

AMENDED IN ASSEMBLY JUNE 27, 2016

AMENDED IN ASSEMBLY JUNE 9, 2016

AMENDED IN ASSEMBLY APRIL 20, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2863**

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**Introduced by Assembly Members Gray and Jones-Sawyer**

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2863, as amended, Gray. Gambling: Internet poker.

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

This bill, which would be known as the Internet Poker Consumer Protection Act of 2016, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply for a 7-year license to operate an authorized poker Web site offering the play of authorized Internet poker games to registered

players within California, as specified. The bill would require that the license be automatically renewed every 7 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker game permitted by the state pursuant to these provisions. The bill would provide that it is unlawful for a person to aggregate computers or any other Internet access device in a place of public accommodation within the state, including a club or other association, or a public or other setting, that can accommodate multiple players to simultaneously play an authorized Internet poker game, or to promote, facilitate, or market that activity. The bill would provide that any violation of the Internet Poker Consumer Protection Act of 2016 is punishable as a felony. By creating new crimes, the bill would impose a state-mandated local program.

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, to adopt regulations to implement the provisions within 270 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes, and to facilitate the operation of authorized poker Web sites and expedite the state's receipt of revenues. The bill would require an eligible entity, as defined, to pay an application processing fee sufficient to cover all reasonable costs associated with the review of the entity's suitability for licensure and the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts necessary to perform their duties pursuant to this bill. The bill would require an entity seeking to act as a service provider to apply for a service provider license, employees of a licensed operator or a licensed service provider to obtain employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits. *The bill would prohibit the commission from granting an applicant a service provider license until January 1, 2021, if the applicant accepted a bet or wager of any form on Internet gambling, as specified, between December 31, 2006, and December 31, 2011, from a person located in the United States and without a license or authority pursuant to comparable federal or state law in the jurisdiction where the bet or wager was made or the facilitation of the wager or financial transaction occurred. The bill, notwithstanding that provision, would authorize an applicant for a service provider license who meets the description above to obtain a*

*service provider license before January 1, 2021, if the applicant pays a one-time fee in the amount of \$20,000,000, to be deposited into the General Fund, and otherwise meets the qualifications and suitability criteria under these provisions.* The bill would require an agreement between a licensed operator and a service provider that is a California-owned and operated horse racing association to ensure that at least 50% of the gross gaming revenue that the licensed operator derives from the service provided by the service provider is paid to the service provider. The bill would establish a tribal gaming regulatory authority process for the purpose of processing tribal employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee to pay a one-time license deposit in the amount of \$12,500,000 for deposit into the General Fund. The bill would require each licensed operator to remit to the Treasurer on an annual basis for deposit in the General Fund a specified percentage of its gross gaming revenues pursuant to the applicable rate percent, as specified. *One-half of the one-time license deposit would be credited against the annual charge on gross gaming revenues.* The bill would require the commission to administer and collect this annual charge pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program. The bill would require an applicant for an operator license to provide documentation establishing that the applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified. The bill would require ~~the first \$60,000,000 up to \$57,000,000 of the moneys collected each fiscal year pursuant to the license deposit and quarterly annual fees provisions to be deposited into the California Horse Racing Internet Poker Account, which the bill would establish in the General Fund. The bill would continuously appropriate 95% of the funds in the account to the California Horse Racing Board for distribution, as specified, and would transfer 5% of those funds to specified.~~ *The bill would require up to \$3,000,000 of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be transferred to the State*

*Treasury to the credit of the Fair and Exposition Fund, a continuously appropriated fund, to the benefit of state designated fairs, as specified.*

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

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

The bill would provide that specified provisions are not severable, and would repeal its provisions on January 1, 2024.

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

This bill would make legislative findings to that effect.

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

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

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

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 19619.8 is added to the Business and  
2 Professions Code, to read:  
3 19619.8. ~~The first sixty million dollars (\$60,000,000) moneys~~  
4 collected each fiscal year pursuant to subdivisions (a) and (b) of  
5 Section 19990.519 shall be deposited as follows:  
6 (a) ~~Ninety-five percent~~ *Eighty-five percent, in an amount not*  
7 *to exceed fifty-seven million dollars (\$57,000,000), in the California*  
8 *Horse Racing Internet Poker Account, which is hereby created in*  
9 *the General Fund. Notwithstanding Section 13340 of the*  
10 *Government Code, the funds in the California Horse Racing*  
11 *Internet Poker Account are continuously appropriated to the board,*  
12 *which shall annually distribute the funds in the California Horse*  
13 *Racing Internet Poker Account according to all of the following:*  
14 (1) One and three-twentieths percent to the defined contribution  
15 retirement plan for California-licensed jockeys established pursuant  
16 to paragraph (1) of subdivision (i) of Section 19604 and  
17 administered as specified in this chapter.  
18 (2) One and three-twentieths percent to provide health and  
19 welfare benefits for California-licensed jockeys, former  
20 California-licensed jockeys, and their dependents pursuant to  
21 Section 19612.9.  
22 (3) Two and three-tenths percent to supplement the pension  
23 plan for parimutuel employees administered on behalf of the labor  
24 organization that has historically represented the employees who  
25 accept or process any form of wagering at the horse racing meetings  
26 and for other entities licensed to conduct wagering on horse races  
27 in California. Moneys distributed pursuant to this paragraph shall  
28 supplement, and not supplant, moneys distributed to that fund  
29 pursuant to this chapter or any other law.  
30 (4) Ninety-five and four-tenths percent to racing associations  
31 or fairs as commissions, to horsemen participating in the racing  
32 meeting in the form of purses, and as incentive awards, in the same  
33 relative proportion as they were generated or earned at each racing  
34 association or fair on races conducted or imported by that racing  
35 association or fair during the prior calendar year. Notwithstanding

1 any other law, the distributions with respect to each breed of racing  
2 may be altered upon the approval of the board, in accordance with  
3 an agreement signed by the respective associations, fairs,  
4 horsemen’s organizations, and breeders organizations receiving  
5 those distributions.

6 (b) ~~Five percent~~ *percent, in an amount not to exceed three*  
7 *million dollars (\$3,000,000)*, to the State Treasury to the credit of  
8 the Fair and Exposition Fund, to be deposited in the separate  
9 account in the fund specified in Section 19606.1 to benefit state  
10 designated fairs as defined in Sections 19418, 19418.1, 19418.2,  
11 and 19418.3. Revenues deposited into the separate account in the  
12 fund pursuant to this section, notwithstanding Section 19606.1 or  
13 any other law to the contrary, shall be allocated only to fairs in  
14 Class I to IV+, inclusive, as classified by the department pursuant  
15 to Section 4507 of the Food and Agricultural Code.

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

18  
19 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION  
20 ACT OF 2016

21  
22 Article 1. Title and Legislative Declarations

23  
24 19990.101. This chapter shall be known and may be cited as  
25 the Internet Poker Consumer Protection Act of 2016.

26 19990.102. The Legislature hereby finds and declares all of  
27 the following:

28 (a) In October 2006, the United States Congress passed the  
29 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)  
30 (31 U.S.C. Secs. 5361 et seq.), which generally prohibits the use  
31 of banking instruments, including credit cards, checks, and fund  
32 transfers, for interstate Internet gambling.

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

38 (c) This chapter shall only authorize poker games to be played  
39 via the Internet. No other game may be played via the Internet  
40 pursuant to this chapter.

Article 2. Definitions

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- 19990.201. For the purposes of this chapter, the following words have the following meanings:
- (a) “Authorized Internet poker game” means any of several card games, duly authorized by the department and played on an authorized poker Web site, that meet the definition of poker as specified by this section.
  - (b) “Authorized poker Web site” means a Web site on which authorized Internet poker games are offered for play by a licensed operator pursuant to this chapter.
  - (c) “Background investigation” means a process of reviewing and compiling personal and criminal history and financial information through inquiries of various law enforcement and public sources to establish a person’s qualifications and suitability for any necessary license or employee work permit issued pursuant to this chapter.
  - (d) “Bet” means the placement of a wager in a game.
  - (e) “Card room” means a gambling enterprise, as defined in subdivision (m) of Section 19805.
  - (f) “Commission” means the California Gambling Control Commission.
  - (g) “Core functions” and “core functioning” mean any of the following:
    - (1) The management, administration, or control of bets on authorized Internet poker games.
    - (2) The management, administration, or control of the games with which those bets are associated.
    - (3) The development, maintenance, provision, or operation of a gaming system.
  - (h) “Corporate affiliate” means any person controlled by, controlling, or under common ownership with, another person or entity. A person or entity will be deemed to control another person or entity if it possesses, directly or indirectly, the power to direct the management or policies of the other entity, whether through ownership of voting interests or otherwise, or if, regardless of whether or not it has that power, it holds 10 percent or more of the ownership or control of the other entity, whether as a stockholder, partner, member, trust interest, or otherwise.
  - (i) “Department” means the Department of Justice.

1 (j) “Determination of suitability” or “suitability review” means  
2 the process, including, but not limited to, conducting a background  
3 investigation, to determine whether an applicant for a license or  
4 employee work permit issued pursuant to this chapter meets the  
5 qualification criteria described in this chapter or whether the  
6 applicant is disqualified on any of the grounds specified in this  
7 chapter.

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

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

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

18 (B) An entity identified in this paragraph shall have operated  
19 its land-based gaming facility for at least three years immediately  
20 preceding its application to secure a license to operate an Internet  
21 poker Web site pursuant to this chapter, and shall be in good  
22 standing during that time period with the applicable federal, state,  
23 and tribal regulatory authorities.

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

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

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



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

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

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

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

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

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

19 (r) (1) “Gross gaming revenues” means the total amount of  
20 moneys paid by players to the operator to participate in authorized  
21 games before deducting the cost of operating those activities except  
22 for fees to marketing affiliates and payment processing fees.

23 (2) “Gross gaming revenues” do not include player account  
24 deposits or amounts bet, except to the extent any portion of those  
25 bets are retained as fees by the operator, discounts on goods or  
26 services, rebates or promotional discounts or stakes provided to  
27 players, or revenues from nongaming sources, such as from food,  
28 beverages, souvenirs, advertising, clothing, and other nongaming  
29 sources.

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

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

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

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

39 (w) “Intrastate” means within the borders and jurisdiction of  
40 California.

1 (x) “Key employee” means any natural person employed by a  
2 licensed operator, service provider, or marketing affiliate, or by a  
3 holding or intermediary company of a licensed operator, service  
4 provider, or marketing affiliate, who is an officer or director of  
5 the licensed operator or service provider, or who, in the judgment  
6 of the commission, has the authority to exercise significant  
7 influence over decisions concerning the operation of the licensed  
8 operator or service provider as that operation relates to the Internet  
9 poker authorized by this chapter.

10 (y) “Land-based gaming facility” means a gambling  
11 establishment, as defined in subdivision (o) of Section 19805, that  
12 is operated pursuant to Chapter 5 (commencing with Section  
13 19800), or a casino operated by a tribe on Indian land in California.

14 (z) “Licensed operator” means an eligible entity licensed  
15 pursuant to this chapter to offer the play of authorized Internet  
16 poker games to registered players on an authorized poker Web  
17 site.

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

21 (ab) “Licensee” means a licensed operator or licensed service  
22 provider.

23 (ac) “Net position” means the residual difference between assets  
24 and liabilities, as defined by generally accepted accounting  
25 principles.

26 (ad) “Online self-exclusion form” means a form on which an  
27 individual notifies a licensed operator that he or she must be  
28 excluded from participation in authorized Internet poker games  
29 for a stated period of time.

30 (ae) “Owner” means any person that is eligible to own a  
31 land-based gaming facility in California and that has a financial  
32 interest in, or control of, a person or entity required to be found  
33 suitable under this chapter, including shareholders, partners, and  
34 members of limited liability companies holding more than 10  
35 percent of the equity or voting control of the person or entity and  
36 any person found by the commission to be exerting management  
37 or control of the person or entity in fact. An owner of a licensed  
38 operator shall include only those persons eligible to own a  
39 land-based gaming facility in California. “Owner” does not include  
40 the members or government officials of a tribe.

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

3 (ag) “Per hand game” means an authorized Internet poker game  
4 for which the licensed operator charges the player for each hand  
5 played.

6 (ah) “Person” means an individual, corporation, business trust,  
7 estate, trust, partnership, limited liability company, association,  
8 joint venture, government, governmental subdivision, agency, or  
9 instrumentality, public corporation, or any other legal or  
10 commercial entity, including any federally recognized California  
11 Indian tribe, or an entity that is wholly owned by the tribe.

12 (ai) “Play-for-fun game” means a version of a lawfully played  
13 gambling game in which there is no requirement to pay to play or  
14 any possibility of winning any prize or other consideration of value,  
15 including, but not limited to, games offered only for purposes of  
16 training, education, marketing, or amusement.

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

20 (ak) “Play settings” means the options and default parameters  
21 made available by a licensed operator to a registered player in the  
22 play of authorized Internet poker games.

23 (al) (1) “Poker” means any of several nonbanked card games  
24 commonly referred to as “poker” that meet all of the following  
25 criteria:

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

31 (B) The object of the game is to hold or draw to a hand  
32 containing a predetermined number of cards that, when all cards  
33 to be dealt in the round have been distributed and the betting is  
34 completed, meets or exceeds the value of the hands held by the  
35 other players. The pot of bets made is awarded to the player or  
36 players holding the combination of cards that qualify as the winning  
37 combination under the rules of play. Values may be assigned to  
38 cards or combinations of cards in various ways, including in  
39 accordance with their face value, the combinations of cards held,

1 such as cards of a similar suit or face value, the order of the cards  
2 that are held, or other values announced before the round.

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

6 (D) Poker may be played in a variety of ways, including dealing  
7 all cards to the players so that they may not be seen by others,  
8 dealing the cards open face to the players, dealing through a  
9 combination of both, or creating a common set of cards that may  
10 be used by all players. The particular rules and winning  
11 combinations are made known to the players before each round is  
12 dealt.

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

18 (F) A poker game that has been approved by the department for  
19 play in an authorized live poker room in California pursuant to the  
20 Gambling Control Act (Chapter 5 (commencing with Section  
21 19800)) shall be eligible for qualification by the department as the  
22 basis of an authorized Internet poker gambling game, except that  
23 pai gow and any other game in which persons other than authorized  
24 players to whom the cards in the game have been dealt, and by  
25 whom they are held and played, are permitted to bet on a game  
26 outcome or other game feature or may in any way control or  
27 influence the play of the hand, shall not be authorized, offered, or  
28 played in connection with an authorized Internet poker game.  
29 Subject to this limitation, the rules governing play in an authorized  
30 Internet poker game pursuant to this chapter shall generally be the  
31 same as if the game were lawfully played in a live poker room.

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

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

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

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

6 (B) Success over time may be influenced by the skill of the  
7 player.

8 (C) The bets of one player may affect the decisions of another  
9 player in the game, and the decisions of one player may affect the  
10 success or failure of another.

11 (3) The term “poker” includes poker tournaments in which  
12 players pay a fee to the operator of the tournament under  
13 tournament rules approved by the applicable gaming regulatory  
14 agency.

15 (am) “Proprietary information” means all information, including,  
16 but not limited to, computer programs, databases, data, algorithms,  
17 formulae, expertise, improvements, discoveries, concepts,  
18 inventions, developments, methods, designs, analyses, drawings,  
19 techniques, strategies, new products, reports, unpublished financial  
20 statements, budgets, projections, billing practices, pricing data,  
21 contacts, client and supplier lists, business and marketing records,  
22 working papers, files, systems, plans, and all related registrations  
23 and applications, that, whether or not patentable or registerable  
24 under patent, copyright, trademark, or similar statutes, meet either  
25 of the following:

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

29 (2) The information derives independent economic value, actual  
30 or potential, from not being generally known to the public or to  
31 other persons that can obtain economic value from its disclosure  
32 or use.

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

36 (ao) “Registered player” means a player who has registered with  
37 a licensed operator to play authorized Internet poker games on the  
38 licensed operator’s authorized poker Web site.

- 1 (ap) “Registration information” means the information provided
- 2 by a person to a licensed operator in order to become a registered
- 3 player.
- 4 (aq) “Robotic play” means the use of a machine or software to
- 5 automate the next player action at any point in a game, including
- 6 the use of a proxy player.
- 7 (ar) (1) “Service provider” means any person, other than an
- 8 employee, that does any of the following:
- 9 (A) On behalf of a licensed operator, manages, administers, or
- 10 controls bets on authorized Internet poker games provided over
- 11 the Internet by a licensee pursuant to this chapter.
- 12 (B) On behalf of a licensed operator, manages, administers, or
- 13 controls the games with which the bets described in subparagraph
- 14 (A) are associated.
- 15 (C) On behalf of a licensed operator, develops, maintains,
- 16 provides, or operates a gaming system.
- 17 (D) Sells, licenses, or otherwise receives compensation for
- 18 selling or licensing, information on individuals in California who
- 19 made bets on games over the Internet that were not authorized
- 20 pursuant to this chapter.
- 21 (E) Provides any product, service, financing, or asset to a
- 22 licensed operator and is paid a percentage of gaming revenue by
- 23 the licensed operator, not including fees to financial institutions
- 24 and payment providers for facilitating a deposit by a customer.
- 25 (F) Provides intellectual property, including trademarks, trade
- 26 names, service marks, or similar intellectual property under which
- 27 a licensed operator identifies its games to its customers.
- 28 (G) Receives compensation as part of an affiliate marketing
- 29 program from bringing players or potential players to a licensed
- 30 operator’s authorized poker Web site.
- 31 (2) “Service provider” does not include a provider of goods or
- 32 services that provides similar goods or services to the public for
- 33 purposes other than the operation of an authorized poker Web site,
- 34 including, but not limited to, payment processors and geolocation
- 35 service providers.
- 36 (as) “State” means the State of California.
- 37 (at) “Terms of Use Registered Player’s Agreement” means the
- 38 agreement offered by a licensed operator and accepted by a
- 39 registered player delineating, among other things, permissible and

1 impermissible activities on an authorized poker Web site and the  
2 consequences of engaging in impermissible activities.

3 (au) “Tournament” means a competition approved by the  
4 department in which registered players play a series of authorized  
5 Internet poker games to decide the winner.

6 (av) “Tournament charge” means the amount charged by the  
7 licensed operator for registered players to play in a tournament.

8 (aw) “Tournament winnings” means the amount of any prize  
9 awarded to a registered player in a tournament.

10 (ax) “Tribal gaming regulatory authority” means the gaming  
11 regulatory authority of a federally recognized California Indian  
12 tribe that has the authority to regulate gaming on the tribe’s Indian  
13 lands pursuant to IGRA.

14 (ay) “Tribe” means a federally recognized California Indian  
15 tribe, including, but not limited to, the governing body of that tribe  
16 or any entity that is wholly owned by the tribe.

17 (az) “Unlawful Gambling Enforcement Fund” means the fund  
18 established pursuant to Section 19990.802, the revenue of which  
19 is dedicated to enforcing the prohibitions of this chapter.

20

21 Article 3. Intrastate Internet Poker in California

22

23 19990.301. Under the federal Unlawful Internet Gambling  
24 Enforcement Act of 2006, California is permitted to authorize  
25 games played via the Internet as long as all players and the online  
26 wagering is located within the jurisdiction of the state and the  
27 games are not played by minors.

28 19990.302. Notwithstanding any other law, a person who is  
29 21 years of age or older and located within California is hereby  
30 permitted to participate as a registered player in an authorized  
31 Internet poker game provided by a licensed operator on an  
32 authorized poker Web site.

33 19990.303. (a) A person shall not do any of the following:

34 (1) Offer any game of poker on the Internet in this state unless  
35 that person holds a valid license issued by the commission to offer  
36 the play of authorized Internet poker games on an authorized poker  
37 Web site pursuant to this chapter.

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

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

4 (b) Subject to an opportunity to cure pursuant to Section  
5 19990.521, a violation of this chapter is a felony, punishable by  
6 imprisonment pursuant to subdivision (h) of Section 1170 of the  
7 Penal Code.

8 19990.304. This chapter does not limit or restrict activities or  
9 conduct permitted pursuant to Chapter 5 (commencing with Section  
10 19800) or IGRA.

11 19990.305. This chapter does not authorize any game offered  
12 in Nevada or New Jersey other than poker.

13 19990.306. A person shall not do either of the following:

14 (a) Aggregate computers or any other Internet access device in  
15 a place of public accommodation within the state, including a club  
16 or other association, or a public or other setting, that can  
17 accommodate multiple players to simultaneously play an authorized  
18 Internet poker game.

19 (b) Promote, facilitate, or market the activity described in  
20 subdivision (a).

21 19990.307. This chapter does not apply to play-for-fun or  
22 play-for-free games.

23

#### 24 Article 4. Licensing of Operators and Service Providers

25

26 19990.401. (a) (1) Within 270 days after the effective date of  
27 this chapter, the commission, and any other state agency with a  
28 duty pursuant to this chapter, shall, in consultation with the  
29 department and tribes, adopt regulations pursuant to the  
30 Administrative Procedure Act (Chapter 3.5 (commencing with  
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
32 Code) to implement this chapter, and to facilitate the operation of  
33 authorized poker Web sites and expedite the state's receipt of  
34 revenues in compliance with this chapter. The initial adoption,  
35 amendment, or repeal of a regulation authorized by this section is  
36 deemed to address an emergency, for purposes of Sections 11346.1  
37 and 11349.6 of the Government Code, and the commission and  
38 those other state agencies are hereby exempted for that purpose  
39 from the requirements of subdivision (b) of Section 11346.1 of  
40 the Government Code. After the initial adoption, amendment, or



1 repeal of an emergency regulation pursuant to this section, the  
2 commission and those other state agencies shall not request  
3 approval from the Office of Administrative Law to readopt the  
4 regulation as an emergency regulation pursuant to Section 11346.1  
5 of the Government Code, but shall promulgate permanent  
6 regulations in accordance with all applicable law.

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

- 9 (A) Underage gambling and problem gambling.
- 10 (B) Gaming system technical standards and practices.
- 11 (C) Hardware and software standards and compliance.
- 12 (D) License and work permit issuance and processes.
- 13 (E) Suitability standards and determinations.
- 14 (F) Temporary, provisional, and emergency approvals.
- 15 (G) Effect of receiverships, bankruptcy, insolvency, inheritance,  
16 and trusts affecting ownership of a licensee.
- 17 (H) Appeals from adverse decisions.

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

- 20 (A) Approval of an authorized Internet poker game.
- 21 (B) Authorized Internet poker game rules.
- 22 (C) Authorized Internet poker gaming activities.
- 23 (D) Registered player-assessed fees, as necessary.
- 24 (E) In order to assist the department's enforcement of Section  
25 19990.526, a procedure for the department to access any list of  
26 customers or any database containing customer information that  
27 was accrued or created by a licensed service provider prior to the  
28 effective date of the regulations described in this subdivision.

29 (b) (1) Each state agency with a duty pursuant to this chapter  
30 shall identify a point of contact at that agency and describe the  
31 responsibility of the contact with respect to the state agency's duty.

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

35 (3) Unless otherwise provided by this chapter, notice by a  
36 licensee to a state agency shall be deemed effective once it is  
37 received by the agency and deemed to be complete. An application  
38 or notice is not deemed complete until all pertinent documents,  
39 information, and fees are submitted to the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 19990.404. (a) An entity seeking to act as a service provider  
32 shall apply to the department for a determination of suitability. If  
33 the department determines the applicant is suitable to receive a  
34 license, the applicant shall then apply to the commission for a  
35 service provider license, and obtain a service provider license,  
36 before providing goods or services to a licensed operator in  
37 connection with the operation of an authorized poker Web site.  
38 The commission may impose limitations and conditions upon the  
39 issuance of the service provider license or the utilization of the  
40 applicant's assets acquired before the enactment of the act that

1 added this section, or both, with respect to its operations in the  
2 state.

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

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

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

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

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

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

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

29 ~~(f) (1) Unless licensed or authorized pursuant to this chapter~~  
 30 ~~or comparable federal or state law in the jurisdiction where the bet~~  
 31 ~~or wager was made or the facilitation of the wager or financial~~  
 32 ~~transaction occurred, there is a rebuttable presumption that an~~  
 33 ~~applicant for a service provider license is unsuitable if either of~~  
 34 ~~the following occurred:~~

35 ~~(A) The applicant, or its corporate or marketing affiliate,~~  
 36 ~~accepted a bet or wager on any form of Internet gambling, or~~  
 37 ~~engaged in a transaction relating to those bets or wagers, from a~~  
 38 ~~person located in the United States after December 31, 2011.~~

39 ~~(B) A member of the board of directors or the ultimate parent~~  
 40 ~~company of, the chief executive officer of, or a shareholder holding~~

1 more than 10 percent of the shares of, the applicant, or its corporate  
2 or marketing affiliate, was directly involved in an executive  
3 decisionmaking capacity in facilitating a wager or financial  
4 transaction relating to Internet gambling in the United States and  
5 that person remains affiliated with the applicant at the time of the  
6 application.

7 (f) (1) *There is a rebuttable presumption that an applicant for*  
8 *a service provider license is unsuitable if either of the following*  
9 *occurred:*

10 (A) *A member of the board of directors of, the chief executive*  
11 *officer of, or a shareholder holding more than 10 percent of the*  
12 *shares of the applicant, or its corporate affiliate, has held a similar*  
13 *or equivalent position with an organization that knowingly and*  
14 *willfully accepted a bet, or engaged in a financial transaction*  
15 *related to that bet, after December 31, 2006, from a person located*  
16 *in the United States on any form of Internet gambling, including,*  
17 *but not limited to, poker, that was not affirmatively authorized by*  
18 *the law of the United States, or of the state in which the bet or*  
19 *related financial transaction was initiated, or that was otherwise*  
20 *legal.*

21 (B) *A member of the board of directors of, the chief executive*  
22 *officer of, or a shareholder holding more than 10 percent of the*  
23 *shares of the applicant, or its corporate affiliate, has held a similar*  
24 *or equivalent position with an organization that knowingly*  
25 *facilitated or otherwise provided services with respect to bets, or*  
26 *engaged in a financial transaction related to those bets, after*  
27 *December 31, 2006, involving persons located in the United States,*  
28 *and acted with knowledge of the fact that those bets or financial*  
29 *transactions were not affirmatively authorized by the law of the*  
30 *United States, or of the state in which the bet or related financial*  
31 *transaction was initiated, or that was otherwise legal.*

32 (2) An applicant may rebut the presumption described in  
33 paragraph (1) by proving to the department, by a preponderance  
34 of the evidence, any of the following:

35 (A) The acceptance of the bet or wager, the engagement in the  
36 transaction, or the facilitation of the wager or financial transaction  
37 was not knowing or intentional.

38 (B) The bet or wager was accepted, or the transaction was  
39 engaged in, notwithstanding reasonable efforts by the applicant,

1 or its corporate or marketing affiliate, to exclude bets or wagers  
2 from the person.

3 (C) The acceptance of the bet or wager, the engagement in the  
4 transaction, or the facilitation of the wager or financial transaction  
5 occurred within a reasonable time period in order to cease those  
6 activities in the United States.

7 (D) The person described in subparagraph (B) of paragraph (1)  
8 is no longer affiliated with the applicant.

9 (3) This subdivision shall not limit the department's authority  
10 to make a determination regarding suitability pursuant to Section  
11 19990.405.

12 (g) (1) *Except as provided in paragraph (2), an applicant for a*  
13 *service provider license shall not be granted a license until January*  
14 *1, 2021, if the applicant, or its corporate or marketing affiliate,*  
15 *accepted a bet or wager on any form of Internet gambling, or*  
16 *engaged in a transaction related to those bets or wagers, and both*  
17 *of the following conditions are met:*

18 (A) *The bet or wager was accepted between December 31, 2006,*  
19 *and December 31, 2011, from a person located in the United States.*

20 (B) *The applicant did not have a license or authority pursuant*  
21 *to comparable federal or state law in a jurisdiction where the bet*  
22 *or wager was made or the facilitation of the wager or financial*  
23 *transaction occurred.*

24 (2) *If an applicant for a service provider license meets the*  
25 *description in paragraph (1), the applicant, if he or she otherwise*  
26 *meets the qualifications and suitability criteria under this chapter,*  
27 *shall pay a one-time fee in the amount of twenty million dollars*  
28 *(\$20,000,000), to be deposited into the General Fund, to obtain a*  
29 *service provider license before January 1, 2021.*

30 ~~(g)~~

31 (h) An institutional investor holding less than 10 percent of the  
32 equity securities of a service provider's holding or intermediary  
33 companies shall be granted a waiver of a determination of  
34 suitability or other requirement if all of the following apply:

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

37 (2) Holdings of those securities were purchased for investment  
38 purposes only.

39 (3) The institutional investor annually files a certified statement  
40 with the department to the effect that it has no intention of



1 influencing or affecting the affairs of the issuer, the licensee, or  
2 service provider, as applicable, or its holding or intermediary  
3 companies.

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

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

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

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

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

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

1 upon the eligibility of the institutional investor for a waiver  
2 pursuant to paragraph (2).

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

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

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

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

20 (C) A collective investment trust organized by banks under Part  
21 9 of the Rules of the Office of the Comptroller of the Currency  
22 (12 C.F.R. Sec. 9.1 et seq.).

23 (D) A closed-end investment trust.

24 (E) A chartered or licensed life insurance company or property  
25 and casualty insurance company.

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

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

30 ~~(h)~~

31 (i) An agreement between a licensed operator and a service  
32 provider that is a horse racing association operating pursuant to  
33 Chapter 4 (commencing with Section 19400) shall ensure that at  
34 least 50 percent of the gross gaming revenue that the licensed  
35 operator derives from the service provided by the service provider  
36 is paid to the service provider.

37 19990.405. (a) The department shall issue a finding that a  
38 license applicant is suitable to obtain a license only if, based on  
39 all of the information and documents submitted, the department

1 is satisfied that each of the persons subject to a determination of  
2 suitability pursuant to this article is both of the following:

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

7 (2) A person whose prior activities, criminal record, if any,  
8 reputation, habits, and associations do not pose a threat to the  
9 public interest of the state, or to the effective regulation and control  
10 of authorized Internet poker games, or create or enhance the  
11 dangers of unsuitable, unfair, or illegal practices, methods, and  
12 activities in the conduct of authorized Internet poker games or in  
13 the carrying on of the business and financial arrangements  
14 incidental thereto.

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

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

21 (2) The person failed to timely provide information,  
22 documentation, and assurances required by this chapter or requested  
23 by the department, or, with respect to a licensed applicant, failed  
24 to reveal any fact material to qualification, or supplied information  
25 that is untrue or misleading as to a material fact pertaining to the  
26 suitability criteria.

27 (3) The person has been convicted of a felony, including a  
28 conviction by a federal court or a court in another state or foreign  
29 jurisdiction for a crime that would constitute a felony if committed  
30 in California, except that a conviction of a felony involving the  
31 hunting or fishing rights of a tribal member while on his or her  
32 reservation shall not be included among the class of disqualifying  
33 felonies.

34 (4) The person has been convicted of a misdemeanor in a  
35 jurisdiction involving dishonesty or moral turpitude within the  
36 10-year period immediately preceding the submission of the  
37 application, unless the applicant has been granted relief pursuant  
38 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.  
39 However, the granting of relief pursuant to Section 1203.4,  
40 1203.4a, or 1203.45 of the Penal Code shall not constitute a

1 limitation on the discretion of the department or affect the  
2 applicant's burden.

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

5 (6) The person has contemptuously defied a legislative  
6 investigative body, or other official investigative body of a state  
7 or of the United States or a foreign jurisdiction, when that body is  
8 engaged in the investigation of crimes relating to poker, official  
9 corruption related to poker activities, or criminal profiteering  
10 activity or organized crime, as defined in Section 186.2 of the  
11 Penal Code.

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

13 (8) (A) The person has been convicted in a court of competent  
14 jurisdiction of a felony consisting of either having accepted a bet  
15 over the Internet in violation of ~~United States or California~~ *federal*  
16 *or state* law, or having aided or abetted that unlawful activity.

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

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

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

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

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

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

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

6 19990.406. (a) This chapter does not restrict the authority of  
7 a tribe that is a licensed operator or that owns a tribal enterprise  
8 that is a licensed operator to conduct suitability reviews of its  
9 service providers.

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

14  
15 Article 5. Requirements for the Operation of an Authorized  
16 Poker Web Site  
17

18 19990.501. (a) A licensed operator shall ensure that registered  
19 players are eligible to play authorized Internet poker games and  
20 implement appropriate data security standards to prevent access  
21 by a person whose age and location have not been verified in  
22 accordance with this chapter.

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

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

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

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

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

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

1 (4) If the licensed operator is unable to verify that the person is  
2 21 years of age or older pursuant to paragraph (1), the licensed  
3 operator shall require the person to submit age-verification  
4 documents consisting of an attestation signed by the person that  
5 he or she is 21 years of age or older and a copy of a valid form of  
6 government identification. For the purposes of this section, a valid  
7 form of government identification includes a driver's license, state  
8 identification card, passport, official naturalization or immigration  
9 document, such as an alien registration receipt card or an immigrant  
10 visa, or United States military identification. The licensed operator  
11 shall verify that the physical billing address on the check or credit  
12 card provided by the person matches the address listed on his or  
13 her government identification.

14 (5) The licensed operator shall not permit registered players to  
15 make payments or withdrawals by money order or cash, except  
16 that a licensed operator may permit registered players to make  
17 payments or withdrawals by money order or cash in person at the  
18 land-based gaming facility operated by the licensed operator. The  
19 licensed operator shall submit information to each credit card  
20 company through which it makes credit card sales, in an  
21 appropriate form and format so that the words "Internet poker" or  
22 equivalent description is printed on the purchaser's credit card  
23 statement with that credit card company, when a payment to a  
24 licensed operator is made by credit card and the transaction is  
25 categorized as required by law.

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

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

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

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

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

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

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

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

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

11 (2) The commission shall deliver the form to each licensed  
12 operator.

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

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

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

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

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

27 19990.502. A licensed operator shall offer only authorized  
28 Internet poker games and process bets in accordance with the  
29 specified game and betting rules established by the licensed  
30 operator and approved by the department pursuant to Section  
31 19990.503.

32 19990.503. (a) In order to propose a game for play, a licensed  
33 operator shall provide the department with both of the following  
34 via electronic means or via mail:

35 (1) Game rules and betting rules it proposes to offer to registered  
36 players.

37 (2) Documentation from an independent gaming test laboratory  
38 that is licensed or registered in any United States jurisdiction to  
39 test, approve, and certify the game's software.

- 1 (b) A licensed operator shall not offer a game for play until the  
 2 department has approved the game rules and betting rules.  
 3 19990.504. (a) A licensed operator shall ensure that games  
 4 are fair.  
 5 (b) A licensed operator shall display a link on its authorized  
 6 poker Web site that includes the following information for each  
 7 game offered:  
 8 (1) The name of the game.  
 9 (2) Any restrictions on the play of the game.  
 10 (3) The rules of the game.  
 11 (4) All instructions on how to play.  
 12 (5) The unit and total bets permitted.  
 13 (6) Per hand charges assessed to registered players.  
 14 (7) The registered player’s current account balance, which shall  
 15 be updated in real time.  
 16 (8) Any other information that a licensed operator or the  
 17 department determines is necessary for the registered player to  
 18 have in real time to compete fairly in the game.  
 19 (c) A licensed operator shall display a link on its authorized  
 20 poker Web site that includes the following information for each  
 21 tournament offered:  
 22 (1) Tournament rules.  
 23 (2) Tournament charge.  
 24 (3) Games offered during the tournament.  
 25 (4) Prize structure and number of registered players that will be  
 26 paid.  
 27 (5) Buy-in amount, re-buy amount, and add-on amount.  
 28 (d) Data used to create game results shall be unpredictable so  
 29 that it is infeasible to predict the next occurrence in a game.  
 30 (e) A licensed operator shall deploy controls and technology to  
 31 minimize fraud or cheating through collusion, including external  
 32 exchange of information between different players, or any other  
 33 means.  
 34 (1) If a licensed operator becomes aware that fraud or cheating  
 35 is taking place or has taken place, it shall take steps to stop those  
 36 activities immediately and inform the department of all relevant  
 37 facts.  
 38 (2) The department shall not impose a fine against a licensed  
 39 operator to prevent fraud or cheating if the licensed operator can



1 demonstrate that it acted responsibly to prevent those activities as  
2 soon as the licensed operator became aware of them.

3 (f) In a per hand game, if the gaming server or software does  
4 not allow a game to be completed, the game shall be void and all  
5 funds relating to the incomplete game shall be returned to the  
6 registered player's account.

7 (g) In a tournament, if the gaming server or software does not  
8 allow the tournament to be completed, all prize money shall be  
9 distributed among players in accordance with the procedure  
10 approved by the department and published by the licensed operator  
11 prior to the commencement of the tournament.

12 (h) A licensed operator shall display or allow the results from  
13 any authorized Internet poker game, including the redemption of  
14 winnings from any game, to be displayed or represented only by  
15 showing the card faces of the winning hand and the dollar amount  
16 won.

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

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

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

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

28 19990.505. (a) A licensed operator shall register players and  
29 establish registered player accounts prior to play.

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

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

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

38 (1) First name and surname.

39 (2) Principal residence address.

40 (3) Telephone number.

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

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

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

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

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

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

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

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

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

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

28 19990.507. Prior to completing the registration process, a  
29 licensed operator shall explain in a conspicuous fashion to the  
30 person who is registering the privacy policies of the authorized  
31 poker Web site, and the person shall assent to the following  
32 policies:

33 (a) Personally identifiable information shall not be shared with  
34 any nongovernmental third parties, except as provided in Section  
35 19990.512.

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

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

4 19990.508. A licensed operator may require that a registered  
5 player, or a person registering as a player, agree to a Terms of Use  
6 Registered Player's Agreement.

7 19990.509. A licensed operator may suspend or revoke the  
8 account of a registered player for any of the following reasons:

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

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

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

16 (d) The person has already been registered.

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

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

22 19990.510. Upon registration, and each time a registered player  
23 logs into an authorized poker Web site, the licensed operator shall  
24 permit a registered player to adjust his or her play settings to:

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

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

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

30 19990.511. A licensed operator shall offer customer support  
31 that shall be available to registered players 24 hours per day, 365  
32 days per year.

33 19990.512. (a) A licensed operator shall protect the privacy  
34 of registered players and their personally identifiable information.

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

37 (c) At the time a registered player registers with a licensed  
38 operator, and at least one time per year thereafter, a licensed  
39 operator shall provide notice in the form of a separate, written  
40 statement, delivered via the United States Postal Service or

1 electronic mail, to the registered player that clearly and  
2 conspicuously informs the registered player of all of the following:

3 (1) The nature of personally identifiable information collected  
4 or to be collected with respect to the registered player and the  
5 nature of the use of that information.

6 (2) The nature, frequency, and purpose of any disclosure that  
7 may be made of personally identifiable information, including an  
8 identification of the types of persons to whom the disclosure may  
9 be made.

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

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

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

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

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

23 (1) Obtain information necessary to operate the authorized poker  
24 Web site and offer authorized Internet poker games to registered  
25 players pursuant to this chapter.

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

29 (f) Except as provided in subdivision (g), a licensed operator  
30 shall not disclose personally identifiable information concerning  
31 any registered player without the prior written or electronic consent  
32 of the registered player and shall take actions necessary to prevent  
33 unauthorized access to that information by a person other than the  
34 registered player or licensed operator.

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

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

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

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

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

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

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

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

17 (h) A licensed operator shall provide a registered player with  
18 access to all personally identifiable information regarding that  
19 registered player that is collected and maintained by the licensed  
20 operator. The licensed operator shall make the information  
21 available to the registered player at reasonable times and at a place  
22 designated by the licensed operator. A licensed operator shall  
23 provide a registered player a reasonable opportunity to correct any  
24 error in the information.

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

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

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

31 (j) A governmental or nongovernmental third party may obtain  
32 personally identifiable information concerning a registered player  
33 pursuant to a court order only if, in the court proceeding relevant  
34 to the court order, both of the following apply:

35 (1) The third party offers clear and convincing evidence that  
36 the subject of the information is reasonably suspected of engaging  
37 in criminal activity or otherwise relevant to a pending civil action  
38 and that the information sought would be material evidence in the  
39 case.

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

4 19990.513. A licensed operator shall establish a book of  
5 accounts and regularly audit all of its financial records and reports,  
6 which shall, at a minimum, include all of the following:

7 (a) Monthly auditable and aggregate financial statements of  
8 gambling transactions.

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

10 (c) The identity of registered players.

11 (d) The balance on each registered player's account at the start  
12 of a session of play, the amount won or lost by each registered  
13 player during a game, and the balance on the registered player's  
14 account.

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

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

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

20 19990.514. (a) A licensed operator shall make all financial  
21 records established and maintained pursuant to Section 19990.513,  
22 including, but not limited to, all books, records, documents,  
23 financial information, and financial reports, available on an  
24 electronic basis, as required by the commission, the department,  
25 or other state agencies so that those state agencies can fulfill their  
26 responsibilities under this chapter. A state agency may request  
27 specific printed hard copies of records for good cause.

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

32 (c) Notwithstanding subdivision (b), data covered by  
33 subdivisions (d), (e), and (f) of Section 19990.513 shall be  
34 accessible to the state agencies online for 180 days, and, thereafter,  
35 archived and retained for two years.

36 19990.515. A licensed operator shall do all of the following:

37 (a) Implement technical systems that materially aid the  
38 commission in the protection of registered players. Software shall  
39 meet, at a minimum, international industry standards as verified  
40 by an independent gaming test laboratory that is licensed or

1 registered in any United States jurisdiction to test, approve, and  
2 certify the software.

3 (b) Define and document its methodology for developing  
4 software and applications and describe the manner in which  
5 software protects registered players from fraud and other risks in  
6 the play of authorized Internet poker games and in the management  
7 of registered player accounts.

8 (c) Meet minimum game server connectivity requirements to  
9 ensure that registered players are protected from losses due to  
10 connectivity problems.

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

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

17 (f) Document and implement preventive and detective controls  
18 addressing money laundering and fraud risks.

19 19990.516. (a) A licensed operator may charge registered  
20 players to play in authorized Internet poker games.

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

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

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

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

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

33 19990.517. A licensed operator may do any of the following:

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

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



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

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

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

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

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

13 19990.518. There are three categories of application fees,  
14 regulatory fees, and license deposits, as follows:

15 (a) Application Processing Fee. In order to cover the costs of  
16 suitability investigations and other costs of processing an  
17 application for a license or work permit, the applicant shall deposit  
18 the applicable application processing fee as provided in subdivision  
19 (a) of Section 19990.402, subdivision (e) of Section 19990.403,  
20 subdivision (b) of Section 19990.404, or Section 19990.605. Any  
21 balance of the application processing fee that remains after  
22 completion of the determination of suitability shall be refunded to  
23 the applicant. If additional moneys are needed to complete the  
24 determination of suitability of the license applicant, the applicant  
25 shall pay the funds necessary to complete the determination of  
26 suitability.

27 (b) One-time License Deposit. Prior to offering any games for  
28 play or accepting any bets on its authorized poker Web site, a  
29 licensed operator shall pay the one-time license deposit as provided  
30 in subdivision (a) of Section 19990.519.

31 (c) Ongoing Regulatory Fees. Following issuance of a license  
32 and beginning of operations thereunder, the licensed operator shall  
33 pay the ongoing regulatory fees set forth in subdivision (c) of  
34 Section 19990.519.

35 19990.519. (a) In support of the application for a license  
36 pursuant to this chapter, prior to offering games or accepting bets  
37 on its authorized poker Web site, the licensed operator shall remit  
38 to the Treasurer a one-time license deposit in the amount of twelve  
39 million five hundred thousand dollars (\$12,500,000), to be  
40 deposited into the General Fund, subject to Section 19619.8.

1 19619.8, and six million two hundred fifty thousand dollars  
 2 (\$6,250,000) of the one-time license deposit shall be credited  
 3 against the duty imposed the licensed operator’s gross gaming  
 4 revenues pursuant to subdivision (b). Upon depletion of the credit  
 5 amount, the commission shall notify the licensed operator to  
 6 commence with the annual payments to the state in accordance  
 7 with subdivision (b).

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

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

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

20 (B) If annual gross gaming revenues are more than one hundred  
 21 fifty million dollars (150,000,000) and less than or equal to two  
 22 hundred fifty million dollars (\$250,000,000), the rate percent is  
 23 10 percent.

24 (C) If annual gross gaming revenues are more than two hundred  
 25 fifty million dollars (\$250,000,000) and less than or equal to three  
 26 hundred fifty million dollars (\$350,000,000), the rate percent is  
 27 12.5 percent.

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

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

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

38 (4) The commission shall administer and collect the duty  
 39 imposed by this subdivision pursuant to the Fee Collection  
 40 Procedures Law (Part 30 (commencing with Section 55001) of the

1 Revenue and Taxation Code). For purposes of this subdivision,  
2 the references to “fee” in the Fee Collection Procedures Law shall  
3 include the duty imposed by this subdivision, and, except when  
4 the context provides otherwise, references to “feepayer” in that  
5 law shall include a licensed operator required to pay the duty  
6 imposed by this subdivision and references to the “board” in that  
7 law shall refer instead to the commission.

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

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

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

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

26 (c) The confidentiality provisions of this chapter exempt  
27 proprietary information supplied by a licensee to a state agency  
28 from public disclosure consistent with subdivision (b) of Section  
29 6253 of the Government Code.

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

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

38 (c) If the department becomes aware of any violation of this  
39 chapter, or if it becomes aware of any activities that might lead to  
40 a violation, the department shall provide notice of that violation

1 to the licensee and a reasonable opportunity for the licensee to  
2 cure the violation. If the violation is not timely cured, the  
3 department shall investigate the violation further and may take  
4 enforcement actions. If the commission becomes aware of any  
5 violation of this chapter, the commission shall notify the  
6 department of the violation immediately so that the department  
7 may take appropriate action pursuant to this chapter.

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

14 (e) A licensee shall be afforded a reasonable time period to cure  
15 any reported violation. During this time period, a licensee shall  
16 not be subject to prosecution for the criminal penalty described in  
17 Section 19990.303, or liable for the civil penalties described in  
18 this article.

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

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

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

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

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

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

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

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

12 (b) The department shall investigate to ensure that any person  
13 acquiring an interest in a licensee is suitable, and otherwise  
14 financially, technically, and legally qualified to be a licensee  
15 pursuant to this chapter. If an acquiring person is found to be  
16 unsuitable to be a licensee, or otherwise not financially, technically,  
17 or legally qualified to be a licensee, the licensed operator or the  
18 acquiring person may challenge that determination.

19 19990.523. All facilities, software, including downloadable  
20 programs, and any other property, both tangible and intangible,  
21 used by the licensed operator in offering authorized Internet poker  
22 games for play on an authorized poker Web site shall be the  
23 property of the licensed operator or its licensed service providers,  
24 and shall be subject to the review of the department and the  
25 approval of the commission.

26 19990.524. If any dispute arises between the state and a  
27 licensee, either the commission or a licensee may file an action in  
28 the superior court of any county in which the commission has an  
29 office for an interpretation of the rights and responsibilities of the  
30 state and the licensee pursuant to this chapter.

31 19990.525. (a) (1) The department or commission may  
32 contract with other public or private entities, including, but not  
33 limited to, state, tribal, and international regulatory agencies, for  
34 the provision of services related to a responsibility imposed on the  
35 department or commission by this chapter if all of the following  
36 are satisfied:

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

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

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

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

7 (b) A state agency with a duty pursuant to this chapter may enter  
8 into agreements to share information with other regulatory and  
9 law enforcement agencies to assist in performing the state agency’s  
10 duty.

11 19990.526. (a) Until January 1, 2019, a licensed service  
12 provider shall not, for any purpose, use any list of customers or  
13 database containing customer information that was accrued or  
14 created prior to the effective date of the regulations described in  
15 subdivision (a) of Section 19990.401.

16 (b) Pursuant to subdivision (b) of Section 19990.303, a violation  
17 of subdivision (a) is a felony, punishable pursuant to subdivision  
18 (h) of Section 1170 of the Penal Code.

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Article 6. Employee Work Permits

22 19990.601. (a) Except as provided in Section 19990.602, a  
23 licensee shall submit an application and applicable fees to the  
24 department and apply to the commission for an employee work  
25 permit on behalf of each employee.

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

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

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

1 the conduct of controlled gambling or in the carrying on of  
2 incidental business and financial arrangements.

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

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

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

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

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

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

34 (2) In reviewing an application for a work permit, the tribal  
35 gaming regulatory authority shall determine whether issuance of  
36 the employee work permit would meet the suitability standards  
37 set forth in this chapter. The tribal gaming regulatory authority  
38 shall not issue a permit unless, based on all information and  
39 documents submitted, the tribal gaming regulatory authority

1 determines that the applicant meets all of the criteria set forth in  
2 this chapter for the issuance of the employee work permit.

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

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

20 (5) Upon completion of the necessary determination of  
21 suitability, the tribal gaming regulatory authority may issue a  
22 finding that the person or entity is eligible for an employee work  
23 permit on a conditional or unconditional basis. This section does  
24 not create a property or other right of an applicant in an opportunity  
25 to be permitted, or in a permit itself, both of which shall be  
26 considered privileges granted to the applicant in the sole discretion  
27 of the tribal gaming regulatory authority.

28 (6) Upon receipt of a completed license application and a  
29 determination by the tribal gaming regulatory authority that the  
30 applicant is eligible and suitable for the employee work permit,  
31 the tribal gaming regulatory authority shall transmit to the  
32 commission a notice of intent to issue a permit to the applicant.  
33 The tribal gaming regulatory authority shall not issue an employee  
34 work permit until the process required by paragraph (7) is  
35 complete.

36 (7) After receipt of the tribal gaming regulatory authority's  
37 notice pursuant to paragraph (6), and upon completion of the  
38 necessary determination of suitability, the commission shall issue  
39 a notice to the tribal gaming regulatory authority stating its finding  
40 that the applicant is suitable or is not suitable for the requested



1 permit. The commission may charge an additional application  
2 processing fee pursuant to Section 19990.605 to cover the  
3 reasonable costs of conducting its verification of suitability.

4 (A) If the commission notices a finding that the applicant is  
5 suitable, the tribal gaming regulatory agency shall issue an  
6 employee work permit to the applicant. The permit shall be  
7 effective pursuant to this chapter as though issued by the  
8 commission.

9 (B) If the commission notices a finding that the applicant is not  
10 suitable, the tribal gaming regulatory authority shall not issue the  
11 requested permit. Prior to denying an application for a  
12 determination of suitability, the commission shall notify the tribal  
13 gaming regulatory authority and afford the tribe an opportunity to  
14 be heard. If the commission denies an application for a  
15 determination of suitability, the commission shall provide the  
16 applicant with written notice of all appeal rights available under  
17 state law.

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

29 (8) A tribal permit application submitted pursuant to this section  
30 may be denied, and any permit issued may be revoked, if the tribal  
31 gaming regulatory authority determines that the application is  
32 incomplete or deficient, or if the applicant is determined to be  
33 unsuitable or otherwise unqualified for a permit. Pending  
34 consideration of revocation, the tribal gaming regulatory authority  
35 may suspend a permit. All rights to notice and hearing shall be  
36 governed by the rules of the tribal gaming regulatory authority,  
37 which shall meet minimum requirements to be developed among  
38 the tribes, the commission, and the department, and as to which  
39 the applicant shall be notified in writing, along with notice of an  
40 intent to suspend or revoke the permit.

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

6 (d) The commission and tribal gaming regulatory authorities  
7 conducting suitability reviews pursuant to this section shall  
8 cooperate in sharing as much background information as possible  
9 in order to maximize investigative efficiency and thoroughness,  
10 to minimize investigative costs, and to expedite the permitting  
11 process.

12 (e) The commission and the tribes that have elected to conduct  
13 suitability reviews pursuant to this section shall cooperate in  
14 developing standard forms for tribal gaming employee work permit  
15 applicants, on a statewide basis, that reduce or eliminate duplicative  
16 or excessive paperwork, and that take into account the requirements  
17 of this chapter and the expense of compliance with those  
18 requirements.

19 19990.603. An applicant for an employee work permit is  
20 disqualified if the applicant is described by any of the following:

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

23 (b) The applicant failed to timely provide information,  
24 documentation, and assurances required by this chapter or requested  
25 by any state official, or, with respect to a licensed applicant, failed  
26 to reveal any fact material to qualification, or supplied information  
27 that is untrue or misleading as to a material fact pertaining to the  
28 suitability criteria.

29 (c) The applicant has been convicted of a felony, including a  
30 conviction by a federal court or a court in another state or foreign  
31 jurisdiction for a crime that would constitute a felony if committed  
32 in California, except that a conviction of a felony involving the  
33 hunting or fishing rights of a tribal member while on his or her  
34 reservation shall not be included among the class of disqualifying  
35 felonies.

36 (d) The applicant has been convicted of a misdemeanor in a  
37 jurisdiction involving dishonesty or moral turpitude within the  
38 10-year period immediately preceding the submission of the  
39 application, unless the applicant has been granted relief pursuant  
40 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

1 However, the granting of relief pursuant to Section 1203.4,  
2 1203.4a, or 1203.45 of the Penal Code shall not constitute a  
3 limitation on the discretion of the department or affect the  
4 applicant's burden.

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

8 (f) The applicant has contemptuously defied a legislative  
9 investigative body, or other official investigative body of a state  
10 or of the United States or a foreign jurisdiction, when that body is  
11 engaged in the investigation of crimes relating to poker, official  
12 corruption related to poker activities, or criminal profiteering  
13 activity or organized crime, as defined in Section 186.2 of the  
14 Penal Code.

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

16 (h) The applicant was a member of the board of directors or the  
17 ultimate parent company of, the chief executive officer of, or a  
18 shareholder holding more than 10 percent of the shares of, an  
19 entity, or its corporate or marketing affiliate, and was directly  
20 involved in an executive decision making capacity that led the  
21 entity, or its affiliate, to facilitate a wager or financial transaction  
22 relating to Internet gambling in the United States, unless any of  
23 the following applies:

24 (1) The entity, or its affiliate, was licensed or authorized to  
25 engage in the activity pursuant to this chapter or comparable federal  
26 or state law in the jurisdiction where the facilitation of the wager  
27 or financial transaction occurred.

28 (2) The facilitation of the wager or financial transaction was  
29 not knowing or intentional.

30 (3) The facilitation of the wager or financial transaction occurred  
31 within a reasonable time period in order to cease those activities  
32 in the United States.

33 19990.604. (a) If a licensed operator has any owners, officers,  
34 or directors who are not employees, it shall ensure that each of  
35 those persons obtains an employee work permit before having any  
36 role or decisionmaking authority regarding the licensed operator's  
37 gaming operations.

38 (b) If the licensed operator is a tribal enterprise controlled by  
39 an independent board of directors, the officers, directors, and  
40 employees of that tribal enterprise are subject to suitability review

1 pursuant to this section. This section does not require that an  
2 officer, director, employee, or member of the tribe that owns the  
3 tribal enterprise be subject to suitability review if that individual  
4 is not also an officer, director, employee, or member of the tribal  
5 enterprise or a person who controls the core functions of the tribal  
6 enterprise.

7 19990.605. The commission, the department, and, if applicable,  
8 the tribal gaming regulatory authority, shall establish application  
9 processing fees to be paid by a licensee for the reasonable cost of  
10 determinations of suitability for, and issuance of, employee work  
11 permit applications. The commission shall establish processes for  
12 the revocation or suspension of an employee work permit, and to  
13 withdraw an application for an employee work permit.

14 19990.606. A licensed operator or service provider shall not  
15 enter into, without prior approval of the commission, a contract  
16 or agreement with either of the following:

17 (a) A person who is denied a gambling license or employee  
18 work permit pursuant to Chapter 5 (commencing with Section  
19 19800), or whose gambling license or employee work permit is  
20 suspended or revoked.

21 (b) Any business enterprise under the control of a person  
22 described in subdivision (a), after the date of receipt of notice of  
23 the action.

24 19990.607. (a) (1) A licensed operator or service provider  
25 shall not employ, without prior approval of the commission, a  
26 person in any capacity for which he or she is required to have an  
27 employee work permit, if the person has been denied a gambling  
28 license or an employee work permit pursuant to Chapter 5  
29 (commencing with Section 19800), or if his or her gambling license  
30 or employee work permit has been suspended or revoked after the  
31 date of receipt of notice of the action by the commission or tribal  
32 gaming regulatory authority.

33 (2) A licensed operator or service provider shall not enter into  
34 a contract or agreement with a person whose application for a  
35 gambling license or an employee work permit has been withdrawn  
36 with prejudice, or with a business enterprise under the control of  
37 that person, for the period of time during which the person is  
38 prohibited from filing a new application for a gambling license or  
39 an employee work permit.

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

7 (2) If an employee who is required to hold an employee work  
8 permit pursuant to this chapter has his or her employee work permit  
9 suspended, the employee shall be suspended in all capacities. Upon  
10 notifying the licensee of the suspension, the employee shall not  
11 be permitted to have any involvement in the gambling operation  
12 during the period of suspension.

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

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

23 (d) Except as provided in subdivision (b), a contract or  
24 agreement for the provision of services or property to a licensed  
25 operator or service provider or for the conduct of any activity  
26 pertaining to the operation of an authorized poker Web site, that  
27 is to be performed by a person required by this chapter, or by  
28 regulation, to hold an employee work permit, shall be terminated  
29 upon a suspension or revocation of the person's employee work  
30 permit.

31 (e) If a contract or agreement for the provision of services or  
32 property to a licensed operator or service provider, or for the  
33 conduct of any activity at an authorized poker Web site, is to be  
34 performed by a person required by this chapter or by regulations  
35 adopted pursuant to this chapter, to hold an employee work permit,  
36 the contract or agreement shall be deemed to include a provision  
37 for its termination without liability on the part of the licensed  
38 operator or service provider upon a suspension or revocation of  
39 the person's employee work permit. In any action brought by the  
40 commission to terminate a contract or agreement pursuant to

1 subdivision (d) or this subdivision, it is not a defense that the  
2 contract or agreement does not expressly include the provision  
3 described in this subdivision, and the lack of express inclusion of  
4 the provision in the contract or agreement is not a basis for  
5 enforcement of the contract or agreement by a party to the contract  
6 or agreement.

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Article 7. Protection of Registered Players

10 19990.701. A licensed operator shall use its best efforts to  
11 protect registered players. Subject to the approval of the  
12 department, and consistent with uniform standards established by  
13 the department by regulation, each licensed operator shall establish  
14 administrative procedures to resolve registered player complaints.

15 19990.702. (a) If a registered player has a complaint against  
16 a licensed operator, the exclusive remedy shall be to register the  
17 complaint with the department.

18 (b) The department shall establish regulations with respect to  
19 registered player disputes and complaints.

20 (c) Under the regulations, the department shall do all of the  
21 following:

22 (1) Investigate registered player complaints to determine if a  
23 licensed operator has failed to meet its obligations to a registered  
24 player.

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

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

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

33

34 Article 8. Financial Provisions for State Regulation and  
35 Unlawful Gambling Enforcement  
36

37 19990.801. The Treasurer shall transfer all amounts received  
38 pursuant to subdivision (a) of Section 19990.402, subdivision (e)  
39 of Section 19990.403, subdivision (b) of Section 19990.404,  
40 subdivision (c) of Section 19990.519, and Section 19990.605 to

1 the Controller for deposit in the Internet Poker Fund, which is  
2 created in the State Treasury, to be administered by the department.  
3 Notwithstanding Section 13340 of the Government Code, all  
4 moneys in the fund are continuously appropriated to the department  
5 and the commission, without regard to fiscal years, in the amounts  
6 necessary for the department and the commission to perform their  
7 duties under this chapter.

8 19990.802. (a) The Unlawful Gambling Enforcement Fund is  
9 hereby established within the General Fund for purposes of  
10 ensuring adequate resources for law enforcement charged with  
11 enforcing the prohibitions and protections of this chapter. The  
12 Unlawful Gambling Enforcement Fund shall be funded by  
13 depositing:

14 (1) \_\_\_\_ percent of the revenue from the civil penalties  
15 recovered by law enforcement authorities pursuant to Section  
16 19990.803 into the fund prior to the distribution required under  
17 subdivision (c) of Section 19990.803.

18 (2) All amounts or property recovered pursuant to Section  
19 19990.804.

20 (3) \_\_\_\_ percent of the duties paid by licensed operators  
21 pursuant to subdivision (b) of Section 19990.519, after any  
22 distribution required by Section 19619.8.

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

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

28 19990.803. (a) Except as provided in subdivision (f) of Section  
29 19990.501, a person who engages or conspires to engage in  
30 activities prohibited by this chapter, or in connection with the use  
31 of an Internet access device, activities prohibited by Section 321,  
32 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, or 331  
33 of the Penal Code, is liable for a civil penalty not to exceed \_\_\_\_  
34 dollars (\$\_\_\_\_) for each violation, in addition to any other penalty  
35 or remedy that may be imposed by law, which shall be assessed  
36 and recovered in a civil action brought in the name of the people  
37 of the State of California by the Attorney General, a district  
38 attorney, a county counsel authorized by agreement with the district  
39 attorney in an action involving the violation of a county ordinance,  
40 the city attorney of a city having a population in excess of 750,000

1 persons, the city attorney of a city and county, or, with the consent  
2 of the district attorney, the city prosecutor in a city with a full-time  
3 city prosecutor, in a court of competent jurisdiction.

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

- 8 (1) The nature and seriousness of the misconduct.
- 9 (2) The number of violations.
- 10 (3) The persistence of the misconduct.
- 11 (4) The length of time over which the misconduct occurred.
- 12 (5) The willfulness of the defendant’s misconduct.
- 13 (6) The defendant’s assets, liabilities, and net worth.

14 (c) (1) Subject to paragraph (1) of subdivision (a) of Section  
15 19990.802, civil penalties recovered by law enforcement authorities  
16 pursuant to this section shall be allocated as follows:

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

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

26 (C) If the action is brought by a city attorney or city prosecutor,  
27 one-half of the penalty collected shall be paid to the treasurer of  
28 the city in which the judgment was entered for deposit into that  
29 city’s general fund, and one-half to the treasurer of the county in  
30 which judgment was entered for deposit into that county’s general  
31 fund. If the action is brought by the city attorney of a city and  
32 county, the entire amount of the penalty collected shall be paid to  
33 the treasurer of the city and county in which the judgment was  
34 entered.

35 (2) The revenue from all civil penalties allocated to the Unlawful  
36 Gambling Enforcement Fund pursuant to subparagraph (A) of  
37 paragraph (1), upon appropriation by the Legislature, shall be used  
38 by the Attorney General exclusively to support the investigation  
39 and enforcement of violations of California’s gambling laws,  
40 including the implementation of judgments obtained from



1 prosecution and investigation of those violations and violations  
2 of, in connection with the use of an Internet access device, Sections  
3 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, and  
4 331 of the Penal Code, and other activities that are in furtherance  
5 of this chapter.

6 (3) The revenue from all civil penalties allocated to the treasurer  
7 of the county, city, or city and county in which the judgment was  
8 entered pursuant to subparagraphs (A), (B), and (C) of paragraph  
9 (1) shall be for the exclusive use of the district attorney, the county  
10 counsel, the city attorney, or the city prosecutor, whichever is  
11 applicable, for the enforcement of this chapter and existing laws  
12 prohibiting illegal gambling activity.

13 19990.804. (a) Any money, other representative of value, or  
14 real or personal property used in, or derived from, the play of a  
15 game provided on the Internet that is not authorized by the state  
16 pursuant to this chapter is subject to seizure by the department or  
17 by a peace officer.

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

24

#### 25 Article 9. Preemption of Local Regulation

26

27 19990.901. A city, county, or city and county shall not regulate,  
28 tax, or enter into a contract with respect to any matter related to  
29 this chapter. This section does not prohibit or limit the investigation  
30 and prosecution of any violation of this chapter.

31

#### 32 Article 10. Reports to the Legislature

33

34 19990.1001. Notwithstanding Section 10231.5 of the  
35 Government Code, within one year of the operative date of this  
36 chapter, and annually thereafter, the commission, in consultation  
37 with the department, the Treasurer, and the Franchise Tax Board,  
38 shall issue a report to the Legislature describing the state's efforts  
39 to meet the policy goals articulated in this chapter. The report shall

1 be submitted in compliance with Section 9795 of the Government  
2 Code.

3 19990.1002. (a) At least four years after the issue date of any  
4 license pursuant to this chapter, but no later than five years after  
5 that date, the Bureau of State Audits shall issue a report to the  
6 Legislature detailing the implementation of this chapter.

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

10

11 Article 11. Partial Severability and Repeal of Chapter

12

13 19990.1101. (a) Except as provided in subdivision (b), the  
14 provisions of this chapter are severable. If any provision of this  
15 chapter, other than those listed in subdivision (b), or its application,  
16 is held invalid, that invalidity shall not affect other provisions or  
17 applications that can be given effect without the invalid provision  
18 or application.

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

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

23 (B) Prohibiting persons or entities who have been convicted in  
24 a court of competent jurisdiction of a felony consisting of either  
25 having accepted a bet over the Internet in violation of United States  
26 or California law, or having aided or abetted that unlawful activity,  
27 from being licensed under this chapter.

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

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

32 19990.1102. This chapter shall remain in effect only until  
33 January 1, 2024, and as of that date is repealed, unless a later  
34 enacted statute, that is enacted before January 1, 2024, deletes or  
35 extends that date.

36 SEC. 3. The Legislature finds and declares that Chapter 5.2  
37 (commencing with Section 19990.101) of Division 8 of the  
38 Business and Professions Code, as added by Section 2 of this  
39 act, imposes a limitation on the public’s right of access to the  
40 meetings of public bodies or the writings of public officials and

1 agencies within the meaning of Section 3 of Article I of the  
2 California Constitution. Pursuant to that constitutional provision,  
3 the Legislature makes the following findings to demonstrate the  
4 interest protected by this limitation and the need for protecting  
5 that interest:

6 The limitations on the people’s right of access set forth in this  
7 act are necessary to protect the privacy and integrity of information  
8 submitted by registered players as well as the proprietary  
9 information of the license applicants and licensees.

10 SEC. 4. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

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

23 In order to protect the interests of Californians who play online  
24 gambling games and to ensure that people play fair games, that  
25 the state realizes the revenues, and that suitable persons operate  
26 authorized poker Web sites, it is necessary that this act take effect  
27 immediately.