

**SENATE . . . . . No. 2039**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Morrissey, Michael (SEN)**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act revitalizing live racing in the Commonwealth.**

PETITION OF:

NAME:

Morrissey, Michael (SEN)

DISTRICT/ADDRESS:

Norfolk and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S00217 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT REVITALIZING LIVE RACING 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. Chapter 6 of the General Laws is hereby amended by striking out section  
2 48, as appearing in the 2004 Official Edition, and inserting in place thereof the following  
3 section:- Section 48. The state lottery and gaming commission shall oversee and execute the  
4 duties of chapter 128, chapter 128A and any other general or special law involving the state  
5 racing commission.

6           SECTION 2. The General Laws are hereby amended by striking out chapter 12B.

7           SECTION 3. Section 23 of chapter 10 of the General Laws, as appearing in the 2004  
8 official edition, is amended in line 1 and line 2 by striking out the words “state lottery  
9 commission” and inserting in place thereof the following words:- state lottery and gaming  
10 commission.

11           SECTION 4. Said Chapter 10 of the General Laws is hereby amended by inserting after  
12 section 24A, as so appearing, the following:-

13           Section 24B. Notwithstanding any general or special law to the contrary, the commission  
14 is shall implement chapter 10A, chapter 128A, and chapter 128C, any special or general law that  
15 pertains to chapter 10A, chapter 128A, and chapter 128C, and any special or general law as it  
16 pertains to live and simulcast racing, to exercise all powers granted thereunder, and to  
17 promulgate all rules and regulations necessary thereof.

18           When exercising its duties under chapter 10A, chapter 128A, and chapter 128C, the  
19 commission shall comply with the following:

20           (a)     Except as otherwise provided herein, meetings of the commission shall be subject  
21 to sections 11A and 11A1/2 of chapter 30A. A quorum shall be the chairman and not less than 2  
22 other members of the commission. A public record of every vote shall be maintained at the  
23 division of racing and gaming.

24           (b)     The commission shall conduct hearings in accordance with the provisions of  
25 chapter 30A, provided, however, that clause 3 of section 11 of chapter 30A shall not apply. The  
26 commission may issue subpoenas for the attendance of witnesses or the production of any  
27 records, books, memoranda, documents, or other papers, or things, at or prior to any hearing as is  
28 necessary to enable the commission to discharge its duties, and may administer oaths or  
29 affirmations as necessary in connection therewith. The commission may petition the superior  
30 court for an order requiring compliance with any subpoena at issue.

31           (c)     The commission may require any person to apply for a license as provided in this  
32 chapter and approve or disapprove any such application or other transactions, events, and  
33 processes as provided in this chapter. Any application to receive any license under this chapter

34 shall constitute a request for a determination of the applicant's general character, integrity, and  
35 ability to participate or engage in, or be associated with, gaming.

36 (d) The commission shall make an annual report of its activities to the general court  
37 by March 31, for the prior calendar year.

38 (e) The commission shall prohibit any license from being assigned either in whole or  
39 in part.

40 (f) The commission may issue regulations providing for a fine or penalty or interest  
41 on such fine or penalty, upon any gaming licensee, for violation of this chapter. The commission  
42 may approve or disapprove transactions and events as provided in this chapter, take actions  
43 reasonably designed to ensure that no unsuitable persons are associated with controlled gaming,  
44 and take actions reasonably designed to ensure that gaming activities take place only in suitable  
45 premises.

46 (g) The commission shall, pursuant to sections 2 and 3 of chapter 30A, promulgate  
47 regulations necessary to carry out the powers and the provisions of this chapter, chapter 128A,  
48 and chapter 128C; and specifically shall promulgate regulations as to the following matters:

49 (1) the licensing of gaming establishments, including regulations relating to the types of  
50 establishments, application process, background checks, license fees, bonding requirements, and  
51 revocation and suspension of licenses;

52 (2) the licensing of gaming suppliers, including regulations relating to the application  
53 process, background checks, license fees, bonding requirements, and revocations and suspension  
54 of licenses;

55 (3) the licensing of parties in interest, including regulations relating to the application  
56 process, background checks, license fees, bonding requirements, and revocation and suspension  
57 of licenses;

58 (4) the issuance of one or more classes of work permits, including regulations relating to  
59 the application process, background checks, fees, and revocation and suspension of work  
60 permits;

61 (5) the licensing of gaming schools, if any such school is established in the  
62 commonwealth, including regulations relating to the application process, background checks,  
63 license fees, and revocation and suspension of licenses;

64 (6) the licensing of all officers and directors of any entity which holds or applies for a  
65 license under this chapter, including regulations relating to application process, background  
66 checks, licensee fees, and revocation and suspension of licenses; and regulations requiring that, if  
67 in the judgment of the commission the public interest will be served by requiring any of the  
68 individual stockholders, key executives, agents or other employees of any entity which holds or  
69 applies for a license under this chapter to be licensed, such individuals apply for a license under  
70 this paragraph;

71 (7) the monitoring of licensees to ensure compliance with this chapter and the regulations  
72 promulgated thereunder;

73 (8) the presentation and/or display of all licenses and work permits;

74 (9) the registration and licensing of non-gaming suppliers;

75 (10) the method for collecting any fines, fees, penalties and interest imposed by the  
76 commission;

77 (11) the method and standards of operation of licensed gaming establishments including,  
78 but not limited to, games, the type and manner of gaming, wagering limitations, odds, and hours  
79 of operation; provided, however, the commission shall not restrict the number of hours of  
80 operation of any licensed gaming establishment to fewer hours than of any competing licensed  
81 gaming establishment

82 (12) the manufacturing, distribution, sale, testing, servicing, and inspection of gaming  
83 equipment, including requirements for the identification and licensing of same. The commission  
84 may contract with an independent testing laboratory to conduct any necessary testing under this  
85 section. The independent testing laboratory must have a national reputation which is  
86 demonstrably competent and qualified to scientifically test and evaluate slot machines for  
87 compliance with this chapter and to otherwise perform the functions assigned to it in this chapter.  
88 An independent testing laboratory shall not be owned or controlled by a licensee. The use of an  
89 independent testing laboratory for any purpose related to the conduct of slot machine gaming by  
90 a licensee under this chapter shall be made from a list of one or more laboratories approved by  
91 the commission.

92 (13) any limitations on mortgage security interests and agreements relating to the  
93 property of licensed gaming establishments;

94 (14) any limitations on transfers of interests in licenses;

95 (15) advertising by licensed gaming establishments; provided, however, licensees shall  
96 have the right to conduct reasonable advertising consistent with that of competing gaming  
97 facilities, and the State Lottery;

98 (16) the manner in which winnings, compensation from games, and gaming devices must  
99 be compiled and reported by the commission, provided, further, electronic gaming devices shall  
100 return as winnings at a minimum 85% of all sums wagered.

101 (17) standards for protection of the health, safety, and security of the public at licensed  
102 gaming establishments;

103 (18) the minimum procedures to be adopted by each licensed gaming establishment to  
104 exercise effective supervisory and management control over its fiscal affairs, including the  
105 requirement of an annual audit undertaken in accordance with generally accepted accounting  
106 principles, and the requirement that quarterly reports be provided by licensed gaming  
107 establishments to the commission no more than 30 days after the close of each quarter;

108 (19) the persons to be excluded or ejected from licensed gaming establishments,  
109 including the type of conduct prohibited;

110 (20) the distribution of funds for the treatment of compulsive gambling behavior;

111 (21) the licensing and regulation of central computer system provider, which services  
112 electronic gaming devices and on and off site auditing of said electronic gaming devices;  
113 provided that, the commission shall ensure that the central computer system shall employ a

114 widely accepted gaming industry protocol to facilitate slot machine manufacturers' ability to  
115 communicate with the statewide system; and provided further, that said central computer system  
116 selected by the commission shall be prohibited from providing electronic gaming devices, or any  
117 other form of player activated terminal for use in connection with said central computer system.

118 (22) whether and under what conditions persons under age 21 may be permitted to enter  
119 facilities with electronic gaming devices.

120 (h) In emergencies, the commission may, without complying with sections 2 or 3 of  
121 chapter 30A of the General Laws, summarily adopt, amend, or repeal any regulation, if, at the  
122 time, the commission makes a finding that such action is necessary for the preservation of the  
123 public peace, health, safety, morals, good order, or general welfare, together with a statement of  
124 the facts constituting the emergency; provided, however, all such emergency actions shall not  
125 exceed 90 days.

126 (i) Each operating license shall be issued for an initial term of 5 years, and may be  
127 renewed at the discretion of the commission for a term not to exceed 5 years; provided further,  
128 that the commission shall set a renewal fee on the license of not less than \$25,000,000.

129 (j) Any failure of a licensee to comply with this chapter, chapter 10A, chapter 128A  
130 or chapter 128C or any regulation of the commission may result in the suspension limitation, or  
131 revocation of the license, as determined by the commission.. The commission shall promulgate  
132 rules and regulations, which shall include but not limited, the process by which a licensee's  
133 license can be revoked, the process by which a licensee can appeal, the length of time of the  
134 suspension or limitation, and the scope of limitations on the license of type for the suspension,



135           (k)     A gaming establishment license issued pursuant to this chapter must be posted by  
136 the licensee and kept posted at all times in a conspicuous place in the area where gaming is  
137 conducted in the establishment for which the license is issued until it is replaced by a succeeding  
138 license.

139           (l)     The voluntary surrender of a license by a licensee does not become effective until  
140 accepted in a manner to be provided in the regulations of the commission. The surrender of a  
141 license does not relieve the former licensee of any fees, penalties, fines, taxes or interest due.

142           (m)     No person or entity licensed as a licensed gaming operator, gaming establishment  
143 or racing meeting licensee, under chapter 10A, chapter 128A or chapter 128C of the General  
144 Laws, shall be permitted to transfer a direct or indirect real interest, personal interest, pecuniary  
145 interest, including, but limited to, substantial party in interest and affiliates defined under section  
146 2 of chapter 10A of the General Laws, in the interests of the licensee's corporate governing  
147 structure, including those defined under Chapter 108A, Chapter 109, Chapter 155, Chapter 156,  
148 Chapter 156A, Chapter 156B, Chapter 156C and Chapter 156D of the General Laws and those  
149 entities established under the rules and regulations of the Secretary of State, the licensee's  
150 establishment, licensee's structure, licensee's real property, licensee's premise or licensee's  
151 facility, or enter into an option contract, management contract, or other agreement or contract  
152 providing for such transfer in the present or future, without the notification and approval the  
153 commission, and the commission may require either the transferer or transferee or both, as  
154 determined by the commission, to pay to the Commonwealth an amount representing the  
155 Commonwealth's share of the increased value for said of said property or contracts. The  
156 commission shall promulgate rules and regulations for the determination of the payment which

157 serves in the best interest of the Commonwealth as a result of the transfer; provided that the  
158 commission may consider the actual increase or decrease in the pecuniary value of said license,  
159 the real property, and the shares of interest among the time it was initially purchased, the time of  
160 receiving a license and the time of the transfer; provided further, that any payment collected by  
161 the commission, on behalf of the Commonwealth, shall be deposited in the General Fund..

162 (n) No licensed operator, licensed person, licensed party, a licensee's affiliate, a  
163 licensee's substantial party of interest, licensee's party of interest, as defined under section 2 of  
164 Chapter 10A of the General Laws, shall transfer any license in whole or in part issued by the  
165 Commonwealth, municipality, county, authority, district, commission or any other subdivision of  
166 the Commonwealth, without the approval of the commission and the commission may require a  
167 payment by the transferer or transferee or both, as determined by the commission, to the  
168 commission, on behalf of the Commonwealth, and said payment shall be deposited into the  
169 General Fund; provided, that the commission shall consider as a factor in determining the  
170 amount of the payment the difference in value of the licensee's property between the time of  
171 when the licensee received the license and the time of or anticipated time of the transfer through  
172 the average of three separate assessments made by the licensee, the commission and an  
173 independent assessor chosen by the commission, and the cost of said assessment shall be part of  
174 the payment of the transfer; and provided further, that the commission shall consider as a factor  
175 in determining the amount of the payment the market value of the license of when it was  
176 acquired and at the time of the transfer; provided further, that the commission shall consider as a  
177 factor in determining the amount of the payment the increased value of the property, land,  
178 establishment, management agent, entity or business value as a result of possessing a gaming  
179 operator's license. In no event shall a bona fide commercial financial institution licensed by the

180 division of banks, which becomes a substantial party of interest, as defined under section 2 of  
181 Chapter 10A of the General Laws, with a licensee be deemed to be a transfer; provided further,  
182 that the commission may reject such transfer if it deems it unsuitable. The commission may  
183 place any condition or restriction on the transfer of a license or substantial interest or party of  
184 interest, and in all instances it shall consider whether additional compensation is owed to the  
185 Commonwealth.

186 (o) No person or entity licensed as a licensed gaming operator, gaming establishment  
187 or racing meeting licensee, under chapter 10A, chapter 128A or chapter 128C of the General  
188 Laws, shall be permitted to change its business governing structure, including those defined  
189 under Chapter 108A, Chapter 109, Chapter 155, Chapter 156, Chapter 156A, Chapter 156B,  
190 Chapter 156C and Chapter 156D of the General Laws and those entities established under the  
191 rules and regulations of the Secretary of State without the notification and approval of the  
192 commission.

193 (p) The commission shall monitor the conduct of all licensees and other persons  
194 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring  
195 that licenses are not issued to, or held by, and there is no direct or indirect material involvement  
196 with a licensee by unqualified, disqualified, or unsuitable persons.

197 (q) No commission member or person employed by the commission shall solicit or  
198 accept employment from a licensee, or represent any person or party other than the  
199 commonwealth before or against the commission for a period of 3 years from the termination of  
200 his office or employment with the commission.

201           (r)     The commission may investigate fraud, deceit, misrepresentation or violations by  
202 any licensee under this chapter, or the occurrence of any such activity involving any licensee. If  
203 the commission has reasonable basis to believe that any licensee has been or is engaged in  
204 criminal behavior or that criminal activity is occurring within or involving any licensed gaming  
205 establishment, the commission shall report same to the district attorney of the county within  
206 which the gaming establishment is located and make available to said district attorney and  
207 attorney general all relevant information on such activity. The commission shall direct through  
208 the division of racing and gaming such state or municipal police officers to guard and protect the  
209 lives and safety of the public and property at any such gaming establishment, and to perform any  
210 such other duties which may be required by said commission in order to maintain fair and honest  
211 gaming establishment. The said police officers so assigned shall, except in the case of an  
212 emergency, while on duty at any such establishment be subject to the operational authority of the  
213 commission; provided, however, that such assignment or reassignment shall not in any way  
214 impair any rights to which any officer may be entitled. The commission assess an annual fee to  
215 be paid by the licensees' for the costs associated with the state police as it relates to this chapter  
216 and chapter 10A; provided further, that said fee shall be paid by each licensee in equal  
217 portions. The commission shall establish a fee schedule for the purposes of defraying the costs  
218 incurred by police officers of the department of public safety for work associated under this  
219 chapter and chapter 10A and shall direct the division of racing and gaming to collect said fee  
220 from the licensees.

221           All assignment and reassignments to the commission, except as the commissioner of  
222 public safety shall determine that an emergency exists or its threatened, shall be subject to the  
223 approval of the commission. Nothing herein shall prevent licensees from applying to the state

224 police if they have jurisdiction in the area where gaming establishment is located, or to the police  
225 department of a city or town wherein the gaming establishment is located, in order that such  
226 police agency may furnish a police detail for safety or traffic purposes at any gaming  
227 establishment authorized by this chapter. The total cost for any such police detail shall be a sum  
228 equal to the salaries of the police officers comprising such detail, plus a sum to cover the  
229 administrative expenses incurred by the department of each such police officer, which is to be  
230 paid by the licensee.

231 (s) The commission, as it deems appropriate, may ask the attorney general to file a  
232 civil lawsuit to restrain a violation of this chapter or enforce any provision thereof. An action  
233 brought against a person pursuant to this chapter does not preclude any other criminal or civil  
234 proceeding as may be authorized by law.

235 (t) The commission shall establish an appeals process to address persons aggrieved  
236 by a determination by the commission to issue, deny, modify, revoke, or suspend any license or  
237 approval, or to issue an adverse order under the provisions of this chapter.

238 (u) The commission shall establish rules and regulations regarding the use and  
239 manner of how electronic gaming devices may accept wagers deposited by the player, how they  
240 dispense funds deposited or credited to the player, what the maximum amount of money that a  
241 electronic gaming device can receive from a player, what is the expiration date on a ticket or  
242 voucher dispensed from an electronic gaming device, what the manner of how a player receives  
243 his or her reimbursement from a from a ticket or voucher dispensing electronic gaming device,  
244 and how machines that can dispense cash in exchange for a ticket of voucher dispensed from an  
245 electronic gaming device.

246 (v) The commission shall require the licensee to provide annual updates regarding  
247 the condition of the facility and the commission shall approve plans for all capital projects in  
248 excess of \$500,000, and projects that would substantially change the use of the property other  
249 than as a racetrack.

250 (w) The commission may, one-year after four licenses to the racing meeting licensees  
251 have been granted in the Commonwealth under Chapter 10A of the General Laws, make a  
252 determination on the viability of granting 1 additional gaming operator license in either  
253 Hampden, or Hampshire County; provided however, that said license shall be a granted only to a  
254 parimutuel racetrack in accordance with Chapter 128A of General Laws, and is authorized to  
255 conduct simulcast racing pursuant to 128C of the General Laws and is authorized to be a lottery  
256 reseller, pursuant to Chapter 10 of the General Laws; provided, that in making such  
257 determination, said commission shall take into consideration the economic impact,  
258 environmental issues, public safety impact, effect on traffic and infrastructure and other relevant  
259 costs, benefits and factors of granting and additional license. The applicant for said license shall  
260 be required to fulfill the requirements under this Chapter and Chapter 10A of the General Laws  
261 and the rules and regulations set forth by the commission. No current or former licensed gaming  
262 operator under Chapter 10A of the General Laws or racing meeting licensee under Chapter 128A  
263 of the General Laws shall have any direct or indirect, real interest, personal interest or pecuniary  
264 interest the applicant's license application. Nothing in this section shall preclude any city or  
265 town in the commonwealth from prohibiting the use and operation of electronic gaming devices  
266 in the community, from imposing local controls or conditions on electronic gaming devices,  
267 from enacting or enforcing applicable zoning laws or regulations, or from imposing any fee or

268 tax otherwise authorized, provided any inspection, tax, or fee is not inconsistent with this act, or  
269 the laws of the United States.

270 SECTION 5. Said chapter 10 is hereby further amended by inserting after section 26, as  
271 so appearing, the following section:-

272 Section 26a. The Treasurer shall appoint, subject to the approval of the commission, a  
273 director for division of racing and gaming established under chapter 10A of the General Laws,  
274 hereinafter called the executive director, who shall serve at the pleasure of the commission, shall  
275 devote his entire time and attention to the duties of his office, and shall receive such salary as the  
276 commission may determine. The executive director shall serve for a term of five years. The  
277 executive director shall not serve more than two consecutive terms. He shall supervise and  
278 administer the operation of licensed parimutuel wagering and licensed gaming establishments in  
279 accordance with the provisions of the chapter 128A, chapter 128C, chapter 10A of the General  
280 Laws, any special laws, and rules and regulations made thereunder.

281 The executive director shall, subject to the approval of the commission, appoint such  
282 deputy directors and such other professional, technical and clerical assistants and employees as  
283 may be necessary; provided, however, that such deputies, assistants and employees shall not be  
284 subject to chapter 31 and section 9A of chapter 30.

285 The executive director shall confer regularly as necessary or desirable and not less than  
286 once every month with the commission on the operation and administration of gaming, shall  
287 make available for inspection by the commission, upon request, all books, records, files, and  
288 other information and documents of the commission, shall advise the commission and

289 recommend such matters as he deems necessary and advisable to improve the operation and  
290 administration of gaming.

291 The executive director shall, subject to the approval of the commission and the applicable  
292 laws relating to public contracts, enter into contracts for the operation of his offer, or any part  
293 thereof. No contract awarded or entered into by the executive director shall be assigned by the  
294 holder thereof except with the specific approval of the commission.

295 The executive director shall certify monthly to the state treasurer and the commission a full and  
296 complete statement of gaming revenues, disbursements and other expenses for the preceding  
297 month.

298 SECTION 6. The General Laws, as appearing in the 2004 official edition, is hereby  
299 amended by inserting after chapter 10 the following new chapter:-

300 Chapter 10A. Live Racing and Gaming

301 Section 1. (a) This act shall be known and may be cited as the "Live Racing  
302 Revitalization Act."

303 (b) No applicant for a license or other affirmative approval within the scope of this  
304 chapter has any property or other right to a license or to the granting of the approval sought. Any  
305 license issued or other approval granted pursuant to this chapter is a fully revocable privilege,  
306 and no holder acquires any vested right therein or thereunder. Except as otherwise provided  
307 herein, no person other than a licensee hereunder shall have any right to or interest in gaming  
308 revenue in the form of a percentage or contractual interest of any sums payable hereunder



309 (c) Nothing in this chapter shall preclude any city or town in the commonwealth  
310 from prohibiting gaming, from imposing any local controls or conditions upon gaming, from  
311 inspecting premises to enforce applicable laws, or from imposing any fee or tax otherwise  
312 authorized, provided any prohibition, control, condition, inspection, tax, or fee is not inconsistent  
313 with this act, or the laws of the United States.

314 (d) In the event of any conflict between the provisions of this chapter and the  
315 provisions of any other general or special law, or local ordinance, the provisions of this chapter,  
316 chapter 10, chapter 128A and chapter 128C shall prevail.

317 Section 2. The following words as used in this chapter shall, unless the context clearly  
318 requires otherwise, have the following meanings:

319 "Affiliate," any person that a licensee or applicant directly or indirectly controls or in  
320 which an applicant or licensee possesses an interest. For the purposes of this definition,  
321 "controls" means either (i) directly or indirectly holding more than 10 percent of voting  
322 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,  
323 general partners, trustees, or members of an entity's governing body are representative of, or are  
324 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,  
325 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of  
326 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general  
327 partners, trustees, or members of an entity's governing body are representatives of, or are directly  
328 or indirectly controlled by, the licensee or applicant.

329 "Applicant," a person who has applied for a gaming license, work permit, or approval of  
330 any act or transaction pursuant to this chapter.

331 "Cheat" means to alter the selection of criteria which determines the results of a game or  
332 the amount or frequency of payment in a game.

333 "Commission," the Massachusetts state lottery commission established pursuant to  
334 section 24 and section 24b of chapter 10 of the General Laws.

335 "Controlled game" or "controlled gaming," any game of chance, or skill, or both, played  
336 for currency, check, credit, or any other thing of value, and including electronic gaming devices  
337 and games classified as class II or class III gaming under the Indian Gaming Regulatory Act, 25  
338 U.S.C. § 2701 et seq., but excluding:

339 (1) the game of bingo conducted pursuant to chapter 271 of the General Laws and  
340 any charitable gaming, so-called, which is regulated by the state lottery commission;

341 (2) parimutuel wagering on horse and dog races, whether live or simulcast,  
342 authorized under chapter 128A and chapter 128C of the General Laws;

343 (3) any lottery game conducted by the state lottery commission, in accordance with  
344 Section 24 of chapter 10 of the General Laws;

345 (4) games played with cards in private homes or residences in which no person  
346 makes money for operating the game, except as a player.

347 "Division," means the Division of Racing and Gaming established under section 3.

348 "Electronic Gaming Device" means any game of chance mechanical, electronic or  
349 otherwise featuring coin drop and payout as well as printed tabulations or credits to a paper or  
350 electronic account, whereby the software or hardware of the device predetermines the presence  
351 or lack of a winning combination and payout, including microprocessor-controlled electronic  
352 devices that allow a player to play games of chance, which may be affected by an element of  
353 skill, activated by the insertion of a coin or currency or by the use of a credit and awards game  
354 credits, cash, tokens, replays or a written statement of the player's accumulated credits, which  
355 written statements are redeemable for cash; and including slot machines, video lottery terminals  
356 and video facsimile machines of any type.

357 "Establishment," any building, room, place or other indoor or outdoor premises where  
358 any controlled gaming occurs, including all public and non-public areas of any such  
359 establishment.

360 "Executive Director" the executive director of the division of racing and gaming  
361 established under section 24b of chapter 10 and section 3 of this chapter.

362 "Gaming," to deal, operate, carry on, conduct, maintain, or expose for play any controlled  
363 gaming.

364 "Gaming equipment," any equipment, device, object or contrivance, or machine, whether  
365 mechanical, electromechanical, or electronic, which is specifically designed or manufactured for  
366 use in the operation of gaming.

367 "Gaming license" or "license," any license or work permit issued by the commission  
368 under this chapter that authorizes the person named therein to engage or participate in controlled

369 gaming or to operate electronic gaming devices, including work permits and licenses issued to  
370 gaming establishments, to gaming suppliers, to parties in interest, to gaming schools, and to  
371 officers and directors of licensed persons or entities.

372 "Gaming operation," one or more controlled games that are operated, carried on,  
373 conducted, maintained, offered or exposed for play.

374 "Gaming establishment," any establishment licensed to conduct a gaming operation in the  
375 commonwealth under this chapter.

376 "Gaming school," any person or entity which offers courses for persons who have  
377 obtained or who may seek to obtain a gaming work permit under this chapter.

378 "Gaming services" means providing services or goods to any licensed gaming  
379 establishment directly in conjunction with the operation of gaming, including security services,  
380 junket services, gaming schools or training activities, promotional services, printing or  
381 manufacture of betting tickets and manufacture, distribution, maintenance, testing or repair of  
382 electronic gaming devices, or any person who furnishes goods or services pursuant to which the  
383 person receives payments based on earnings, profits or net receipts from gaming.

384 "Holding company," any corporation, firm, partnership, trust, or other entity that, directly  
385 or indirectly, owns, has the power or right to control, or holds with power to vote, all or any part  
386 of the partnership interests or outstanding voting securities of a corporation or any other business  
387 entity that holds or applies for a gaming license. In addition, a holding company indirectly has,  
388 holds, or owns any power or right mentioned herein if it does so through any interest in a  
389 subsidiary or affiliate or successive subsidiaries or affiliates, however many of these subsidiaries

390 or affiliates may intervene between the holding company and the corporate licensees or  
391 applicant.

392 "Intermediary company," any corporation, firm, partnership, trust, or other entity, other  
393 than a natural person, that is both of the following:

394 (1) A subsidiary with respect to a holding company, and

395 (2) A holding company with respect to a corporation or limited partnership or other entity  
396 that holds or applies for a gaming license;

397 "Licensed operator," any operating entity that conducts a controlled gaming operation  
398 within a gaming establishment pursuant to a license or licenses issued under this chapter and  
399 section 24b of chapter 10.

400 "Licensed premises," the premises upon which is located a gaming establishment  
401 pursuant to a license issued to a licensed operator.

402 "Licensee," any person or party holding, or purporting to hold, a valid gaming license  
403 under this chapter.

404 "Net gaming revenue," the total, prior to the deduction of any operating, capital or other  
405 expenses whatsoever, of all gaming revenue retained by any gaming establishment licensed  
406 under this chapter derived from the conduct of any controlled game.

407 "Operating entity," any person who conducts a gaming operation;

408 "Party in interest," any corporation, firm, partnership, trust, or other entity or person with  
409 any direct or indirect pecuniary interest in a licensed gaming establishment, or a person who  
410 owns any interest in the premises of a licensed gaming establishment, or land upon which such  
411 premises is licensed, whether he leases the property directly or through an affiliate.

412 "Person" or "party," a natural person, corporation, partnership, limited partnership,  
413 trustee, holding company, joint venture, association, or any business entity.

414 "Racing meeting licensee" the running horse racing meeting licensee in Suffolk County,  
415 harness horse racing meeting licensee in Norfolk County, and dog racing meeting licensees in  
416 Suffolk and Bristol Counties licensed by the State Racing Commission pursuant to chapter 128A  
417 of the General Laws, as amended, to conduct parimutuel racing during calendar year 2006, or  
418 their respective assigns; provided, however, that the two dog racing meeting licensees in Bristol  
419 County shall be deemed one for all purposes of this act; and, further, excluding any licensees of  
420 racing meetings held or conducted in connection with a state or county fair.

421 "Substantial party in interest," any person holding a greater than one percent (1%) direct  
422 or indirect pecuniary interest, whether as owner, mortgagee or otherwise, in an operating entity,  
423 premises, or any other licensee or applicant; but, excluding any shareholder holding less than a  
424 five percent (5%) interest in a public company that is a substantial party in interest.

425 "Work permit," any permit issued by the commission authorizing the holder to be  
426 employed as an employee in a licensed gaming establishment.

427           Section 3. (a) There shall be established within the state lottery and gaming commission,  
428 the division of racing and gaming, and an office for the executive director to be designated by the  
429 State Treasurer.

430           (b)     The executive director of the division shall be appointed by the state and lottery  
431 and gaming commission pursuant to section 26a of chapter 10. The executive director shall be  
432 responsible for the oversight and operation of the division. The executive director shall employ  
433 such professional, technical, and clerical assistants and employees as necessary, subject to  
434 appropriation; provided, however, such assistants and employees shall not be subject to chapter  
435 31 or Section 9(A) of chapter 20 of the General Laws. The executive director shall execute and  
436 enforce the rules, regulations and directives of the commission and provide the necessary  
437 administrative support.

438           (c)     The powers and duties of the executive director shall include, but not be limited  
439 to, the following:

440           (1)     To visit, to investigate, and to place accountants, to technicians, and any other  
441 personnel, without prior notice or approval of any party as it may deem necessary, in the office,  
442 gaming area, or other place of business of any licensee under this chapter;

443           (2)     To require that the books and financial or other records or statements of any  
444 licensee be kept in a manner that the commission or the bureau deems proper;

445           (3)     To visit, to inspect, and to examine without prior notice or approval of any party,  
446 all premises where gaming equipment is manufactured, sold or distributed;

447           (4)     To inspect and to test without prior notice or approval of any party, all equipment  
448 and supplies in any licensed gaming establishment or in any premises where gaming equipment  
449 is manufactured, sold or distributed;

450           (5)     To have access to, to inspect, to examine, to photocopy, and to audit all relevant  
451 and material papers, books, and records of an applicant for, or person holding, a license for a  
452 gaming establishment under this chapter, on such applicant's or licensee's premises or elsewhere,  
453 as practicable, in the presence of the applicant or licensee or his or her agent, and require  
454 verification of income, and all other matters affecting the enforcement of this chapter;

455           (6)     To have access to and to inspect, to examine, to photocopy, and to audit all  
456 relevant and material papers, books, and records of any affiliate of a licensed gaming  
457 establishment that the executive director knows or reasonably suspects is involved in the  
458 financing, operation, or management of any entity licensed pursuant to this chapter, either on the  
459 affiliate's premises or elsewhere, as practicable, in the presence of the affiliate or any agent  
460 thereof; and,

461           (7)     To refer any suspected criminal violation of this chapter to the appropriate office  
462 of the district attorney and the Attorney General; provided, however, that nothing in this section  
463 shall be deemed to limit the investigatory and prosecutorial powers of other state and local  
464 officials and agencies;

465           (d)     The executive director shall investigate the qualifications of each applicant under  
466 this chapter and make a recommendation to the commission before any license is issued. The  
467 executive director shall also continue to monitor the conduct of all licensees and other persons



468 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring  
469 that licenses are not issued to, or held by, and there is no direct or indirect material involvement  
470 with a licensee by unqualified, disqualified, or unsuitable persons, or persons whose operations  
471 are conducted in unsuitable manner or in unsuitable or prohibited places, as provided in  
472 commission regulations.

473 (e) The executive director may recommend to the commission the denial of any  
474 application, the limitation, conditioning, restriction, transfer, suspension, or revocation of any  
475 license or approval, or the imposition of any fine or penalty upon any licensee.

476 (f) The executive director shall maintain a file of applications for licenses under this  
477 chapter, together with a record of all action taken by the commission on those applications. Such  
478 applications shall be open to public inspection; provided however, that the executive director  
479 shall prohibit access to information that is a trade secret, or puts the applicant for a license at an  
480 unfair disadvantage with other applicants; provided further, that the executive director shall  
481 consult with the division on public records on the appropriate distributing or withholding of said  
482 information. The executive director may maintain any other files and records as it deems  
483 appropriate.

484 (g) Each employee of the executive director and the executive director shall file with  
485 the executive director and the state ethics commission a statement of financial interest as defined  
486 in Chapter 268B of the General Laws. Such statement shall be under oath and shall be filed at  
487 the time of employment and annually thereafter, as required by the state ethics commission.

488           (h)     No employee of the executive director, the executive director or a member of the  
489 commission shall be permitted to place a wager in any establishment licensed by the commission  
490 except in the course of his duties.

491           (i)     No person employed by the commission or the executive director or acting as an  
492 agent or assignee for the commission or the executive director shall solicit or accept employment  
493 from a licensee, or represent any person or party other than the commonwealth before or against  
494 the commission for a period of 3 years from the termination of his office or employment with the  
495 commission.

496           (j)     The executive director may investigate, fraud, deceit, misrepresentation or  
497 violations of this chapter by any person licensed hereunder or the occurrence of any such activity  
498 within or involving any licensed gaming establishment. If the executive director has reasonable  
499 basis to believe that any licensee has been or is engaged in criminal behavior or that criminal  
500 activity is occurring within or involving any licensed gaming establishment, the executive  
501 director shall report same to the district attorney of the county within which the licensed gaming  
502 establishment is located and the attorney general. The executive director shall make available to  
503 said district attorney, the attorney general, and to the commission all relevant information on  
504 such activity.

505           (k)     An action brought against a person pursuant to this chapter shall not preclude any  
506 other criminal or civil proceeding as may be authorized by law. The executive director must  
507 report all criminal action in violation of this chapter or any General Laws to the commission, the  
508 appropriate office of the district attorney and to the attorney general, who may take legal action  
509 to restrain violations of this chapter or enforce any provision thereof.

510           (l)     The executive director shall make a continuous study and investigation of gaming  
511 throughout the commonwealth in order to ascertain the adequacy and effectiveness of state  
512 gaming law or regulations and may formulate recommendations for changes in such laws and  
513 regulations. The executive director shall make a continuous study and investigation of the  
514 operation and administration of similar laws in other states or countries, of any literature or  
515 reports on the subject, of any federal laws which may affect the operation of gaming in the  
516 commonwealth, all with a view to recommending or effecting changes that will tend to better  
517 serve an implement the purposes of this chapter.

518           (m)     The executive director must report all violations of the commission's rules and  
519 regulations to the commission.

520           (n)     The executive director may recommend to the commission to initiate proceedings  
521 or actions appropriate to enforce this chapter and the regulations promulgated thereunder.

522           (o)     The executive director must include all studies, reports, recommendation and  
523 other collected information required under this chapter, any General Law, special law, or as  
524 required by the commission to be included in the commission's annual report required under  
525 section 24b of chapter 10.

526           Section 4.     (a) Notwithstanding the provisions of chapter 137, chapter 271 or any  
527 other general or special law to the contrary, each racing meeting licensee is eligible to be  
528 licensed, subject to all terms and conditions imposed by the commission and subject to each  
529 racing meeting licensees eligibility to hold such license, as determined by the Commission,  
530 which shall include the suitability of each racing meeting licensee to hold, maintain and control

531 such a license, to operate a gaming establishment; and apply to the commission for the right to be  
532 awarded one of four licenses to operate up to 2,000 electronic gaming devices at said licensee's  
533 premises only; provided further, that only one racing meeting licensee shall be allowed to hold in  
534 whole or in part one license under this section. The commission shall determine how many  
535 electronic gaming devices shall be allowed at each licensee's location, and the suitability of each  
536 licensee to solicit, own, rent, lease, maintain, and operate electronic gaming devices.

537           The commission shall identify the person, persons, entity or entities in possession or  
538 ownership or both of a racing meeting license issued under chapter 128A and chapter 128C. If  
539 there has been a change, intent to change or option to purchase the ownership of the premises or  
540 racing meeting license or both since November 1, 2006, then the applicant shall fully disclose the  
541 information by filing it with the commission within 30 days of the passage of this act, unless  
542 demanded sooner than 30 days by the commission.

543           In addition to paying the fee under subsection (c) of this section and any other provisions  
544 of this chapter, the applicant must provide and the commission must consider the following in  
545 making a determination of whether to issue a license under this section:

546           (1)     The applicant must be a parimutuel licensee licensed under chapter 128A and  
547 also licensed to conducted simulcast racing under chapter 128C,

548           (2)     The applicant must be a licensed lottery reseller and must sell lottery products at  
549 its establishment;

550           (3)     The applicant must demonstrate that it has sufficient capital capacity to install the  
551 electronic gaming devices in a suitable facility within a reasonable period of time after being

552 licensed and that the applicant's proposal for electronic gaming devices will provide maximum  
553 amount of return to the Commonwealth at its facility,

554 (4) The applicant must supply a detailed breakdown of new job creation expected as  
555 a result of receiving a license, which shall not included jobs created at kennels or the backstretch,  
556 so-called,

557 (5) The applicant must demonstrate that it has an agreement with the host community  
558 for mitigation caused by expanded gaming in addition to those set forth under this chapter,

559 (6) The applicant must have a certified and binding vote of the legislative authority  
560 and the approval of the executive authority of the city or town where the applicant is located to  
561 have slot machines at the racetrack and the certified voted cannot be prior to January 1, 2005,

562 (7) The applicant must demonstrate to the commission a plan by which the applicant  
563 shall purchase, lease or finance electronic gaming devices from a electronic gaming device  
564 distributor or manufacturer licensed by the commission, and utilize said devices in the most  
565 efficient manner possible to provide the greatest revenue to the Commonwealth; and

566 (8) The applicant must meet the licensee bonding requirement as set by the  
567 commission.

568 (b) The commission shall collect, on behalf of the Commonwealth, from each  
569 licensee a sum equal to 52.5 percent of net gaming revenues from electronic gaming devices;  
570 provided, further, that this percentage shall not be increased, nor decreased for 10 years after the  
571 initial issuance of the license to the applicant; provided, further, that from said sums the

572 commission shall first pay to the Treasurer, on behalf of the local aid fund, a sum equal to the  
573 diminishment, if any, in said fund attributable to this Chapter, as certified by the Treasurer, and  
574 secretary of administration and finance, and the chairs of the house and senate ways and means  
575 committees. Of the funds collected by the commission under this paragraph, on behalf of the  
576 Commonwealth one-third shall be deposited in the General Fund, one-third shall be deposited in  
577 the Commonwealth Stabilization Fund, and one-third shall be utilized for local aid.

578           The commission shall collect from each licensee a sum equal to 7 percent of net gaming  
579 revenues from electronic gaming devices; which the commission shall then deposit in the purse  
580 account pool established under subsection (l) of this section.

581           The commission shall collect from each licensee a sum equal to 5 percent of net gaming  
582 revenues from electronic gaming devices, which the commission shall deposit in the live racing  
583 promotional fund established under subsection (k) of this section.

584           The commission shall collect from each licensee a sum equal to 2 percent of net gaming  
585 revenues from electronic gaming devices, which the commission shall then deposit in the  
586 community mitigation fund established under subsection (i) of this section.

587           The commission shall collect a sum equal to 0.5 percent of net gaming revenues from  
588 electronic gaming devices, which the commission shall pay toward compulsive gambling  
589 organizations, as determined by the department of public health; provided further, that said  
590 compulsive gambling organization, or organizations shall utilize said monies for the prevention,  
591 intervention and treatment of compulsive gambling in the Commonwealth; provided further that,  
592 not less than 20 percent of the funds received under this paragraph shall be utilized for the

593 purpose of identification, prevention, intervention, and treatment of compulsive gambling in  
594 minority and immigrant communities; provided further, that the commission shall not pay more  
595 than \$6,000,000 annually to compulsive gambling organizations or organizations, as determined  
596 by the department of public health, and the remainder of said amount shall be collected by the  
597 commission, on behalf of the Commonwealth, and 50 percent of said overage amount shall be  
598 deposited in the General Fund and the other 50 percent of the overage shall be deposited in the  
599 Commonwealth Stabilization Fund.

600           The remaining sums shall be retained by each licensee as said commission shall  
601 determine; provided, further, that each such licensee shall in addition pay all taxes otherwise due  
602 and payable; and provided, that said sums retained by each licensee shall be subject to fees set by  
603 the commission, or by this chapter and taxation by any other General Law; and provided further,  
604 that the commission shall collect from the running horse meeting licensee located in Suffolk  
605 County a sum of not less than \$300,000 by March 31 of each year and the commission shall pay  
606 said amount to The Eighth Pole, Inc. by April 1 of said year.

607           (c)    In addition to all other fees payable hereunder, the commission shall require each  
608 racing licensee that meets the requirement of the commission and the chapter and is authorized  
609 by the commission under subsection (a) of this section to operate a gaming establishment, to pay  
610 an initial one time fee of \$50,000,000;

611           (d)    No person or party shall operate a gaming establishment without having obtained  
612 all necessary operating licenses from the commission. There shall be a single licensed operator  
613 for each gaming establishment and each racing meeting licensee. No licensee shall operate, invest  
614 or own, in whole or in part, another licensee's license or establishment. If a licensee does have

615 more than one license, or operates, invests or owns, in whole or in part, another license, said  
616 licensee shall within 30 days divest the license or interest subject to the approval of the  
617 commission, and shall pay a fine of up to \$5,000 per day; provided further that persons or  
618 entities that violate this section shall be required to surrender to the commission any licenses  
619 issued to the licensee under this chapter, chapter 24, chapter 128A and chapter 128C; provided  
620 further, that the persons or entities shall be prohibited in the future from being able to apply and  
621 receive licenses under said chapters. Failure for a licensee to comply with this section shall  
622 result in a fine of \$5,000 per day.

623           The licensing standards must be met at all times by each officer, director, partner, and  
624 trustee of the operating entity, by each substantial party in interest of the operating entity or of  
625 the premises on which such establishment is located, and by such other party in interest of the  
626 operating entity, the premises, or any holding company or intermediary company of the  
627 operating entity or the premises as the commission may require. In no event shall the  
628 commission permit a person previously convicted of a felony under state or federal law, or any  
629 comparable conviction of a felony of a law in another country or who has not satisfied the  
630 standards for financial capability, to be a substantial party in interest of the gaming operator, the  
631 gaming establishment, or of the premises, or to hold any direct or indirect interests in such  
632 gaming operator, gaming establishment or premises.

633           (e)     A person may apply to be a licensed operator by filing an application with the  
634 commission. Each application shall disclose the identity of each party in interest, each holding  
635 company and intermediary company, and each affiliate of the operating entity. The application  
636 shall disclose, in the case of the privately held corporation, the names and addresses of all



637 directors, officers, and stockholders; in the case of a publicly traded corporation, the names and  
638 addresses of all directors, officers, and persons holding at least five percent of the total capital  
639 stock issued and outstanding; in the case of a limited liability company, the names and addresses  
640 of all members of the management committee and all persons holding at least 5 percent of the  
641 membership interests; in the case of a partnership, the names and addresses of all partners, both  
642 general and limited; and in the case of a trust, the names and addresses of all trustees and  
643 beneficiaries.

644 (f) Each operating entity shall identify, in its application, the facilities and structures  
645 that will be constructed on the premises containing the establishment where it proposes to  
646 conduct its gaming operations. The application shall contain such information regarding the  
647 physical location and condition of the premises and the potential impact of the proposed gaming  
648 operations upon adjacent properties and the municipality and region within which the premises  
649 are located, as the commission may require. The application shall disclose the identity of all  
650 parties in interest regarding the premises and to be on the premises; and except as otherwise  
651 permitted herein, no person other than a gaming establishment licensee hereunder shall have any  
652 right to or interest in any gaming revenue derived from electronic gaming devices in the form of  
653 a percentage of such sums or require more than fair market value for rent, leases or services. The  
654 application shall identify proposed infrastructure improvements, economic development and job  
655 creation opportunities to the municipality and the region wither the premises are located, as the  
656 commission may require.

657 (g) No licensed operator shall obtain any gaming equipment from a person who does  
658 not hold a license. No licensed operator shall enter into any agreement for the receipt of goods

659 or services, of any form and in any amount, from a person who does not hold a license, when a  
660 license is required for such agreement under this act or under regulations promulgated by the  
661 commission.

662 (h) No licensed operator shall employ any person in a gaming establishment who  
663 does not hold a work permit, when a work permit is required for such position under regulations  
664 promulgated by the commission.

665 (i) The community mitigation fund shall be used to provide mitigation resources for  
666 those communities with a licensed parimutuel racetrack or a licensed gaming establishment and  
667 communities that are contiguous with such licensed parimutuel racetracks, or licensed gaming  
668 establishments. Of the amount collected each year by the commission for the purposes of  
669 mitigation, pursuant to subsections (b) and subsection (j) of this section, the city of Taunton  
670 shall receive not less than 5 percent, the town of Raynham shall receive not less than 5 percent,  
671 the town of Plainville shall receive not less than 5 percent from said fund, the city of Revere  
672 shall receive not less than 25 percent, the city of Boston shall receive not less than 25 percent  
673 from said fund, and the remainder shall be deposited into said fund and be distributed by the  
674 commission to address direct increases in the cost of municipal and state public services caused  
675 by each licensed operator, including, but not limited to, improving access roads adjacent or  
676 contiguous to the facilities, improving traffic flow, and congestion in the host communities and  
677 contiguous communities, and law enforcement costs experienced by such communities; provided  
678 that, contiguous communities shall mean those whose borders abut by land, or bridge, a  
679 community where a licensed parimutuel racetrack, or licensed gaming establishment is located;  
680 provided further, that said commission, in distributing such funds, shall give priority to

681 communities with more than 1 licensed pari-mutuel racetrack, or licensed gaming establishment  
682 and communities contiguous to said communities. Any and all unspent funds shall remain in the  
683 account to be appropriated by the commission for future mitigation claims.

684 (j) The commission is authorized and directed to establish through the division the  
685 live racing promotion fund for each parimutuel racing meeting licensee which are also licensed  
686 gaming operators under this chapter. The purpose of said each fund is to promote, sustain and  
687 improve live racing in the Commonwealth. The money deposited into said account shall be  
688 collected annually by the commission under subsection (a) of this section. The commission shall  
689 establish rules and regulations under what conditions, the method and time, the application and  
690 review process, and the criteria by which said funds may be distributed to the licensee in the  
691 form of reimbursements for costs born by the licensee which is directly associated to the  
692 improvement of the live racing industry at the licensee's facility. As part of the consideration for  
693 reimbursement, the commission shall consider, but is not limited to, the following: capital  
694 improvements to the racetrack, capital improvements to the backstretch area which shall include  
695 suitable housing, toilet facilities and the barns, capital improvements to the spectator area for the  
696 racetrack, capital improvements to the kennels, promoting and advertising the live racing product  
697 and only the live racing product, promoting and encouraging horse breeding in the  
698 Commonwealth, promoting and encouraging better treatment and welfare of horses and dogs,  
699 providing for health and human services to backstretch workers, so-called, and jockeys,  
700 providing additional purses beyond those required under Chapter 128A, Chapter 128C, and this  
701 Chapter of the General Laws or any other special law, and holding races specifically for  
702 Massachusetts breed horses. The commission shall on an annual basis review the progress of the  
703 live racing product of each licensee' facility and may withhold distribution of funds if the live

704 racing product does not demonstrate an improvement; provided that, the commission shall  
705 considered, but is not limited, as the improvement in the progress of live racing: the number of  
706 live racing days actually conducted, the wagers made of live races, and the wagers made on  
707 simulcast of the live races out of the Commonwealth. The commission may provide for  
708 reimbursement to the licensee in circumstances where there is no demonstrable improvement in  
709 the live racing if the commission determines that the degradation of the live racing product was  
710 the result of the weather conditions, race track conditions, strikes, work stoppages, sickness or  
711 quarantine not within the control of the licensee. Should any licensee be unable, for any reason,  
712 to conduct parimutuel live racing under Chapter 128A of the General Laws and is also unable to  
713 conduct simulcast under Chapter 128C of the General Laws then the commission, on behalf of  
714 the Commonwealth, shall deposit the remainder of the funds in the licensee's account in the  
715 General Fund; in addition, all moneys required to be distribution to this fund from subsection (a)  
716 of this section shall instead be collected by the commission on behalf of the  
717 Commonwealth. Should a licensee become licensed or regain a license to conduct parimutuel  
718 live racing under chapter 128A and meet the requirements under chapter 10 and chapter 10A, of  
719 the General Laws and the commission's rule and regulations and is licensed to simulcast racing  
720 under chapter 128C, then the commission shall reestablish said account in accordance to this  
721 section, but the licensee is not entitled or shall receive any monies collected on behalf of the  
722 Commonwealth during the period of time the licensee was prohibited from conducting live  
723 racing. No monies from this fund can be used to, promote, advertise, purchase, transport,  
724 replace, maintain or dispose of any electronic gaming devices or equipment, simulcast devices or  
725 equipment as defined under this chapter and chapter 128C.

726 (k) The commission is authorized and directed through the division to establish the  
727 live racing purse pool account to be used to supplement the purses of parimutuel racing meeting  
728 licensees which are also licensed gaming operators under this chapter. The commission shall  
729 establish rules and regulations for the collection, application and distribution of said funds in the  
730 live racing purse pool account. Of the funds collected by the commission each year under  
731 subsection (a) of this section for said account, not less than 35% shall be deposited in the purse  
732 account for the running horse racing meeting licensee in Suffolk County, not less than 15% shall  
733 be deposited in the purse account for the harness horse racing meeting licensee in Norfolk  
734 County, not less than 5% shall be deposited in the purse account for the greyhound racing  
735 meeting licensee in Suffolk County, and not less than 5% shall be deposited in the greyhound  
736 racing meeting licensee in Bristol County and the remainder shall be deposited into the purse  
737 account pool and the commission shall determine what the additional amount, if any, is needed  
738 to ensure that the racing meeting licensee's live racing product is competitive with racetracks  
739 with a similar type and to ensure that there are sufficient purse funds to have Massachusetts  
740 breed horses racing at racetracks within Commonwealth. As part of the determination for  
741 additional purse funds to be deposited into each racing meeting licensees' purse account from  
742 said account, the commission shall consider the average purse per race of the twenty 20 running  
743 horse racetracks in the United States from the previous year multiplied by the number of races  
744 completed from the previous year in compliance with chapter 128A of the General Laws, the  
745 commission may consider the average purse per race of the 10 harness horse racetracks in the  
746 United States from the previous year multiplied by the number of races completed from the  
747 previous year in compliance with chapter 128A of the General Laws, the commission may  
748 consider the average purse per race of the 10 greyhound racetracks in the United States from the

749 previous year multiplied by the number of races completed from the previous year in compliance  
750 with chapter 128A of the General Laws, the commission shall conduct a comparison of  
751 racetracks of the same species and types of racing to those Commonwealth's racing meeting  
752 licensee.

753 The commission shall pay 2 percent of the running horse racing meeting licensee purses  
754 provided under the live racing purse pool account to the Massachusetts Thoroughbred Breeders'  
755 Association, Inc. The running horse racing meeting licensee in Suffolk County and the harness  
756 horse racing meeting licensee in Norfolk County shall be required to dedicated not less than 6  
757 percent of the purses distributed under this section towards racing and purses specifically for  
758 Massachusetts breed horses. Unspent money from the live racing purse account pool shall be  
759 retained in said account and may be only be spent by the commission in compliance with this  
760 section.

761 Should any licensee unable to conduct parimutuel live racing under Chapter 128A of the  
762 General Laws for any reason, then the commission shall discontinue depositing purse monies  
763 from the live racing purse pool account into said licensee's purse account after the day live  
764 racing ends; provided, that the division is authorized and directed to recover any unspent purse  
765 funds from said licensee and deposit it into live purse pool account as unspent funds; and  
766 provided further, that any remaining distributions to said licensee not yet made shall be  
767 transferred to the unspent portion of the account. Should a licensee become licensed or regain a  
768 license to conduct parimutuel live racing and meet the requirements under Chapter 10 and 10A  
769 of the General Laws and the commission's rule and regulations, then the commission is  
770 authorized to continue distributions form this section into the licensee's purse account in

771 accordance to this section, but the licensee is not entitled or shall receive any purse monies  
772 during the period of time the licensee was prohibited from conducting live racing.

773 The commission on an annual basis shall collect and maintain information of purse  
774 distribution of all running horse racetracks, harness horse racetracks and greyhound racetracks  
775 within United States, and said information must include, but is not limited to, the annual purse  
776 distribution, daily purse distribution, purse distribution per race, the number of races run, number  
777 of racing performances, number of calendar days of racing, and the average number of races per  
778 racing performance and per calendar day.

779 (l) Each licensee must have a contract with each racetrack's respective running  
780 horse, harness horse or greyhound association or equivalent live racing animal representation by  
781 December 31 of each year. Failure of a licensee to not have a contract with its appropriate  
782 association to provide for live racing shall result in the commission suspending all gaming and  
783 non-gaming activities at the licensee's establishment until a contract is reached. If an agreement  
784 between the parties is not reach within a time period as determined by the commission then the  
785 commission shall revoke all of the licensee's license pursuant to this chapter.

786 Section 5. The commission may make an assessment against the licensees for the  
787 purpose of reimbursing the Commonwealth the cost of the division's operation, administration  
788 and regulation. Said assessment shall be certified annually by the commission as sufficient to  
789 reimburse the commonwealth for funds appropriated for the operation of the division, including  
790 amounts sufficient to cover the cost of fringe benefits as established by the secretary of  
791 administration and finance pursuant to section 6B of chapter 29 of the General Laws. Said  
792 assessment shall be made proportionately against each licensee on the basis of the amount of net

793 gaming revenue retained by each licensed operator from the previous fiscal year. If the  
794 commission fails to expend in any fiscal year the total amount assessed under this paragraph, any  
795 amount unexpended shall be credited against the assessment to be made in the following year  
796 and the assessment in such following year shall be reduced by such unexpended amount. If the  
797 commission finds that it is unable to meet its operating budget during a fiscal year and if it  
798 determines that it requires additional funding is needed, then the commission must make a  
799 request to the Governor, the State Treasurer, the House and Senate Committees on Ways and  
800 Means, and the Joint Committee on Consumer Protection and Professional Licensure, and said  
801 request must include a explanation for the request of addition funding.

802           The commission may establish rules and regulations to assess and collect fees pertaining  
803 to individual regulatory, licensing or investigative matters that can be assessed against a licensee;  
804 provided, that any fees assessed and collected regarding an application or investigation of a  
805 license shall be placed in the gaming investigation account under section 8 of this chapter.

806           Section 6. (a) The commission shall cause to be made and kept a record of all  
807 proceedings at all meetings of the commission. These records shall be maintained by the  
808 division and the division shall make said records available to the public for inspection as allowed  
809 by law.

810           (b) Notwithstanding any other general or special law to the contrary all files, records,  
811 reports, and other information in the possession of any state or local governmental agency  
812 including tax filings and related information that are relevant to an investigation by the executive  
813 director conducted pursuant to this chapter shall be made available by such agency to the  
814 commission as requested. Any tax or financial information received from a governmental



815 agency shall be used solely for effectuating the purposes of this chapter. To the extent that these  
816 files, records, reports, or information are confidential or otherwise privileged from disclosure  
817 under any law, they shall not lose that confidential or privileged status for having been disclosed  
818 to the commission; provided further, that the commission shall consult with the division of  
819 public records regarding the handling of said information.

820 (c) The attorney general, every district attorney, and every state and local law  
821 enforcement agency shall notify the commission of any investigation or prosecution of any  
822 person or entity if it appears that a violation of any law related to gaming has occurred.

823 Section 7. (a) No official, member, employee, or agent of the commission and the  
824 division, having obtained access to confidential records or information in the performance of  
825 duties pursuant to this chapter, unless otherwise provided by law, shall knowingly disclose or  
826 furnish the records or information, or any part thereof, to any person who is not authorized by  
827 law to receive it. Violation of this provision shall be punishable by a fine of not more than  
828 \$10,000 or by imprisonment in the house of corrections for not more than 1 year, or by both such  
829 fine and imprisonment.

830 (b) No person shall operate, carry on or conduct any controlled game or operate a  
831 gaming operation except subject to a license issued by the commission as provided in this  
832 chapter.

833 (c) Any person included on the list of persons to be excluded or ejected from a  
834 licensed gaming establishment pursuant to regulations promulgated pursuant to this chapter who  
835 knowingly enters or remains on the premises of a licensed gaming establishment shall be

836 punished by imprisonment in the house of corrections for not more than 1 year, or by a fine of  
837 not more than \$10,000, or both.

838 (d) Any person under the age of 21 years who plays, places wagers at, or collects  
839 winnings from, whether personally or through an agent, any controlled game, or who is  
840 employed as an employee in a licensed gaming establishment shall be punished by imprisonment  
841 in the house of correction for not more than 1 year, or by a fine of not more than \$1,000, or by  
842 both such imprisonment and fine. Any licensee, or other person, who knowingly allows a person  
843 under the age of 21 to play, place wagers at or collect winnings, whether personally or through  
844 an agent, shall be punished by imprisonment in the house of correction for a term of not more  
845 than 1 year or pay a fine of not more than \$10,000, or by both. A subsequent violation of this  
846 section shall subject the licensee to imprisonment in the house of correction for not more than 2  
847 years or pay a fine of not more than \$25,000, or by both.

848 (e) Any person who willfully fails to report, pay, or truthfully account for and pay  
849 over any fee, penalty, fine, or interest thereon, imposed by this chapter or any regulation  
850 thereunder, or willfully attempts in any manner to evade or defeat any fee, penalty, fine, or  
851 interest thereon, or payment thereof shall be punished by imprisonment in state prison for not  
852 more than 5 years or by imprisonment in the house of correction for not more than 2 1/2 years, or  
853 by a fine of not more than \$10,000 plus the unpaid fee, penalty, fine, or interest plus interest, or  
854 by both.

855 (f) Any person who willfully resists, prevents, impedes, interferes with, or makes  
856 any false, fictitious or fraudulent statement, or representation to the commission or to the  
857 division of racing and gaming or to their agents or employees in the performance of duties

858 pursuant to this chapter, shall be punished by imprisonment in the house of corrections for not  
859 more than 2 years, or by a fine of not more than \$5,000, or by both.

860 (g) Any person, as owner, lessee, or employee, whether for hire or not, either solely  
861 or in conjunction with others, who knowingly shall do any of the following without having first  
862 procured and thereafter maintained in effect all licenses required by law:

863 (1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any  
864 controlled game or gaming equipment used in connection with any controlled game;

865 (2) To receive, directly or indirectly, any compensation or reward or any percentage or  
866 share of the revenue, for keeping, running, or carrying on any controlled game, or owning the  
867 real property or location in which any controlled game occurs;

868 (3) To manufacture or distribute within the territorial boundaries of the  
869 commonwealth any gaming equipment to be used in connection with controlled gaming; shall be  
870 punished by imprisonment in the house of corrections for not more than 2 1/2 years, or by a fine  
871 of not more than \$10,000, or by both imprisonment and fine.

872 (h) Any person who knowingly permits any controlled game to be conducted,  
873 operated, dealt, or carried on in any house or building or other premises that he or she owns or  
874 leases, in whole or in part, if that activity is undertaken by a person who is not licensed as  
875 required by this chapter shall be punished by imprisonment in state prison in the house of  
876 corrections for not more than 2 1/2 years, or by a fine of not more than \$10,000, or by both.

877 (i) Any former commissioner or commission or division employee who, within 3  
878 years after his employment has ceased, solicits or accepts employment with or provides  
879 consultant services to any licensee or at any licensed gaming establishment shall be punished by  
880 a fine of not more than \$5,000 or by imprisonment for not more than 2 1/2 years in the house of  
881 correction or by both. Any licensee who knowingly employs a former commissioner or  
882 commission or division employee in violation of this subsection shall be subject to immediate  
883 revocation of his or her license.

884 (j) A person shall be punishable by imprisonment in the house of corrections for  
885 not more than 2 years or by a fine of not more than \$5,000 per violation, or by both, if the  
886 person:

887 (1) alters or misrepresents the outcome of a game or other event on which wagers  
888 have been made after the outcome is determined but before it is revealed to the players;

889 (2) knowingly entices or induces another to go to any place where gaming is being  
890 conducted or operated in violation of the provisions of this chapter, with the intent that the other  
891 person play or participate in that gaming;

892 (3) manipulates, with the intent to cheat, any component of a gaming device in a  
893 manner contrary to the designed and normal operational purpose for the component including,  
894 but not limited to, varying the pull of the handle of a slot machine, with knowledge that the  
895 manipulation affects or reasonably may tend to affect the outcome of the game or with  
896 knowledge of any event that affects the outcome of the game;

897           (4)     has on his person or in his possession on or off the premises of any licensed  
898 gaming establishment any key or device known to have been designed for the purpose of and  
899 suitable for opening, entering or affecting the operation of any gaming or equipment, or for  
900 removing money or other contents therefrom, except where such person is a duly authorized  
901 employee of a licensee acting in furtherance of his employment within a licensed gaming  
902 establishment.

903           (k)     A violation of this chapter, the penalty for which is not specifically fixed in this  
904 section, shall be punishable by imprisonment in the house of corrections for not more than 2  
905 years, or by fine of not more \$5,000, or by both.

906           (l)     The conviction of a licensee for violation of, an attempt to violate, or conspiracy  
907 to violate any provision of this chapter or any regulation thereunder may result in the immediate  
908 revocation of all licenses issued to the violator under this chapter; and, in addition, the court,  
909 upon application of the commission, may order that no new or additional license under this  
910 chapter be issued directly or indirectly to the violator, or be issued to any person who owned the  
911 room or premises in which the violation occurred, for one year after the date of revocation.

912           Section 8. Every licensed gaming establishment shall, upon receipt of criminal or civil  
913 process compelling testimony or production of documents in connection with any civil or  
914 criminal investigation, immediately disclose such information to the commission.

915           (b)     All licensees shall have a duty to inform the commission of any action which they  
916 reasonably believe would constitute a violation of this chapter, and shall assist the commission  
917 and any federal or state law enforcement agency in the investigation and prosecution of such

918 violation. The commission shall hold a hearing under chapter 30A on any licensees' failure to  
919 comply with this paragraph, and may take appropriate actions including suspension or revocation  
920 of the license. No person who so informs the commission shall be discriminated against by an  
921 applicant or licensee because of the supplying of such information.

922           Section 9. Whenever a licensed gaming establishment refuses payment of alleged  
923 winnings to a patron, the gaming establishment and the patron are unable to resolve the dispute  
924 to the satisfaction of the patron and the dispute involves:

925           (a)     \$500 or more, the gaming establishment shall immediately notify the executive  
926 director; or

927           (b)     less than \$500, the gaming establishment shall inform the patron of his right to  
928 request that the executive director conduct an investigation.

929           The executive director shall conduct whatever investigation it deems necessary and shall  
930 determine, in its sole discretion and without need for a hearing, whether payment should be  
931 made. In the event the executive director determines that payment should be made, all costs of  
932 the investigation shall be borne by the gaming establishment. Failure of the establishment to  
933 notify the executive director or inform the patron as provided herein shall subject the  
934 establishment to disciplinary action.

935           Any party aggrieved by the determination of the executive director may file a petition for  
936 reconsideration with the commission setting forth the basis of the request for  
937 reconsideration. Any hearing for reconsideration shall be conducted pursuant to regulations  
938 adopted by the commission.

939           Section 10. Every licensed gaming establishment shall keep conspicuously posted on his  
940 premises a notice containing the name and numbers of the council on compulsive gambling and a  
941 statement of its availability to offer assistance. The commission may require the licensee to  
942 provide this information in one or more languages.

943           Section 11.     Any person or entity who knowingly transmits or receives wagers of any  
944 type by any telecommunication device, including telephone, cellular phone, Internet, or local  
945 area network, which shall mean to include wireless local networks, or any other similar device or  
946 equipment, or knowingly installs or maintain said device or equipment for the transmission or  
947 receipt of wagering information shall be punished by imprisonment in the house of correction for  
948 not more than 2 years or pay a fine of not more than \$25,000 per violation or by both; provided,  
949 however, that this section shall not apply to the use of a local area network as a means to place  
950 wagers on a licensed gaming establishment, or use of said devices or equipment by the  
951 commission in its duties in regulating, enforcing and auditing a licensed gaming operator, or use  
952 of said devices or equipment for the purpose of a licensed gaming operator advertising itself.

953           Section 12. The commission's financial activities shall be subject to audit by the State  
954 Auditor who shall have access to all books and records of the commission. Further, the  
955 commission shall annually, on or before January first, provide the State Auditor with all annual  
956 independent audits required of all licensees.

957           The State Auditor may at anytime, at his or her discretion, audit the financial activities  
958 and any other activities of any gaming licensee licensed under this chapter; provided further, that  
959 the State Auditor shall have access to a gaming licensee's establishment equivalent to those

960 provided to the commission under this chapter. The gaming licensee shall reimburse the  
961 Commonwealth for any audit conducted by the State Auditor.

962 SECTION 7. Section 1 of chapter 128A of the General Laws, as appearing in the 2004  
963 Official Edition, is hereby amended by striking out the definition of “Commission” and inserting  
964 in place thereof the following definition:-

965 “Commission,” the state lottery and gaming commission, established under section 23 of  
966 chapter 10 of the General Laws.

967 SECTION 8. Section 1 of chapter 128C of the General Laws, as so appearing, is hereby  
968 amended by striking out the definition “Commission,” and inserting in place thereof the  
969 following definition:-

970 “Commission,” the state lottery and gaming commission, established under section 23 of  
971 chapter 10 of the General Laws.

972 SECTION 9. Section 283 of chapter 94 of the General Laws, as appearing in the 2004  
973 Official Edition, is hereby amended by inserting after the word “standards”, in line 8, the  
974 following words:-or is a licensed and regulated under chapter 10A.

975 SECTION 10. Section 17B of chapter 271 of the General Laws, as appearing in the 2004  
976 edition, is amended by inserting after section 17B the following section:-

977 Section 17C. Whoever uses an local area network or the Internet or both, or being the  
978 occupant in control of premises where a local area network or Internet service or both is located,  
979 or a subscriber for an local area network service or Internet service, knowingly permits another



980 to use the local area network service or Internet service so located or for which he subscribes, as  
981 the case may be, for the purpose of accepting wagers or bets, or buying or selling of pools, or for  
982 placing all or any portion of a wager with another, upon the result of a trial or contest of skill,  
983 speed, or endurance of man, beast, bird, or machine, or upon the result of an athletic game or  
984 contest, or upon contests of skill or chance between the wagers, or upon the lottery called the  
985 numbers game, or for the purpose of reporting the same to a headquarters or booking office, or  
986 for the purpose of collecting a fee for providing the devices for contests of skill or chance  
987 between wagers, or who under a name other than his own or otherwise falsely or fictitiously  
988 procures local area network service or Internet service for himself or another for such purposes,  
989 shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year;  
990 provided, however, that this section shall not apply to use of local area networks or other similar  
991 devices of equipment authorized under the provisions of chapter 10A.

992 SECTION 11. Said chapter 271 is hereby further amended by inserting after section 22B,  
993 as so appearing, the following section:-

994 Section 22C. Nothing in this chapter shall authorize the prosecution, arrest or conviction  
995 of any person for promoting or playing, or for allowing to be conducted, promoted or played, the  
996 games authorized and licensed under chapter 10 and 10A; provided, said game are conducted  
997 under a license issued by the Massachusetts state lottery commission, under the provisions of  
998 chapter 10 and 10A.

999 SECTION 12. The first paragraph of section 12A of chapter 494 of the acts of 1978 is  
1000 hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 1

1001 of chapter 54 of the acts of 2006, and inserting in place thereof the following words:- , and until  
1002 December 31, 2009.

1003 SECTION 13. The last paragraph of said section 12A of said chapter 494 is hereby  
1004 amended by striking out the words “December 31, 2008”, inserted by section 2 of said chapter  
1005 54, and inserting in place thereof the following words:- December 31, 2009.

1006 SECTION 14. The introductory paragraph of section 13 of said chapter 494 is hereby  
1007 amended by striking out the words “, and until December 31, 2008”, inserted by section 3 of said  
1008 chapter 54, and inserting in place thereof the following words:- , and until December 31, 2009.

1009 SECTION 15. Section 15 of said chapter 494 is hereby amended by striking out the  
1010 words “, and until December 31, 2008”, inserted by section 4 of said chapter 54, and inserting in  
1011 place thereof the following words:- , and until December 31, 2009.

1012 SECTION 16. The first paragraph of section 9 of chapter 277 of the acts of 1986 is  
1013 hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 5  
1014 of said chapter 54, and inserting in place thereof the following words:- , and until December 31,  
1015 2009.

1016 SECTION 17. The first sentence of the first paragraph of section 3 of chapter 114 of the  
1017 acts of 1991 is hereby amended by striking out the words “, and until December 31, 2008”,  
1018 inserted by section 6 of said chapter 54, and inserting in place thereof the following words:- , and  
1019 until December 31, 2009.

1020 SECTION 18. The last paragraph of said section 3 of said chapter 114 is hereby amended  
1021 by striking out the words “December 31, 2008”, inserted by section 7 of said chapter 54, and  
1022 inserting in place thereof the following words:- December 31, 2009.

1023 SECTION 19. The first paragraph of section 4 of said chapter 114 is hereby amended by  
1024 striking out the words “, and until December 31, 2008”, inserted by section 8 of said chapter 54,  
1025 and inserting in place thereof the following words:- , and until December 31, 2009.

1026 SECTION 20. The last paragraph of said section 4 of said chapter 114 is hereby amended  
1027 by striking out the words “December 31, 2008”, inserted by section 9 of said chapter 54, and  
1028 inserting in place thereof the following words:- December 31, 2009.

1029 SECTION 21. The first paragraph of section 5 of said chapter 114 is hereby amended by  
1030 striking out the words “, and until December 31, 2008”, inserted by section 10 of said chapter 54,  
1031 and inserting in place thereof the following words:- , and until December 31, 2009.

1032 SECTION 22. Section 13 of chapter 101 of the acts of 1992 is hereby amended by  
1033 striking out the words “December 31, 2008”, inserted by section 11 of said chapter 54, and  
1034 inserting in place thereof the following words:- December 31, 2009.

1035 SECTION 23. Section 45 of chapter 139 of the acts of 2001 is hereby amended by  
1036 striking out the words “December 31, 2008”, inserted by section 12 of said chapter 54, and  
1037 inserting in place thereof the following words:-December 31, 2009.

1038 SECTION 24. Notwithstanding the provisions of any general or special law or rule or  
1039 regulation to the contrary, including the provisions of chapter 150E of the General Laws, all

1040 employees, equipment, finances, data, and records of the Massachusetts state racing commission  
1041 shall be transferred to the Massachusetts division of gaming racing and shall be transferred with  
1042 no impairment of employment rights held immediately before the transfer date, without  
1043 interruption of service, without impairment of seniority, retirement or other rights of employees  
1044 and without reduction in compensation or salary grade. All transferred employees shall continue  
1045 their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be  
1046 considered employees for the purposes of said chapter 150E. Any collective bargaining  
1047 agreement in effect immediately before the transfer date shall continue in effect and the terms  
1048 and conditions of employment therein shall continue as if the employees had not been so  
1049 transferred, until a new successor agreement is reached with the Massachusetts state lottery  
1050 commission. Within 90 days of said transfer the Massachusetts Labor Relations Commission  
1051 shall conduct an election with said transferred employees selecting from the existing collective  
1052 bargaining representatives, the winner of said election shall be the exclusive bargaining  
1053 representative of all Massachusetts state lottery commission employees. All new employees of  
1054 the Massachusetts state lottery commission shall be placed in said bargaining unit.

1055           SECTION 25. The transfer of powers from the state racing commission to the  
1056 Massachusetts state lottery commission shall occur one year after the passage of this  
1057 act. Members of the Massachusetts gaming control commission shall be appointed  
1058 within 30 days of this act. The Massachusetts gaming control commission and the state racing  
1059 commission shall enter into a memorandum of understanding to transition of the functions, duties  
1060 and responsibilities to the state racing commission to the Massachusetts state lottery and gaming  
1061 commission within 1 year.