

ASSEMBLY BILL

No. 1677

Introduced by Assembly Member Jones-Sawyer

February 17, 2017

An act to add Section 19619.8 to, and to add and repeal Chapter 5.2 (commencing with Section 19990.101) of Division 8 of, the Business and Professions Code, relating to gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1677, as introduced, Jones-Sawyer. Gambling: Internet poker.

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

This bill, which would be known as the Internet Poker Consumer Protection Act of 2016, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply for a 7-year license to operate an authorized poker Web site offering the play of authorized Internet poker games to registered players within California, as specified. The bill would require that the license be automatically renewed every 7 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker

game permitted by the state pursuant to these provisions. The bill would provide that it is unlawful for a person to aggregate computers or any other Internet access device in a place of public accommodation within the state, including a club or other association, or a public or other setting, that can accommodate multiple players to simultaneously play an authorized Internet poker game, or to promote, facilitate, or market that activity. The bill would provide that any violation of the Internet Poker Consumer Protection Act of 2016 is punishable as a felony. By creating new crimes, the bill would impose a state-mandated local program.

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, to adopt regulations to implement the provisions within 270 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes, and to facilitate the operation of authorized poker Web sites and expedite the state's receipt of revenues. The bill would require an eligible entity, as defined, to pay an application processing fee sufficient to cover all reasonable costs associated with the review of the entity's suitability for licensure and the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts necessary to perform their duties pursuant to this bill. The bill would require an entity seeking to act as a service provider to apply for a service provider license, employees of a licensed operator or a licensed service provider to obtain employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits. The bill would require an agreement between a licensed operator and a service provider that is a California-owned and operated horse racing association to ensure that at least 50% of the gross gaming revenue that the licensed operator derives from the service provided by the service provider is paid to the service provider. The bill would establish a tribal gaming regulatory authority process for the purpose of processing tribal employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee to pay a one-time license deposit in the amount of

\$12,500,000 for deposit into the General Fund. The bill would require each licensed operator to remit to the Treasurer on an annual basis for deposit in the General Fund a specified percentage of its gross gaming revenues pursuant to the applicable rate percent, as specified, and would require the one-time license deposit to be credited against these payments. The bill would require the commission to administer and collect this annual charge pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program. The bill would require an applicant for an operator license to provide documentation establishing that the applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified. The bill would require 95% of the first \$60,000,000 collected each fiscal year pursuant to the license deposit and annual fees provisions to be deposited into the California Horse Racing Internet Poker Account, which the bill would establish in the General Fund, and would continuously appropriate to the California Horse Racing Board for distribution, as specified. The bill would require 5% of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be transferred to the State Treasury to the credit of the Fair and Exposition Fund, a continuously appropriated fund, to the benefit of state designated fairs, as specified.

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

This bill would require the commission, in consultation with the department, the Treasurer, and the Franchise Tax Board, to issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this bill within one year of the operative date of this bill and, annually thereafter. The bill would also require the Bureau of

State Audits, at least 4 years after the issue date of any license by the state, but no later than 5 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

The bill would provide that specified provisions are not severable, and would repeal its provisions on January 1, 2025.

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

This bill would make legislative findings to that effect.

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

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

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

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

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

1 SECTION 1. Section 19619.8 is added to the Business and
2 Professions Code, to read:
3 19619.8. The first sixty million dollars (\$60,000,000) collected
4 each fiscal year pursuant to subdivisions (a) and (b) of Section
5 19990.519 shall be deposited as follows:
6 (a) Ninety-five percent in the California Horse Racing Internet
7 Poker Account, which is hereby created in the General Fund.
8 Notwithstanding Section 13340 of the Government Code, the funds
9 in the California Horse Racing Internet Poker Account are
10 continuously appropriated to the board, which shall annually
11 distribute the funds in the California Horse Racing Internet Poker
12 Account according to all of the following:
13 (1) One and three-twentieths percent to the defined contribution
14 retirement plan for California-licensed jockeys established pursuant
15 to paragraph (1) of subdivision (i) of Section 19604 and
16 administered as specified in this chapter.

1 (2) One and three-twentieths percent to provide health and
2 welfare benefits for California-licensed jockeys, former
3 California-licensed jockeys, and their dependents pursuant to
4 Section 19612.9.

5 (3) Two and three-tenths percent to supplement the pension
6 plan for parimutuel employees administered on behalf of the labor
7 organization that has historically represented the employees who
8 accept or process any form of wagering at the horse racing meetings
9 and for other entities licensed to conduct wagering on horse races
10 in California. Moneys distributed pursuant to this paragraph shall
11 supplement, and not supplant, moneys distributed to that fund
12 pursuant to this chapter or any other law.

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

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

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

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

3
4 Article 1. Title and Legislative Declarations
5

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

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

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

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

20
21 Article 2. Definitions
22

23 19990.201. For the purposes of this chapter, the following
24 words have the following meanings:

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

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

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

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

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

1 (f) “Commission” means the California Gambling Control
2 Commission.

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

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

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

9 (3) The development, maintenance, provision, or operation of
10 a gaming system.

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

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

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

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

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

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

38 (B) An entity identified in this paragraph shall have operated
39 its land-based gaming facility for at least five years immediately
40 preceding its application to secure a license to operate an Internet

1 poker Web site pursuant to this chapter, and shall have been in
2 good standing during that time period with the applicable federal,
3 state, and tribal regulatory authorities.

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

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

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

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

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

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

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

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

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

38 (r) (1) “Gross gaming revenues” means the total amount of
39 moneys paid by players to the operator to participate in authorized

1 games before deducting the cost of operating those activities except
2 for fees to marketing affiliates and payment processing fees.

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

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

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

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

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

19 (w) “Intrastate” means within the borders and jurisdiction of
20 California.

21 (x) “Land-based gaming facility” means a gambling
22 establishment, as defined in subdivision (o) of Section 19805, that
23 is operated pursuant to Chapter 5 (commencing with Section
24 19800), or a casino operated by a tribe on Indian land in California.

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

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

32 (aa) “Licensee” means a licensed operator or licensed service
33 provider.

34 (ab) “Net position” means the residual difference between assets
35 and liabilities, as defined by generally accepted accounting
36 principles.

37 (ac) “Online self-exclusion form” means a form on which an
38 individual notifies a licensed operator that he or she must be
39 excluded from participation in authorized Internet poker games
40 for a stated period of time.

1 (ad) “Owner” means any person that is eligible to own a
2 land-based gaming facility in California and that has a financial
3 interest in, or control of, a person or entity required to be found
4 suitable under this chapter, including shareholders, partners, and
5 members of limited liability companies holding more than 10
6 percent of the equity or voting control of the person or entity and
7 any person found by the commission to be exerting management
8 or control of the person or entity in fact. An owner of a licensed
9 operator shall include only those persons eligible to own a
10 land-based gaming facility in California. “Owner” does not include
11 the members or government officials of a tribe.

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

14 (af) “Per hand game” means an authorized Internet poker game
15 for which the licensed operator charges the player for each hand
16 played.

17 (ag) “Person” means an individual, corporation, business trust,
18 estate, trust, partnership, limited liability company, association,
19 joint venture, government, governmental subdivision, agency, or
20 instrumentality, public corporation, or any other legal or
21 commercial entity, including any federally recognized California
22 Indian tribe, or an entity that is wholly owned by the tribe.

23 (ah) “Play-for-fun game” means a version of a lawfully played
24 gambling game in which there is no requirement to pay to play or
25 any possibility of winning any prize or other consideration of value,
26 including, but not limited to, games offered only for purposes of
27 training, education, marketing, or amusement.

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

31 (aj) “Play settings” means the options and default parameters
32 made available by a licensed operator to a registered player in the
33 play of authorized Internet poker games.

34 (ak) (1) “Poker” means any of several nonbanked card games
35 commonly referred to as “poker” that meet all of the following
36 criteria:

37 (A) Played by two or more individuals who bet and play against
38 each player and not against the house on cards dealt to each player
39 out of a common deck of cards for each round of play, including

1 those games played over the Internet using electronically generated
2 and displayed virtual cards.

3 (B) The object of the game is to hold or draw to a hand
4 containing a predetermined number of cards that, when all cards
5 to be dealt in the round have been distributed and the betting is
6 completed, meets or exceeds the value of the hands held by the
7 other players. The pot of bets made is awarded to the player or
8 players holding the combination of cards that qualify as the winning
9 combination under the rules of play. Values may be assigned to
10 cards or combinations of cards in various ways, including in
11 accordance with their face value, the combinations of cards held,
12 such as cards of a similar suit or face value, the order of the cards
13 that are held, or other values announced before the round.

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

17 (D) Poker may be played in a variety of ways, including dealing
18 all cards to the players so that they may not be seen by others,
19 dealing the cards open face to the players, dealing through a
20 combination of both, or creating a common set of cards that may
21 be used by all players. The particular rules and winning
22 combinations are made known to the players before each round is
23 dealt.

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

29 (F) A poker game that has been approved by the department for
30 play in an authorized live poker room in California pursuant to the
31 Gambling Control Act (Chapter 5 (commencing with Section
32 19800)) shall be eligible for qualification by the department as the
33 basis of an authorized Internet poker gambling game, except that
34 pai gow and any other game in which persons other than authorized
35 players to whom the cards in the game have been dealt, and by
36 whom they are held and played, are permitted to bet on a game
37 outcome or other game feature or may in any way control or
38 influence the play of the hand, shall not be authorized, offered, or
39 played in connection with an authorized Internet poker game.
40 Subject to this limitation, the rules governing play in an authorized

1 Internet poker game pursuant to this chapter shall generally be the
2 same as if the game were lawfully played in a live poker room.

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

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

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

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

16 (B) Success over time may be influenced by the skill of the
17 player.

18 (C) The bets of one player may affect the decisions of another
19 player in the game, and the decisions of one player may affect the
20 success or failure of another.

21 (3) The term “poker” includes poker tournaments in which
22 players pay a fee to the operator of the tournament under
23 tournament rules approved by the applicable gaming regulatory
24 agency.

25 (al) “Proprietary information” means all information, including,
26 but not limited to, computer programs, databases, data, algorithms,
27 formulae, expertise, improvements, discoveries, concepts,
28 inventions, developments, methods, designs, analyses, drawings,
29 techniques, strategies, new products, reports, unpublished financial
30 statements, budgets, projections, billing practices, pricing data,
31 contacts, client and supplier lists, business and marketing records,
32 working papers, files, systems, plans, and all related registrations
33 and applications, that, whether or not patentable or registerable
34 under patent, copyright, trademark, or similar statutes, meet either
35 of the following:

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

39 (2) The information derives independent economic value, actual
40 or potential, from not being generally known to the public or to

1 other persons that can obtain economic value from its disclosure
2 or use.

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

6 (an) “Registered player” means a player who has registered with
7 a licensed operator to play authorized Internet poker games on the
8 licensed operator’s authorized poker Web site.

9 (ao) “Registration information” means the information provided
10 by a person to a licensed operator in order to become a registered
11 player.

12 (ap) “Robotic play” means the use of a machine or software to
13 automate the next player action at any point in a game, including
14 the use of a proxy player.

15 (aq) (1) “Service provider” means any person, other than an
16 employee, that does any of the following:

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

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

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

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

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

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

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

39 (2) “Service provider” does not include a provider of goods or
40 services that provides similar goods or services to the public for

1 purposes other than the operation of an authorized poker Web site,
2 including, but not limited to, payment processors and geolocation
3 service providers.

4 (ar) “State” means the State of California.

5 (as) “Terms of Use Registered Player’s Agreement” means the
6 agreement offered by a licensed operator and accepted by a
7 registered player delineating, among other things, permissible and
8 impermissible activities on an authorized poker Web site and the
9 consequences of engaging in impermissible activities.

10 (at) “Tournament” means a competition approved by the
11 department in which registered players play a series of authorized
12 Internet poker games to decide the winner.

13 (au) “Tournament charge” means the amount charged by the
14 licensed operator for registered players to play in a tournament.

15 (av) “Tribal gaming regulatory authority” means the gaming
16 regulatory authority of a federally recognized California Indian
17 tribe that has the authority to regulate gaming on the tribe’s Indian
18 lands pursuant to IGRA.

19 (aw) “Tribe” means a federally recognized California Indian
20 tribe, including, but not limited to, the governing body of that tribe
21 or any entity that is wholly owned by the tribe.

22 (ax) “Unlawful Gambling Enforcement Fund” means the fund
23 established pursuant to Section 19990.802, the revenue of which
24 is dedicated to enforcing the prohibitions of this chapter.

25

26 Article 3. Intrastate Internet Poker in California

27

28 19990.301. Under the federal Unlawful Internet Gambling
29 Enforcement Act of 2006, California is permitted to authorize
30 games played via the Internet as long as all players and the online
31 wagering is located within the jurisdiction of the state and the
32 games are not played by minors.

33 19990.302. Notwithstanding any other law, a person who is
34 21 years of age or older and located within California is hereby
35 permitted to participate as a registered player in an authorized
36 Internet poker game provided by a licensed operator on an
37 authorized poker Web site.

38 19990.303. (a) A person shall not do any of the following:

39 (1) Offer any game of poker on the Internet in this state unless
40 that person holds a valid license issued by the commission to offer

1 the play of authorized Internet poker games on an authorized poker
2 Web site pursuant to this chapter.

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

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

9 (b) Subject to an opportunity to cure pursuant to Section
10 19990.521, a violation of this chapter is a felony, punishable by
11 imprisonment pursuant to subdivision (h) of Section 1170 of the
12 Penal Code.

13 19990.304. This chapter does not limit or restrict activities or
14 conduct permitted pursuant to Chapter 5 (commencing with Section
15 19800) or IGRA.

16 19990.305. This chapter does not authorize any game offered
17 in Nevada or New Jersey other than poker.

18 19990.306. A person shall not do either of the following:

19 (a) Aggregate computers or any other Internet access device in
20 a place of public accommodation within the state, including a club
21 or other association, or a public or other setting, that can
22 accommodate multiple players to simultaneously play an authorized
23 Internet poker game.

24 (b) Promote, facilitate, or market the activity described in
25 subdivision (a).

26 19990.307. This chapter does not apply to play-for-fun or
27 play-for-free games.

28

29 Article 4. Licensing of Operators and Service Providers

30

31 19990.401. (a) (1) Within 270 days after the effective date of
32 this chapter, the commission, and any other state agency with a
33 duty pursuant to this chapter, shall, in consultation with the
34 department and tribes, adopt regulations pursuant to the
35 Administrative Procedure Act (Chapter 3.5 (commencing with
36 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
37 Code) to implement this chapter, and to facilitate the operation of
38 authorized poker Web sites and expedite the state's receipt of
39 revenues in compliance with this chapter. The initial adoption,
40 amendment, or repeal of a regulation authorized by this section is

1 deemed to address an emergency, for purposes of Sections 11346.1
 2 and 11349.6 of the Government Code, and the commission and
 3 those other state agencies are hereby exempted for that purpose
 4 from the requirements of subdivision (b) of Section 11346.1 of
 5 the Government Code. After the initial adoption, amendment, or
 6 repeal of an emergency regulation pursuant to this section, the
 7 commission and those other state agencies shall not request
 8 approval from the Office of Administrative Law to readopt the
 9 regulation as an emergency regulation pursuant to Section 11346.1
 10 of the Government Code, but shall promulgate permanent
 11 regulations in accordance with all applicable law.

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

- 14 (A) Underage gambling and problem gambling.
- 15 (B) Resolution of player disputes and complaints.
- 16 (C) Gaming system technical standards and practices.
- 17 (D) Hardware and software standards and compliance.
- 18 (E) License and work permit issuance and processes.
- 19 (F) Suitability standards and determinations.
- 20 (G) Temporary, provisional, and emergency approvals.
- 21 (H) Effect of receiverships, bankruptcy, insolvency, inheritance,
 22 and trusts affecting ownership of a licensee.
- 23 (I) Appeals from adverse decisions.

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

- 26 (A) Approval of an authorized Internet poker game.
 - 27 (B) Authorized Internet poker game rules.
 - 28 (C) Authorized Internet poker gaming activities.
 - 29 (D) Registered player-assessed fees, as necessary.
- 30 (b) (1) Each state agency with a duty pursuant to this chapter
 31 shall identify a point of contact at that agency and describe the
 32 responsibility of the contact with respect to the state agency's duty.
- 33 (2) Any notice provided by a licensee to a state agency pursuant
 34 to this chapter shall be addressed to the contact identified by the
 35 state agency pursuant to paragraph (1).
- 36 (3) Unless otherwise provided by this chapter, notice by a
 37 licensee to a state agency shall be deemed effective once it is
 38 received by the agency and deemed to be complete. An application
 39 or notice is not deemed complete until all pertinent documents,
 40 information, and fees are submitted to the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 19990.404. (a) An entity seeking to act as a service provider
32 shall apply to the department for a determination of suitability. If
33 the department determines the applicant is suitable to receive a
34 license, the applicant shall then apply to the commission for a
35 service provider license, and obtain a service provider license,
36 before providing goods or services to a licensed operator in
37 connection with the operation of an authorized poker Web site.

38 (b) The department shall review the suitability of an applicant
39 for a service provider license. The applicant for a service provider
40 license shall pay an application processing fee sufficient to cover

1 the reasonable costs associated with the determination of suitability
2 and the issuance of the license.

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

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

- 30 (1) All officers of the license applicant.
- 31 (2) The owner or owners of either of the following:
 - 32 (A) The license applicant.
 - 33 (B) Any corporate affiliate of the license applicant.
- 34 (3) Any persons otherwise providing goods to, or performing
35 services for, the license applicant related to core functions.
- 36 (4) Any person deemed by the department to have significant
37 influence over the license applicant or its service providers or their
38 respective operations.

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

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

23 (f) An institutional investor holding less than 10 percent of the
24 equity securities of a service provider's holding or intermediary
25 companies shall be granted a waiver of a determination of
26 suitability or other requirement if all of the following apply:

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

29 (2) Holdings of those securities were purchased for investment
30 purposes only.

31 (3) The institutional investor annually files a certified statement
32 with the department to the effect that it has no intention of
33 influencing or affecting the affairs of the issuer, the licensee, or
34 service provider, as applicable, or its holding or intermediary
35 companies.

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

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

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

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

11 (C) State that the institutional investor and corporation shall
12 maintain gaming compliance policies and procedures to implement
13 and ensure compliance with this chapter and regulations adopted
14 pursuant to this chapter.

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

35 (7) If at any time the department finds that an institutional
36 investor holding a security of a licensee under this chapter has
37 failed to comply with the terms of this chapter, or if at any time
38 the department finds that, by reason of the extent or nature of its
39 holdings, whether of debt or equity securities, an institutional
40 investor is in a position to exercise such a substantial impact upon

1 the controlling interests of a licensee that investigation and
2 determination of suitability of the institutional investor are
3 necessary to protect the public interest, the department may take
4 any necessary action otherwise authorized by this chapter to protect
5 the public interest.

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

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

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

12 (C) A collective investment trust organized by banks under Part
13 9 of the Rules of the Office of the Comptroller of the Currency
14 (12 C.F.R. Sec. 9.1 et seq.).

15 (D) A closed-end investment trust.

16 (E) A chartered or licensed life insurance company or property
17 and casualty insurance company.

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

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

22 (g) An agreement between a licensed operator and a service
23 provider that is a horse racing association operating pursuant to
24 Chapter 4 (commencing with Section 19400) shall ensure that at
25 least 50 percent of the gross gaming revenue that the licensed
26 operator derives from the service provided by the service provider
27 is paid to the service provider.

28 19990.405. (a) The department shall issue a finding that a
29 license applicant is suitable to obtain a license only if, based on
30 all of the information and documents submitted, the department
31 is satisfied that each of the persons subject to a determination of
32 suitability pursuant to this article is both of the following:

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

37 (2) A person whose prior activities, criminal record, if any,
38 reputation, habits, and associations do not pose a threat to the
39 public interest of the state, or to the effective regulation and control
40 of authorized Internet poker games, or create or enhance the

1 dangers of unsuitable, unfair, or illegal practices, methods, and
2 activities in the conduct of authorized Internet poker games or in
3 the carrying on of the business and financial arrangements
4 incidental thereto.

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

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

11 (2) The person failed to timely provide information,
12 documentation, and assurances required by this chapter or requested
13 by the department, or, with respect to a licensed applicant, failed
14 to reveal any fact material to qualification, or supplied information
15 that is untrue or misleading as to a material fact pertaining to the
16 suitability criteria.

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

24 (4) The person has been convicted of a misdemeanor in a
25 jurisdiction involving dishonesty or moral turpitude within the
26 10-year period immediately preceding the submission of the
27 application, unless the applicant has been granted relief pursuant
28 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.
29 However, the granting of relief pursuant to Section 1203.4,
30 1203.4a, or 1203.45 of the Penal Code shall not constitute a
31 limitation on the discretion of the department or affect the
32 applicant's burden.

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

35 (6) The person has contemptuously defied a legislative
36 investigative body, or other official investigative body of a state
37 or of the United States or a foreign jurisdiction, when that body is
38 engaged in the investigation of crimes relating to poker, official
39 corruption related to poker activities, or criminal profiteering

1 activity or organized crime, as defined in Section 186.2 of the
2 Penal Code.

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

4 (8) (A) The person has been convicted in a court of competent
5 jurisdiction of a felony consisting of either having accepted a bet
6 over the Internet in violation of federal or state law, or having
7 aided or abetted that unlawful activity.

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

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

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

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

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

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

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

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

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

5

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

8

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

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

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

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

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

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

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

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

1 visa, or United States military identification. The licensed operator
2 shall verify that the physical billing address on the check or credit
3 card provided by the person matches the address listed on his or
4 her government identification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 19990.502. A licensed operator shall offer only authorized
20 Internet poker games and process bets in accordance with the
21 specified game and betting rules established by the licensed
22 operator and approved by the department pursuant to Section
23 19990.503.

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

27 (1) Game rules and betting rules it proposes to offer to registered
28 players.

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

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

34 19990.504. (a) A licensed operator shall ensure that games
35 are fair.

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

39 (1) The name of the game.

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

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

1 approved by the department and published by the licensed operator
2 prior to the commencement of the tournament.

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

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

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

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

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

19 19990.505. (a) A licensed operator shall register players and
20 establish registered player accounts prior to play.

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

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

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

29 (1) First name and surname.

30 (2) Principal residence address.

31 (3) Telephone number.

32 (4) Social security number.

33 (5) Identification or certification to prove that person is at least
34 21 years of age.

35 (6) Valid email address.

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

1 (f) This section does not prevent a licensed operator from
2 entering into a marketing agreement with a third party, who has
3 been determined to be suitable and licensed as a service provider,
4 to recruit people to become registered players if the registration
5 process described in this section is under the sole control of the
6 licensed operator.

7 19990.506. (a) A licensed operator shall provide a means for
8 registered players to put funds into a registered player account and
9 transfer funds out of that account.

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

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

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

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

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

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

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

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

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

36 (k) A licensed operator shall not commingle funds in the
37 segregated account containing funds paid by registered players
38 with any other funds held by the licensed operator, including, but
39 not limited to, operating funds of the licensed operator. Both the
40 accounts of the licensed operator and its segregated registered

1 player accounts shall be held in financial institutions located in
2 the state.

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

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

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

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

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

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

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

24 (a) Personally identifiable information shall not be shared with
25 any nongovernmental third parties, except as provided in Section
26 19990.512.

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

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

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

38 19990.509. A licensed operator may suspend or revoke the
39 account of a registered player for any of the following reasons:

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

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

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

8 (d) The person has already been registered.

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

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

14 19990.510. Upon registration, and each time a registered player
15 logs into an authorized poker Web site, the licensed operator shall
16 permit a registered player to adjust his or her play settings to:

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

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

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

22 19990.511. A licensed operator shall offer customer support
23 that shall be available to registered players 24 hours per day, 365
24 days per year.

25 19990.512. (a) A licensed operator shall protect the privacy
26 of registered players and their personally identifiable information.

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

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

35 (1) The nature of personally identifiable information collected
36 or to be collected with respect to the registered player and the
37 nature of the use of that information.

38 (2) The nature, frequency, and purpose of any disclosure that
39 may be made of personally identifiable information, including an

1 identification of the types of persons to whom the disclosure may
2 be made.

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

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

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

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

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

16 (1) Obtain information necessary to operate the authorized poker
17 Web site and offer authorized Internet poker games to registered
18 players pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (j) 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, the department,
17 or other state agencies so that those state agencies can fulfill their
18 responsibilities under this chapter. A state agency may request
19 specific printed 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 180 days, and, thereafter,
27 archived and retained for two years.

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 an independent gaming test laboratory that is licensed or
33 registered in any United States jurisdiction to test, approve, and
34 certify the software.

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

1 (c) Meet minimum game server connectivity requirements to
2 ensure that registered players are protected from losses due to
3 connectivity problems.

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

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

10 (f) Document and implement preventive and detective controls
11 addressing money laundering and fraud risks.

12 19990.516. (a) A licensed operator may charge registered
13 players to play in authorized Internet poker games.

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

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

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

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

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

26 19990.517. A licensed operator may do any of the following:

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

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

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

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

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

- 1 (f) Offer authorized Internet poker games on up to two
- 2 authorized poker Web sites pursuant to its license.
- 3 (g) Enter into contractual agreements with one or more licensed
- 4 operators for the purpose of ensuring adequate player liquidity.
- 5 19990.518. There are three categories of application fees,
- 6 regulatory fees, and license deposits, as follows:
- 7 (a) Application Processing Fee. In order to cover the costs of
- 8 suitability investigations and other costs of processing an
- 9 application for a license or work permit, the applicant shall deposit
- 10 the applicable application processing fee as provided in subdivision
- 11 (a) of Section 19990.402, subdivision (e) of Section 19990.403,
- 12 subdivision (b) of Section 19990.404, or Section 19990.605. Any
- 13 balance of the application processing fee that remains after
- 14 completion of the determination of suitability shall be refunded to
- 15 the applicant. If additional moneys are needed to complete the
- 16 determination of suitability of the license applicant, the applicant
- 17 shall pay the funds necessary to complete the determination of
- 18 suitability.
- 19 (b) One-time License Deposit. Prior to offering any games for
- 20 play or accepting any bets on its authorized poker Web site, a
- 21 licensed operator shall pay the one-time license deposit as provided
- 22 in subdivision (a) of Section 19990.519. This deposit shall be an
- 23 advance against the duty on gross gaming revenues specified in
- 24 subdivision (b) of Section 19990.519.
- 25 (c) Ongoing Regulatory Fees. Following issuance of a license
- 26 and beginning of operations thereunder, the licensed operator shall
- 27 pay the ongoing regulatory fees set forth in subdivision (c) of
- 28 Section 19990.519.
- 29 19990.519. (a) In support of the application for a license
- 30 pursuant to this chapter, prior to offering games or accepting bets
- 31 on its authorized poker Web site, the licensed operator shall remit
- 32 to the Treasurer a one-time license deposit in the amount of twelve
- 33 million five hundred thousand dollars (\$12,500,000), to be
- 34 deposited into the General Fund, subject to Section 19619.8, and
- 35 credited against charges imposed pursuant to subdivision (b) on
- 36 the licensed operator's gross gaming revenues. Upon depletion of
- 37 the license deposit, the department shall notify the licensed operator
- 38 to commence annual payments to the state in accordance with
- 39 subdivision (b).

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

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

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

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

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

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

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

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

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

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

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

10 19990.520. (a) The licensed operator shall facilitate the
11 collection of personal income taxes from registered players by the
12 Franchise Tax Board and shall be responsible for providing current
13 and accurate documentation on a timely basis to all state agencies,
14 as provided in this chapter.

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

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

23 19990.521. (a) A licensee shall act expeditiously to cure any
24 violation of this chapter, or any regulation adopted pursuant to this
25 chapter, in the offer or administration of authorized Internet poker
26 games that interferes with its obligations to the state or registered
27 players under this chapter.

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

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

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

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

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

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

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

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

33 19990.522. (a) (1) A license issued pursuant to this chapter
34 is not transferable.

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

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

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

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

12 19990.523. All facilities, software, including downloadable
13 programs, and any other property, both tangible and intangible,
14 used by the licensed operator in offering authorized Internet poker
15 games for play on an authorized poker Web site shall be the
16 property of the licensed operator or its licensed service providers,
17 and shall be subject to the review of the department and the
18 approval of the commission.

19 19990.524. If any dispute arises between the state and a
20 licensee, either the commission or a licensee may file an action in
21 the superior court of any county in which the commission has an
22 office for an interpretation of the rights and responsibilities of the
23 state and the licensee pursuant to this chapter.

24 19990.525. (a) (1) The department or commission may
25 contract with other public or private entities, including, but not
26 limited to, state, tribal, and international regulatory agencies, for
27 the provision of services related to a responsibility imposed on the
28 department or commission by this chapter if all of the following
29 are satisfied:

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

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

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

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

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

5
6 Article 6. Employee Work Permits
7

8 19990.601. (a) Except as provided in Section 19990.602, a
9 licensee shall submit an application and applicable fees to the
10 department and apply to the commission for an employee work
11 permit on behalf of each employee.

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

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

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

21 (2) A person whose prior activities, criminal record, if any,
22 reputation, habits, and associations do not pose a threat to the
23 integrity of a gaming operation or public interest of this state, or
24 to the effective regulation and control of controlled gambling, as
25 defined in Section 19805, or create or enhance the dangers of
26 unsuitable, unfair, or illegal practices, methods, and activities in
27 the conduct of controlled gambling or in the carrying on of
28 incidental business and financial arrangements.

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

31 (d) The commission shall not issue an employee work permit
32 unless the applicant meets the qualification standards adopted by
33 the commission by regulation. A tribal gaming regulatory authority
34 may impose additional qualifications with respect to activities on
35 Indian lands.

36 19990.602. (a) A tribe that is a licensed operator, or that owns
37 a tribal enterprise that is a licensed operator, may elect to
38 participate in the tribal gaming regulatory authority process
39 prescribed by this section for the issuance of employee work
40 permits. If the tribe does not elect to participate in the tribal gaming

1 regulatory authority process as provided in this section, then the
2 process specified in this section regarding submission and action
3 by the tribal gaming regulatory authority on the application for
4 employee work permit shall not apply, and the other provisions of
5 this chapter shall instead govern.

6 (b) The joint state and tribal processes required pursuant to this
7 section are intended to promote and involve joint cooperation
8 among the tribal gaming regulatory authority, the commission,
9 and the department.

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

11 (1) All applications for employee work permits first shall be
12 filed with the tribal gaming regulatory authority, which shall
13 promptly file a copy of the application with the commission,
14 together with information regarding the filing date and the payment
15 of fees and deposits. The application shall be accompanied by the
16 fees required in Section 19990.605, except those fees shall be
17 deposited into a tribal account created for the purpose of holding
18 the deposited funds and using them for the costs of the suitability
19 review and the issuance of the license.

20 (2) In reviewing an application for a work permit, the tribal
21 gaming regulatory authority shall determine whether issuance of
22 the employee work permit would meet the suitability standards
23 set forth in this chapter. The tribal gaming regulatory authority
24 shall not issue a permit unless, based on all information and
25 documents submitted, the tribal gaming regulatory authority
26 determines that the applicant meets all of the criteria set forth in
27 this chapter for the issuance of the employee work permit.

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

33 (4) In lieu of completing its own determination of suitability,
34 and to the extent that doing so does not conflict with or violate
35 this chapter, the tribal gaming regulatory authority may contract
36 with the department for the conduct of determinations of suitability,
37 may rely on a state certification of nonobjection previously issued
38 under a gaming compact involving another tribe, or may rely on
39 a state gaming license previously issued to the applicant, to fulfill
40 some or all of the tribal gaming regulatory authority's

1 determination of suitability obligation. An applicant for a tribal
2 employee work permit shall provide releases to make background
3 information regarding the applicant available to the tribal gaming
4 regulatory authority, the department, and the commission.

5 (5) Upon completion of the necessary determination of
6 suitability, the tribal gaming regulatory authority may issue a
7 finding that the person or entity is eligible for an employee work
8 permit on a conditional or unconditional basis. This section does
9 not create a property or other right of an applicant in an opportunity
10 to be permitted, or in a permit itself, both of which shall be
11 considered privileges granted to the applicant in the sole discretion
12 of the tribal gaming regulatory authority.

13 (6) Upon receipt of a completed license application and a
14 determination by the tribal gaming regulatory authority that the
15 applicant is eligible and suitable for the employee work permit,
16 the tribal gaming regulatory authority shall transmit to the
17 commission a notice of intent to issue a permit to the applicant.
18 The tribal gaming regulatory authority shall not issue an employee
19 work permit until the process required by paragraph (7) is
20 complete.

21 (7) After receipt of the tribal gaming regulatory authority's
22 notice pursuant to paragraph (6), and upon completion of the
23 necessary determination of suitability, the commission shall issue
24 a notice to the tribal gaming regulatory authority stating its finding
25 that the applicant is suitable or is not suitable for the requested
26 permit. The commission may charge an additional application
27 processing fee pursuant to Section 19990.605 to cover the
28 reasonable costs of conducting its verification of suitability.

29 (A) If the commission notices a finding that the applicant is
30 suitable, the tribal gaming regulatory agency shall issue an
31 employee work permit to the applicant. The permit shall be
32 effective pursuant to this chapter as though issued by the
33 commission.

34 (B) If the commission notices a finding that the applicant is not
35 suitable, the tribal gaming regulatory authority shall not issue the
36 requested permit. Prior to denying an application for a
37 determination of suitability, the commission shall notify the tribal
38 gaming regulatory authority and afford the tribe an opportunity to
39 be heard. If the commission denies an application for a
40 determination of suitability, the commission shall provide the

1 applicant with written notice of all appeal rights available under
2 state law.

3 (C) Upon receipt of notice that the commission or department,
4 collectively or individually, or the tribal gaming regulatory
5 authority has determined that a person would be unsuitable in a
6 similar application filed in connection with a nontribal operation,
7 the tribal gaming regulatory authority shall not issue the requested
8 permit or, if that notice is received after issuance of the permit,
9 promptly revoke that permit. However, the tribal gaming regulatory
10 authority may, in its discretion, reissue a permit to the person
11 following entry of a final judgment reversing the determination of
12 the commission and department in a proceeding in state court
13 conducted pursuant to Section 1085 of the Code of Civil Procedure.

14 (8) A tribal permit application submitted pursuant to this section
15 may be denied, and any permit issued may be revoked, if the tribal
16 gaming regulatory authority determines that the application is
17 incomplete or deficient, or if the applicant is determined to be
18 unsuitable or otherwise unqualified for a permit. Pending
19 consideration of revocation, the tribal gaming regulatory authority
20 may suspend a permit. All rights to notice and hearing shall be
21 governed by the rules of the tribal gaming regulatory authority,
22 which shall meet minimum requirements to be developed among
23 the tribes, the commission, and the department, and as to which
24 the applicant shall be notified in writing, along with notice of an
25 intent to suspend or revoke the permit.

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

31 (d) The commission and tribal gaming regulatory authorities
32 conducting suitability reviews pursuant to this section shall
33 cooperate in sharing as much background information as possible
34 in order to maximize investigative efficiency and thoroughness,
35 to minimize investigative costs, and to expedite the permitting
36 process.

37 (e) The commission and the tribes that have elected to conduct
38 suitability reviews pursuant to this section shall cooperate in
39 developing standard forms for tribal gaming employee work permit
40 applicants, on a statewide basis, that reduce or eliminate duplicative

1 or excessive paperwork, and that take into account the requirements
2 of this chapter and the expense of compliance with those
3 requirements.

4 19990.603. An applicant for an employee work permit is
5 disqualified if the applicant is described by any of the following:

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

8 (b) The applicant failed to timely provide information,
9 documentation, and assurances required by this chapter or requested
10 by any state official, or, with respect to a licensed applicant, failed
11 to reveal any fact material to qualification, or supplied information
12 that is untrue or misleading as to a material fact pertaining to the
13 suitability criteria.

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

21 (d) The applicant has been convicted of a misdemeanor in a
22 jurisdiction involving dishonesty or moral turpitude within the
23 10-year period immediately preceding the submission of the
24 application, unless the applicant has been granted relief pursuant
25 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.
26 However, the granting of relief pursuant to Section 1203.4,
27 1203.4a, or 1203.45 of the Penal Code shall not constitute a
28 limitation on the discretion of the department or affect the
29 applicant's burden.

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

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

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

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

5 19990.604. (a) If a licensed operator has any owners, officers,
6 or directors who are not employees, it shall ensure that each of
7 those persons obtains an employee work permit before having any
8 role or decisionmaking authority regarding the licensed operator's
9 gaming operations.

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

19 19990.605. The commission, the department, and, if applicable,
20 the tribal gaming regulatory authority, shall establish application
21 processing fees to be paid by a licensee for the reasonable cost of
22 determinations of suitability for, and issuance of, employee work
23 permit applications. The commission shall establish processes for
24 the revocation or suspension of an employee work permit, and to
25 withdraw an application for an employee work permit.

26 19990.606. A licensed operator or service provider shall not
27 enter into, without prior approval of the commission, a contract
28 or agreement with either of the following:

29 (a) A person who is denied a gambling license or employee
30 work permit pursuant to Chapter 5 (commencing with Section
31 19800), or whose gambling license or employee work permit is
32 suspended or revoked.

33 (b) Any business enterprise under the control of a person
34 described in subdivision (a), after the date of receipt of notice of
35 the action.

36 19990.607. (a) (1) A licensed operator or service provider
37 shall not employ, without prior approval of the commission, a
38 person in any capacity for which he or she is required to have an
39 employee work permit, if the person has been denied a gambling
40 license or an employee work permit pursuant to Chapter 5

1 (commencing with Section 19800), or if his or her gambling license
2 or employee work permit has been suspended or revoked after the
3 date of receipt of notice of the action by the commission or tribal
4 gaming regulatory authority.

5 (2) A licensed operator or service provider shall not enter into
6 a contract or agreement with a person whose application for a
7 gambling license or an employee work permit has been withdrawn
8 with prejudice, or with a business enterprise under the control of
9 that person, for the period of time during which the person is
10 prohibited from filing a new application for a gambling license or
11 an employee work permit.

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

18 (2) If an employee who is required to hold an employee work
19 permit pursuant to this chapter has his or her employee work permit
20 suspended, the employee shall be suspended in all capacities. Upon
21 notifying the licensee of the suspension, the employee shall not
22 be permitted to have any involvement in the gambling operation
23 during the period of suspension.

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

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

34 (d) Except as provided in subdivision (b), a contract or
35 agreement for the provision of services or property to a licensed
36 operator or service provider or for the conduct of any activity
37 pertaining to the operation of an authorized poker Web site, that
38 is to be performed by a person required by this chapter, or by
39 regulation, to hold an employee work permit, shall be terminated

1 upon a suspension or revocation of the person’s employee work
 2 permit.
 3 (e) If a contract or agreement for the provision of services or
 4 property to a licensed operator or service provider, or for the
 5 conduct of any activity at an authorized poker Web site, is to be
 6 performed by a person required by this chapter or by regulations
 7 adopted pursuant to this chapter, to hold an employee work permit,
 8 the contract or agreement shall be deemed to include a provision
 9 for its termination without liability on the part of the licensed
 10 operator or service provider upon a suspension or revocation of
 11 the person’s employee work permit. In any action brought by the
 12 commission to terminate a contract or agreement pursuant to
 13 subdivision (d) or this subdivision, it is not a defense that the
 14 contract or agreement does not expressly include the provision
 15 described in this subdivision, and the lack of express inclusion of
 16 the provision in the contract or agreement is not a basis for
 17 enforcement of the contract or agreement by a party to the contract
 18 or agreement.

19
 20
 21

Article 7. Protection of Registered Players

22 19990.701. A licensed operator shall use its best efforts to
 23 protect registered players. Subject to the approval of the
 24 department, and consistent with uniform standards established by
 25 the department by regulation, each licensed operator shall establish
 26 administrative procedures to resolve registered player complaints.

27 19990.702. (a) If a registered player has a complaint against
 28 a licensed operator, the exclusive remedy shall be to register the
 29 complaint with the department.

30 (b) The department shall establish regulations with respect to
 31 registered player complaints.

32 (c) Under the regulations, the department shall do all of the
 33 following:

34 (1) Investigate registered player complaints to determine if a
 35 licensed operator has failed to meet its obligations to a registered
 36 player.

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

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

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

7
8 Article 8. Financial Provisions for State Regulation and
9 Unlawful Gambling Enforcement

10
11 19990.801. The Treasurer shall transfer all amounts received
12 pursuant to subdivision (a) of Section 19990.402, subdivision (e)
13 of Section 19990.403, subdivision (b) of Section 19990.404,
14 subdivision (c) of Section 19990.519, and Section 19990.605 to
15 the Controller for deposit in the Internet Poker Fund, which is
16 created in the State Treasury, to be administered by the department.
17 Notwithstanding Section 13340 of the Government Code, all
18 moneys in the fund are continuously appropriated to the department
19 and the commission, without regard to fiscal years, in the amounts
20 necessary for the department and the commission to perform their
21 duties under this chapter.

22 19990.802. (a) The Unlawful Gambling Enforcement Fund is
23 hereby established within the General Fund for purposes of
24 ensuring adequate resources for law enforcement charged with
25 enforcing the prohibitions and protections of this chapter. The
26 Unlawful Gambling Enforcement Fund shall be funded by
27 depositing:

28 (1) ____ percent of the revenue from the civil penalties
29 recovered by law enforcement authorities pursuant to Section
30 19990.803 into the fund prior to the distribution required under
31 subdivision (c) of Section 19990.803.

32 (2) All amounts or property recovered pursuant to Section
33 19990.804.

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

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

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

4 19990.803. (a) Except as provided in subdivision (f) of Section
5 19990.501, a person who engages or conspires to engage in
6 activities prohibited by this chapter, or in connection with the use
7 of an Internet access device, activities prohibited by Section 321,
8 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, or 331
9 of the Penal Code, is liable for a civil penalty not to exceed ____
10 dollars (\$____) for each violation, in addition to any other penalty
11 or remedy that may be imposed by law, which shall be assessed
12 and recovered in a civil action brought in the name of the people
13 of the State of California by the Attorney General, a district
14 attorney, a county counsel authorized by agreement with the district
15 attorney in an action involving the violation of a county ordinance,
16 the city attorney of a city having a population in excess of 750,000
17 persons, the city attorney of a city and county, or, with the consent
18 of the district attorney, the city prosecutor in a city with a full-time
19 city prosecutor, in a court of competent jurisdiction.

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

- 24 (1) The nature and seriousness of the misconduct.
- 25 (2) The number of violations.
- 26 (3) The persistence of the misconduct.
- 27 (4) The length of time over which the misconduct occurred.
- 28 (5) The willfulness of the defendant's misconduct.
- 29 (6) The defendant's assets, liabilities, and net worth.

30 (c) (1) Subject to paragraph (1) of subdivision (a) of Section
31 19990.802, civil penalties recovered by law enforcement authorities
32 pursuant to this section shall be allocated as follows:

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

38 (B) If the action is brought by a district attorney or county
39 counsel, the penalty collected shall be paid to the treasurer of the

1 county in which the judgment was entered for deposit into that
2 county's general fund.

3 (C) If the action is brought by a city attorney or city prosecutor,
4 one-half of the penalty collected shall be paid to the treasurer of
5 the city in which the judgment was entered for deposit into that
6 city's general fund, and one-half to the treasurer of the county in
7 which judgment was entered for deposit into that county's general
8 fund. If the action is brought by the city attorney of a city and
9 county, the entire amount of the penalty collected shall be paid to
10 the treasurer of the city and county in which the judgment was
11 entered.

12 (2) The revenue from all civil penalties allocated to the Unlawful
13 Gambling Enforcement Fund pursuant to subparagraph (A) of
14 paragraph (1), upon appropriation by the Legislature, shall be used
15 by the Attorney General exclusively to support the investigation
16 and enforcement of violations of California's gambling laws,
17 including the implementation of judgments obtained from
18 prosecution and investigation of those violations and violations
19 of, in connection with the use of an Internet access device, Sections
20 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, and
21 331 of the Penal Code, and other activities that are in furtherance
22 of this chapter.

23 (3) The revenue from all civil penalties allocated to the treasurer
24 of the county, city, or city and county in which the judgment was
25 entered pursuant to subparagraphs (A), (B), and (C) of paragraph
26 (1) shall be for the exclusive use of the district attorney, the county
27 counsel, the city attorney, or the city prosecutor, whichever is
28 applicable, for the enforcement of this chapter and existing laws
29 prohibiting illegal gambling activity.

30 19990.804. (a) Any money, other representative of value, or
31 real or personal property used in, or derived from, the play of a
32 game provided on the Internet that is not authorized by the state
33 pursuant to this chapter is subject to seizure by the department or
34 by a peace officer.

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

Article 9. Preemption of Local Regulation

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

Article 10. Reports to the Legislature

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

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

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

Article 11. Partial Severability and Repeal of Chapter

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

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

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

(B) Prohibiting persons or entities who have been convicted in a court of competent jurisdiction of a felony consisting of either having accepted a bet over the Internet in violation of United States

1 or California law, or having aided or abetted that unlawful activity,
2 from being licensed under this chapter.

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

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

7 19990.1102. This chapter shall remain in effect only until
8 January 1, 2025, and as of that date is repealed, unless a later
9 enacted statute, that is enacted before January 1, 2025, deletes or
10 extends that date.

11 SEC. 3. The Legislature finds and declares that Section 2 of
12 this act, which adds Chapter 5.2 (commencing with Section
13 19990.101) to Division 8 of the Business and Professions Code,
14 imposes a limitation on the public's right of access to the meetings
15 of public bodies or the writings of public officials and agencies
16 within the meaning of Section 3 of Article I of the California
17 Constitution. Pursuant to that constitutional provision, the
18 Legislature makes the following findings to demonstrate the interest
19 protected by this limitation and the need for protecting that interest:

20 The limitations on the people's right of access set forth in this
21 act are necessary to protect the privacy and integrity of information
22 submitted by registered players as well as the proprietary
23 information of the license applicants and licensees.

24 SEC. 4. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

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

37 In order to protect the interests of Californians who play online
38 gambling games and to ensure that people play fair games, that
39 the state realizes the revenues, and that suitable persons operate

- 1 authorized poker Web sites, it is necessary that this act take effect
- 2 immediately.

O