

HOUSE No. 4591

The Commonwealth of Massachusetts

By Mr. Dempsey of Haverhill, for the committee on Economic Development and Emerging Technologies, on Senate , Nos. 174, 2038, 2039, 2040 and 2042 and House, Nos. 330, 334, 640, 4063, 4064, 4065, 4066, 4067, 4068, 4069, 4081 and 4082, a Bill establishing expanded gaming in the Commonwealth (House, No. 4591). April 5, 2010.

FOR THE COMMITTEE:

NAME:

Brian S. Dempsey

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The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

An Act establishing expanded gaming in the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

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

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

19 **SECTION 3.** Section 48 of said chapter 6 is hereby repealed.

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21 are hereby repealed.

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

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

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

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

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

32 (b) There shall be in the department of the attorney general a
33 division of gaming enforcement. The attorney general shall
34 designate an assistant attorney general as director of the
35 division. The director may appoint and remove, subject to the

36 approval of the attorney general, such expert, clerical or other
37 assistants as the work of the division may require.

38 (c) The division shall have jurisdiction to enforce criminal
39 violations of chapter 23K including, but not limited to, the
40 power to: (1) investigate allegations of criminal activity
41 related to or impacting the operation of gaming establishments
42 or games; (2) receive and take appropriate action on referrals
43 for criminal prosecution from the commission; (3) provide
44 assistance, upon request, to the commission in the consideration
45 and promulgation of rules and regulations; (4) ensure that there
46 is no duplication of duties and responsibilities between it and
47 the commission; and (5) recommend persons to be placed on the
48 list of excluded persons maintained by the commission.

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

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

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

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

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

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

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

79 Section 70. The colonel of state police shall establish a
80 gaming enforcement unit whose responsibilities shall include,

81 but not be limited to, the investigation of criminal violations
82 of chapter 23K or any other general or special law that pertains
83 to gaming.

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

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

100 **CHAPTER 23K.**

101 **THE MASSACHUSETTS GAMING COMMISSION**

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

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

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

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

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

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

124 permanent employment opportunities to residents of the
125 commonwealth;

126 (6) promoting local small businesses and the tourism industry,
127 including the development of new and existing small business and
128 tourism amenities such as lodging, dining, retail and cultural
129 and social facilities, is fundamental to the policy objectives
130 of this chapter;

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

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

141 (9) any license awarded by the commission shall be a revocable
142 privilege and may be conditioned, suspended or revoked upon: (i)
143 a breach of the conditions of licensure, (ii) any civil or
144 criminal violations of the laws of the commonwealth or other
145 jurisdictions; or (iii) a finding by the commission that a

146 licensee is unsuitable to operate a gaming establishment or
147 perform the duties of their licensed position;

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

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

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

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

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

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

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

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

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

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

177 "Chair", the chair of the commission.

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

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

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

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

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

202 "Commission", the Massachusetts gaming commission.

203 "Commissioner", a member of the commission.

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

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

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

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

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

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

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

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

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

227 "Gaming establishment", any premise approved under a gaming
228 license which includes a gaming facility and any other nongaming
229 structures related thereto, including, but not limited to,
230 hotels, restaurants, or other amenities.

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

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

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

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

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

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

246 "Gaming service employee", any employee of a gaming
247 establishment who is not classified as a gaming employee or a

248 gaming key employee. but is still required to register with the
249 commission.

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

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

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

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

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

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

292 "Institutional investor", any of the following entities having
293 a 5 per cent or greater ownership interest in a gaming

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

310 "Intermediary company", any corporation, association, firm,
311 partnership, trust or any other form of business organization
312 other than a natural person which is a holding company with
313 respect to a corporation or other form of business organization
314 which holds or applies for a gaming license, and is a subsidiary
315 with respect to any holding company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

623 (q) The commissioners, executive director and those employees
624 holding a major policy-making position shall be sworn to the
625 faithful performance of their official duties. Each

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

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

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

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

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

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

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

670 other governmental instrumentality or authority in
671 connection with its powers and duties under this chapter;

672 (5) appear on its own behalf before boards, commissions,
673 departments or other agencies of municipal, state or
674 federal government;

675 (6) apply for and accept subventions, grants, loans,
676 advances and contributions from any source of money,
677 property, labor or other things of value, to be held, used
678 and applied for its purposes;

679 (7) provide and pay for advisory services and technical
680 assistance as may be necessary in its judgment to carry out
681 the purpose of this chapter and fix their compensation;

682 (8) prepare, publish and distribute, with or without
683 charge, as the commission may determine, such studies,
684 reports and bulletins and other material as the commission
685 deems appropriate;

686 (9) assure that licenses shall not be issued to nor held
687 by, nor shall there be any material involvement, directly
688 or indirectly, with a gaming operation or the ownership
689 thereof, by unqualified, disqualified, or unsuitable
690 persons or persons whose operations are conducted in a
691 manner not conforming with this chapter;

692 (10) require any person to apply for a license as provided
693 in this chapter and approve or disapprove any such

694 application or other transactions, events, and processes as
695 provided in this chapter;

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

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

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

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

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

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

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

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

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

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

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

758 (22) levy and collect assessments, fees and fines and
759 impose penalties and sanctions for the violation of this
760 chapter and the regulations promulgated hereunder;

761 (23) collect taxes;

762 (24) restrict, suspend or revoke licenses issued under this
763 chapter;

- 764 (25) conduct adjudicatory proceedings and promulgate
765 regulations in accordance with the provisions of chapter
766 30A;
- 767 (26) refer cases for criminal prosecution to the
768 appropriate federal, state or local authorities;
- 769 (27) issue subpoenas and compel the attendance of witnesses
770 at any place within the commonwealth, administer oaths and
771 require testimony under oath before the commission in the
772 course of any investigation or hearing conducted under this
773 chapter; and
- 774 (28) maintain an official Internet website for the
775 commission;
- 776 (29)
- 777 (30) adopt, amend, or repeal regulations for the
778 administration and enforcement of this chapter. Act as
779 trustees for any gaming related trust funds.

780

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

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

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

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

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

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

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

800 (7) require quarterly financial reports and an annual audit
801 prepared by a certified public accountant attesting to the
802 financial condition of a gaming licensee and disclosing whether
803 the accounts, records and control procedures examined are
804 maintained by the gaming licensee as required by this chapter
805 and the regulations promulgated thereunder;

806 (8) prescribe the minimum procedures for effective control
807 over the internal fiscal affairs of a gaming licensee, including
808 provisions for the safeguarding of assets and revenues, the
809 recording of cash and evidence of indebtedness and the
810 maintenance of reliable records, accounts and reports of

811 transactions, operations and events, including reports by the
812 commission;

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

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

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

823

824 The commission may, pursuant to section 2 of chapter 30A,
825 promulgate, amend, or repeal any regulation promulgated under
826 this chapter as an emergency regulation if such regulation is
827 necessary to protect the interests of the commonwealth in
828 regulating a gaming establishment.

829

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

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

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

852 (c) Any remaining costs of the commission necessary to
853 maintain regulatory control over gaming establishments that are
854 not covered by: (i) the fees set forth in subsections (a) and
855 (b), (ii) any other fees assessed pursuant to this chapter or
856 (ii) any other designated source of funding shall be assessed
857 annually on gaming licensees under this chapter in proportion to

858 the number of gaming positions at each gaming facility. Each
859 licensee shall pay the amount assessed against it within 30 days
860 after the date of the notice of assessment from the commission.

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

865 (e) In addition to the fees collected under this section and
866 any additional costs of the commission, the commission shall
867 assess an annual fee of not less than \$5,000,000 in proportional
868 shares against each gaming licensee in proportion to the number
869 of gaming positions at each gaming facility for the costs of
870 service and public health programs dedicated to addressing
871 problems associated with compulsive gambling. Such assessed fees
872 shall be deposited into the Public Health Trust Fund established
873 pursuant to section 9.

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

878 **Section 8.** (a) There shall be established and set up on the
879 books of the commonwealth a separate fund to be known as the

880 Massachusetts Gaming Control Fund, hereinafter in this section
881 referred to as the fund. The commission shall be the trustee of
882 the fund expend monies to finance operational activities of the
883 commission. The fund shall be credited any appropriations, bond
884 proceeds or other monies authorized by the general court and
885 specifically designated to be credited thereto, the proceeds of
886 the assessments levied pursuant to section 7, application fees
887 for licenses issued under this chapter and such additional funds
888 as are subject to the direction and control of the commission.
889 All available monies in the fund that are unexpended at the end
890 of each fiscal year shall not revert to the General Fund and
891 shall be available for expenditure in the subsequent fiscal
892 year. Any funds unexpended in any fiscal year for the purposes
893 of which such assessments were made shall be credited against
894 the assessment to be made in the following fiscal year and the
895 assessment in the following fiscal year shall be reduced by any
896 such unexpended amount. The commission shall record all
897 expenditures made by subsidiary on the Massachusetts management
898 and accounting reporting system, so-called according to
899 regulations established by the state comptroller.

900 (b) The commission shall, for the purposes of compliance with
901 state finance law, operate as a state agency as defined in
902 section 1 of chapter 29 and shall be subject to the provisions

903 applicable to agencies under the control of the governor
904 including, but not limited to, chapter 7A, chapter 7, chapter 10
905 and chapter 29; provided, however, that the comptroller may
906 identify any additional instructions or actions necessary for
907 the commission to manage fiscal operations in the state
908 accounting system and meet statewide and other governmental
909 accounting and audit standards. Unless otherwise exempted by law
910 or the applicable central service agency, the commission shall
911 participate in any other available commonwealth central services
912 including, but not limited, to the state payroll system pursuant
913 to section 31 of chapter 29, and may purchase other goods and
914 services provided by state agencies in accordance with
915 comptroller provisions. The comptroller may chargeback the
916 commission for the transition and ongoing costs for
917 participation in the state accounting and payroll systems and
918 may retain and expend such costs without further appropriation
919 for the purposes of this section. The commission shall be
920 subject to section 5D of chapter 29 and subsection (f) of
921 section 6B of chapter 29.

922 The commission shall annually submit a finance plan to the
923 secretary of administration and finance, the chairs of the house
924 and senate committees on ways and means and the chairs of the

925 joint committee on economic development and emerging
926 technologies.

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

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

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

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

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

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

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

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

958 (c) The commission shall establish deadlines for the receipt
959 of all applications for a gaming license. Applications received
960 after the deadline shall not be eligible for review by the
961 commission. Applicants who are eligible for a category 2 or
962 category 3 license who choose to apply for a category 1 license
963 shall submit applications for both gaming licenses by the
964 deadline set by the commission.

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

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

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

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

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

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

997 (b) For every business which applies for a gaming license,
998 the commission shall determine whether each officer and director
999 of a corporation, other than a publicly traded corporation,
1000 general partner and limited partner of a limited partnership,
1001 and member, transferee of a member's interest in a limited-
1002 liability company, director and manager of a limited-liability
1003 company which holds or applies for a gaming license meets the
1004 standards for qualification of licensure pursuant to sections 14
1005 and 19, as well as, in the judgment of the commission, any or
1006 all of a business's individual stockholders, lenders, holders of
1007 evidence of indebtedness, underwriters, key executives, agents
1008 or employees.

1009 (c) Any person owning more than 5 per cent of the common stock
1010 of the applicant company or a holding, intermediary or
1011 subsidiary of an applicant company shall be required to file for
1012 licensure. The commission may waive the licensing requirements
1013 for institutional investors holding up to 15 per cent of the

1014 stock of the applicant company or holding, intermediary or
1015 subsidiary company of the applicant company upon a showing by
1016 the person seeking the waiver that the applicant purchased the
1017 securities for investment purposes only and does not have any
1018 intention to influence or affect the affairs or operations of
1019 the applicant company or a holding, intermediary or subsidiary
1020 of the applicant company. Any institutional investor granted a
1021 waiver which subsequently determines to influence or affect the
1022 affairs or operations of the applicant company or a holding,
1023 intermediary or subsidiary of the applicant company shall
1024 provide not less than 30 days notice to the commission of such
1025 intent and shall file an application and be subject to the
1026 licensing requirements of this chapter before taking any action
1027 that may influence or affect the affairs of the applicant
1028 company or a holding, intermediary or subsidiary of the
1029 applicant company. Any company holding over 15 per cent of the
1030 applicant company, or a holding, intermediary or subsidiary of
1031 an applicant company shall be deemed to be a qualifier and shall
1032 file an application form with the commission and be subject to
1033 the licensing requirements of this chapter.

1034 (d) A person who is required to be qualified for licensure by
1035 this section as a general or limited partner shall not serve in

1036 that position until he secures the required approval of the
1037 commission.

1038 (e) The commission shall require any person involved in the
1039 financing of a gaming facility to be qualified for licensure
1040 pursuant to sections 14 and 19 and may allow such person to seek
1041 a waiver pursuant to the standards in subsection (c).

1042 (f) A person required to be qualified for licensure shall
1043 apply for qualification within 30 days after taking a position
1044 with the business. A person who is required to be qualified for
1045 licensure pursuant to a decision of the commission shall apply
1046 for qualification within 30 days after said decision.

1047 (g) If a corporation or other form of business organization
1048 applying for a gaming license is, or if a corporation or other
1049 form of business organization holding a gaming license is to
1050 become, a subsidiary, each holding company, intermediary
1051 company, and other entity shall be required to qualify for
1052 licensure.

1053 (h) The commission shall have the authority to require the
1054 licensing of any company or individual that can presently or was
1055 able to exercise control or provide direction to any applicant
1056 or licensee company or a holding, intermediary or subsidiary of
1057 an applicant or licensee company.

1058 **Section 13.** The commission shall deny an application for a
1059 gaming license, or any license or registration issued under this
1060 chapter, if the applicant: (i) has been convicted of a felony or
1061 other convictions involving embezzlement, theft, fraud or
1062 perjury; provided, however that for convictions which occurred
1063 before the 10-year period immediately preceding application for
1064 licensure, an applicant may demonstrate, and the commission
1065 shall consider, their rehabilitation and why such conviction
1066 should not be an automatic disqualification under this section;
1067 (ii) submitted an application for a license under this chapter
1068 that contains false or misleading information; (iii) committed
1069 prior acts which have not been prosecuted or convicted but form
1070 a pattern of misconduct that make the applicant unsuitable for a
1071 license under this chapter; or (iv) has affiliates or close
1072 associates that would not qualify under the provisions of this
1073 chapter or whose relationship with the applicant could pose an
1074 injurious threat to the interests of the commonwealth in
1075 awarding a gaming license to the applicant.

1076 **Section 14.** No applicant shall be eligible to receive a gaming
1077 license unless the applicant meets the following criteria and
1078 clearly states as part of an application that the applicant:

1079 (1) agrees to be a state lottery reseller for the purpose of
1080 lottery, multi-jurisdictional lottery and keno games, and to

1081 demonstrate that state lottery and keno games are readily
1082 accessible to its guests;

1083 (2) has suitable capital to finance its operations and the
1084 proposed capital investment; provided, however, that such
1085 investment shall not include the purchase or lease price of the
1086 land where the gaming establishment will be located or any
1087 infrastructure designed to support the site, including, but not
1088 limited to, drainage, utility support, roadways, interchanges,
1089 fill and soil or groundwater or surface water contamination
1090 issues whether or not the applicant is an eligible owner or
1091 operator under chapter 206 of the acts of 1998;

1092 (3) will have ownership of the land where the gaming
1093 establishment will be located within 60 days after a license has
1094 been awarded;

1095 (4) shall demonstrate that it is able to pay and shall commit
1096 to paying the gaming licensing fee;

1097 (5) shall demonstrate to the commission how the applicant
1098 proposes to address lottery mitigation, compulsive gambling
1099 problems, workforce development and community development.

1100 (6) shall identify the infrastructure costs of the host and
1101 surrounding communities incurred in direct relation to the

1102 construction and operation of a gaming establishment and shall
1103 commit to a community mitigation plan for those communities;

1104 (7) shall provide to the commission a signed agreement between
1105 the host community and the applicant setting forth the
1106 conditions to have a gaming establishment located within the
1107 host community; provided that the agreement shall include a
1108 community impact fee for the host community and all stipulations
1109 of responsibilities between the host community and the
1110 applicant; and

1111 (8) shall comply with state and local building codes.

1112 **Section 15.** (a) In addition to the requirements set forth in
1113 section 14, no business shall be eligible to apply for a gaming
1114 license unless it: (i) is organized under the laws of the
1115 commonwealth, although such business organization may be a
1116 wholly or partially owned subsidiary of a foreign business; (ii)
1117 maintains an office in the gaming establishment; (iii) maintains
1118 a ledger in the gaming establishment of the business
1119 organization reflecting the current ownership of the business
1120 organization, and in the case of a corporation, of every class
1121 of security issued by the corporation; (iv) maintains all
1122 operating accounts required by the commission in a bank
1123 chartered in the commonwealth or in a bank with a full service
1124 branch present in the commonwealth; (v) includes among the

1125 purposes stated in its official filings with the state secretary
1126 the conduct of gaming; (vi) in the case of a non-publicly traded
1127 corporation, files with the commission such adopted corporate
1128 charter provisions as may be necessary to establish the right of
1129 prior approval by the commission with regard to transfers of
1130 securities, shares, and other interests in the applicant
1131 corporation; (vii) in the case of a publicly traded corporation,
1132 provides in its corporate charter that any securities of such
1133 corporation are held subject to the condition that if a holder
1134 thereof is found to be disqualified by the authority pursuant to
1135 the provisions of this chapter, such holder shall dispose of his
1136 interest in the corporation; provided, however, that nothing
1137 herein shall be deemed to require that any security of such
1138 corporation bear any legend to this effect; and (viii) in the
1139 case of a non-publicly traded corporation, establishes that
1140 appropriate charter provisions create the absolute right of such
1141 non-publicly traded corporations and companies to repurchase at
1142 the market price or the purchase price, whichever is the lesser,
1143 any security, share or other interest in the corporation in the
1144 event that the commission disapproves a transfer in accordance
1145 with the provisions of this chapter.

1146 (b) Any publicly traded holding, intermediary, or subsidiary
1147 of the corporation, whether the corporation is publicly traded

1148 or not, shall contain in its corporate charter the same
1149 provisions required under subsection (a) for a publicly traded
1150 corporation to be eligible to apply for a gaming license.

1151 (c) Any non-publicly traded holding, intermediary or
1152 subsidiary of the corporation, whether the corporation is
1153 publicly traded or not, shall establish that its charter
1154 provisions are the same as those required under subsection (a)
1155 for a non-publicly traded corporation to be eligible to apply
1156 for a gaming license.

1157 **Section 16.** (a) No person shall be eligible to receive a
1158 category 1 license without a certified and binding vote in favor
1159 of such license on a ballot question at an election in the host
1160 community where the category 1 facility will be located;
1161 provided further that the host community shall be reimbursed for
1162 its expenses related to the election by the applicant for a
1163 category 1 license.

1164 An applicant for a category 1 license shall have certification
1165 of ballot approval by the host community within 3 months of
1166 submitting an application for a category 1 license to the
1167 commission; provided, however, that the applicant shall include
1168 with the application a certified letter from the clerk of the
1169 host community of a date certain for the election within the 3
1170 month period.

1171 (b) No person shall be eligible to apply for a category 2 or
1172 category 3 license without a binding vote in the host community
1173 where the gaming establishment will be located by a majority of
1174 members of the town council, or in a city having a Plan D or
1175 Plan E charter, the city manager and the city council and in any
1176 other city the mayor and city council and in towns a majority
1177 vote of those present and voting at a town meeting and approval
1178 by the board of selectmen; provided further that an applicant
1179 for a category 2 or category 3 license who has received such a
1180 vote shall be required to obtain a vote on a ballot question
1181 pursuant to subsection (a) if said applicant is applying for a
1182 category 1 license.

1183 (c) The governing body of a host community which has adopted
1184 the provisions of chapter 43D shall file a proposal with the
1185 interagency permitting board to designate the site proposed for
1186 a category 1 facility as priority development site. A community
1187 which has not adopted the provisions of 43D shall establish a
1188 permitting board consisting of 1 representative from the
1189 planning board, 1 member from the zoning board of appeals, 1
1190 member from the conservation commission, 1 member from the
1191 police department, 1 member from the fire department and 1
1192 member from the department of public works to act as a central

1193 coordinating authority for the purpose of expediting permitting
1194 of the category 1 facility.

1195 **Section 17.** (a) The commission shall prescribe the form of the
1196 application for gaming licenses which shall require, but not be
1197 limited to, the following:

1198 (i) the name of the applicant;

1199 (ii) the mailing address and, if a corporation, the name of
1200 the state under the laws of which it is incorporated, the
1201 location of its principal place of business and the names and
1202 addresses of its directors and stockholders;

1203 (iii) the identity of every person having a direct or
1204 indirect interest in the business, and the nature of such
1205 interest; provided further, that if the disclosed entity is a
1206 trust, the application shall disclose the names and addresses of
1207 all beneficiaries; provided further, that if a partnership, the
1208 names and addresses of all partners, both general and limited;
1209 and provided further, that if a limited liability company, the
1210 names and addresses of all members;

1211 (iv) an independent audit report of all financial
1212 activities and interests including, but not limited to, the
1213 disclosure of all contributions, donations, loans or any other

1214 financial transactions to or from any gaming entity or operator
1215 in the past 5 years;

1216 (v) clear and convincing evidence of financial stability
1217 including, but not limited to, bank references, business and
1218 personal income and disbursement schedules, tax returns and
1219 other reports filed by government agencies, and business and
1220 personal accounting check records and ledgers;

1221 (vi) information and documentation to demonstrate that the
1222 applicant has sufficient business ability and experience as to
1223 establish the likelihood of creation and maintenance of a
1224 successful gaming establishment;

1225 (vii) a full description the proposed internal controls and
1226 security systems for the proposed gaming establishment and any
1227 related facilities;

1228 (viii) whether the applicant is partnering with a federally
1229 recognized native American tribe located in the commonwealth for
1230 the purposes of the proposed gaming establishment;

1231 (ix) a statement that the applicant will comply, in case
1232 such a gaming license is issued, with all applicable laws and
1233 with all applicable rules and regulations prescribed by the
1234 commission or any other relevant entity;

1235 (x) proof of approval by the host municipality pursuant to
1236 section 16;

1237 (xi) acknowledgement that the commission has authorization
1238 to conduct warrantless searches of the gaming establishment;

1239 (xii) an agreement that the applicant shall mitigate the
1240 potential negative public health consequences associated with
1241 gambling and the operation of a gaming establishment including:

- 1242 (1) maintaining a smoke-free environment within the gaming
1243 facility pursuant to the provisions of section 22 of chapter
1244 270; (2) providing complimentary on-site space for an
1245 independent substance abuse and mental health counseling service
1246 to be selected by the commission; (3) prominently displaying
1247 information on the signs of problem gambling and how to access
1248 assistance; (4) describing a process for individuals to exclude
1249 their names and contact information from the licensee's database
1250 or any other list held by the licensee for use in marketing or
1251 promotional communications; and (5) instituting other public
1252 health strategies as determined by the commission;

1253 (xiii) the designs for the proposed gaming establishment,
1254 including the names and addresses of the architects, engineers
1255 and designers, and a timeline of construction that includes
1256 detailed stages of construction for the gaming facility,
1257 nongaming structures, and racecourse, where applicable;

1258 (xiv) a description of the ancillary entertainment services
1259 and amenities to be provided at the proposed gaming
1260 establishment;

1261 (xv) the number of employees to be employed at the proposed
1262 gaming establishment, including detailed information on the pay
1263 rate and benefits for employees;

1264 (xvi) completed studies and reports as required by the
1265 commission, including reports on the economic benefits of the
1266 proposed gaming establishment, the environmental, traffic and
1267 local infrastructure impacts, the impact of the proposed gaming
1268 establishment to the local and regional economy, the cost to the
1269 municipality and the commonwealth for the proposed gaming
1270 establishment to be at its proposed location, and the total
1271 amount of municipal and state tax revenue to be generated by the
1272 applicant; including ancillary revenues generated by employees
1273 and vendors;

1274 (b) In addition to the information included in subsection
1275 (a), an applicant for a category 1 license shall include the
1276 following information:

1277 (i) the location of the proposed category 1 establishment,
1278 which shall include the address, maps, book and page numbers
1279 from the appropriate registry of deeds, assessed value of the

1280 land at the time of application, and ownership interests over
1281 the past 20 years including all interests, options, agreements
1282 in property, and demographic, geographic, and environmental
1283 information, and any other information requested by the
1284 authority;

1285 (ii) the types of games and gaming to be conducted at the
1286 resort casino, number of tables and slot machines that are
1287 proposed to be employed at the casino, and the specific location
1288 of gaming at the casino site;

1289 (iii) the number of hotels and rooms and other amenities
1290 located at the proposed category 1 establishment as well as how
1291 they measure in quality to other area hotels and amenities;

1292 (iv) whether the applicant's category 1 establishment is
1293 part of a regional or local economic plan; and

1294 (v) whether the applicant will be using publicly owned land
1295 for the category 1 establishment.

1296 (c) No application for a gaming license shall be considered by
1297 the commission unless accompanied by a nonrefundable application
1298 fee of \$250,000, to defray the costs associated with the
1299 processing of the application and investigation of the
1300 applicant. If the costs of the investigation exceed the initial
1301 application fee, the applicant shall pay the additional amount

1302 to the commission within 30 days or the application shall be
1303 rejected.

1304 (d) Applications for licenses shall be public records for the
1305 purposes of section 10 of chapter 66; provided, however, that
1306 information required by the commission that pertains to: (i)
1307 confidential finances, earnings, revenue or trade secrets of any
1308 applicant; (ii) an applicant's criminal record or background
1309 information; (iii) the suitability of an applicant for a
1310 particular endeavor and (iv) information personal in nature
1311 submitted by an applicant pursuant to this section shall be
1312 deemed confidential, are not public records and shall not be
1313 disclosed. Personal information shall include any information
1314 concerning: (i) a minor child of an applicant; (ii) the social
1315 security number of an applicant or the spouse of an applicant;
1316 (iii) the home telephone number or address of an applicant or
1317 the spouse or children of an applicant; (iv) the birth
1318 certificate of the applicant or information relating to the date
1319 or place of birth of an applicant's spouse; (v) the driver's
1320 license number of an applicant or an applicant's spouse; (vi)
1321 the name or address of a previous spouse of the applicant; (vii)
1322 the personal financial information and records of an applicant
1323 or the spouse or minor child of an applicant, including tax
1324 returns and any and all records of criminal proceedings; (viii)

1325 any information concerning a victim of domestic violence, sexual
1326 assault or stalking; (ix) the personal electronic mail address
1327 of an applicant or spouse or family member of the applicant; (x)
1328 and any other information deemed necessary by the commission to
1329 protect the privacy of an applicant or the applicant's family.
1330 Any information concerning an applicant collected by the
1331 commission may be released by the commission to an authorized
1332 agent of the state or federal government.

1333 **Section 18.** (a) Upon receipt of an application for a gaming
1334 license, the commission shall commence an investigation into the
1335 suitability of an applicant. In evaluating the suitability of
1336 an applicant, the commission shall consider the overall
1337 reputation of the applicant including, without limitation:

1338 (i) the integrity, honesty, good character and reputation of
1339 the applicant;

1340 (ii) the financial stability, integrity, and background of the
1341 applicant;

1342 (iii) the business practices and the business ability of an
1343 applicant to establish and maintain a successful gaming
1344 establishment;

1345 (iv) whether the applicant has a history of compliance with
1346 gaming licensing requirements in other jurisdictions;

1347 (v) whether the applicant, at the time of application, is a
1348 defendant in litigation involving its business practices;

1349 (vi) the suitability of all parties in interest to the gaming
1350 license, including affiliates, close associates and the
1351 financial resources of the applicant; and

1352 (vii) whether the applicant is disqualified from receiving a
1353 license pursuant to section 13; provided, however, that in
1354 considering the rehabilitation of an applicant for a gaming
1355 license, the commission shall not automatically disqualify any
1356 applicant if the applicant affirmatively demonstrates, by clear
1357 and convincing evidence, that the applicant has financial
1358 responsibility, character, reputation, integrity and general
1359 fitness as such to warrant belief by the commission that the
1360 applicant will act honestly, fairly, soundly and efficiently as
1361 a gaming licensee.

1362 (b) If the commission determines during its investigation that
1363 an applicant has failed to: (i) establish his integrity or the
1364 integrity of any affiliate, close associate, financial source or
1365 any person required to be qualified by the commission; (ii)
1366 demonstrate responsible business practices in any jurisdiction;
1367 or (iii) overcome any other reason, as determined by the
1368 commission, as to why it would be injurious to the interests of
1369 the commonwealth in awarding said applicant a gaming license,

1370 the commission shall cease any further review and deny the
1371 application pursuant to the procedures in subsection (f).

1372 (c) If the commission has determined an applicant is suitable
1373 to receive a gaming license, the commission shall commence a
1374 review of the applicant's entire application. After a review of
1375 the entire application and any independent evaluations, the
1376 commission shall conduct a public hearing on the application
1377 pursuant to section 11 ½ of chapter 30A. An applicant for a
1378 gaming license shall be given at least 30 days notice of the
1379 public hearing.

1380 (d) The public hearing shall provide the commission the
1381 opportunity to address questions and concerns relative to the
1382 proposal of a gaming applicant to build a gaming establishment
1383 including the breadth and quality of the gaming facility and
1384 amenities, the integration of the facility into the surrounding
1385 community and the extent of required mitigation plans. During
1386 the hearing, the commission may take the opportunity to read
1387 into the record any letters of support, opposition or concern
1388 from members of the communities in the vicinity of the proposed
1389 gaming establishment.

1390 (e) Within 90 days of the conclusion of the public hearing,
1391 the commission shall take action on the application. The
1392 commission, by majority vote of all commissioners, may: (i) deny

1393 the application; (ii) extend the period for issuing a decision
1394 in order to obtain any additional information necessary for a
1395 complete evaluation of the application; provided, however, that
1396 the extension shall be 30 days or less; or (iii) grant the
1397 application for a gaming license.

1398 (f) Upon denial of an application, the commission shall
1399 prepare and file its order and, if requested by the applicant,
1400 shall further prepare and file a statement of the reasons for
1401 the denial, including specific findings of fact.

1402 (g) The issuance of a license is discretionary. Applicants
1403 have no legal right or privilege to a gaming license and are not
1404 entitled to any further review if denied.

1405 **Section 19.** (a) In determining whether an applicant should
1406 receive a gaming license, the commission shall evaluate how an
1407 applicant, through the application submitted and any statements
1408 made at the public hearing, proposes to advance the following
1409 objectives:

1410 (i) protecting the lottery from any adverse impacts due to
1411 expanded gaming, including, but not limited to, developing
1412 cross-marketing strategies with the lottery and increasing
1413 ticket sales to out-of-state residents;

1414 (ii) promoting local businesses in host and surrounding
1415 communities, including developing cross-marketing strategies
1416 with local restaurants, hotels, retail outlets and performing
1417 arts organizations;

1418 (iii) implementing a workforce development plan to utilize
1419 the existing labor force in the commonwealth, including the
1420 estimated number of construction jobs a proposed gaming
1421 establishment will generate, the development of workforce
1422 training programs that serve the unemployed, and methods for
1423 accessing employment at the gaming establishment;

1424 (iv) building a gaming establishment of high caliber with a
1425 variety of quality amenities to be included as part of the
1426 gaming establishment and operated in partnership with any local
1427 hotels, dining, retail and entertainment facilities so that
1428 patrons experience the diversified regional tourism industry;

1429 (v) taking additional measures to address problem gambling,
1430 including, but not limited to, training of gaming employee to
1431 identify patrons exhibiting problems with gambling and
1432 prevention programs targeted toward vulnerable populations;

1433 (vi) providing a market analysis detailing the benefits of
1434 the site location of the gaming establishment and the estimated

1435 recapture rate of gaming-related spending by residents
1436 travelling to out-of-state gaming establishments; and

1437 (vii) developing innovative strategies that further address
1438 the public policy goals of the commonwealth established pursuant
1439 to section 1.

1440 (b) The commission shall also take into consideration the
1441 extent to which an applicant will commit to the following:

1442 (i) utilizing sustainable development principles,
1443 including, but not limited to: (1) being certified or capable of
1444 being certified as gold or higher pursuant to the U.S. Green
1445 Building Council Neighborhood Development Rating System, the
1446 green building rating system established by the Leadership in
1447 Environmental and Energy Design, or an alternative rating system
1448 approved by the executive office of energy and environmental
1449 affairs; (2) meeting United States Environmental Protection
1450 Agency efficiency standards for the electrical equipment and
1451 appliances used by the resort casino; and (3) procuring 10
1452 percent of its annual electricity consumption from renewable
1453 sources identified by the division of energy resources pursuant
1454 to section 11F of chapter 25A;

1455 (ii) establishing, funding, and maintaining human resource
1456 hiring and training practices that promote the development of a

1457 skilled and diverse workforce and access to promotion
1458 opportunities through a workforce training program that: (1)
1459 establishes transparent career paths with measurable criteria
1460 within the gaming establishment that lead to increased
1461 responsibility and higher pay grades that are designed to allow
1462 employees to pursue career advancement and promotion; (2)
1463 provides employee access to additional resources, such as
1464 tuition reimbursement or stipend policies, to enable employees
1465 to acquire the education or job training needed to advance
1466 career paths based on increased responsibility and pay grades;
1467 and (3) establishes an on-site child day care program; and

1468 (iii) contracting with local business owners for the
1469 provision of services and goods to the gaming establishment,
1470 including developing plans designed to assist businesses in the
1471 commonwealth in identifying the needs for goods and services to
1472 the establishment.

1473 **Section 20.** (a) The commission may issue 2 category 1 licenses;
1474 provided, however, that the category 1 licenses shall only be
1475 issued to applicants who are qualified under the criteria set
1476 forth in this chapter as determined by the commission. In
1477 evaluating the location of the category 1 facilities, the
1478 commission shall take into consideration their proximity to each

1479 other and how that may impact the policy goals established
1480 pursuant to section 1.

1481 (b) No other gaming license, or authorization to increase the
1482 gaming positions in a category 2 or category 3 license, shall be
1483 issued by the commonwealth for a period of 15 years; provided,
1484 however, that such exclusivity shall not include the interests
1485 of the commonwealth in compacting with any federally recognized
1486 Native American tribe for gaming rights in the commonwealth.

1487 (c) No category 1 licensee shall transfer a license or any
1488 direct or indirect interest in the license or licensed premises
1489 without the majority approval of the commission. Any person
1490 seeking to acquire a license through a transfer shall satisfy
1491 the requirement for licensure pursuant to this chapter. The
1492 commission shall reject any license transfer or transfer of
1493 interest to an unsuitable person and may reject a proposed
1494 transfer that, in the opinion of the commission, would be
1495 disadvantageous to the interests of the commonwealth in the
1496 gaming establishment.

1497 (d) The commission may issue 2 category 2 licenses; provided,
1498 however, that the commission shall issue 1 category 2 license to
1499 a qualified harness horse racing facility and 1 category 2
1500 license to a qualified thoroughbred horse racing facility. A
1501 category 2 license issued shall be contingent upon the

1502 licensee's completion of the annual live racing season pursuant
1503 to chapter 128A. An applicant who is eligible for a category 2
1504 license pursuant to this section may apply for a category 1
1505 license; provided, however, that upon receipt of a category 1
1506 license said applicant shall continue to conduct live racing and
1507 abide by all the live racing terms pursuant to section 23 and
1508 shall continue to pay the applicable live racing tax required of
1509 category 2 licensees.

1510 (e) The commission may issue 2 category 3 licenses; provided,
1511 however, that the commission shall issue each category 3 license
1512 to a qualified greyhound racing facility. Any category 3 license
1513 issued shall be contingent upon the licensee's simulcasting of
1514 live thoroughbred, harness and greyhound races pursuant to
1515 chapter 128A. An applicant who is eligible for a category 3
1516 license pursuant to this section may apply for a category 1
1517 license.

1518 A category 3 licensee shall maintain a simulcasting license
1519 pursuant to chapter 128C. Upon failure to conduct simulcast
1520 wagering the commission shall suspend the category 3 license.

1521 (f) A category 2 license and a category 3 license issued
1522 pursuant to this chapter shall not be transferrable or
1523 assignable without the approval of the commission for a period
1524 of 5 years after issuance unless: (i) the licensee experiences

1525 financial hardship; (ii) a change in ownership; or (iii) fails
1526 to maintain suitability or other circumstances which the
1527 commission may consider, which impact a licensee's ability to
1528 successfully operate a gaming establishment.

1529 (g) Notwithstanding the foregoing, and upon approval by the
1530 commission, a category 3 licensee may merge its license with a
1531 category 2 licensee and locate the total number of slot machines
1532 allotted to each licensee at a thoroughbred or harness racing
1533 track. A category 2 licensee may not merge with more than 1
1534 category 3 licensee.

1535 An applicant for a category 2 license shall apply for a merged
1536 license with an eligible applicant for a category 3 license in
1537 their initial application to the commission. The commission
1538 shall approve any merger agreement and shall require parties to
1539 the merger to be qualified for licensure pursuant to the
1540 criteria set forth in sections 13 and 19.

1541 (h) A category 1 license issued pursuant to this chapter shall
1542 be for a period of 15 years from the date of first issuance;
1543 provided, however, that 5 years after issuance, and every 5
1544 years thereafter, the commission shall perform a thorough review
1545 of the business strategy of the resort casino which shall
1546 include plans for expansion and marketing submitted by the
1547 licensee. The commission shall establish procedures for renewal

1548 and set the renewal fee based on the cost of fees associated
1549 with the evaluation of a licensee requesting a renewed category
1550 1 license.

1551 A category 2 and category 3 license issued pursuant to this
1552 chapter shall be for a period of 5 years. The commission shall
1553 establish procedures for renewal and set the renewal fee based
1554 on the cost of fees associated with the evaluation of a
1555 licensee; provided, however, that the cost of renewal shall not
1556 be less than \$100,000.

1557 Nothing in this section shall preclude the commission at any
1558 time from reviewing the business operations of any gaming
1559 licensee to ensure that the conditions of licensure are being
1560 met, including, but not limited to, the suitability of the
1561 licensee and any affiliates and the fiscal stability of the
1562 gaming establishment.

1563 (i) The commission shall have the power to condition, suspend
1564 or revoke any gaming license upon a finding that a licensee: (i)
1565 has committed a criminal or civil offense under this chapter or
1566 any other laws of the commonwealth; (ii) is not in compliance
1567 with gaming regulations or is under criminal investigation in
1568 another jurisdiction; (iii) has breached a condition of
1569 licensure; (iv) has affiliates, close associates or employees
1570 that are not qualified or licensed pursuant to this chapter with

1571 whom the gaming licensee continues to conduct business or
1572 employ; (v) is no longer capable of maintaining operations at a
1573 gaming establishment; or (vi) whose business practice, upon a
1574 determination by the commission, is injurious to the policy
1575 objectives of this chapter.

1576 (j) Whenever any person contracts to transfer any property
1577 relating to an ongoing gaming operation, including a security
1578 holding in a gaming licensee or holding or intermediary company,
1579 under circumstances which require that the transferee obtain
1580 licensure under this chapter, the contract shall not specify a
1581 closing or settlement date which is earlier than the 121st day
1582 after the submission of a completed application for licensure or
1583 qualification, which application shall include a fully executed
1584 and approved trust agreement.

1585 The commission shall hold a hearing and render a decision on
1586 the interim authorization of the applicant. If the commission
1587 grants interim authorization, then the closing or settlement may
1588 occur without interruption of casino operations. If the
1589 commission denies interim authorization, there shall be no
1590 closing or settlement until the commission makes a determination
1591 on the qualification of the applicant, and if the commission
1592 then denies qualification the contract shall thereby be

1593 terminated for all purposes without liability on the part of the
1594 transferor.

1595 The commission shall promulgate further regulations for
1596 interim authorization of a gaming establishment.

1597 (k) No person or affiliate shall be awarded, purchase or
1598 otherwise hold or have a financial interest in more than 1
1599 license issued by the commission.

1600 **Section 21.** (a) Applicants for a category 1 license shall invest
1601 not less than \$500,000,000 into the resort casino which shall
1602 include the gaming facility, at least 1 hotel, and other
1603 amenities as proposed in the application for a category 1
1604 license. Upon award of a category 1 license by the commission,
1605 the applicant shall be required to deposit 10 per cent of the
1606 total investment proposed in the application into an interest-
1607 bearing account. Monies received from the applicant shall be
1608 held in escrow until the final stage of construction, as
1609 approved by the commission, at which time the deposit shall be
1610 returned to the applicant to be applied for such final stage.
1611 Should the applicant be unable to complete the resort casino,
1612 the deposit shall be forfeited to the commonwealth. In place of
1613 a cash deposit, the commission may allow for an applicant to
1614 secure a deposit bond insuring that 10 per cent of the proposed
1615 capital investment shall be forfeited to the commonwealth.

1616 (b) Applicants for a category 1 license shall submit their
1617 proposed capital investment with their application to the
1618 commission which shall include stages of construction of the
1619 resort casino and the deadline by which construction and any
1620 infrastructure improvements will be completed. In awarding a
1621 category 1 license, the commission shall determine at what stage
1622 of construction a licensee shall be approved to open for
1623 business; provided, however, that a licensee shall not be
1624 permitted to open for business until the commission has
1625 determined that at least the gaming facility and hotel have been
1626 built and are of a superior quality as set forth in the
1627 conditions of licensure; provided, further, that total
1628 infrastructure improvements onsite and around the vicinity of
1629 the resort casino, including projects to account for traffic
1630 mitigation, shall be completed before the resort casino shall be
1631 approved for opening by the commission.

1632 (c) A category 1 licensee shall pay to the commission a fee of
1633 not less than \$100,000,000. Applicants may propose to pay a
1634 higher licensing fee; provided, however, that the commission
1635 shall consider the impact of a higher fee upon an application
1636 only after consideration of the proposed capital investment and
1637 the applicant's ability to address the conditions for licensure
1638 set forth in section 19. Applicants may pay the total amount of

1639 the licensing fee up to the time the resort casino is approved
1640 to open for business; provided, however, that the gaming
1641 licensee shall pay \$100,000,000 at the time the license is
1642 awarded.

1643 (d) The commission shall determine the sources and total
1644 amount of an applicant's proposed capitalization to develop,
1645 construct, maintain and operate a proposed gaming establishment
1646 under this chapter. Upon award of a gaming license, the
1647 commission shall continue to assess the capitalization of a
1648 licensee for the duration of construction of the proposed gaming
1649 establishment and the term of the license.

1650 **Section 22.** (a) Applicants for a category 2 or category 3
1651 license shall invest not less than \$75,000,000 into the gaming
1652 facility and racecourse, if applicable.

1653 The investment required under this section shall be made
1654 within 2 years of receiving a gaming license; provided, however,
1655 that any infrastructure improvements necessary to increase
1656 visitor capacity and account for traffic mitigation, as
1657 determined by the commission, shall be completed before the
1658 category 2 or category 3 licensee shall be authorized to operate
1659 any slot machine at the gaming facility.

1660 (b) The required licensing fee for a category 2 or category 3
1661 license shall be not less than \$15,000,000. The commission shall
1662 raise the license fee if an applicant for a category 2 or
1663 category 3 license cannot demonstrate to the satisfaction of the
1664 commission that the applicant will advance any of the objectives
1665 set forth in section 19.

1666 (c) If the commission approves the merger of a category 2 and
1667 category 3 licensee pursuant to section 20 and grants a merged
1668 license, the applicants shall pay \$30,000,000 and shall agree to
1669 invest \$150,000,000 into the gaming facility and racecourse.

1670 (d) The commission shall determine the sources and total
1671 amount of an applicant's proposed capitalization to develop,
1672 construct, maintain and operate a proposed gaming establishment
1673 under this chapter. Upon award of a gaming license, the
1674 commission shall continue to assess the capitalization of a
1675 licensee for the duration of construction of the proposed gaming
1676 establishment and the term of the license.

1677 **Section 23.** (a) An applicant for a category 2 licensee shall
1678 maintain any racing facility on the premises; provided, however,
1679 that said licensee shall increase the number of live racing days
1680 to a minimum of 125 days according to the following schedule:

1681 (i) in the first calendar year of operation a licensee
1682 shall hold 105 racing days;

1683 (ii) in the second calendar year of operation a licensee
1684 shall hold 115 racing days; and

1685 (iii) in the third calendar year of operation a licensee
1686 shall hold 125 racing days.

1687 (b) A category 2 licensee may increase the number of live
1688 racing days if said licensee is holding a minimum of 125 racing
1689 days within 3 years of receiving a category 2 license. If a
1690 category 2 licensee does not conduct live racing for the minimum
1691 number of days set forth in subsection (a), the commission shall
1692 suspend the category 2 license.

1693 (c) After 3 years of operation, and in consultation with the
1694 parties to the purse agreement, the commission may adjust the
1695 amount of required racing days at a category 2 facility based on
1696 fields, demand and racing performance.

1697 (d) A category 2 licensee shall have an annual purse agreement
1698 in effect by December thirty-first of each year for the following
1699 year's racing; provided, however, that if the parties to a purse
1700 agreement at a category 2 facility cannot in good faith
1701 negotiate an agreement by December thirty-first, the purse
1702 agreement shall be arbitrated by the commission.

1703 **Section 24.** (a) No person shall be employed by a gaming licensee
1704 unless such person has been licensed by or registered with the
1705 commission.

1706 (b) Any person seeking a valid key gaming employee license or
1707 a gaming employee license shall file an application with the
1708 commission. Such application shall be on a form prescribed by
1709 the commission and shall include, but shall not be limited to,
1710 the following: (1) the name of the applicant; (2) the address of
1711 the applicant; (3) a detailed employment history of the
1712 applicant; (4) fingerprints; (5) a criminal and arrest record;
1713 and (6) any civil judgments obtained against the person
1714 pertaining to antitrust or security regulation. Each applicant
1715 shall be a resident of the commonwealth prior to the issuance of
1716 a gaming employee license, provided, however, that the
1717 commission may waive this requirement upon certification from
1718 the gaming licensee that an applicant's particular position will
1719 require the applicant to be reside outside of the commonwealth.
1720 The commission may require such other information as it deems
1721 appropriate including, without limitation, information related
1722 to the financial integrity of the applicant and may require the
1723 applicant to submit other documentation it deems appropriate
1724 including, without limitation, bank accounts and records, bank
1725 references, business and personal income and disbursement

1726 schedules, tax returns and other reports filed by government
1727 agencies, and business and personal accounting check records and
1728 ledgers.

1729 (c) All other employees in a gaming establishment who are not
1730 considered to be gaming employees, key gaming employees, or who
1731 have restricted access to an area of the gaming establishment or
1732 knowledge of security procedures, shall be required to register
1733 with the commission as a gaming service employee and shall
1734 produce such information as the commission may require to become
1735 registered under this chapter.

1736 (d) Upon receipt of an application for a key gaming employee
1737 license and a gaming employee license the commission shall
1738 conduct an investigation of each applicant which shall include
1739 obtaining criminal offender record information from the criminal
1740 history systems board as well as exchanging fingerprint data and
1741 criminal history with the state police and the federal bureau of
1742 investigation.

1743 (e) Upon petition by a gaming licensee, the commission may
1744 issue a temporary license to an applicant for a gaming key
1745 employee license or a gaming employee license provided that: (i)
1746 the applicant for a gaming key employee license or gaming
1747 employee license has filed a complete application with the
1748 commission; and (ii) the gaming licensee certifies, and the

1749 commission finds, that the issuance of a temporary license is
1750 necessary for the operation of the gaming facility and is not
1751 designed to circumvent the normal licensing procedures.

1752 Unless otherwise stated by the commission, a temporary license
1753 issued pursuant to this section shall expire 6 months from the
1754 date of its issuance and may be renewed, at the discretion of
1755 the commission, for an additional 6 month period.

1756 (f) The commission may deny any application for a key gaming
1757 employee or gaming employee license or the registration of any
1758 other employee of a gaming establishment if the commission finds
1759 that any applicant or registrant is disqualified pursuant to
1760 section 14 or may be unsuitable for licensure under any of the
1761 criteria set forth in section 19; provided, however, that the
1762 commission, in its discretion, may issue a license to an
1763 applicant for a gaming employee license or register a gaming
1764 service employee who has a prior conviction if said applicant or
1765 registrant can affirmatively demonstrate his rehabilitation. In
1766 considering the rehabilitation of an applicant for a license
1767 under this section, the commission shall consider the following:
1768 (i) the nature and duties of the position of the applicant; (ii)
1769 the nature and seriousness of the offense or conduct; (iii) the
1770 circumstances under which the offense or conduct occurred; (iv)
1771 the date of the offense or conduct; (v) the age of the applicant

1772 when the offense or conduct was committed; (vi) whether the
1773 offense or conduct was an isolated or repeated incident; (vii)
1774 any social conditions which may have contributed to the offense
1775 or conduct; and (viii) any evidence of rehabilitation, including
1776 recommendations and references of persons supervising the
1777 applicant since the offense or conduct was committed.

1778 Any orders denying an application under this section shall be
1779 accompanied with an explanation of why an applicant did not meet
1780 the qualifications for licensure under this chapter.

1781 (g) The commission shall be authorized to condition, suspend
1782 or revoke any license or registration under this section if the
1783 commission finds that a licensee or registrant has: (i) been
1784 arrested or convicted of a crime while employed by a gaming
1785 establishment and failed to report charges or the conviction to
1786 the commission; (ii) failed to comply with the provisions of
1787 section 12; or (iii) failed to comply with any of the provisions
1788 of this chapter pertaining to licensees.

1789 (h) A license or registration issued pursuant to this section
1790 shall be issued for a term of 3 years. It shall be the
1791 responsibility of the employee to ensure that their license is
1792 current.

1793 (i) The commission shall establish fees for a key gaming
1794 employee and a gaming employee license which shall include costs
1795 incurred for conducting a background investigation into an
1796 applicant said license.

1797 **Section 25.** (a) No person or business shall conduct any business
1798 with a gaming licensee unless such person has been licensed by
1799 or registered with the commission.

1800 (b) Any person seeking a gaming vendor license shall file an
1801 application with the commission. Such application shall be on a
1802 form prescribed by the commission and shall include, but shall
1803 not be limited to, the following: (i) the name of the applicant;
1804 (ii) the post office address and if a corporation, the name of
1805 the state under the laws of which it is incorporated, the
1806 location of its principal place of business and the names and
1807 addresses of its directors and stockholders; (iii) a criminal
1808 and arrest record; (iv) any civil judgments obtained against the
1809 person pertaining to antitrust or security regulation; (v) the
1810 identity of every person having a direct or indirect interest in
1811 the business, and the nature of such interest; provided further,
1812 that if the disclosed entity is a trust, the application shall
1813 disclose the names and addresses of all beneficiaries; provided
1814 further, that if the disclosed entity is a partnership, the
1815 names and addresses of all partners, both general and limited;

1816 and provided further, that if the disclosed entity is a limited
1817 liability company, the names and addresses of all members; (vi)
1818 an independent audit report of all financial activities and
1819 interests including, but not limited to, the disclosure of all
1820 contributions, donations, loans or any other financial
1821 transactions to or from any gaming entity or operator in the
1822 past 5 years; and (vii) clear and convincing evidence of
1823 financial stability including, but not limited to, bank
1824 references, business and personal income and disbursement
1825 schedules, tax returns and other reports filed by government
1826 agencies, and business and personal accounting check records and
1827 ledgers. The commission may require such other information as it
1828 deems appropriate including, without limitation, information
1829 related to the financial integrity of the applicant and may
1830 require the applicant to submit other documentation it deems
1831 appropriate including, without limitation, bank accounts and
1832 records, bank references, business and personal income and
1833 disbursement schedules, tax returns and other reports filed by
1834 government agencies, and business and personal accounting check
1835 records and ledgers.

1836 (c) No person shall manufacture, sell, distribute, test or
1837 repair slot machines, other than antique slot machines as

1838 defined in section 5A of chapter 271, without a valid gaming
1839 vendor license issued by the commission

1840 (d) All other suppliers or vendors who are not considered to
1841 be gaming vendors including, but not limited to, construction
1842 companies, vending machine providers, linen suppliers, garbage
1843 handlers, maintenance companies, limousine services, food
1844 purveyors or suppliers of alcoholic beverages, shall be
1845 considered non-gaming vendors and shall be required to register
1846 with the commission and shall produce such information as the
1847 commission may require; provided, however, that the commission
1848 may require any vendor regularly conducting over \$250,000 of
1849 business with a gaming licensee within a 12 month period, or
1850 \$100,000 of business within a 3 year period, to be licensed as a
1851 gaming vendor.

1852 (e) Any person owning more than 5 per cent of the common stock
1853 of a company required to be licensed as a gaming vendor, or a
1854 holding, intermediary or subsidiary of such company, shall be
1855 required to file for licensure. The commission may waive the
1856 licensing requirements for institutional investors holding up to
1857 15 per cent of the stock of the company, or holding,
1858 intermediary or subsidiary company of the such company, upon a
1859 showing by the person seeking the waiver that the applicant
1860 purchased the securities for investment purposes only and does

1861 not have any intention to influence or affect the affairs or
1862 operations of the company or a holding, intermediary or
1863 subsidiary of the such company. Any institutional investor
1864 granted a waiver which subsequently determines to influence or
1865 affect the affairs or operations of the gaming vendor, or a
1866 holding, intermediary or subsidiary of the gaming vendor, shall
1867 provide not less than 30 days notice to the commission of such
1868 intent and shall file an application and be subject to the
1869 licensing requirements of this chapter before taking any action
1870 that may influence or affect the affairs of the applicant
1871 company or a holding, intermediary or subsidiary of the
1872 applicant company. Any company holding over 15 per cent of a
1873 gaming vendor, or a holding, intermediary or subsidiary of a
1874 gaming vendor, shall be deemed to be a qualifier and shall file
1875 an application form with the commission and be subject to the
1876 licensing requirements of this chapter.

1877 (f) If an applicant for a gaming vendor license or vendor
1878 or supplier registration is licensed or registered in another
1879 jurisdiction within the United States and is in good standing in
1880 all the jurisdictions in which it holds a license or
1881 registration, the commission may enter into a reciprocal
1882 agreement with the applicant and to allow for an abbreviated
1883 licensing or registration process and issue a gaming vendor

1884 license or registration pursuant to this section, provided,
1885 however, that the commission shall reserve its rights to
1886 investigate the qualifications of an applicant at any time and
1887 may require the applicant to submit to a full application for a
1888 gaming vendor license or provide further information for
1889 registration.

1890 (g) The commission shall deny any application for a gaming
1891 vendor license or the registration of any other vendor or
1892 supplier if the commission finds that any applicant or
1893 registrant is disqualified pursuant to section 14 or may be
1894 unsuitable for licensure under any of the criteria set forth in
1895 section 19.

1896 (h) The commission shall be authorized to condition, suspend
1897 or revoke any license or registration under this section if the
1898 commission finds that a licensee or registrant has: (i) been
1899 arrested or convicted of a crime; (ii) failed to comply with the
1900 provisions of section 12; or (iii) failed to comply with any of
1901 the provisions of this chapter pertaining to licensees.

1902 (i) The commission shall establish a master vendor list to
1903 monitor all vendor contracts with a gaming establishment. Any
1904 vendor doing business with a gaming establishment who has failed
1905 to submit an application for licensure or registration shall be
1906 prohibited from engaging in any future business with any gaming

1907 establishment; provided further that the commission shall be
1908 authorized to terminate any contracts that have been entered
1909 into with an unlicensed or unregistered vendor.

1910 (j) Gaming licensees shall have a continuing duty to inform
1911 the commission of all vendor contracts.

1912 (k) A license or registration issued pursuant to this section
1913 shall be issued for a term of 3 years. It shall be the
1914 responsibility of the licensee to ensure that their license is
1915 current.

1916 (l) The commission shall establish fees for gaming vendor
1917 licenses which shall include costs incurred for conducting a
1918 background investigation into an applicant for said license.

1919 **Section 26.** (a) Each labor organization, union or affiliate
1920 seeking to represent employees who are employed at a gaming
1921 establishment, including any related facilities, shall register
1922 with the commission.

1923 (b) Neither a labor organization, nor its officers who are not
1924 otherwise licensed or registered under this chapter, may hold
1925 any financial interest in a gaming establishment whose employees
1926 they represent.

1927 **Section 27.** (a) No category 1, category 2 or category 3 licensee
1928 shall conduct gaming without an operations certificate issued by

1929 the commission. An operations certificate shall only be issued
1930 upon compliance with the requirements of this chapter including;
1931 (1) implementation of all management controls required by the
1932 commission including, without limitation, controls on
1933 accounting, wagering and auditing; (2) implementation of all
1934 security precautions required by the commission; (3) an up to
1935 date listing of all gaming employees; (4) licensing of all
1936 gaming employees; (5) the provision of office space at the
1937 facility for use by the commission employees; (6) the hours of
1938 operation of the facility; and that its personnel and procedures
1939 are efficient and prepared to entertain the public.

1940 The operations certificate shall be conspicuously posted and
1941 shall state the number of slot machines, table games or other
1942 authorized games, if applicable.

1943 (b) A category 1, category 2, or category 3 licensee may
1944 operate a gaming establishment from 6:00 am to 5:59 am;
1945 provided, however, that said licensee registers their hours of
1946 operation with the commission.

1947 (c) Each gaming licensee shall arrange its gaming facility in
1948 such a manner as to promote optimum security for the gaming
1949 facility operations , including but not limited to: (1) a
1950 closed circuit television system according to specifications
1951 approved by the commission, with access on the licensed premises

1952 to the system or its signal provided to the commission; (2) one
1953 or more rooms or locations approved by the commission for use by
1954 commission employees; and (3) design specifications that insure
1955 that visibility in a facility is not obstructed in any way that
1956 might interfere with the ability of the commission or the
1957 division to supervise facility operations.

1958 (d) Each applicant for a gaming license shall submit to the
1959 commission a description of its minimum system of internal
1960 procedures and administrative and accounting controls for gaming
1961 and any simulcast wagering operations accompanied by a
1962 certification by its chief legal officer that the submitted
1963 procedures conform to the provisions of this chapter and any
1964 regulations promulgated thereunder as well as a certification by
1965 its chief financial officer that the submitted procedures
1966 provide adequate and effective controls, establish a consistent
1967 overall system of internal procedures and administrative and
1968 accounting controls and conform to generally accepted accounting
1969 principles and any additional standards required by the
1970 commission. Each applicant shall make its submission at least
1971 30 business days before such operations are to commence unless
1972 otherwise directed by the commission; provided, however, that no
1973 gaming licensee shall commence gaming operations or alter its
1974 minimum internal controls until such system of minimum controls

1975 is approved by the commission. The commission shall establish
1976 regulations for the information required in said internal
1977 control submission.

1978 Any proposed changes to a gaming licensee's system of internal
1979 procedures and controls shall be submitted to the commission
1980 along with 2 new certifications from its chief legal and
1981 financial officers. Pending no objections from the commission,
1982 the gaming licensee may make said changes 15 business days after
1983 submitting a description of the changes to the commission.

1984 (e) Gaming equipment shall not be possessed, maintained or
1985 exhibited by any person on the premises of a gaming
1986 establishment except in a gaming area approved by the commission
1987 or in a restricted area used for the inspection, repair or
1988 storage of such equipment and specifically designated for that
1989 purpose.

1990 (f) Each gaming facility shall contain a count room and such
1991 other secure facilities as may be required by the commission for
1992 the counting and storage of cash, coins, tokens, checks,
1993 plaques, gaming vouchers, coupons and other devices or items of
1994 value used in wagering and approved by the commission that are
1995 received in the conduct of gaming and for the inspection,
1996 counting and storage of dice, cards, chips and other
1997 representatives of value.

1998 (g) A dealer may accept tips or gratuities from a patron at
1999 the table game where such dealer is conducting play; provided,
2000 however, that such tips or gratuities shall be placed in a pool
2001 for distribution among other dealers. The commission shall
2002 determine how tips and gratuities shall be set aside for the
2003 dealer pool as well as the manner of distribution among dealers.

2004 (h) No person under the age of 21 shall be permitted to wager
2005 or be in an area of a facility where gaming is conducted;
2006 provided, however, that a person 18 years or over of age who is
2007 a licensed employee of the gaming operation may be in an area of
2008 a facility where gaming is conducted if in the performance of
2009 the duties he is licensed to undertake.

2010 (i) No category 1, category 2 or category 3 licensee shall
2011 operate unless the facility manager or his designee is on the
2012 premises and representatives of the commission are present at
2013 the facility; provided, further that the commission may allow a
2014 gaming licensee to conduct gaming operations for a period not to
2015 exceed 48 hours pursuant to a duly filed emergency operations
2016 plan previously filed with, and approved by, the commission that
2017 addresses the internal procedures to be followed during such an
2018 emergency to ensure that the gaming licensee and its employees
2019 comply with all pertinent statutes and regulations.

2020 (j) Each gaming establishment shall file an emergency response
2021 plan with the fire department and police department of the host
2022 community which shall include without limitation: (1) a layout
2023 identifying all areas within the facility and grounds including
2024 support systems and the internal and external access routes; (2)
2025 the location and inventory of emergency response equipment and
2026 the contact information of the emergency response coordinator
2027 for the facility; (3) the location of any hazardous substances
2028 as well as a description of any public health or safety hazards
2029 present on site; (4) a description of any special equipment
2030 needed to respond to an emergency at the facility; (5) an
2031 evacuation plan; and (6) any other information relating to
2032 emergency response as requested by the fire department or the
2033 police department of the host community.

2034 **Section 28.** (a) Notwithstanding any general or special law, rule
2035 or regulation to the contrary, an applicant for a category 1
2036 license may request with their gaming license application, and
2037 the commission may grant, a resort casino beverage license for
2038 the sale and distribution of alcoholic beverages to be drunk on
2039 the premises of a resort casino. No alcoholic beverages shall
2040 be sold or distributed on the premises of a gaming establishment
2041 without such a license. The authority to enforce, regulate and

2042 control the distribution of alcoholic beverages in the resort
2043 casino shall be exclusively vested in the commission.

2044 (b) Except as otherwise provided in this section, or by
2045 regulations promulgated by the commission, the provisions of
2046 chapter 138 and the rules and regulations promulgated by the
2047 alcoholic beverages control commission shall apply to a resort
2048 casino and a resort casino beverage license.

2049 (c) Issuance fees for the casino beverage license shall be
2050 included with the gaming application fee. If a category 1
2051 licensee does not apply for a casino beverage license at the
2052 time of application, said licensee shall be subject to an
2053 additional licensing fee determined by the commission.

2054 (d) A licensee under this section shall be permitted to
2055 distribute alcohol free of charge and for on-premise consumption
2056 to patrons on the casino floor or as a complimentary service or
2057 item in the gaming establishment; provided, however, that the
2058 commission shall promulgate regulations on such distribution as
2059 well as the forms of identification that may be presented to the
2060 licensee to demonstrate proof that a person has attained the age
2061 of 21.

2062 (e) A licensee under this section shall be permitted to sell
2063 alcohol daily after 8 antemeridian and before 2 antemeridian.

2064 (f) The request submitted to the commission for a resort
2065 casino beverage license by an applicant or licensee for a
2066 category 1 license shall detail all areas where alcoholic
2067 beverages will be served within the resort casino. In issuing
2068 said license, the commission shall describe the scope of the
2069 particular license and any restrictions and limitations.

2070 (g) A category 1 licensee shall be responsible for any
2071 violations of their casino beverages license in the gaming
2072 establishment. The commission may revoke, suspend, refuse to
2073 renew or refuse to transfer any resort casino beverage license
2074 for violations of any provision of chapter 138, regulations
2075 promulgated by the alcoholic beverages control commission and
2076 the regulations promulgated by the commission. If, at any time,
2077 a licensee elects temporary suspension of their category 1
2078 license due to violations of this section, said licensee shall
2079 owe the commonwealth the average tax on gross gaming revenue
2080 based on an appropriate period of time as determined by the
2081 commission for the number of days operation was suspended.

2082 (h) A resort casino beverage license shall be nontransferable
2083 without prior approval from the commission. If the license
2084 granted under this act is cancelled, revoked or no longer in
2085 use, it shall be returned physically, with all the legal rights,
2086 privileges and restrictions pertaining thereto, to the

2087 commission and the commission may then grant the license to a
2088 new gaming licensee under the same conditions as specified in
2089 this section.

2090 (i) A license granted under this section shall not decrease
2091 the number of such licenses authorized to be granted to the host
2092 community under the provisions of chapter 138.

2093 **Section 29.** (a) A gaming licensee shall be permitted to issue
2094 credit to a patron of a gaming establishment in accordance with
2095 regulations promulgated by the commission. Such regulations
2096 shall include, but not be limited to: (i) procedures for
2097 confirming that a patron has an established credit history and
2098 is in good standing; (ii) whether the patron has a good credit
2099 history with the gaming establishment; (iii) authorization of
2100 any credit instrument; (iv) methods for acknowledging a credit
2101 instrument and payment of debt; and (v) information to be
2102 provided by the patron to the gaming establishment to be shared
2103 with the commission for auditing purposes.

2104 (b) Except as otherwise authorized by the commission through
2105 regulations pursuant to this chapter, no facility , nor any
2106 person acting on behalf of said facility shall: (1) cash any
2107 check, make any loan, or otherwise provide or allow to any
2108 person any credit or advance of anything of value, or which
2109 represents value, to enable any person to place a wager; or (2)

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

2117 (c) Checks cashed in conformity with the requirements of this
2118 chapter shall be valid instruments enforceable under the laws of
2119 the commonwealth. Any check cashed, transferred, conveyed or
2120 given in violation of this chapter or regulations promulgated
2121 thereunder shall be invalid and unenforceable.

2122 (d) The commission shall establish, by regulation, procedures
2123 and standards for approving promotional gaming credits, provided
2124 that no such credit shall be reported as a promotional gaming
2125 credit by an operator of a licensed gaming establishment unless
2126 the operator can establish that the credit was issued by the
2127 gaming establishment and received from a patron as a wager at a
2128 slot machine in the gaming establishment, provided further that
2129 such promotional gaming credit shall not be taxable for the
2130 purposes of determining gross revenue.

2131 (e) No other person or entity, other than a gaming licensee
2132 licensed pursuant to this chapter, shall issue credit to a
2133 patron of a gaming establishment.

2134 (f) A person may petition the commission to place his name on
2135 a list of persons to whom the extension of credit by a gaming
2136 establishment shall be prohibited. Any person filing such
2137 petition shall submit to the commission the person's name,
2138 address, and date of birth. The person shall not be required to
2139 provide a reason for said request. The commission shall provide
2140 this list to the credit department of each gaming establishment;
2141 provided, however, that neither the commission nor the credit
2142 department of a gaming establishment shall divulge the names on
2143 this list to any person or entity other than those provided for
2144 in this subsection. If such a person wishes to have their name
2145 removed from the list, the person shall petition the commission
2146 in accordance with procedures for removal set forth by the
2147 commission. If the commission approves the request, the
2148 commission shall so inform the credit department of the gaming
2149 establishments no later than 7 days after approving the request.

2150 (g) Debt collections pursuant to this section and regulations
2151 promulgated thereunder shall be limited to gaming key employees
2152 or attorneys acting directly on behalf of gaming licensees;
2153 provided further that a gaming key employee shall be prohibited

2154 from making any such collections if they serve as a junket
2155 representative for the gaming licensee.

2156 **Section 30.** (a) No junkets may be organized or permitted and no
2157 person may act as a junket representative or junket enterprise
2158 except as authorized by the commission pursuant to this chapter.

2159 (b) A junket representative employed by a gaming licensee or
2160 affiliate of said licensee shall be licensed as a gaming
2161 employee in accordance with the provisions set forth in **section**
2162 **25**, including provisions for the issuance of a temporary
2163 license; provided, however that said licensee need not be a
2164 resident of the commonwealth. Any person who holds a valid
2165 gaming employee license may act as a junket representative while
2166 employed by a gaming license or an affiliate. No gaming
2167 licensee shall employ or otherwise engage a junket
2168 representative who is not licensed pursuant to this chapter.

2169 (c) The commission shall deny an application for a license
2170 under this section if the commission finds that an applicant is
2171 disqualified pursuant to **section 14** or may be unsuitable for
2172 licensure under any of the criteria set forth in **section 19**.

2173 (d) Each gaming licensee, junket representative or junket
2174 enterprise shall file a report with the bureau with respect to
2175 each list of junket patrons or potential junket patrons

2176 purchased directly or indirectly by the gaming licensee, junket
2177 representative or enterprise.

2178 (e) No junket enterprise or junket representative or person
2179 acting as a junket representative shall: (i) engage in efforts
2180 to collect upon checks that have been returned by banks without
2181 full and final payment; (ii) exercise approval authority with
2182 regard to the authorization or issuance of credit pursuant to
2183 this chapter; (iii) act on behalf of or under any arrangement
2184 with a gaming licensee or a gaming patron with regard to the
2185 redemption, consolidation, or substitution of the gaming
2186 patron's checks awaiting deposit; (iv) individually receive or
2187 retain any fee from a patron for the privilege of participating
2188 in a junket; or (v) pay for any services, including
2189 transportation, or other items of value provided to, or for the
2190 benefit of, any patron participating in a junket.

2191 (f) The commission shall promulgate further regulations
2192 concerning the conduct of junkets and conditions of junket
2193 agreements between gaming licensees and junket representatives.

2194 **Section 31.** (a) No gaming licensee shall offer to provide any
2195 complimentary services, gifts, cash or other items of value to
2196 any person unless the complimentary consists of room, food,
2197 beverage, transportation, or entertainment expenses provided
2198 directly to the patron and his guests by the licensee or

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

2205 (b) A gaming licensee may offer and provide complimentary cash
2206 or noncash gifts which are not otherwise included in subsection
2207 (a) to any person, provided that any such gifts in excess of
2208 \$2,000 are documented by the licensee and detail the reasons why
2209 such gifts were provided to the patron.

2210 (c) Each gaming licensee shall maintain a regulated
2211 complimentary service account for those complementaries which
2212 are permitted under this section, and shall submit a quarterly
2213 report to the commission based upon such account and covering
2214 all complimentary services offered or engaged in by the licensee
2215 during the immediately preceding quarter. Such reports shall
2216 include identification of the regulated complimentary service
2217 and their respective costs, the number of persons by category of
2218 service who received the same and such other information as the
2219 commission may require.

2220 (d) The furnishing of a complimentary service or item by a
2221 casino licensee shall be deemed to constitute the indirect

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

2230 **Section 32.** (a) Upon revocation or suspension of a gaming
2231 license pursuant to **section 20**, or upon the failure or refusal
2232 to renew a gaming license the commission may appoint a
2233 conservator to temporarily manage and operate the business of
2234 the licensee relating to the gaming establishment. Such
2235 conservator shall be a person of similar experience in the field
2236 of gaming management and, in the case of replacing a gaming
2237 licensee, shall have experience operating a gaming facility of
2238 similar caliber in another jurisdiction, and shall be in good
2239 standing in all jurisdictions in which they operate any gaming
2240 facility.

2241 Upon appointment, a conservator shall agree to all licensing
2242 provisions of the former licensee.

2243 (b) A conservator shall, before assuming his duties, execute
2244 and file a bond for the faithful performance of his duties

2245 payable to the commission with such surety and in such form and
2246 amount as the commission shall approve.

2247 (c) The commission shall require that the former or suspended
2248 licensee purchase liability insurance, in an amount determined
2249 by the commission, to protect a conservator from liability for
2250 any acts or omissions of the conservator during his appointment
2251 which are reasonably related to, and within the scope of the
2252 conservator's duties.

2253 (d) During the period of temporary management of the resort
2254 casino, the commission shall initiate proceedings pursuant to
2255 this chapter to award a new gaming license to a qualified
2256 applicant whose gaming facility shall be located at the site of
2257 the preexisting gaming facility.

2258 (e) Applicants for a new gaming license shall be qualified for
2259 licensure pursuant to this chapter; provided, however, that the
2260 commission shall determine an appropriate level of investment by
2261 an applicant into the preexisting gaming facility.

2262 (f) Upon award of a gaming license, applicants shall pay the
2263 licensing fee for a category 1, category 2 or category 3
2264 license.

2265 **Section 33.** (a) There shall be within the commission an
2266 investigations and enforcement bureau, which shall be the

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

2280 (b) The bureau shall be a law enforcement agency and its
2281 employees shall have such law enforcement powers as to
2282 effectuate the purposes of this chapter, including the power to
2283 receive intelligence on any applicant or licensee under this
2284 chapter and to investigate any suspected violation of the
2285 provisions of this chapter.

2286 (c) Officers and employees of the gaming enforcement unit of
2287 the state police assigned to the commission pursuant to section
2288 70 of chapter 22C shall work with employees of the bureau, under
2289 the direction of the deputy director, to investigate violations

2290 of this chapter by any licensee under this chapter or any
2291 activity taking place on the premises of a gaming establishment.
2292 Officers assigned to work with the commission shall record their
2293 time and submit total hours to the commission. The commission
2294 shall reimburse the state police through monies appropriated
2295 from the gaming control fund pursuant to section 8.

2296 (d) The bureau shall notify the division of gaming enforcement
2297 in the office of the attorney general of any criminal violations
2298 by a gaming licensee. The bureau and the division shall
2299 cooperate on the regulatory and criminal enforcement of this
2300 chapter and may determine whether to proceed with civil or
2301 criminal sanctions, or both against said licensee.

2302 (e) To further effectuate the purposes of this chapter with
2303 respect to the investigation and enforcement of licensed gaming
2304 establishments and licensees, the bureau may obtain or provide
2305 pertinent information regarding applicants or licensees from or
2306 to law enforcement entities or gaming authorities and other
2307 domestic, federal or foreign jurisdictions, including the
2308 federal bureau of investigation, and may transmit such
2309 information to each other electronically.

2310 (f) The bureau, the division and the gaming enforcement unit
2311 of the department of state police shall have exclusive

2312 enforcement of any criminal violation that occurs inside a
2313 licensed gaming establishment under this chapter.

2314 **Section 34.** (a) The bureau shall have the authority to issue
2315 orders requiring persons to cease any activity which is in
2316 violation of the provisions of this chapter, any regulation
2317 adopted hereunder, or any law related to gaming in the
2318 commonwealth. The commission or bureau may, in its order,
2319 require compliance with such terms and conditions as are
2320 reasonably necessary to effect the purposes of this chapter.

2321 (b) If the bureau finds, in accordance with the procedures
2322 established in section 35 and the regulations adopted
2323 thereunder, that any person is not in compliance with any order
2324 issued pursuant to this section, it shall assess a civil
2325 administrative penalty on such person as provided in said
2326 section 35 and the regulations adopted thereunder. The penalty
2327 may be assessed whether or not the violation was willful. In
2328 determining the amount of the civil penalty, the bureau shall
2329 consider: (i) the nature of the violation; (ii) the length of
2330 time the violation occurred; (iii) the risk to the public and to
2331 the integrity of gaming operations created by the conduct of the
2332 licensee or registrant; (iv) the seriousness of the conduct of
2333 the licensee or registrant; (v) any justification or excuse for
2334 such conduct by the licensee or registrant; (vi) the prior

2335 history of the particular license or registrant involved with
2336 respect to gaming activity; (vii) any corrective action taken by
2337 the licensee or registrant to prevent future misconduct; (viii)
2338 and other relevant factors.

2339 (c) In addition to collecting any civil penalties recoverable
2340 under this chapter or any other general or special law, the
2341 bureau may bring an action in the superior court to restrain,
2342 prevent or enjoin any conduct prohibited by this chapter or to
2343 compel action to comply immediately and fully with any order
2344 issued by the bureau. Except in cases of emergency where, in the
2345 opinion of the court, immediate abatement of the unlawful
2346 conduct is required to protect the public interest, the court
2347 may in its decree fix a reasonable time during which the person
2348 responsible for the unlawful conduct may abate and correct the
2349 violation. The expense of the proceeding shall be recoverable
2350 from the licensee and deposited into the gaming revenue fund
2351 pursuant to section 52.

2352 (d) Upon a recommendation from the bureau, the commission
2353 shall issue orders to condition, suspend or revoke a license or
2354 permit issued under this chapter.

2355 (e) Notwithstanding the foregoing, the bureau shall be
2356 authorized to issue an order to cease and desist any activity if

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

2367 (f) Any licensee who has been issued a temporary order of
2368 suspension by the bureau shall be entitled to a hearing before
2369 the commission on such suspension within 7 days that the order
2370 was issued. At the conclusion of the hearing, the commission
2371 may issue a final order to condition, suspend or revoke the
2372 license in question.

2373 (g) Any licensee shall have the right to an adjudicatory
2374 hearing on an order issued by the bureau or commission pursuant
2375 to chapter 30A.

2376 **Section 35.** (a) The bureau may assess a civil administrative
2377 penalty on a licensee or registrant who fails to comply with any
2378 provision of this chapter or any regulation or order adopted by

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

2393 (b) For the purpose of determining whether such noncompliance
2394 was part of a pattern of noncompliance and not an isolated
2395 instance, the bureau shall consider without limitation the
2396 following: (i) whether the bureau had previously notified the
2397 person of such noncompliance on more than one occasion during
2398 the previous month or of any noncompliance with the same
2399 provision of a law, regulation, order, license or approval as
2400 the current noncompliance during the previous 6 month period; or
2401 (ii) whether the current and previous noncompliances, considered

2402 together, indicate a potential threat to the integrity of the
2403 gaming establishment and gaming in the commonwealth or an
2404 interference with the commission's ability to efficiently and
2405 effectively regulate gaming in the commonwealth and enforce any
2406 regulation, license or order. If a licensee or registrant who
2407 has received a notice of noncompliance fails to come into
2408 compliance within the time period stated in such notice, the
2409 civil administrative penalty may be assessed by the bureau upon
2410 such licensee or registrant from the date of receipt of such
2411 notice.

2412 (c) Whenever the bureau seeks to assess a civil administrative
2413 penalty on any licensee or registrant, the bureau shall cause to
2414 be served upon such licensee or registrant, either by service,
2415 in hand, or by certified mail, return receipt requested, a
2416 written notice of its intent to assess a civil administrative
2417 penalty which shall include a concise statement of the alleged
2418 act or omission for which such civil administrative penalty is
2419 sought to be assessed, each law, regulation, order, license or
2420 approval which has not been complied with as a result of such
2421 alleged act or omission, the amount which the bureau seeks to
2422 assess as a civil administrative penalty for each such alleged
2423 act or omission, a statement of such licensee's or registrant's
2424 right to an adjudicatory hearing on the proposed assessment, the

2425 requirements such licensee or registrant must comply with to
2426 avoid being deemed to have waived the right to an adjudicatory
2427 hearing and the manner of payment thereof if such person elects
2428 to pay the penalty and waive an adjudicatory hearing. After
2429 written notice of noncompliance or intent to assess a civil
2430 administrative penalty has been given, each such day thereafter
2431 during which such noncompliance occurs or continues shall
2432 constitute a separate offense and shall be subject to a separate
2433 civil administrative penalty if reasonable efforts have not been
2434 made to promptly come into compliance.

2435 (d) Whenever the bureau seeks to assess a civil administrative
2436 penalty on any licensee or registrant, such licensee or
2437 registrant shall have the right to an adjudicatory hearing under
2438 chapter 30A whose provisions shall apply except when they are
2439 inconsistent with the provisions of this chapter.

2440 (e) Such licensee or registrant shall be deemed to have waived
2441 such right to an adjudicatory hearing unless, within 21 days of
2442 the date of the bureau's notice that it seeks to assess a civil
2443 administrative penalty, such licensee or registrant files with
2444 the bureau a written statement denying the occurrence of any of
2445 the acts or omissions alleged by the bureau in such notice, or
2446 asserting that the money amount of the proposed civil
2447 administrative penalty is excessive. In any adjudicatory hearing

2448 authorized pursuant to chapter 30A, the bureau shall, by a
2449 preponderance of the evidence, prove the occurrence of each act
2450 or omission alleged by the bureau.

2451 (f) If a licensee or registrant waives his right to an
2452 adjudicatory hearing, the proposed civil administrative penalty
2453 shall be final immediately upon such waiver. If a civil
2454 administrative penalty is assessed at the conclusion of an
2455 adjudicatory hearing, said civil administrative penalty shall be
2456 final upon the expiration of 30 days if no action for judicial
2457 review of such decision is commenced pursuant to chapter 30A.

2458 (g) Any licensee or registrant who institutes proceedings for
2459 judicial review of the final assessment of a civil
2460 administrative penalty shall place the full amount of the final
2461 assessment in an interest-bearing escrow account in the custody
2462 of the clerk or magistrate of the reviewing court. The
2463 establishment of such an interest-bearing escrow account shall
2464 be a condition precedent to the jurisdiction of the reviewing
2465 court unless the party seeking judicial review demonstrates in a
2466 preliminary hearing held within 20 days of the filing of the
2467 complaint either the presence of a substantial question for
2468 review by the court or an inability to pay. Upon such a
2469 demonstration, the court may grant an extension or waiver of the
2470 interest-bearing escrow account or may require, in lieu of such

2471 interest-bearing escrow account, the posting of a bond payable
2472 directly to the commonwealth in the amount of 125 per cent of
2473 the assessed penalty. If, after judicial review, in a case where
2474 the requirement for an escrow account has been waived, and in
2475 cases where a bond has been posted in lieu of such requirement,
2476 the court affirms, in whole or in part, the assessment of a
2477 civil administrative penalty the commission shall be paid the
2478 amount thereof together with interest at the rate set forth in
2479 section 6C of chapter 231. If, after such review in a case where
2480 an interest-bearing escrow account has been established, the
2481 court affirms the assessment of such penalty, in whole or in
2482 part, the commission shall be paid the amount thereof together
2483 with the accumulated interest thereon in such interest-bearing
2484 escrow account. If the court sets aside the assessment of a
2485 civil administrative penalty in a case where the amount of such
2486 penalty has been deposited in an interest-bearing escrow
2487 account, the licensee or registrant on whom the civil
2488 administrative penalty was assessed shall be repaid the amount
2489 so set aside, together with the accumulated interest thereon.

2490 (h) Each licensee or registrant who fails to pay a civil
2491 administrative penalty on time, and each person who issues a
2492 bond pursuant to this section and who fails to pay to the
2493 commission on time the amount required hereunder, shall be

2494 liable to the commonwealth for up to 3 times the amount of the
2495 civil administrative penalty, together with costs, plus interest
2496 from the time the civil administrative penalty became final and
2497 attorneys' fees, including all costs and attorneys' fees
2498 incurred directly in the collection thereof. The rate of
2499 interest shall be the rate set forth in section 6C of chapter
2500 231. The bureau shall be authorized to require that the amount
2501 of a civil administrative penalty imposed pursuant to this
2502 section exceed any economic benefit realized by a person for
2503 noncompliance.

2504 **Section 36.** (a) Any person who willfully fails to report, pay,
2505 or truthfully account for and pay over any license fee or tax
2506 imposed by the provisions of this chapter or by the regulations
2507 promulgated hereunder, or willfully attempts in any manner to
2508 evade or defeat any such license fee, tax or payment thereof
2509 shall be punished by imprisonment in the state prison for not
2510 more than 5 years or in a jail or house of correction for not
2511 more than 2 and one-half years, or a fine of not more than
2512 \$100,000, or both such fine and imprisonment, and in the case
2513 of a person other than a natural person, the amount of a fine up
2514 to \$5,000,000.

2515 (b) Any person who willfully resists, prevents, impedes,
2516 interferes with, or makes any false, fictitious, or fraudulent

2517 statement or representation to the authority or to the division
2518 or to their agents or employees in the performance of their
2519 duties pursuant to this chapter shall be punished by
2520 imprisonment in the state prison for not more than 5 years or in
2521 a jail or house of correction for not more than 2 and one-half
2522 years, or a fine of not more than \$25,000, or both such fine or
2523 imprisonment.

2524 (c) Any person who conducts or operates, or permits to be
2525 conducted or operated, any game, electronic gaming equipment in
2526 violation of the licensing provisions of this chapter or the
2527 regulations adopted hereunder shall be punished by imprisonment
2528 in the state prison for not more than 5 years or imprisonment in
2529 a jail or house of correction for not more than 2 and one-half
2530 years, or a fine of not more than \$25,000, or both such fine or
2531 imprisonment, and in the case of a person other than a natural
2532 person, the amount of a fine up to \$100,000.

2533 (d) Any licensee who, without the permission of the authority,
2534 (1) places controlled games or electronic gaming equipment into
2535 play or displays such controlled games or electronic gaming
2536 equipment in gaming establishment or (2) receives, directly or
2537 indirectly, any compensation or reward or any percentage or
2538 share of the revenue, for keeping, running, or carrying on any
2539 controlled game, or owning the real property or location in

2540 which any controlled game occurs, shall be punished by
2541 imprisonment in a jail or house of correction for not more than
2542 2 and one-half years, or by a fine of not more than \$25,000, or
2543 both, and in the case of a person other than a natural person,
2544 the amount of a fine up to \$100,000.

2545 (e) Any person who conducts or operates any controlled game or
2546 electronic gaming equipment after his license has expired and
2547 prior to the actual renewal thereof shall be punished by
2548 imprisonment in a jail or house of correction for not more than
2549 1 and one-half years, or a fine of not more than \$25,000, or
2550 both such fine or imprisonment, and in the case of a person
2551 other than a natural person, the amount of a fine up to
2552 \$100,000.

2553 (f) In addition to the provisions of section 75 of chapter
2554 266, a person is guilty of swindling and cheating if the person
2555 purposely or knowingly by any trick or sleight of hand
2556 performance or by a fraud or fraudulent scheme, cards, dice, or
2557 other gaming equipment, for himself or for another or a
2558 representative of either, wins or attempts to win money or
2559 property, , or reduces a losing wager or attempts to reduce a
2560 losing wager in connection to controlled gaming.

2561 (g) The penalties for swindling and cheating offenses shall be
2562 as follows:

2563 Any person who swindles or cheats where the amount involved is
2564 \$75,000 or more shall be punished by imprisonment in the state
2565 prison for not more than 10 years, or in a jail or house of
2566 correction for not more than 2 and one-half years or by a fine
2567 of not more than \$1,000,000, or both such fine or imprisonment.

2568 Any person who swindles or cheats where the amount involved is
2569 \$10,000 or more and less than \$75,000 shall be punished by
2570 imprisonment in the state prison for not more than 5 years, or
2571 in a jail or house of correction for not more than 2 and one-
2572 half years or by a fine of not more than \$500,000, or both.

2573 Any person who swindles or cheats where the amount involved is
2574 \$1,000 or more and less than \$10,000 shall be punished by
2575 imprisonment in the state prison for not more than 3 years or
2576 imprisonment in a jail or house of correction for not more than
2577 2 and one-half years, or by a fine of not more than \$100,000, or
2578 both such fine and imprisonment.

2579 Any person who swindles or cheats where the amount involved is
2580 less than \$1,000 shall be punished by imprisonment in a jail or
2581 house of correction for not more than 2 and one-half years, or
2582 by a fine of not more than \$10,000, or both such fine or
2583 imprisonment.

2584 (h) Each episode or transaction of swindling or cheating may
2585 be the subject of a separate prosecution and conviction. In the
2586 discretion of the prosecutor, multiple episodes or transactions
2587 of swindling and cheating committed as part of a single scheme
2588 or course of conduct may be treated as a single offense, and the
2589 amounts involved in acts of swindling and cheating committed
2590 according to a scheme or course of conduct, whether by the same
2591 person or several persons, may be aggregated in determining the
2592 amount involved in the offense.

2593 (i) Any person, who in playing, conducting or operating a game
2594 in a licensed gaming establishment, uses or assists another in
2595 the use of (1) a computerized, electronic, electrical, or
2596 mechanical device, which is designed, constructed, or programmed
2597 specifically for use in obtaining an advantage in any game in a
2598 licensed casino or gaming establishment or (2) any other
2599 swindling or cheating device, including, but not limited to,
2600 bogus or counterfeit chips, coins or dice; coins or tokens
2601 attached to strings or wires; marked cards; electronic or
2602 magnetic devices; or tools, drills, wires, keys, or devices
2603 designed for the purpose of and suitable for opening, entering,
2604 or affecting the operation of any gaming equipment, or for
2605 removing money or other contents there from, shall be punished
2606 by imprisonment in the state prison for not more than 5 years or

2607 imprisonment in a jail or house of correction for not more than
2608 2 and one-half years, or by a fine of not more than \$25,000, or
2609 both such fine and imprisonment.

2610 (j) Any person who possesses any computerized, electronic,
2611 electrical, or mechanical device or other swindling or cheating
2612 device described in clause (1) of subsection (i) with the intent
2613 to defraud, cheat, or swindle shall be punished by imprisonment
2614 in a jail or house of correction for not more than 2 and one-
2615 half years, or a fine of not more than \$10,000, or both such
2616 fine or imprisonment.

2617 (k) Possession of any computerized, electronic, electrical, or
2618 mechanical device or other swindling or cheating device
2619 described in clause (1) of subsection (i) within a casino or
2620 gaming establishment shall constitute prima facie evidence of an
2621 intent to defraud, cheat or swindle, except that possession by
2622 any licensee, or employee of a licensee, acting in furtherance
2623 of his employment within a licensed casino or gaming
2624 establishment shall not constitute such prima facie evidence.

2625 (l) Any swindling or cheating device used or possessed in
2626 violation of this section shall be subject to seizure and
2627 forfeiture by the bureau.

2628 (m) It shall be unlawful for any licensee or employee to:
2629 knowingly conduct or operate, or allow to be conducted or
2630 operated, any swindling or cheating game or device; or knowingly
2631 conduct or operate or expose for play any game or games played
2632 with cards, dice, or any electronic or mechanical device, or any
2633 combination of games or devices, which have in any manner been
2634 marked or tampered with, or placed in a condition, or operated
2635 in a manner, the result of which tends to deceive the public or
2636 tends to alter the normal random selection of characteristics or
2637 the normal chance of the game or to alter the result of the
2638 game.

2639 (n) Any person who violates this section shall be punished by
2640 imprisonment in the state prison for not more than 5 years or
2641 imprisonment in a jail or house of correction for not more than
2642 2 and one-half years, or by a fine of not more than \$25,000, or
2643 both such fine and imprisonment, and in the case of a person
2644 other than a natural person, the amount of a fine up to
2645 \$100,000.

2646 (o) Any swindling or cheating game or device used in violation
2647 of this section shall be subject to seizure and forfeiture by
2648 the division.

2649 (p) Any person who manufactures, distributes, sells, or
2650 services any gaming equipment in violation of the provisions of

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

2659 (q) Any such unlawfully manufactured, distributed, sold, or
2660 serviced gaming equipment shall be subject to seizure and
2661 forfeiture by the division.

2662 (r) Any person who, without obtaining the requisite license or
2663 registration as provided in this chapter, works or is employed
2664 in a position whose duties would require licensing or
2665 registration under the provisions of this chapter shall be
2666 punished by imprisonment in a house of correction for not more
2667 than 6 months, or a fine of not more than \$10,000, or both.

2668 (s) Any person who employs or continues to employ an
2669 individual not duly licensed or registered under the provisions
2670 of this chapter in a position the duties of which require a
2671 license or registration under the provisions of this chapter
2672 shall be punished by imprisonment in a jail or house of
2673 correction for not more than 6 months, or by a fine of not more

2674 than \$10,000, or both such fine or imprisonment, and in the case
2675 of a person other than a natural person, the amount of a fine up
2676 to \$100,000.

2677 (t) Any person under the age of 21 who plays, places wagers
2678 at, or collects winnings from, whether personally or through an
2679 agent, any controlled game shall be punished by imprisonment in
2680 a jail or house of correction for not more than 6 months, or a
2681 fine of not more than \$1,000, or both such fine or imprisonment.

2682 (u) Any licensee or employee who knowingly allows a person
2683 under the age of 21 to play, place wagers at, or collect
2684 winnings from any controlled game, whether personally or through
2685 an agent, shall be punished by imprisonment in a jail or house
2686 of correction for not more than 1 year, or a fine of not more
2687 than \$10,000, or both such fine or imprisonment, and in the case
2688 of a person other than a natural person, the amount of a fine
2689 may be up to \$500,000. A subsequent violation of this section
2690 shall subject the licensee or employee to imprisonment in a
2691 house of correction for not more than 2 years, or a fine of not
2692 more than \$50,000, or both such fine or imprisonment, and in the
2693 case of a person other than a natural person, the amount of a
2694 fine up to \$1,000,000.

2695 (v) Any person who knowingly transmits or receives a wager of
2696 any type by any telecommunication device, including telephone,

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

2705 (w) This section shall apply to any person who, from within
2706 the commonwealth, transmits a wager to, or receives a wager
2707 from, another person or gaming establishment within or outside
2708 of the commonwealth (x) This section shall not apply to the use
2709 of a local area network as a means to place authorized wagers in
2710 a licensed gaming establishment, or use of said devices or
2711 equipment by the authority in its duties in regulating, enforcing
2712 or auditing a licensed gaming operator.

2713 (y) A licensee of a gaming establishment who knowingly fails
2714 to exclude from the premises of their licensed gaming
2715 establishment any person placed by the commission on the list of
2716 excluded persons shall be punished by a fine of not more than
2717 \$5,000 or by imprisonment in a jail or house of correction for
2718 not more than one year, or by both such fine and imprisonment.

2719 **Section 37.** All penalties collected pursuant to this chapter and
2720 any renewal fees for a gaming establishment shall be deposited
2721 into the gaming revenue fund established by section 52.

2722 **Section 38.** (a) The commission shall, by regulation, provide for
2723 the establishment of a list of excluded persons who are to be
2724 excluded or ejected from a gaming establishment. Such
2725 provisions shall include standards relating to persons: (1) who
2726 are repeat offenders as defined by the commission; (2) who are
2727 convicted of a criminal offense under the laws of any state or
2728 the United States, punishable by more than 6 months in prison or
2729 is a crime of moral turpitude; or (3) whose presence in a
2730 licensed gaming establishment would, in the opinion of the
2731 commission, pose an injurious threat to the interests of the
2732 commonwealth in the gaming establishment.

2733 (b) The commission shall further define categories of persons
2734 who shall be excluded pursuant to this section, including cheats
2735 and persons whose privileges for licensure or registration have
2736 been revoked. No person shall be placed on the list of excluded
2737 persons due to race, color, religion, national origin, ancestry,
2738 sexual orientation, disability or sex.

2739 (c) The commission shall impose sanctions upon a licensed
2740 gaming establishment if such establishment knowingly fails to

2741 exclude or eject from its premises any person placed by the
2742 commission on the list of excluded persons.

2743 (d) The list compiled by the commission of persons to be
2744 excluded shall not be deemed an all-inclusive list, and licensed
2745 gaming establishments shall have a duty to keep from their
2746 premises persons known to them to be within the classifications
2747 in subsection (a) or who whose presence in their establishment
2748 would be injurious to the interests of the gaming establishment
2749 itself or to the commonwealth, or both, as defined by standards
2750 set forth by the commission.

2751 (e) Upon petition by any unit under the commission or the
2752 division that the name of a person be placed on the list , the
2753 commission shall serve written notice upon such person by
2754 personal service, registered or certified mail return receipt
2755 requested to the last ascertainable address, or by publication
2756 in a daily newspaper of general circulation for 1 week.

2757 (f) Within 30 days of receipt of service by mail or 60 days
2758 after the last publication pursuant to subsection (c), a person
2759 placed on the list may request an adjudicatory hearing before
2760 the commission pursuant to chapter 30A and show cause as to why
2761 the name of said person should be removed from the list. If the
2762 commission determines that the regulation should not apply to
2763 the person, the commission shall remove them from the list and

2764 notify all gaming licensees under the chapter. Any such person
2765 aggrieved by a final decision of the commission in any
2766 adjudicatory proceeding under this section may petition for
2767 judicial review in accordance with the provisions of section 14
2768 of chapter 30A.

2769 (g) The commission shall establish a list of self-excluded
2770 persons from gaming activity at gaming establishments. A person
2771 may request his name to be placed on the list of self-excluded
2772 persons by filing a statement with the commission acknowledging
2773 that said person is a problem gambler and by agreeing that,
2774 during any period of voluntary exclusion, said person may not
2775 collect any winnings or recover any losses resulting from any
2776 gaming activity at a gaming establishment. The commission shall
2777 promulgate further regulations for the list of self-excluded
2778 persons including procedures for placement, removal and
2779 transmittal of such self-exclusion to gaming establishments.

2780 (h) A person who is prohibited from gaming in a gaming
2781 establishment pursuant to this section shall not collect any
2782 winnings or recover any losses arising as a result of any
2783 prohibited activity. Any winnings obtained by a prohibited
2784 persons shall be forfeited to the commission and deposited into
2785 the gaming revenue fund established by section 52.

2786 **Section 39.** (a) No applicant for a gaming license, nor any
2787 holding, intermediary or subsidiary company thereof, nor any
2788 officer, director, gaming key employee or principal employee of
2789 an applicant for or holder of a gaming license or of any
2790 holding, intermediary or subsidiary company thereof nor any
2791 person or agent on behalf of any such applicant, holder, company
2792 or person, shall directly or indirectly, pay or contribute any
2793 money or thing of value to any candidate for nomination or
2794 election to any public office in the commonwealth or to any
2795 group, political party, committee or association organized in
2796 support of any such candidate or political party; except that
2797 the provisions of this section shall not be construed to
2798 prohibit any individual who is a candidate for public office
2799 from contributing to the candidate's own campaign.

2800 (b) No political contributions or contributions in kind shall be
2801 made to the governing body of a host community of any gaming
2802 establishment by a gaming licensee under this act outside of the
2803 host community agreement approved by the Massachusetts gaming
2804 commission. Any such contributions made to a host community by
2805 an applicant prior to issuance of a gaming license by the
2806 commission shall be disclosed by the applicant. This provision
2807 shall not preclude charitable contributions to a host community
2808 which shall be disclosed by a licensee to the commission.

2809 **Section 40.** (a) A category 1 licensee shall pay a daily tax of
2810 25 per cent on gross gaming revenues.

2811 (b) Category 2 and category 3 licensees shall pay a daily tax
2812 of 40 per cent on gross gaming revenue.

2813 (c) In addition to the tax imposed under subsection (b),
2814 category 2 licensees shall pay a daily assessment of 8 per cent
2815 and category 3 licensees shall pay a daily assessment of 10 per
2816 cent of their gross gaming revenue to the Massachusetts race
2817 horse development fund established by section 53.

2818 (d) If a category 2 and a category 3 license merger is
2819 approved by the commission pursuant to section 20, the new
2820 category 2 licensee shall pay a daily assessment of 9 per cent
2821 of their gross gaming revenue to the Massachusetts race Horse
2822 Development Fund established by section 53.

2823 (e) Taxes imposed under this section shall be remitted to the
2824 commission by a gaming licensee the day following each day of
2825 wagering.

2826 **Section 41.** A category 1 licensee, a category 2 licensee and a
2827 category 3 licensee shall be subject to chapters 62 through 62E,
2828 inclusive, and chapters 63 through 63B, inclusive.

2829 **Section 42** Any liability to the commonwealth under this chapter
2830 shall constitute a debt to the commonwealth. Any such debt shall
2831 constitute a lien on all commercial property owned by a gaming
2832 licensee in the commonwealth, once a statement naming such
2833 licensee is recorded, registered or filed, and shall have
2834 priority over any encumbrance theretofore recorded, registered
2835 or filed with respect to any site.

2836 **Section 43.** Prior to disbursement of a prize in excess of \$600,
2837 a licensee shall review information furnished by the IV-D agency
2838 and by the department of revenue, as set forth in chapter 119A
2839 and in this section to ascertain whether the holder of a winning
2840 ticket owes past due child support to the commonwealth or to an
2841 individual to whom the IV-D agency is providing services, and to
2842 ascertain whether the holder of a winning ticket owes any past-
2843 due tax liability to the commonwealth. If the holder owes past-
2844 due child support or a past-due tax liability, the licensee
2845 shall notify the IV-D agency or the commonwealth, respectively,
2846 of the holder's name, address and social security number.
2847 Subsequent to statutory state and federal tax withholding, the
2848 licensee shall first disburse to the IV-D agency the full amount
2849 of the prize or such portion of the prize that satisfies the
2850 holder's past-due child support obligation and, if funds remain
2851 available after that disbursement, the licensee shall disburse

2852 to the department of revenue the full amount of the prize or
2853 such portion of the prize that satisfies the holder's past-due
2854 tax liability. The licensee shall disburse to the holder only
2855 that portion of the prize, if any, remaining after the holder's
2856 past-due child support obligation and the holder's past-due tax
2857 liability have been satisfied.

2858 **Section 44.** The division shall, on a monthly basis, transmit to
2859 the department of transitional assistance and to the IV-D
2860 agency, as set forth in chapter 119A, a list of all persons who
2861 were the holders of any winning ticket in excess of \$600.00 in
2862 the prior month. The information shall be provided in a format
2863 which is compatible with the automated data processing systems
2864 of said departments, to ensure the immediate identification of
2865 persons who may be receiving public assistance benefits. The
2866 information provided shall include the name, address and social
2867 security number of the holder of the winning ticket.

2868 **Section 45.** Unclaimed prize money shall be retained by the
2869 licensee for the person entitled thereto for 1 year after the
2870 drawing in which the prize was won. If no claim is made for said
2871 money within such year, the prize money shall be deposited in
2872 the gaming revenue fund established by section 52.

2873 **Section 46.** If the person entitled to a prize or any winning
2874 ticket is under the age of 21 years said prize shall be remitted

2875 to the commission and deposited into the gaming revenue fund
2876 established by section 52.

2877 **Section 47.** A gaming establishment, including any business
2878 located within such establishment, shall not be a certified
2879 project within the meaning of section 3F of chapter 23A. Gaming
2880 establishments shall not be designated an economic opportunity
2881 area within the meaning of section 3E of chapter 23A. Gaming
2882 establishments are not eligible for tax increment financing as
2883 set forth in section 59 of chapter 40 or special tax assessments
2884 set forth in section 3E of chapter 23A. Gaming establishments
2885 may not be classified and taxed as recreational land under the
2886 provisions of chapter 61B. Gaming establishments may not be
2887 designated as a development district within the meaning of
2888 chapter 40Q. Unless otherwise provided, a gaming establishment
2889 or any business located or to be located within a resort casino
2890 is not eligible for the following credits or deductions listed
2891 in chapter 62 or chapter 63: the investment tax credit under
2892 section 31A of chapter 63, the employment credit under section
2893 31C of chapter 63, the van pool credit under section 31E of
2894 chapter 63, the deduction for expenditures for industrial waste
2895 treatment or air pollution control under section 38D of chapter
2896 63, the deduction for compensation paid to an eligible business
2897 facility's employees domiciled in a section of substantial

2898 poverty under section 38F of chapter 63, the alternative energy
2899 sources deduction under section 38H of chapter 63, the research
2900 expense credit under section 38M of chapter 63, the economic
2901 opportunity area credit under section 6(g) of chapter 62, and
2902 section 38N of chapter 63, the abandoned building deduction
2903 under section 3B(a)(10) of chapter 62, and section 38O of
2904 chapter 63, the harbor maintenance tax credit under section 38P
2905 of chapter 63, the brownfields credit under section 6(j) of
2906 chapter 62, and section 38Q of chapter 63, the historic
2907 rehabilitation tax credit under section 6J of chapter 62 and
2908 section 38R of chapter 63, the automatic sprinkler system
2909 depreciation deduction under section 38S of chapter 63, and the
2910 credit for a solar water heating system under section 38T of
2911 chapter 63.

2912 **Section 48** The sale, assignment, transfer, pledge or other
2913 disposition of any security issued by a corporation, which holds
2914 a gaming license is conditional and shall be ineffective if
2915 disapproved by the commission. If at any time the commission
2916 finds that an individual owner or holder of any security of a
2917 corporate licensee or of a holding or intermediary company with
2918 respect thereto is not qualified under this chapter, and if as a
2919 result the corporate licensee is no longer qualified to continue
2920 as a gaming licensee in the commonwealth, the commission shall

2921 take any action necessary to protect the interests of the
2922 commonwealth including, but not limited to, suspension or
2923 revocation of the gaming license of the corporation.

2924 Each corporation which has been issued a gaming license
2925 pursuant to the provisions of this chapter shall file a report
2926 of any change of its corporate officers or members of its board
2927 of directors with the commission. No officer or director shall
2928 be entitled to exercise any powers of office until qualified by
2929 the commission.

2930 **Section 49.** The commission shall audit as often as the
2931 commission determines necessary, but not less than annually,
2932 the accounts, programs, activities, and functions of all
2933 licensees, and for said purpose the authorized officers and
2934 employees of the commission shall have access to such accounts
2935 at reasonable times and the commission may require the
2936 production of books, documents, vouchers and other records
2937 relating to any matter within the scope of such audit, except
2938 tax returns. The superior court shall have jurisdiction to
2939 enforce the production of records that the commission requires
2940 to be produced pursuant to this section, and the court shall
2941 order the production of all such records within the scope of any
2942 such audit. All such audits shall be conducted in accordance
2943 with generally accepted auditing standards established by the

2944 American Institute of Certified Public Accountants. In any audit
2945 report of the accounts, funds, programs, activities, and
2946 functions of a licensee issued by the commission, containing
2947 adverse or critical audit results, the commission may require a
2948 response, in writing, to such audit results. Such response shall
2949 be forwarded to the commission within 15 days of notification by
2950 the commission.

2951 On or before April 1 of each year, the commission shall submit
2952 a report to the clerks of the house of representatives and the
2953 senate who shall forward the same to the house and senate
2954 committees on ways and means which shall include, but not be
2955 limited to: (i) the number of audits performed under this
2956 section; (ii) a summary of findings under said audits; and (iii)
2957 the cost of each audit.

2958 **Section 50.** Unless the commission otherwise determines it to be
2959 in the best fiscal interests of the commonwealth, the commission
2960 shall utilize the services of a private testing laboratory that
2961 has obtained a license as a gaming vendor pursuant to section 26
2962 to perform the testing of slot machines and other gaming
2963 equipment, and may also utilize applicable data from any such
2964 private testing laboratory, or from a governmental agency of a
2965 state other than the Massachusetts, authorized to regulate slot
2966 machines and other gaming equipment.

2967 **Section 51.** There is hereby established and placed upon the books
2968 of the commonwealth a Gaming Licensing Fund which shall receive
2969 all licensing fees collected from applicants in receipt of a
2970 category 1, 2 or 3 gaming license. The fund shall expire on
2971 December 31, 2015. The commission shall be the trustee of the
2972 fund and shall transfer monies in the fund in order of the
2973 following provisions:-

2974 (1) \$15,000,000 to the community mitigation fund
2975 established by section 54;

2976 (2) \$5,000,000 to the General Fund to reimburse the
2977 General Fund for the initial regulatory costs of the
2978 commission;

2979 (3) \$40,000,000 to the local capital projects fund
2980 established by section 58;

2981 (4) \$50,000,000 shall be transferred to the Manufacturing
2982 Fund established by section 56;

2983 (5) \$25,000,000 shall be transferred to the Community
2984 College Fund established by section 57;

2985 (6) \$3,000,000 to the Massachusetts tourism fund
2986 established pursuant to section 35J of chapter 10;

2987 (7) Any remaining monies in the fund after disbursement to
2988 sections 1 through 6 shall be transferred to the
2989 commonwealth stabilization fund established by section 2H
2990 of chapter 29;

2991 **Section 52.** There is hereby established and placed upon the
2992 books of the commonwealth a Gaming Revenue Fund which shall
2993 receive revenues collected from the tax on gross gaming revenue
2994 received from gaming licensees. The commission shall be the
2995 trustee of the fund and shall transfer monies in the fund in
2996 accordance with the following provisions:-

2997 (1) Until a category 1 facility is operational, one hundred per
2998 cent of the revenue received from category 2 and category 3
2999 licensees shall be transferred to the gaming local aid fund
3000 established by section 55.

3001 (2) Upon the opening of a category 1 facility, all monies
3002 received into the fund shall be transferred as follows:-

3003 (a) One per cent shall be transferred to the Massachusetts
3004 tourism fund established pursuant to section 35J of chapter
3005 10;

3006 (b) Two per cent shall be transferred to the community
3007 mitigation fund established by section 54; provided,
3008 however, that said fund balance shall not exceed

3009 \$15,000,000. Funds in excess of \$15,000,000 shall be
3010 transferred to the local capital projects fund established
3011 by section 58;

3012 (c) Seven per cent shall be transferred to the local capital
3013 projects fund established by section 58;

3014 (d) Thirty per cent shall be transferred to the Gaming Local
3015 Aid Fund established by section 55.

3016 (e) Thirty per cent shall be transferred to the Commonwealth
3017 Stabilization Fund established by section 2H of chapter 29;
3018 and

3019 (f) Thirty per cent shall be transferred to the Education Fund
3020 established by section 59.

3021 **Section 53** (a) There is hereby established and placed upon the
3022 books of the commonwealth a Race Horse Development Fund to be
3023 administered by the commission. The commission shall make
3024 distributions from the race horse fund to each of the active and
3025 operating category 2 licensees conducting live racing.

3026 (b) Funds from the race horse development fund shall be
3027 distributed in proportion to the gross gaming revenue of each
3028 category 2 licensee; provided that the funds received by each

3029 licensee shall be allocated in accordance with the following
3030 provisions:

3031 (i) eighty per cent shall be deposited weekly into a
3032 separate, interest-bearing purse account to be established by
3033 and for the benefit of the horsemen. The earned interest on the
3034 account shall be credited to the purse account. Licensees shall
3035 combine these funds with revenues from existing purse agreements
3036 to fund purses for live races consistent with those agreements
3037 with the advice and consent of the horsemen;

3038 (ii) for a thoroughbred track, 16 per cent shall be
3039 deposited on a monthly basis into the Massachusetts thoroughbred
3040 breeding program authorized by the commission pursuant to
3041 section 2 of chapter 128;

3042 (iii) for a harness track, 8 per cent shall be deposited on
3043 a monthly basis into the Massachusetts standardbred breeding
3044 program authorized by the commission pursuant to section 2 of
3045 chapter 128 and an additional 8 per cent shall be deposited on a
3046 monthly basis into a standardbred breeder development program
3047 authorized by the commission;

3048 (iv) four per cent shall be used to fund health and pension
3049 benefits for the members of the horsemen's organizations
3050 representing the owners and trainers at the racetrack at which

3051 the category 2 licensee operates for the benefit of the
3052 organization's members, their families, employees and others in
3053 accordance with the rule and eligibility requirements of the
3054 organization, as approved by the commission. This amount shall
3055 be deposited within 5 business days of the end of each month
3056 into a separate account to be established by each respective
3057 horsemen's organization at a banking institution of its choice.
3058 Of this amount, the commission shall determine how much should
3059 be paid annually by the horsemen's organization to the
3060 thoroughbred jockeys or standardbred drivers organization at the
3061 racetrack at which the licensed racing entity operates for
3062 health insurance, life insurance or other benefits to active and
3063 disabled thoroughbred jockeys or standardbred drivers in
3064 accordance with the rules and eligibility requirements of that
3065 organization.

3066 **Section 54** (a) There shall be established and set up on the
3067 books of the commonwealth a separate fund to be known as the
3068 Community Mitigation Fund. The community fund shall consist of
3069 monies transferred under section **52** and all other monies
3070 credited or transferred to the fund from any other fund or
3071 source pursuant to law; provided, however, that the balance of
3072 the fund shall not exceed \$15,000,000.

3073 (b) The commission shall administer the fund and, without
3074 further appropriation, shall expend monies in the fund to assist
3075 contiguous communities in offsetting costs related to the
3076 construction and operation of a gaming facility including, but
3077 not limited to, communities and water and sewer districts in the
3078 vicinity of a gaming facility and public safety, including the
3079 office of the county district attorney.

3080 (c) Parties requesting appropriations from the community fund
3081 shall submit a written request for funding to the commission
3082 before February 1 of each year. The commission may hold a
3083 public hearing in the region of a gaming facility to provide
3084 parties with the opportunity to provide further information
3085 about their request for funds and shall distribute funds to
3086 requesting parties based on demonstrated need.

3087 **Section 55** There shall be established and set up on the books of
3088 the commonwealth a fund to be known as the Gaming Local Aid
3089 Fund. The gaming local aid fund shall consist of monies
3090 transferred under section 52 and all monies credited or
3091 transferred to the fund from any other fund or source pursuant
3092 to law.

3093 Notwithstanding any general or special law, rule or regulation
3094 to the contrary, monies from the gaming local aid fund shall be
3095 used in addition to the balance of the state lottery fund for

3096 distribution to cities and towns in accordance with the
3097 provisions of clause (c) of section 35 of chapter 10 and any
3098 monies so distributed shall be considered part of "General
3099 revenue sharing aid" for purposes of annual aid and contribution
3100 requirements established pursuant to chapter 70 or section 3 of
3101 the annual general appropriation act.

3102 **Section 56** There is hereby established and set up on the books
3103 of the commonwealth a fund to be known as the Manufacturing
3104 Fund. The manufacturing fund shall be credited any monies
3105 transferred under section 51 and all monies credited to or
3106 transferred to the fund from any other fund or source pursuant
3107 to law.

3108 **Section 57** There is hereby established and set up on the books
3109 of the commonwealth a fund to be known as the Community College
3110 Fund. The community college fund shall be credited any monies
3111 transferred under section 51 and all monies credited to or
3112 transferred to the fund from any other fund or source pursuant
3113 to law.

3114 **Section 58** There is hereby established and set up on the books
3115 of the commonwealth a fund to be known as the Local Capital
3116 Projects Fund. The local capital projects fund shall be credited
3117 any monies transferred under sections 51 or 52 and all monies

3118 credited to or transferred to the fund from any other fund or
3119 source pursuant to law.

3120 **Section 59** There is hereby established and set up on the books
3121 of the commonwealth a fund to be known as the Education Fund.
3122 The education fund shall be credited any monies transferred
3123 under section 52 and all monies credited to or transferred to
3124 the fund from any other fund or source pursuant to law.

3125 **Section 60** The commission shall continue to evaluate the
3126 progress of federally recognized tribes in the commonwealth as
3127 they proceed with any applications to place land into trust for
3128 the purposes of tribal economic development. The commission
3129 shall determine whether it would be in the best interest of the
3130 commonwealth to enter into any negotiations with said tribes for
3131 the purposes of establishing Class III gaming on tribal land and
3132 shall submit reports as it deems necessary, but not less than
3133 once a year, to the governor and the clerks of the senate and
3134 house of representatives detailing any land in trust issues as
3135 well as the financing capabilities of a proposed tribal casino.

3136 **Section 61.** There shall be a gaming policy advisory council
3137 consisting of 12 members: 1 of whom shall be the state
3138 treasurer, or his designee; 1 of whom shall be the attorney
3139 general, or his designee; 1 of whom shall be the chair of the
3140 commission; 1 of whom shall be the secretary of administration

3141 and finance, or his designee; 1 of whom shall be appointed by
3142 the senate president; 1 of whom shall be appointed by the
3143 speaker of the house of representatives; and 6 of whom shall be
3144 appointed by the governor, 1 of whom shall have an expertise in
3145 the treatment of gambling addiction, 1 of whom shall be a
3146 representative from the tourism industry, 1 of whom shall be a
3147 member of organized labor, 1 of whom shall be a representative
3148 from a licensed gaming establishment; and 2 of whom shall be
3149 appointed from the vicinity of each resort casino upon
3150 determination of the licensee and site location by the
3151 commission. Members of the council shall serve for a term of
3152 two years. The council shall convene after all members have
3153 been appointed to the commission and annually thereafter unless
3154 otherwise convened by the governor for the purpose of discussing
3155 matters of gaming policy. The recommendations concerning gaming
3156 policy made by the council pursuant to this section shall not be
3157 binding on the commission.

3158 **Section 62.** The commission shall annually submit a complete and
3159 detailed report of the commission's activities within 90 days
3160 after the end of the fiscal year to the clerk of the house of
3161 representatives, the clerk of the senate, the chairs of the
3162 joint committee on economic development and emerging

3163 technologies and the chairs of the house and senate committees
3164 on ways and means.

3165 **SECTION 13** Section 1 of chapter 32 of the General Laws, as
3166 appearing in the 2008 Official Edition, is hereby amended by
3167 inserting after the word "connector", in line 211, the following
3168 words:- , the Massachusetts Gaming Commission,.

3169

3170 **SECTION 14.** Section 2 of chapter 32A of the General Laws, as so
3171 appearing, is hereby amended by inserting after the word
3172 "authority", in line 12, the following words:- , the
3173 Massachusetts gaming commission.

3174 **SECTION 15.** Section 94 of chapter 41 of the General Laws, as so
3175 appearing, is hereby amended by inserting after the word "and",
3176 in line 7, the first time it appears, the following word:
3177 illegal.

3178 **SECTION 16.** Section 18D of chapter 58 of the General Laws is
3179 hereby repealed

3180 **SECTION 17.** Subsection (d)(1) of section 2 of chapter 62 of the
3181 General Laws, as so appearing, is hereby amended by inserting
3182 after paragraph (P) the following paragraph:-

3183 (Q) Losses from wagering transactions shall be allowed only to
3184 the extent of the gains from such transactions pursuant to
3185 section 165 of the Code..

3186 **SECTION 18.** Section 2 of chapter 62B of the General Laws, as so
3187 appearing, is hereby amended by striking out the seventh
3188 paragraph and inserting in place thereof the following
3189 paragraph:-

3190 Every person, including the United States, the commonwealth
3191 or any other state, or any political subdivision or
3192 instrumentality of the foregoing, making any payment of lottery
3193 or wagering winnings, which are subject to tax under chapter 62
3194 and which are subject to withholding under section 3402(q)
3195 without the exception for slot machines, and keno, and bingo
3196 played at licensed casinos in the commonwealth in subsection
3197 (q) (5) and (r) of the Internal Revenue Code shall deduct and
3198 withhold from such payment an amount equal to 5 percent of such
3199 payment, except that such withholding for purposes of this
3200 chapter shall apply to payments of winnings of \$600 or greater
3201 notwithstanding any contrary provisions of the Internal Revenue
3202 Code, as amended from time to time. For purposes of this
3203 chapter and chapter 62C, such payment of winnings shall be
3204 treated as if it were wages paid by an employer to an employee.
3205 Every person who is to receive a payment of winnings which is

3206 subject to withholding under this section shall furnish to the
3207 person making such payment a statement, made under penalties of
3208 perjury, containing the name, address and taxpayer
3209 identification number of the person receiving the payment and of
3210 each person entitled to any portion of such payment.

3211 **SECTION 19.** Said chapter 62Bis hereby further amended by
3212 striking out section 5, as so appearing, and inserting in place
3213 thereof the following section:-

3214 Section 5. Every employer required to deduct and withhold from
3215 an employee or payee a tax under section 2, or who would have
3216 been required under said section in the case of an employee to
3217 deduct and withhold a tax if the employee had not claimed any
3218 personal exemption or dependency exemptions, shall furnish to
3219 each such employee or payee in respect of the wages or other
3220 payments paid by such employer to such employee or payee during
3221 the calendar year, on or before January 31 of the succeeding
3222 year, or, if an employee's employment is terminated before the
3223 close of such calendar year, within 30 days from the day on
3224 which the last payment of wages is made, a written statement in
3225 duplicate showing the name of the employer, the name of the
3226 employee or payee and his social security account number, if
3227 any, the total amount of wages or other amounts subject to
3228 taxation under chapter 62, and the total amount deducted and

3229 withheld as tax. This statement may contain such other
3230 information as the commissioner may prescribe. The commissioner
3231 may grant reasonable extensions of time, not exceeding 60 days,
3232 for the furnishing of the statement.

3233 Every employer who fails to withhold or pay to the commissioner
3234 any sums required by this chapter to be withheld or paid shall
3235 be personally and individually liable therefore to the
3236 commonwealth. The term "employer," as used in this section and
3237 in section 11, includes any person or entity required to
3238 withhold tax from any payee, and includes an officer or employee
3239 of a corporation, or a member or employee of a partnership or
3240 limited liability company, who as such officer, employee or
3241 member is under a duty to withhold and pay over taxes in
3242 accordance with this section and section 2. Any sum withheld in
3243 accordance with section 2 shall be considered to be held in
3244 trust for the commonwealth.

3245 If an employer in violation of the provisions of this chapter
3246 fails to withhold the tax in accordance with section 2, and
3247 thereafter the tax against which such tax may be credited,
3248 pursuant to section 9, is paid, the tax so required to be
3249 withheld shall not be collected from the employer; but this
3250 paragraph shall in no case relieve the employer from liability

3251 for any penalties or addition to the tax otherwise applicable in
3252 respect of such failure to withhold.

3253 **SECTION 20.** The first paragraph of section 8 of chapter 62C of
3254 the General Laws, as so appearing, is hereby amended by striking
3255 out the last sentence and inserting in place thereof the
3256 following sentence:-The same basis of reporting shall be
3257 utilized for income that is subject to taxation or withholding
3258 under chapter 62 or 62B but is not subject to taxation or
3259 withholding under the Code.

3260 **SECTION 21.** Subsection (f) of section 38 of chapter 63 of the
3261 General Laws, as so appearing, is hereby amended by striking
3262 out the third paragraph and inserting in place thereof the
3263 following paragraph:- ",

3264 For the purposes of this subsection: (1) in the case of the
3265 licensing of intangible property, the income-producing activity
3266 shall be considered to be performed in the commonwealth to the
3267 extent that the intangible property is used in the commonwealth;
3268 (2) the corporation shall be considered to be taxable in the
3269 state of the purchaser if the tangible personal property is
3270 delivered or shipped to a purchaser in a foreign country; (3)
3271 sales of tangible personal property to the United States
3272 government or any agency or instrumentality thereof for purposes
3273 of resale to a foreign government or any agency or

3274 instrumentality thereof are not sales made in the commonwealth;
3275 (4) in the case of the sale, exchange or other disposition of a
3276 capital asset, as defined in paragraph (m) of section 1 of
3277 chapter 62, used in a taxpayer's trade or business, including a
3278 deemed sale or exchange of such asset, "sales" are measured by
3279 the gain from the transaction; (5) "security" means any
3280 interest or instrument commonly treated as a security as well as
3281 other instruments which are customarily sold in the open market
3282 or on a recognized exchange, including, but not limited to,
3283 transferable shares of a beneficial interest in any corporation
3284 or other entity, bonds, debentures, notes, and other evidences
3285 of indebtedness, accounts receivable and notes receivable, cash
3286 and cash equivalents including foreign currencies, and
3287 repurchase and futures contracts; (6) in the case of a sale or
3288 deemed sale of a business, the term "sales" does not include
3289 receipts from the sale of the business "good will" or similar
3290 intangible value, including, without limitation, "going concern
3291 value" and "workforce in place."; (7) to the extent authorized
3292 pursuant to the life sciences tax incentive program established
3293 by section 5 of chapter 23I, a certified life sciences company
3294 may be deemed a research and development corporation for
3295 purposes of exemptions under chapters 64H and 64I; and (8) in
3296 the case of a business deriving receipts from operating a gaming
3297 facility or otherwise deriving receipts from conducting a

3298 wagering business or activity, income-producing activity shall
3299 be considered to be performed in this commonwealth to the extent
3300 that the location of wagering transactions or activity that
3301 generated the receipts is in this commonwealth.

3302 **SECTION 22.** Section 2 of chapter 128 of the General Laws, as so
3303 appearing, is hereby amended by striking out, in line 99, the
3304 words "or dog".

3305 **SECTION 23.** Said section 2 of said chapter 128, as so
3306 appearing, is hereby further amended by striking out subsection
3307 (i).

3308 **SECTION 24.** Section 1 of chapter 128A of the General Laws, as so
3309 appearing, is hereby amended by striking out, in line 6, the
3310 words "state racing commission" and inserting in place thereof
3311 the following words:- Massachusetts gaming commission
3312 established pursuant to chapter 23K.

3313 **SECTION 25.** Chapter 128A of the General Laws is hereby
3314 repealed. .

3315 **SECTION 26.** Section 1 of chapter 128C of the General Laws, as
3316 appearing in the 2008 Official Edition, is hereby amended by
3317 striking out, in line 12, the words "state racing commission"
3318 and inserting in place thereof the following words:-

3319 Massachusetts gaming commission established pursuant to chapter
3320 23K.

3321 **SECTION 27.** Said chapter 128C of the General Laws is hereby
3322 repealed.

3323 **SECTION 28.** Section 1 of chapter 137 of the General Laws, as
3324 appearing in the 2008 Official Edition, is hereby amended by
3325 inserting after the words "gaming," in line 2, the following
3326 words:- ,except for gaming conducted in licensed gaming
3327 establishments pursuant to chapter 23K.

3328 **SECTION 29.** Section 2 of said chapter 137, as so appearing, is
3329 hereby amended by striking out, in line 2, the word "where" and
3330 inserting in place thereof the following words:- , except for
3331 an owner or operator of a licensed gaming establishment pursuant
3332 to chapter 23K, where.

3333 **SECTION 30.** Section 3 of said chapter 137, as so appearing, is
3334 hereby amended by inserting after the words "betting," in line
3335 5, the following words:- ,except for legalized gaming conducted
3336 pursuant to chapter 23K.

3337

3338 **SECTION 31.** Section 18 of chapter 139 of the General Laws, as so
3339 appearing, is hereby amended by inserting after the word "of",
3340 in line 6, the word:- illegal.

3341 **SECTION 32.** Section 177A of chapter 140 of the General Laws, as
3342 so appearing, is hereby amended by inserting after the word
3343 "machines", in line 12, the following words:- , and excluding
3344 slot machines as defined by chapter 23K.

3345 **SECTION 33.** Section 26A of chapter 180 of the General Laws, as
3346 so appearing, is hereby amended by striking out, in lines 4 and
3347 16, the following words " or dog".

3348 **SECTION 34.** The General Laws are hereby amended by inserting
3349 after chapter 267 the following chapter:-

3350 Chapter 267A

3351 Money Laundering

3352 Section 1. As used in this chapter, the following words shall,
3353 unless the context clearly requires otherwise, have the
3354 following meanings:-

3355 "Conducts", initiates, concludes or participates in initiating
3356 or concluding a transaction.

3357 "Criminal activity", a criminal offense punishable under the
3358 laws of the commonwealth by imprisonment in a state prison or a
3359 criminal offense committed in another jurisdiction punishable
3360 under the laws of that jurisdiction as a felony.

3361 "Financial institution", any: (1) bank as defined in section 1
3362 of chapter 167; (2) national banking association, bank, savings
3363 and loan, savings bank, cooperative bank, building and loan, or
3364 credit union organized under the laws of the United States; (3)
3365 banking association, bank, savings and loan, savings bank,
3366 cooperative bank, building and loan or credit union organized
3367 under the laws of any state; (4) any agency, agent, or branch of
3368 a foreign bank; (5) currency dealer or exchange; (6) any person
3369 or business engaged primarily in the cashing of checks; (7)
3370 person or business regularly engaged in the issuing, selling, or
3371 redeeming of traveler's checks, money orders or similar
3372 instruments; (8) broker or dealer in securities or commodities;
3373 (9) licensed transmitter of funds or other person or business
3374 regularly engaged in the transmission of funds to a foreign
3375 nation for others; (10) investment banker or investment company;
3376 (11) insurer; (12) dealer in precious metals, stones or jewels;
3377 (13) pawnbroker or scrap metal dealer; (14) telegraph or other
3378 communications company; (15) personal property or real estate
3379 broker; (16) dealer in vehicles, including, but not limited to,
3380 automobiles, aircraft and vessels; (17) operator of a betting or
3381 gambling facility; (18) travel agent; any thrift institution;
3382 any operator of a credit card system; or (19) any loan or
3383 finance company.

3384 "Monetary instrument", the currency and coin of the United
3385 States or any foreign country; any bank check, money order,
3386 stock, investment security, or negotiable instrument in bearer
3387 form or otherwise in such form that title passes upon delivery;
3388 gold, silver or platinum bullion or coins; diamonds, emeralds,
3389 rubies, or sapphires; any negotiable instrument including: bank
3390 checks, cashier's checks, traveler's checks, or monetary orders
3391 made payable to the order of a named party that have not been
3392 endorsed or which bear restrictive endorsements; poker chips,
3393 vouchers or other tokens exchangeable for cash by gaming
3394 entities; and credit cards, debit cards, gift cards, gift
3395 certificates, calling cards, or scrips.

3396 "Transaction", a purchase, sale, loan, pledge, gift, transfer,
3397 delivery, or other disposition, and with respect to a financial
3398 institution includes a deposit, withdrawal, bailment, transfer
3399 between accounts, exchange of currency, loan, extension of
3400 credit, purchase or sale of any stock, bond, certificate of
3401 deposit, or other monetary instrument, use of a safe deposit
3402 box, or any other payment, transfer, or delivery by, through, or
3403 to a financial institution, by whatever means effected.

3404 Section 2. Whoever knowingly: (1) engages in a transaction
3405 involving a monetary instrument or other property known to be
3406 derived from criminal activity with the intent to promote, carry

3407 on or facilitate criminal activity, or knowing that the
3408 transaction is designed in whole or in part either to conceal or
3409 disguise the nature, location, source, ownership or control of
3410 the property derived from criminal activity or to avoid a
3411 transaction reporting requirement of this chapter, of the United
3412 States, or of any other state; (2) transports or possesses a
3413 monetary instrument or other property that was derived from
3414 criminal activity; or (3) directs, organizes, finances, plans,
3415 manages, supervises, or controls the transportation of or
3416 transactions in monetary instruments or other property known to
3417 be derived from criminal activity or which a reasonable person
3418 would believe to be derived from criminal activity; is guilty of
3419 the crime of money laundering and shall be punished by
3420 imprisonment in the state prison for not more than 6 years or by
3421 a fine of not more than \$250,000 or twice the value of the
3422 property transacted, whichever is greater, or by both such
3423 imprisonment and fine; and for any subsequent offense shall be
3424 punished by imprisonment in the state prison for not less than 2
3425 years, but not more than 8 years or by a fine of not more than
3426 \$500,000 or 3 times the value of the property transacted,
3427 whichever is greater, or by both such imprisonment and fine.

3428 Section 3. (a) A financial institution shall file with the
3429 attorney general a copy of any and all reports required by the

3430 Currency and Foreign Transactions Act, set forth in 31 U.S.C.,
3431 sections 5311 through 5315, 31 C.F.R. 103.

3432 (b) A financial institution, or any officer, employee, or
3433 agent thereof that maintains and files a record in reliance of
3434 this section shall not be liable to its customer, to a state or
3435 local agency, or to any person for any loss or damage caused in
3436 whole or in part by the making, filing, or governmental use of
3437 the report, or any information contained therein. Nothing in
3438 this chapter shall be construed to give rise to a private cause
3439 of action for relief or damages. This paragraph does not
3440 preclude a financial institution, in its discretion, from
3441 instituting contact with, and thereafter communicating with and
3442 disclosing customer financial records to appropriate federal,
3443 state, or local law enforcement agencies when the financial
3444 institution has reason to suspect that the records or
3445 information demonstrate that the customer has violated any
3446 provisions of this chapter.

3447 (c) Any report, record, or information obtained by the
3448 attorney general pursuant to this section is not a public record
3449 and is not subject to disclosure, except to other state and
3450 federal law enforcement agencies.

3451 (d) Any violation of this section, which is not a violation of
3452 section 2, shall be punished by a fine of \$100 for each report
3453 not filed.

3454 Section 4. All monetary instruments or other property, real or
3455 personal, obtained directly as a result of a violation of
3456 section 2 of this chapter, shall be subject to forfeiture to the
3457 commonwealth.

3458 **SECTION 35.** Section 1 of chapter 271 of the General Laws, as
3459 appearing in the 2008 Official Edition, is hereby amended by
3460 inserting after the word "gaming", in lines 3 and 4, the
3461 following words:- ,except as permitted under chapter 23K.

3462 **SECTION 36.** Section 2 of said chapter 271, as so appearing, is
3463 hereby amended by inserting after the words "playing", in line
3464 4, the following words:- ,except as permitted under chapter 23K.

3465 **SECTION 37.** Section 3 of said chapter 271, as so appearing, is
3466 hereby amended by inserting after the words "gaming", in line 3,
3467 the following words:- ,except as permitted under chapter 23K.

3468 **SECTION 38.** Section 5 of said chapter 271, as so appearing, is
3469 hereby amended by inserting after the words "thing,", in line 7,
3470 the following words:- except as permitted under chapter 23K.

3471

3472 **SECTION 39.** The second paragraph of section 5A of chapter 271,
3473 as so appearing, is hereby amended by adding the following
3474 sentence:-

3475
3476 This section shall not apply to persons who manufacture,
3477 transport, sell, offer for sale, store, display, repair,
3478 recondition, possess or use any gambling device or parts for use
3479 therein for controlled gaming conducted under chapter 23K.

3480
3481 **SECTION 40.** Section 6 of said chapter 271, as so appearing, is
3482 hereby amended by striking out, in lines 3 and 4, the words
3483 "gambling or unlawful game and inserting in place thereof the
3484 words:- illegal gaming.

3485 **SECTION 41.** Section 7 of said chapter 271, as so appearing, is
3486 hereby amended by inserting after the word "device", in line 7,
3487 the first time it appears, the following words:- that is taking
3488 place in a legalized gaming establishment pursuant to chapter
3489 23K, .

3490 **SECTION 42.** Said chapter 271 is hereby further amended by
3491 striking out section 8, as so appearing, and inserting in place
3492 thereof the following section:

3493

3494 Section 8. Whoever owns, occupies, or is in control of a house,
3495 shop or building and knowingly permits the establishing,
3496 managing or drawing of such lottery, or such disposal or attempt
3497 to dispose of property, or the sale of a lottery ticket or share
3498 of a ticket, or any other writing, certificate, bill, token or
3499 other device purporting or intended to entitle the holder,
3500 bearer or any other person to a prize or to a share of or
3501 interest in a prize to be drawn in a lottery, or in such
3502 disposal or property, and whoever knowingly suffers money or
3503 other property to be raffled for or won by throwing or using
3504 dice or by any other game of chance that is not being conducted
3505 in a legalized gaming facility pursuant to chapter 23K, shall be
3506 punished by a fine of not more than \$2000 or by imprisonment in
3507 a jail or house of correction for not more than 1 year.

3508

3509 **SECTION 43.** Section 14 of said chapter 271, as so appearing, is
3510 hereby further amended by inserting after the word " by", in
3511 line 3, the first time it appears, the following words:-
3512 illegal games of.

3513

3514 **SECTION 44.** Section 16A of said chapter 271, as so appearing, is
3515 hereby amended by inserting after the word "wagerers", in line
3516 14, the following words:- or to persons who organize, supervise,

3517 manage or finance persons for the purpose of controlled gaming
3518 conducted under chapter 23K.

3519 **SECTION 45.** Section 17 of said chapter 271, as so appearing, is
3520 hereby amended by adding the following sentence:-

3521 This section shall not apply to persons who organize, supervise,
3522 manage or finance persons for the purpose of controlled gaming
3523 conducted under chapter 23K.

3524 **SECTION 46.** Section 19 of said chapter 271, as so appearing, is
3525 hereby amended by inserting after the word "hazard", in line 16,
3526 the following words:- ; provided, however, that this section
3527 shall not apply to advertising of legalized gaming conducted
3528 pursuant to chapter 23K.

3529

3530 **SECTION 47.** Section 20 of said chapter 271, as so appearing, is
3531 hereby amended by inserting after the word "used", in line 17,
3532 the following words:- ;provided, however that this section
3533 shall not apply to advertising of legalized gaming conducted
3534 pursuant to chapter 23K.

3535

3536 **SECTION 48.** Section 22 of said chapter 271, as so appearing, is
3537 hereby amended by inserting after the word " of", in line 6, the
3538 third time it appears, the following word:- illegal.

3539 **SECTION 49.** Section 23 of said chapter 271, as so appearing, is
3540 hereby amended by inserting after the word "for", in line 28,
3541 the following words:-; provided, however, that such provision
3542 shall not apply to legalized gaming conducted pursuant chapter
3543 23K.

3544

3545 **SECTION 50.** Section 28 of said chapter 271, as so appearing, is
3546 hereby amended by inserting after the word "of", in line 3, the
3547 third time it appears, the following word:- illegal.

3548 **SECTION 51.** Section 31 of said chapter 271, as so appearing, is
3549 hereby amended by inserting after the word "both", in line 8,
3550 the following words:- ;provided, however, that this section
3551 shall not apply to legalized racing conducted pursuant to
3552 chapter 23K.

3553

3554 **SECTION 52.** The General Laws are hereby amended by inserting
3555 after chapter 271 the following new chapter:-

3556

3557

Chapter 271A

3558

Enterprise Crime

3559

3560 Section 1. As used in this chapter, the following words shall,
3561 unless the context clearly requires otherwise, have the
3562 following meanings:-

3563 "Criminal enterprise activity", to commit ,attempt to commit,
3564 conspire to commit, or solicit, coerce, aid, abet, or intimidate
3565 another to commit any of the following criminal activity under
3566 the laws of the commonwealth or equivalent crimes under the laws
3567 of any other jurisdiction: murder; rape; manslaughter; assault;
3568 assault and battery; mayhem; robbery; extortion; stalking;
3569 criminal harassment; kidnapping; arson; burglary; malicious
3570 destruction of property; commission of a felony for hire;
3571 breaking and entering; child exploitation; poison; human
3572 trafficking; violation of constitutional rights; usury;
3573 uttering; misuse or fraudulent use of credit cards; identity
3574 fraud; misappropriation of funds; gross fraud; insurance fraud;
3575 prize fighting; boxing matches; counterfeiting; perjury;
3576 subornation of perjury; obstruction of justice; money
3577 laundering; witness intimidation; bribery; electronic
3578 eavesdropping; prostitution; receiving stolen property; larceny
3579 over \$250.00; larceny by false pretenses or/embezzlement;
3580 forgery; prohibited financial interest; procurement fraud; false
3581 claims; tax evasion; filing false tax return; crimes involving
3582 violations of laws relating to gambling and lottery; gift;
3583 liquor; tobacco s; firearms; securities; lobbying; ethics;

3584 conflict of interest child and elder abuse; or any conduct
3585 defined as a racketeering activity under Title 18, U.S.C. s.
3586 1961(1) (A) (B) and (D).

3587

3588 "Enterprise", any individual, sole proprietorship, partnership,
3589 corporation, trust or other legal entity, or any unchartered
3590 union, association or group of persons associated in fact
3591 although not a legally recognized entity, and including unlawful
3592 and lawful enterprises and governmental and other entities.

3593

3594 "Pattern of criminal enterprise activity", engaging in at least
3595 two incidents of criminal enterprise activity that have the same
3596 or similar pattern, intents, results, accomplices, victims or
3597 methods of commission, or are otherwise interrelated by
3598 distinguishing characteristics and are not isolated incidents;
3599 provided Y at least 1 of the acts occurred after the effective
3600 date of this act and the last of the incidents occurred within 5
3601 years after a prior commission of criminal enterprise activity.

3602

3603 "Unlawful debt", a debt incurred or contracted in an illegal
3604 gambling activity or business or which is unenforceable under
3605 state or federal law in whole or part as to principal or
3606 interest because of the law relating to usury.

3607

3608 Section 2. Whoever knowingly: (1) through a pattern of criminal
3609 enterprise activity or through the collection of an unlawful
3610 debt, receives anything of value or acquires or maintains,
3611 directly or indirectly, any interest in or control of any
3612 enterprise; (2) has received any proceeds derived, directly or
3613 indirectly, from a pattern of criminal enterprise activity or
3614 through the collection of an unlawful debt, to use or invest,
3615 directly or indirectly, any part of the proceeds including
3616 proceeds derived from the investment, in the acquisition of any
3617 interest in real property, or in the establishment or operation
3618 of, any enterprise; (3) is employed by or associated with any
3619 enterprise to conduct or participate, directly or indirectly, in
3620 the conduct of the enterprise's affairs by engaging in a pattern
3621 of criminal enterprise activity or through the collection of an
3622 unlawful debt; or (4) conspires or attempts to violate
3623 subsections (a), (b), or (c) of this section; is guilty of
3624 enterprise crime and shall be punished by imprisonment in the
3625 state prison for not more than 3 years and not more than 15
3626 years or by a fine of not more than \$25,000, or by both such
3627 imprisonment and fine.

3628 A purchase of securities on the open market for purposes of
3629 investment, and without the intention of controlling or
3630 participating in the control of the issuer, or of assisting
3631 another to do so, shall not be unlawful under this section if

3632 the securities of the issuer held by the purchaser, the members
3633 of his immediate family, and his or their accomplices in any
3634 pattern of criminal activity or the collection of an unlawful
3635 debt after such purchase do not amount in the aggregate to one
3636 percent of the outstanding securities of any one class and do
3637 not confer, either in law or in fact, the power to elect one or
3638 more directors of the issuer.

3639 Section 3. All monetary proceeds or other property, real or
3640 personal, obtained directly as a result of a violation of this
3641 chapter, shall be subject to seizure and forfeiture to the
3642 commonwealth.

3643

3644 **SECTION 53.** Section 39 of chapter 272 of the General Laws, as
3645 appearing in the 2008 Official Edition, is hereby amended by
3646 inserting after the word "in", in line 7, the following word:-
3647 illegal.

3648

3649 **SECTION 54.** Section 99 of said chapter 272, as so appearing, is
3650 hereby amended by inserting after the word "forgery,", in line
3651 68, the word:- illegal.

3652

3653 **SECTION 55** . Said section 13 of said chapter 494, as most
3654 recently amended by section 2 of chapter 114 of the acts of
3655 1991, is hereby further amended by striking out clause (c).

3656 **SECTION 56.** Clause (d) of said section 13 of said chapter 494,
3657 as appearing in said section 2 of said chapter 114, is hereby
3658 amended by striking out, in line 21, the words "(b) or (c)" and
3659 inserting in place thereof the following words:- and (b).

3660 **SECTION 57.** Said section 13 of said chapter 494, as most
3661 recently amended by said section 2 of said chapter 114, is
3662 hereby further amended by striking out subsection (f)

3663

3664 **SECTION 58.** The first paragraph of section 12A of chapter 494 of
3665 the acts of 1978 is hereby amended by striking out the words
3666 "and until July 31, 2010", inserted by section 1 of chapter 167
3667 of the acts of 2009, and inserting in place thereof the
3668 following words:- December 31, 2014.

3669 **SECTION 59.** The last paragraph of said section 12A of said
3670 chapter 494 is hereby amended by striking out the words "July
3671 31, 2010", inserted by section 2 of said chapter 167, and
3672 inserting in place thereof the following words:- December 31,
3673 2014.

3674 **SECTION 60.** The introductory paragraph of section 13 of said
3675 chapter 494 is hereby amended by striking out the words "and
3676 until July 31, 2010", inserted by section 3 of said chapter 167,
3677 and inserting in place thereof the following words:- and until
3678 December 31, 2014.

3679

3680 **SECTION 61.** Section 15 of said chapter 494 is hereby amended by
3681 striking out the words "and until July 31, 2010", inserted by
3682 section 4 of said chapter 167, and inserting in place thereof
3683 the following words:- and until December 31, 2014.

3684

3685 **SECTION 62.** The first paragraph of section 9 of chapter 277 of
3686 the acts of 1986 is hereby amended by striking out the words
3687 "and until July 31, 2010", inserted by section 5 of said chapter
3688 167, and inserting in place thereof the following words:- and
3689 until December 31, 2014.

3690 **SECTION 63.** The first sentence of the first paragraph of
3691 section 3 of chapter 114 of the acts of 1991 is hereby amended
3692 by striking out the words "and until July 31, 2010", inserted by
3693 section 6 of said chapter 167, and inserting in place thereof
3694 the following words:- and until December 31, 2014.

3695

3696 **SECTION 64.** The last paragraph of said section 3 of said
3697 chapter 114 is hereby amended by striking out the words "July

3698 31, 2010", inserted by section 7 of said chapter 167, and
3699 inserting in place thereof the following words:- December 31,
3700 2014.

3701

3702 **SECTION 65.** The first paragraph of section 4 of said chapter
3703 114 is hereby amended by striking out the words "and until July
3704 31, 2010", inserted by section 8 of said chapter 167, and
3705 inserting in place thereof the following words:- and until
3706 December 31, 2014.

3707

3708 **SECTION 66.** The last paragraph of said section 4 of said
3709 chapter 114 is hereby amended by striking out the words "July
3710 31, 2010", inserted by section 9 of said chapter 167, and
3711 inserting in place thereof the following words:- December 31,
3712 2014.

3713

3714 **SECTION 67.** The first paragraph of section 5 of said chapter
3715 114 is hereby amended by striking out the words "and until July
3716 31, 2010", inserted by section 10 of said chapter 167, and
3717 inserting in place thereof the following words:- and until
3718 December 31, 2014.

3719

3720 **SECTION 68.** Section 13 of chapter 101 of the acts of 1992 is
3721 hereby amended by striking out the words "July 31, 2010",

3722 inserted by section 11 of said chapter 167, and inserting in
3723 place thereof the following words:- December 31, 2014.

3724

3725 **SECTION 69.** Section 45 of chapter 139 of the acts of 2001 is
3726 hereby amended by striking out the words "July 31, 2010",
3727 inserted by section 12 of said chapter 167, and inserting in
3728 place thereof the following words:- December 31, 2014.

3729

3730 **SECTION 70.** Section 20 of chapter 449 of the acts of 2006 is
3731 hereby amended by striking out the words "July 31, 2010",
3732 inserted by section 13 of said chapter 167, and inserting in
3733 place thereof the following words:- December 31, 2014.

3734 **SECTION 71.** Notwithstanding any general or special law to the
3735 contrary, in making initial appointments to the board of
3736 directors of the Massachusetts gaming commission established
3737 pursuant to section 3 of chapter 23K of the General Laws, the
3738 governor, the attorney general and the treasurer and receiver
3739 general, by majority agreement, shall appoint 1 commissioner to
3740 serve for a term of 3 years, 1 commissioner to serve for a term
3741 of 4 years, 1 commissioner to serve for a term of 5 years, 1
3742 commissioner to serve for a term of 6 years, and 1 commissioner
3743 to serve for a term of 7 years.

3744 **SECTION 72.** Notwithstanding any general or special law to the
3745 contrary, the vote of a municipality required pursuant to
3746 section 16 of chapter 23K of the General Laws shall occur after
3747 the effective date of this act.

3748 **SECTION 73.** Pursuant to section 2 of chapter 1194, 64 Stat.
3749 1134, 15 U.S.C. 1171-1177, approved January 2, 1951, the
3750 commonwealth, acting by and through duly elected and qualified
3751 members of the general court, does declare and proclaim that the
3752 commonwealth shall be exempt from the provisions of chapter
3753 1194, 64 Stat. 1134, 15 U.S.C. 1171 to 1178 for any gambling
3754 device authorized for use and transport under chapter 23K of the
3755 General Laws and any regulations promulgated thereunder.

3756 **SECTION 74.** All shipments of gambling devices into the
3757 commonwealth, including slot machines, the registering,
3758 recording and labeling of which has been duly had by the
3759 manufacturer or dealer thereof in accordance with sections 3 and
3760 4 of an Act of Congress of the United States entitled "An act to
3761 prohibit transportation of gambling devices in interstate and
3762 foreign commerce," approved January 2, 1951, being chapter 1194,
3763 64 Stat. 1134, and also designated as 15 USC §§ 1171-1177 ,
3764 shall be deemed legal shipments thereof into this commonwealth.

3765 **SECTION 75.** Notwithstanding any general or special law to the
3766 contrary, the Massachusetts gaming commission shall analyze the

3767 pari-mutuel and simulcasting statutes in effect as of the
3768 effective date of this act. Said analysis shall include a review
3769 of the efficacy of said statutes and the need to replace said
3770 statutes pursuant to the sunset of chapters 128A and 128C of the
3771 General Laws established under this act. Said review shall not
3772 include a review of whether to increase the number of running
3773 horse, harness horse or greyhound racing meeting licensees. Said
3774 commission shall report its finding together with legislation,
3775 if any, to the clerks of the house of representatives and senate
3776 and to the chairs of the joint committee on economic development
3777 and emerging technologies no later than January 1, 2013.

3778 **SECTION 76.** Section 25 and 27 of this act shall take effect on
3779 July 31, 2014.