The licensed operator shall give notice to the commission
39 when using personnel for customer support who are out of state.

1 19990.512. (a) A licensed operator shall use all reasonable
2 efforts to protect the privacy of registered players and their
3 personally identifiable information.

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

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

9 (d) A licensed operator may, without limitation, collect
10 personally identifiable information in order to do both of the
11 following:

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

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

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

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

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

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

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

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

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

39 (4) A disclosure to the commission to fulfill its obligations under
40 this chapter or to a state agency as authorized in this chapter.

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

4 (6) A disclosure permitted by the terms of the privacy policy
5 made available on the authorized poker Web site and accepted by
6 the registered player.

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

16 (h) A licensed operator shall destroy personally identifiable
17 information if all of the following apply:

18 (1) The registered player requests in writing that the licensed
19 operator destroy the information.

20 (2) The information is no longer reasonably necessary for the
21 purpose for which it was collected.

22 (3) There are no pending requests or orders for access to the
23 information under subdivision (i).

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

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

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

36 19990.513. A licensed operator shall establish a book of
37 accounts and regularly audit all of its financial records and reports,
38 which shall, at a minimum, include all of the following:

39 (a) Monthly auditable and aggregate financial statements of
40 gambling transactions.

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

2 (c) The identity of registered players.

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

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

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

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

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

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

24 (c) Notwithstanding subdivision (b), data covered by
25 subdivisions (d), (e), and (f) of Section 19990.513, shall be
26 accessible to the state agencies online for 120 days, and, thereafter,
27 archived and retained for one year.

28 19990.515. A licensed operator shall do all of the following:

29 (a) Implement technical systems that materially aid the
30 commission in the protection of registered players. Software shall
31 meet, at a minimum, international industry standards as verified
32 by a gaming laboratory approved by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (c) Enter into an agreement with a third-party service provider
31 for marketing, or any other purpose consistent with this chapter,
32 including, but not limited to, displaying the name of a marketing
33 partner on a screen viewed by a registered player. However, to the
34 extent any business relationships or financial arrangements with
35 third-party service providers were utilized or existed to further
36 Internet gaming or transactions related to that gaming or those
37 transactions in violation of federal or state law, those relationships
38 and arrangements shall be discontinued.

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

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

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

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

7 19990.518. There are three categories of application fees,
8 regulatory fees, and license deposits, as follows:

9 (a) Application Processing Fee. In order to cover the costs of
10 suitability investigations and other costs of processing an
11 application for a license, registration, or work permit, the applicant
12 shall deposit the applicable application processing fee as provided
13 in subdivision (a) of Section 19990.402, subdivision (d) of Section
14 19990.403, subdivision (b) of Section 19990.404, subdivision (b),
15 (c), or (e) of Section 19990.405, or Section 19990.605. Any balance
16 of the application processing fee that remains after completion of
17 a background investigation and the finding of suitability shall be
18 refunded to the applicant. If additional moneys are needed to
19 complete the investigation of the license applicant, the applicant
20 shall pay the funds necessary to complete the investigation.

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

27 (c) Ongoing Regulatory Fees. Following issuance of a license
28 and beginning of operations thereunder, the licensed operator shall
29 pay the ongoing regulatory fees set forth in subdivision (c) of
30 Section 19990.519.

31 19990.519. (a) In support of the application for a license
32 pursuant to this chapter, prior to offering games or accepting bets
33 on its authorized poker Web site, the licensed operator shall remit
34 to the Treasurer a one-time license deposit in the amount of five
35 million (\$5,000,000), to be deposited into the General Fund, and
36 credited against charges imposed pursuant to subdivision (b) on
37 the licensed operator's gross gaming revenues. Upon depletion of
38 the license deposit, the commission shall notify the licensed
39 operator to commence quarterly payments to the state in accordance
40 with subdivision (b).

1 (b) In consideration of the substantial value of each license, a
2 licensed operator shall remit to the Treasurer on a quarterly basis
3 for deposit in the General Fund an amount equal to 5 percent of
4 its gross gaming revenues.

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

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

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

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

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

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

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

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

37 (c) If the commission becomes aware of any violation of this
38 chapter, or if it becomes aware of any activities that might lead to
39 a violation, the commission shall provide notice of that violation
40 to the licensee and the department. If the violation is not timely

1 cured, the commission may refer it to the department for
2 investigation and possible enforcement.

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

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

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

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

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

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

35 19990.522. (a) A license issued pursuant to this chapter is not
36 transferable, unless the commission approves the transfer of the
37 license prior to the closing of the transaction pursuant to regulation.
38 The commission shall determine whether the applicant is legally
39 qualified to be licensed under this chapter.

1 (b) The commission shall investigate to ensure that any person
2 acquiring a licensed operator is an eligible entity, suitable, and
3 otherwise financially, technically, and legally qualified to be a
4 licensee pursuant to this chapter. If an acquiring person is found
5 to be unsuitable to be a licensee, or otherwise not financially,
6 technically, or legally qualified to be a licensee, the licensed
7 operator or the acquiring person may challenge that determination.

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

16 (d) A person shall not become the owner of a licensee pursuant
17 to this section unless both of the following apply:

18 (1) The person is eligible to own a card room interest pursuant
19 to Section 19858 or 19858.5.

20 (2) Either of the following apply:

21 (A) The transfer is a change in ownership form, including, but
22 not limited to, an incorporation or putting the ownership interest
23 in a trust that has the same noncontingent beneficiaries as the
24 transferor owner.

25 (B) Any of the following apply:

26 (i) The person acquiring the ownership interest is an heir or
27 successor beneficiary following the owner's or beneficiary's death
28 or incapacity.

29 (ii) The person acquiring the ownership interest receives the
30 interest from an immediate family member.

31 (iii) The person acquiring the ownership interest receives the
32 interest in a marital dissolution and was a spouse of the owner.

33 (iv) The person acquiring the ownership interest is appointed a
34 trustee, conservator, or receiver over the ownership interest.

35 (v) The transferor is bankrupt and the transfer is approved by
36 the bankruptcy court.

37 (vi) The transfer occurs within five years of the Internet poker
38 operator first being licensed and the buyer has had an ownership
39 interest in the same or another licensed operator or card room for
40 at least five years.

1 (vii) The transfer occurs more than five years after the Internet
2 poker operator is first licensed.

3 (e) Except as authorized in subdivision (d), a licensee or owner
4 of a licensee shall not make multiple transfers of ownership
5 interests in the licensee that cumulatively exceed 45 percent of the
6 ownership interests in the licensee.

7 19990.523. All facilities, software, including downloadable
8 programs, and any other property, both tangible and intangible,
9 used by the licensed operator in offering authorized Internet poker
10 games for play on an authorized poker Web site shall be the
11 property of the licensed operator or its licensed service providers,
12 and shall be subject to the approval of the commission.

13 19990.524. If any dispute arises between the state and a
14 licensee, either the commission or a licensee may file an action in
15 the superior court of any county in which the commission has an
16 office for an interpretation of the rights and responsibilities of the
17 state and the licensee pursuant to this chapter.

18

19

Article 6. Employee Work Permits

20

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

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

28 (c) The commission shall not issue an employee work permit
29 unless, based on all of the information and documents submitted,
30 the commission is satisfied that the applicant is, at a minimum, all
31 of the following:

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

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

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

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

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

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

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

32 (A) Failure to pay the application processing fee may be grounds
33 for denial of the application.

34 (B) Any balance of the application processing fee from a permit
35 applicant that remains after completion of a background
36 investigation and the finding of suitability shall be refunded to the
37 applicant. If additional moneys are needed to complete the
38 investigation of the permit applicant, the applicant shall pay the
39 funds necessary to complete the investigation.

1 (2) In reviewing an application for a work permit, the tribal
2 gaming regulatory authority shall determine whether issuance of
3 the employee work permit would meet the suitability standards
4 set forth in this chapter. The tribal gaming regulatory authority
5 shall not issue a permit unless, based on all information and
6 documents submitted, the tribal gaming regulatory authority
7 determines that the applicant meets all of the criteria set forth in
8 this chapter for the issuance of the employee work permit.

9 (3) The tribal gaming regulatory authority shall conduct, or
10 cause to be conducted, all necessary background investigations
11 reasonably required to determine that the applicant is qualified for
12 an employee work permit under the standards set forth in this
13 chapter for the issuance of the employee work permit.

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

26 (5) Upon completion of the necessary background investigation,
27 the tribal gaming regulatory authority may issue a finding that the
28 person or entity is eligible for an employee work permit on a
29 conditional or unconditional basis. This section does not create a
30 property or other right of an applicant in an opportunity to be
31 permitted, or in a permit itself, both of which shall be considered
32 to be privileges granted to the applicant in the sole discretion of
33 the tribal gaming regulatory authority.

34 (6) Upon receipt of a completed license application and a
35 determination by the tribal gaming regulatory authority that the
36 applicant is eligible and suitable for the employee work permit,
37 the tribal gaming regulatory authority shall transmit to the
38 commission a notice of intent to issue a permit to the applicant.
39 The tribal gaming regulatory authority shall not issue an employee

1 work permit until the process required by paragraph (7) is
2 complete.

3 (7) After receipt of the tribal gaming regulatory authority's
4 notice pursuant to paragraph (6), and upon completion of the
5 necessary background investigation or other verification of
6 suitability, the commission shall issue a notice to the tribal gaming
7 regulatory authority stating its finding that the applicant is suitable
8 or is not suitable for the requested permit. The commission may
9 charge an additional application processing fee pursuant to Section
10 19990.605 to cover the reasonable costs of conducting its
11 verification of suitability.

12 (A) If the commission notices a finding that the applicant is
13 suitable, the tribal gaming regulatory agency shall issue an
14 employee work permit to the applicant. The permit shall be
15 effective pursuant to this chapter as though issued by the
16 commission.

17 (B) If the commission notices a finding that the applicant is not
18 suitable, the tribal gaming regulatory authority shall not issue the
19 requested permit. Prior to denying an application for a
20 determination of suitability, the commission shall notify the tribal
21 gaming regulatory authority and afford the tribe an opportunity to
22 be heard. If the commission denies an application for a
23 determination of suitability, the commission shall provide the
24 applicant with written notice of all appeal rights available under
25 state law.

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

37 (8) A tribal permit application submitted pursuant to this section
38 may be denied, and any permit issued may be revoked, if the tribal
39 gaming regulatory authority determines that the application is
40 incomplete or deficient, or if the applicant is determined to be

1 unsuitable or otherwise unqualified for a permit. Pending
2 consideration of revocation, the tribal gaming regulatory authority
3 may suspend a permit. All rights to notice and hearing shall be
4 governed by the rules of the tribal gaming regulatory authority,
5 which shall meet minimum requirements to be developed among
6 the tribes, the commission, and the department, and as to which
7 the applicant will be notified in writing, along with notice of an
8 intent to suspend or revoke the permit.

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

14 (d) The commission and tribal gaming regulatory authorities
15 conducting suitability reviews pursuant to this section shall
16 cooperate in sharing as much background information as possible
17 in order to maximize investigative efficiency and thoroughness,
18 to minimize investigative costs, and to expedite the permitting
19 process.

20 (e) The commission and the tribes that have elected to conduct
21 suitability reviews pursuant to this section shall cooperate in
22 developing standard forms for tribal gaming employee work permit
23 applicants, on a statewide basis, that reduce or eliminate duplicative
24 or excessive paperwork, and that take into account the requirements
25 of this chapter and the expense of compliance with those
26 requirements.

27 19990.603. An applicant for an employee work permit is
28 disqualified for any of the following reasons:

29 (a) Failure of the applicant to clearly establish eligibility and
30 qualification in accordance with this chapter.

31 (b) Failure of the applicant to provide timely information,
32 documentation, and assurances required by this chapter or requested
33 by any state official, failure of the applicant to reveal any fact
34 material to the qualification, or the supplying of information that
35 is untrue or misleading as to a material fact pertaining to the
36 qualification criteria.

37 (c) Conviction of a felony, including a conviction by a federal
38 court, a court in another state, or a court in another country, for a
39 crime that would constitute a felony if committed in California.

1 (d) Conviction of the applicant for any misdemeanor involving
2 dishonesty or moral turpitude within the 10-year period
3 immediately preceding the submission of the application, unless
4 the applicant has been granted relief pursuant to Section 1203.4,
5 1203.4a, or 1203.45 of the Penal Code. However, the granting of
6 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
7 Code shall not constitute a limitation on the discretion of the
8 department or affect the applicant's burden under subdivision (b).

9 (e) Association of the applicant with criminal profiteering
10 activity or organized crime, as defined by Section 186.2 of the
11 Penal Code.

12 (f) Contemptuous defiance by the applicant of any legislative
13 investigative body, or other official investigative body of any state
14 or of the United States, when that body is engaged in the
15 investigation of crimes relating to gambling, official corruption
16 related to gambling activities, or criminal profiteering activity or
17 organized crime, as defined by Section 186.2 of the Penal Code.

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

19 (h) The applicant was an officer or director of, or, in the
20 judgment of the commission, had the authority to exercise
21 significant influence over decisions concerning the operation of,
22 an entity that has knowingly and intentionally accepted a bet, or
23 engaged in transactions related to those bets, from any person in
24 the United States on any form of Internet gaming after December
25 31, 2006, except as authorized by this chapter or comparable
26 federal or state law in the jurisdiction in which the bet was accepted
27 or in which a financial transaction related to the bet or transaction
28 was located, or has been the holder of a direct or indirect financial
29 interest in a person or entity that has accepted that bet, unless the
30 applicant presents clear and convincing evidence of both of the
31 following:

32 (1) That the acceptance of the bet or engagement in the
33 transaction was not knowing or intentional.

34 (2) That the bet was accepted or the transaction was engaged
35 in notwithstanding reasonable efforts by the service provider, its
36 affiliate or subsidiary, to exclude bets from persons located in a
37 jurisdiction in which it was not licensed or authorized to accept
38 bets.

39 19990.604. (a) If a licensed operator has any owners, officers,
40 or directors who are not employees, it shall ensure that each of

1 those persons obtains an employee work permit before having any
 2 role or decisionmaking authority regarding the licensed operator’s
 3 gaming operations.

4 (b) If the licensed operator is a tribal enterprise controlled by
 5 an independent board of directors, the officers, directors, and
 6 employees of that tribal enterprise are subject to suitability review
 7 pursuant to this section. This section does not require that an
 8 officer, director, employee, or member of the tribe that owns the
 9 tribal enterprise be subject to suitability review if that individual
 10 is not also an officer, director, employee, or member of the tribal
 11 enterprise or a person who controls the core functions of the tribal
 12 enterprise.

13 19990.605. The commission and, if applicable, the tribal
 14 gaming regulatory authority, shall establish application processing
 15 fees to be paid by a licensee for the reasonable cost of background
 16 investigation on employee work permit applications. The
 17 commission shall establish processes for the revocation or
 18 suspension of an employee work permit, and to withdraw an
 19 application for an employee work permit.

20 19990.606. (a) A licensed operator or service provider shall
 21 not enter into, without prior approval of the commission, a contract
 22 or agreement with either of the following:

23 (1) A person who is denied a gambling license or employee
 24 work permit pursuant to Chapter 5 (commencing with Section
 25 19800), or whose gambling license or employee work permit is
 26 suspended or revoked.

27 (2) Any business enterprise under the control of a person
 28 described in paragraph (1), after the date of receipt of notice of
 29 the action.

30 (b) (1) Except as provided in paragraph (2), a licensed operator
 31 or service provider shall not enter into a contract or agreement
 32 with a person or entity that has done either of the following:

33 (A) Knowingly and intentionally accepted a bet, or engaged in
 34 transactions related to those bets, from any person in the United
 35 States on any form of Internet gaming after December 31, 2006,
 36 except as authorized by this chapter or comparable federal or state
 37 law in the jurisdiction in which the bet was accepted or in which
 38 a financial transaction related to the bet was located.

39 (B) Has been the holder of a direct or indirect financial interest
 40 in a person or entity that has accepted a bet or engaged in a

1 financial transaction related to those bets as described in
2 subparagraph (A).

3 (2) A licensed operator or service provider may enter into a
4 contract or agreement with a person or entity described in
5 paragraph (1) if the person or entity presents clear and convincing
6 evidence of both of the following:

7 (A) That the acceptance of the bet or engagement in the
8 transaction was not knowing or intentional.

9 (B) That the bet was accepted or the transaction was engaged
10 in notwithstanding reasonable efforts by the service provider, or
11 its affiliate or subsidiary, to exclude bets from persons located in
12 a jurisdiction in which it was not licensed or authorized to accept
13 bets.

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

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

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

36 (2) If an employee who is required to hold an employee work
37 permit pursuant to this chapter has his or her employee work permit
38 suspended, the employee shall be suspended in all capacities. Upon
39 notifying the licensee of the suspension, the employee shall not

1 be permitted to have any involvement in the gambling operation
2 during the period of suspension.

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

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

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

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

37 19990.608. (a) Except as provided in subdivision (b), and
38 notwithstanding any other provision of this chapter, an individual
39 that possesses a key employee finding of suitability, or an owner's
40 license, endorsement on an owner's license, key employee license,

1 or work permit issued by the commission pursuant to Chapter 5
2 (commencing with Section 19800), shall not be required to undergo
3 a new background investigation to obtain a new work permit
4 pursuant to this chapter.

5 (b) Notwithstanding subdivision (a), the commission may, at
6 its discretion, require an individual to undergo a new background
7 investigation or obtain a new approval or work permit to work
8 with or for a licensee pursuant to this chapter in order to assure
9 compliance with this chapter, including, but not limited to, Sections
10 19990.602, 19990.604, and 19990.606.

11

12 Article 7. Protection of Registered Players

13

14 19990.701. A licensed operator shall use its best efforts to
15 protect registered players. Subject to the approval of the
16 commission, and consistent with uniform standards established by
17 the commission by regulation, each licensed operator shall establish
18 administrative procedures to resolve registered player complaints.

19 19990.702. (a) If a registered player has a complaint against
20 a licensed operator, the exclusive remedy shall be to register the
21 complaint with the commission.

22 (b) The commission, in consultation with the department, shall
23 establish regulations with respect to registered player complaints.

24 (c) Under the regulations, the commission shall do all of the
25 following:

26 (1) Investigate registered player complaints to determine if a
27 licensed operator has failed to meet its obligations to a registered
28 player.

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

31 (3) Initiate enforcement actions to require specific performance
32 of any obligation that the commission has determined a licensed
33 operator has failed to fulfill with respect to a registered player.

34 (d) A licensed operator may appeal any action by the
35 commission pursuant to this article to the superior court, which
36 shall review the appeal de novo.

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

19990.801. The Treasurer shall transfer all amounts received pursuant to subdivision (a) of Section 19990.402, subdivision (d) of Section 19990.403, subdivision (b) of Section 19990.404, subdivisions (b), (c), or (e) of Section 19990.405, subdivision (c) of Section 19990.519, and Section 19990.605 to the Controller for deposit in the Internet Poker Fund, which is created in the State Treasury, to be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the department and the commission, without regard to fiscal years, in the amounts necessary for the department and the commission to perform their duties under this chapter.

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

(1) ___ percent of the revenue from the civil penalties recovered by law enforcement authorities pursuant to Section 19990.804 into the fund prior to the distribution required under subdivision (c) of Section 19990.804.

(2) All amounts or property recovered pursuant to Section 19990.805.

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

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

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

19990.803. (a) The state agencies shall submit revenue requests for allocation from the Unlawful Gambling Enforcement Fund for the upcoming fiscal year to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget, as well as the Senate and Assembly Committees on Governmental Organization and the Department of Finance on or before March

1 31 of the preceding fiscal year. A justification of those costs shall
2 be provided with each submission of revenue requests.

3 (b) The State Department of Public Health, Office of Problem
4 Gambling, shall submit revenue requests for allocation from the
5 Unlawful Gambling Enforcement Fund for programs to alleviate
6 problem gambling that result from the offering of authorized
7 Internet poker games for the upcoming fiscal year to the Senate
8 Committee on Budget and Fiscal Review and the Assembly
9 Committee on Budget, as well as the Senate and Assembly
10 Committees on Governmental Organization, the Senate and
11 Assembly Committees on Human Services, and the Department
12 of Finance on or before March 31 of the preceding fiscal year. A
13 justification of those costs shall be provided with each submission
14 of revenue requests.

15 19990.804. (a) Except as provided in subdivision (f) of Section
16 19990.501, a person who engages or conspires to engage in
17 activities prohibited by this chapter, or activities prohibited by
18 Section 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330d,
19 330.1, 330.4, or 331 of the Penal Code, is liable for a civil penalty
20 not to exceed ____ dollars (\$____) for each violation, in addition
21 to any other penalty or remedy that may be imposed by law, which
22 shall be assessed and recovered in a civil action brought in the
23 name of the people of the State of California by the Attorney
24 General, a district attorney, a county counsel authorized by
25 agreement with the district attorney in an action involving the
26 violation of a county ordinance, the city attorney of a city having
27 a population in excess of 750,000 persons, the city attorney of a
28 city and county, or, with the consent of the district attorney, the
29 city prosecutor in a city with a full-time city prosecutor, in a court
30 of competent jurisdiction.

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

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

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

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

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

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

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

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

39 19990.805. (a) Any money, other representative of value, or
40 real or personal property used in, or derived from, the play of a

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

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

10

11 Article 9. Preemption of Local Regulation

12

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

17

18 Article 10. Reports to the Legislature

19

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

28

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

32

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

35

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

Article 11. Partial Severability

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

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

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

13 (B) Prohibiting persons or entities who have knowingly or
14 intentionally engaged in Internet gambling or related financial
15 transactions in violation of federal or state law from being licensed
16 under this chapter or selling their assets used in unlawful Internet
17 gambling for reuse by entities licensed pursuant to this chapter.

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

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

22 SEC. 2. The Legislature finds and declares that Section
23 19990.403 of the Business and Professions Code, as added by
24 Section 1 of this act, imposes a limitation on the public’s right of
25 access to the meetings of public bodies or the writings of public
26 officials and agencies within the meaning of Section 3 of Article
27 I of the California Constitution. Pursuant to that constitutional
28 provision, the Legislature makes the following findings to
29 demonstrate the interest protected by this limitation and the need
30 for protecting that interest:

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

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

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

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

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

O