

Introduced by Senators Wright and SteinbergFebruary 24, 2012

An act to add Chapter 5.2 (commencing with Section 19990.01) to Division 8 of, and to repeal Sections 19990.235 and 19990.96 of, the Business and Professions Code, relating to Internet gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1463, as introduced, Wright. Internet gambling.

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

This bill would establish a framework to authorize intrastate Internet gambling, as specified. The bill would authorize eligible entities to apply to the department for a 10-year license to operate an intrastate Internet gambling Web site offering the play of authorized gambling games to registered players within California. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not authorized by the state pursuant to this bill. The bill would provide that any violation of its provisions is punishable as a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require a license applicant to pay an application fee to the department, for deposit into the Internet Gambling Licensing Fund, as created by the bill, to be continuously appropriated to the

department for the reasonably anticipated costs of investigating the applicant. The bill would also create the Internet Gambling Fund, for the deposit of an unspecified regulatory fee, which would be administered by the Controller subject to annual appropriation by the Legislature for the actual costs of license oversight, consumer protection, state regulation, problem gambling programs, and other purposes related to this bill, and which would not be subject to the formulas established by statute directing expenditures from the General Fund. The bill would require each licensee to pay a nonrefundable license fee in the amount of \$30,000,000 for deposit in the General Fund. The license fee would be credited against monthly fees imposed on the licensee's gross gaming revenue proceeds, as specified.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

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

The bill would also require the Bureau of State Audits, 2 years after the issue date of any license by the state, but no later than 3 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

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.

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

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

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

- 1 SECTION 1. Chapter 5.2 (commencing with Section 19990.01)
- 2 is added to Division 8 of the Business and Professions Code, to
- 3 read:

1 CHAPTER 5.2. THE INTERNET GAMBLING CONSUMER
2 PROTECTION AND PUBLIC-PRIVATE PARTNERSHIP ACT OF 2012

3
4 Article 1. Title, Legislative Declarations, and Statement of
5 Legislative Intent
6

7 19990.01. This chapter shall be known and may be cited as the
8 Internet Gambling Consumer Protection and Public-Private
9 Partnership Act of 2012.

10 19990.02. The Legislature hereby finds and declares all of the
11 following:

12 (a) Californians participate in illegal online gambling on
13 unregulated Internet gambling Web sites every week. These
14 Internet gambling Web sites are operated by offshore operators
15 that are not regulated by United States authorities. As such, neither
16 federal nor California laws provide any consumer protections for
17 California players. California players assume all risks, any negative
18 social or financial impacts are borne by the citizens of California,
19 and the revenues generated from online gambling are being realized
20 by offshore operators and do not provide any benefits to the citizens
21 of California.

22 (b) The presence, operation, and expansion of offshore,
23 unlicensed, and unregulated Internet gambling Web sites available
24 to Californians endanger Californians because the current Internet
25 gambling Web sites operate illegally and without regulation as
26 demonstrated by criminal prosecutions of some Internet gambling
27 purveyors, and questions often arise about the honesty and the
28 fairness of the games played on these Internet gambling Web sites
29 as well as about the true purpose for, and use of, proceeds generated
30 by these unregulated Internet gambling Web sites.

31 (c) In October 2006, Congress passed the SAFE Port Act, to
32 increase the security of United States ports. Embedded within the
33 language of that act was a section entitled the Unlawful Internet
34 Gambling Enforcement Act of 2006 (UIGEA), which prohibits
35 the use of banking instruments, including credit cards, checks, or
36 fund transfers, for interstate Internet gambling, essentially
37 prohibiting online gambling by United States citizens. UIGEA
38 does include exceptions that permit individual states to create a
39 regulatory framework to enable intrastate Internet gambling,
40 provided the bets or wagers are made exclusively within a single

1 state, whose state laws or regulations comply with all of the
2 following:

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

5 (A) Age and location verification requirements.

6 (B) Data security standards designed to prevent access to minors
7 and persons located outside of that state.

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

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

12 (A) The Interstate Horseracing Act of 1978.

13 (B) The Professional and Amateur Sports Protection Act.

14 (C) The Gambling Devices Transportation Act.

15 (D) The Indian Gaming Regulatory Act of 1988 (IGRA).

16 (d) State provision of Internet gambling consistent with federal
17 law provides California with the means to protect its citizens and
18 consumers under certain conditions by providing a framework to
19 ensure that, among other things, minors are prevented from
20 gambling, citizens participating in gambling activities are protected,
21 and the state is not deprived of income tax revenues to which it
22 would otherwise be entitled.

23 (e) The state currently maintains and implements substantial
24 regulatory and law enforcement efforts to protect thousands of
25 Californians who gamble and play, among other things, real-money
26 poker in licensed California cardrooms and tribal government
27 casinos, yet the state provides no licensing requirements, regulatory
28 structure, or law enforcement tools to protect millions of
29 Californians who play the same games daily for money on the
30 Internet.

31 (f) In order to protect Californians who gamble online, allow
32 state law enforcement to ensure consumer protection, and keep
33 the revenues generated from Internet gambling in California, it is
34 in the best interest of the state and its citizens to authorize,
35 implement, and create a legal system for intrastate Internet
36 gambling.

37 (g) It is also the interest of the state to provide hundreds of
38 millions of dollars annually for the public services that have been
39 cut repeatedly during the state's budget crisis. It is the intent of
40 the Legislature in enacting this act to ensure that the state realizes

1 a minimum of two hundred million dollars (\$200,000,000) of
2 General Fund revenue from licensing fees during the 2012–13
3 fiscal year.

4 (h) The state’s interests are best met by a public-private
5 partnership between the state and private entities, the terms of
6 which would facilitate meeting the important consumer protection
7 interests of the state while ensuring, through the success of the
8 private entities, that the state receives the benefits of the licensing
9 scheme as well as tax revenues that it would otherwise not receive.

10 (i) The state’s interests are best met by encouraging competition
11 among qualified entities with the technical expertise and systems
12 that comply with federal law, protect registered players, and ensure
13 that the state collects consideration under the licensing scheme
14 with those qualified entities, personal income taxes owed by
15 registered players, corporate taxes from the earnings of licensed
16 entities, and property, employment, and sales and use taxes created
17 from new businesses, jobs, and other economic inducements from
18 the authorization, regulation, and control of Internet gambling.

19 (j) The Department of Justice, in conjunction with other state
20 agencies and private partners, has the expertise to evaluate the
21 qualifications of applicants for a license to conduct intrastate
22 Internet gambling services, and to license the best qualified and
23 most responsive applicants to meet the needs of the state and its
24 citizens.

25 (k) The authorization of intrastate Internet gambling pursuant
26 to these provisions does not violate the California Constitution or
27 interfere with any right under any compact between the state and
28 any federally recognized Indian tribe. Moreover, the authorization
29 and regulation of intrastate Internet gambling pursuant to these
30 provisions do not violate the exclusivity provisions of any compact
31 between the state and any federally recognized Indian tribe. Internet
32 gambling will take place throughout California on both tribal and
33 nontribal lands. Moreover, the facilities used in the provision of
34 Internet gambling are not slot machines or gaming devices as
35 defined in any of those compacts. While the federal Indian Gaming
36 Regulatory Act of 1998 balanced the interests of three sovereigns,
37 the state, the tribes, and the federal government, UIGEA was
38 designed to balance the federal interest in secure financial
39 transactions with the state’s power to determine how online
40 gambling should take place within that state. Finally, application

1 of UIGEA in California does not violate federal Indian law by
2 impinging upon protected tribal sovereignty.

3 (l) Nothing in this chapter prohibits any federally recognized
4 Indian tribe within California with a tribal-state gaming compact
5 with the state pursuant to IGRA from participating in intrastate
6 Internet gambling pursuant to these provisions subject to the
7 jurisdiction of the state.

8 (m) It is the intent of the Legislature to encourage the Governor,
9 immediately following enactment of this chapter, to enter into
10 meet and confer negotiations with interested tribal governments
11 that have tribal-state gaming compacts with the state to resolve
12 the questions related to exclusivity of tribal gaming, and to ensure
13 that the signatory parties to compacts may exercise their rights
14 under the compacts in a timely manner and that the state may
15 commence the authorization of Internet gambling as provided by
16 this chapter.

17 19990.03. It is the intent of the Legislature to create a licensing
18 and regulatory framework to:

19 (a) Ensure that authorized games are offered only for play in a
20 manner that is consistent with federal and state law.

21 (b) Authorize the Department of Justice to issue licenses, with
22 the consent of the commission, to applicants that meet the
23 background requirements and demonstrate the technical expertise
24 to ensure that wagering authorized by this chapter is offered only
25 to registered players who are physically present within the borders
26 of California at the time of play and who are 21 years of age or
27 older.

28 (c) Authorize the Department of Justice, after any licensee has
29 been providing authorized games for three years, and, at any time
30 thereafter, to renegotiate the terms and conditions of the licenses
31 with the licensees, based in large part on the report and
32 recommendations of the Bureau of State Audits to the Legislature
33 pursuant to Section 19990.96. The state reserves the right to make
34 reasonable modifications to the terms and conditions of the license
35 after a three-year review, and, at any time thereafter, to balance
36 the relationship between the licensee and the state, and offer
37 existing licensees the opportunity to agree to these modifications
38 and continue in partnership with the state, subject to the statutory
39 approval of those terms and conditions by the Legislature.

- 1 (d) Include all of the provisions in this chapter as terms of the
2 license between the state and each licensee subject to the
3 enforcement provisions delineated in this chapter.
- 4 (e) Ensure that each licensee complies with federal and state
5 laws and regulations.
- 6 (f) Grant power to the state agencies authorized in this chapter
7 to oversee the operations of each licensee and to enforce the
8 provisions of this chapter to ensure that the interests of the state
9 and registered players are protected.
- 10 (g) Establish a process that includes a background check and
11 requires that each employee of each licensee or subcontractor
12 receives all necessary licenses and work permits from the state.
- 13 (h) Ensure that the state is able to collect income tax revenues
14 from registered players.
- 15 (i) Distribute regulatory fees collected by the state from each
16 licensee to the Internet Gambling Fund, as established in Section
17 19990.86, which shall be administered by the Controller subject
18 to annual appropriation by the Legislature, and which shall not be
19 subject to the formulas established by law directing expenditures
20 from the General Fund, for the following:
 - 21 (1) The actual costs of license oversight, consumer protection,
22 state regulation, and problem gambling programs.
 - 23 (2) Other purposes related to this chapter as the Legislature may
24 decide.
- 25 (j) Create systems to protect each registered player's private
26 information and prevent fraud and identity theft.
- 27 (k) Ensure that registered players are able to have their financial
28 transactions processed in a secure and transparent fashion.
- 29 (l) Ensure that all applicable state agencies will have unrestricted
30 access to the premises and records of each licensee to ensure strict
31 compliance with state law concerning credit authorization, account
32 access, and other security provisions.
- 33 (m) Require that each licensee provide registered players with
34 accessible customer service.
- 35 (n) Require that each licensee's Internet Web site contain
36 information relating to problem gambling, including a telephone
37 number that an individual may call to seek information and
38 assistance for a potential gambling addiction.
- 39 (o) Require that each licensee and all of its subcontractors be
40 organized in California. The licensee, its facilities, its bank

1 accounts related to its intrastate online gambling operations, and
2 its registered players’ bank accounts shall be located entirely within
3 the state.

4 (p) Ensure that there are no artificial business constraints on the
5 licensee, such as limits on the percentage of revenues that may be
6 paid to technology supply contractors. Licensees and suppliers are
7 free to structure their own desired relationships without interference
8 from the state.

9 (q) Ensure that all employees of the licensee are physically
10 present in the state when working on the licensee’s Internet
11 gambling Web site or in its facilities connected to the play of
12 Internet gambling in this state, or when in contact with registered
13 players. However, the licensee shall have discretion to use the
14 expertise of personnel not physically present in the state when
15 necessary to protect registered players and state interests, including,
16 but not limited to, for the purposes of diagnosing and addressing
17 technological problems, investigating fraud and collusion, and
18 supervising software and configuration changes.

19 (r) Create an express exemption from disclosure, pursuant to
20 the California Public Records Act under subdivision (b) of Section
21 6253 of the Government Code, that exempts from public disclosure
22 proprietary information of a license applicant or a licensee in order
23 to permit disclosure of confidential information to state agencies
24 while achieving the public policy goals of deploying secure systems
25 that protect the interests of the state and players.

26 (s) Preserve the authority of the state to opt out of, or opt into,
27 any federal framework for Internet gambling, or to enter into any
28 agreement with other states to provide Internet gambling.

29 (t) As a matter of statewide concern, preempt any city, county,
30 or city and county from passing any law or ordinance regulating
31 or taxing any matter covered in this chapter.

32

33

Article 2. Definitions

34

35 19990.05. For the purpose of this chapter the following words
36 have the following meanings:

37 (a) “Authorized game” means a game approved by the
38 department pursuant to Section 19990.14 and played using an
39 intrastate Internet Web site pursuant to the authority of the state
40 or offered by a licensee as authorized by the state.

- 1 (b) “Background check” means a criminal history record check
2 and the electronic submission of fingerprints to the Department of
3 Justice and to the Federal Bureau of Investigation for processing.
- 4 (c) “Bet” means the placement of a wager in a game.
- 5 (d) “Commission” means the California Gambling Control
6 Commission.
- 7 (e) “Department” means the Department of Justice.
- 8 (f) “Employee” means any natural person employed in, or
9 serving as a consultant or independent contractor with respect to,
10 the operation of an intrastate Internet gambling Web site or a
11 subcontractor.
- 12 (g) “Employee work permit” means a permit issued to an
13 employee of the licensee by the department after a background
14 investigation.
- 15 (h) “Finding of suitability” means a finding by the department
16 that a person or entity meets the qualification criteria described in
17 Section 19990.23, and that the person would not be disqualified
18 from being a licensee on any of the grounds specified in Section
19 19990.23.
- 20 (i) “Gambling” means to deal, operate, carry on, conduct,
21 maintain, or expose for play any game for money.
- 22 (j) “Game” means any gambling game.
- 23 (k) “Gaming system” means the technology, including hardware
24 and software, used by a licensee to facilitate the offering of
25 authorized games to registered players.
- 26 (l) “Gross revenues” means the total amount of money paid to
27 a licensee pursuant to activities authorized under this chapter.
28 Gross revenues shall not include player deposits and wagers.
- 29 (m) “Internet Gambling Fund” means the fund established
30 pursuant to Section 19990.86 for annual allocation by the
31 Legislature.
- 32 (n) “Intrastate” means within the borders of California.
- 33 (o) “Land-based gaming entity” means a card club operated
34 pursuant to Chapter 5 (commencing with Section 19800) or a
35 casino operated by a federally recognized Indian tribe on Indian
36 land in California that provides any game for players on its
37 premises that is offered on an intrastate Internet gambling Web
38 site.

- 1 (p) “Licensee” means an entity licensed pursuant to this chapter
2 to offer the play of authorized games to registered players on an
3 intrastate Internet Web site.
- 4 (q) “Online self-exclusion form” means a form on which an
5 individual notifies a licensee that he or she must be excluded from
6 participation in authorized games for a stated period of time.
- 7 (r) “Owner” means any person that has a financial interest in
8 or control of a licensee, subcontractor, or other entity required to
9 be found suitable under this chapter.
- 10 (s) “Per hand charge” means the amount charged by the licensee
11 for registered players to play in a per hand game.
- 12 (t) “Per hand game” means an authorized game for which the
13 licensee charges the player for each hand played.
- 14 (u) “Person” means an individual, corporation, business trust,
15 estate, trust, partnership, limited liability company, association,
16 joint venture, government, governmental subdivision, agency, or
17 instrumentality, public corporation, or any other legal or
18 commercial entity.
- 19 (v) “Play settings” means the options and default parameters
20 made available by a licensee to a registered player in the play of
21 authorized games.
- 22 (w) “Proprietary information” means and includes all
23 information that, whether or not patentable or registerable under
24 patent, copyright, trademark, or similar statutes, (1) can be
25 protected as a trade secret under California law or any other
26 applicable state law, federal law, or foreign law, or (2) derives
27 independent economic value, actual or potential, from not being
28 generally known to the public or to other persons that can obtain
29 economic value from its disclosure or use. “Proprietary
30 information” includes, but is not limited to, computer programs,
31 databases, data, algorithms, formulae, expertise, improvements,
32 discoveries, concepts, inventions, developments, methods, designs,
33 analyses, drawings, techniques, strategies, new products, reports,
34 unpublished financial statements, budgets, projections, billing
35 practices, pricing data, contacts, client and supplier lists, business
36 and marketing records, working papers, files, systems, plans and
37 data, and all registrations and applications related thereto.
- 38 (x) “Registered player” means a player who has registered with
39 a licensee to play authorized games.

1 (y) “Registration information” means the information provided
2 by a person to a licensee in order to become a registered player.

3 (z) “Robotic play” means the use of a machine by a registered
4 player to take the next action at any point in a game.

5 (aa) “State” means the State of California.

6 (ab) “Subcontractor” means any person providing goods or
7 services to a licensee in connection with the operation of authorized
8 games.

9 (ac) “Terms of Use Registered Player’s Agreement” means the
10 agreement offered by a licensee and accepted by a registered player
11 delineating, among other things, permissible and impermissible
12 activities on an intrastate Internet gambling Web site and the
13 consequences of engaging in impermissible activities.

14 (ad) “Tournament” means a competition in which registered
15 players play a series of authorized games to decide the winner.

16 (ae) “Tournament charge” means the amount charged by the
17 licensee for registered players to play in a tournament.

18 (af) “Tournament winnings” means the amount of any prize
19 awarded to a registered player in a tournament.

20 (ag) “Tribe” means a federally recognized California Indian
21 tribe, including, but not limited to, the governing body of that tribe
22 or any entity that is an affiliate of that tribe.

23

24 Article 3. Legal Authorized Games Offered Over the Internet
25 in California

26

27 19990.10. Under the federal Unlawful Internet Gambling
28 Enforcement Act of 2006, California is permitted to authorize
29 games as long as all players and the online wagering activities are
30 located within the state and the games are not played by minors.

31 19990.11. Notwithstanding any other law, a person in
32 California 21 years of age or older is hereby permitted to participate
33 as a registered player in an authorized game provided over the
34 Internet by a licensee as described in this chapter.

35 19990.12. (a) A person shall not offer any game on the Internet
36 in this state unless that person holds a valid license issued by the
37 state to offer the play of authorized games on an intrastate Internet
38 Web site pursuant to this chapter.

1 (b) It is unlawful for any person to offer or play any gambling
2 game provided on the Internet that is not authorized by the state
3 pursuant to this chapter.

4 (c) It is unlawful for any person to aggregate computers or other
5 access devices in a public setting principally for the purpose of
6 playing gambling games on the Internet, whether or not otherwise
7 authorized pursuant to this chapter, or to promote or market such
8 a facility.

9 (d) Any violation of this chapter is punishable as a misdemeanor.
10 19990.13. Chapter 5 (commencing with Section 19800) of
11 Division 8 does not apply to this chapter.

12 19990.14. (a) All games offered for play on an intrastate
13 Internet Web site pursuant to this chapter shall be approved by the
14 department.

15 (b) For the first two years following the initial issue date of any
16 license pursuant to this chapter, only games commonly referred
17 to as poker, the play of which is permitted as a controlled game
18 pursuant to Chapter 5 (commencing with Section 19800), shall be
19 authorized. After that two-year period, the department may phase
20 in other games allowed under the California Constitution and the
21 Penal Code.

22 (c) Within 90 days of the department's approval of any new
23 game, the Legislature may reject, by resolution adopted by majority
24 vote of either house, any new game approved by the department
25 after the initial two-year period of poker only games.

26

27 Article 4. Licensing of Intrastate Internet Gambling Web Sites

28

29 19990.20. (a) A license to operate an intrastate Internet
30 gambling Web site shall be issued for a term of 10 years, with a
31 review of that license initiated during year three of the initial term.

32 (b) All initial licenses issued pursuant to this chapter shall take
33 effect on the same date, as determined by the department, but not
34 later than January 1, 2014.

35 19990.21. (a) Each entity described in subdivision (b) is
36 eligible for a single intrastate Internet gambling Web site license.
37 There is no limit on the total number of licenses the state may
38 issue. Any of the eligible entities may jointly apply for a license.

1 (b) Entities eligible to apply for a license pursuant to this chapter
2 for the operation of an intrastate Internet gambling Web site include
3 all of the following:

4 (1) A holder of an owner license issued pursuant to subdivision
5 (a) of Section 19851 who has been subject to oversight by, and in
6 good standing with, the commission for the three years immediately
7 preceding its application for licensure.

8 (2) A federally recognized California Indian tribe operating a
9 casino pursuant to a tribal-state gaming compact under the federal
10 Indian Gaming Regulatory Act of 1988, that has been subject to
11 oversight by, and in good standing with, the commission and the
12 department for the three years immediately preceding its
13 application for licensure.

14 (3) A thoroughbred, quarter horse, or harness association
15 licensed by the California Horse Racing Board that has been subject
16 to oversight by, and in good standing with, the board for the three
17 years immediately preceding its application for licensure.

18 (4) An operator of an online advanced deposit wagering site
19 regulated by the California Horse Racing Board that has been
20 subject to oversight by, and in good standing with, the board for
21 the three years immediately preceding its application for licensure.

22 19990.22. (a) Factors to be considered in evaluating a license
23 applicant shall include, but are not limited to, quality, competence,
24 experience, past performance, efficiency, reliability, financial
25 viability, durability, adaptability, timely performance, integrity,
26 and security.

27 (b) (1) A license applicant, and all subcontractors of the
28 applicant, shall be a resident of California, or an entity organized
29 in California, and subject to state taxation, auditing, and
30 enforcement. All facilities and bank accounts of the license
31 applicant related to intrastate Internet gambling shall be located
32 in California.

33 (2) At all times, a license applicant or licensee shall be domiciled
34 in California and in good standing with the Secretary of State and
35 the Franchise Tax Board.

36 (3) All subcontractors of a license applicant or licensee, or
37 persons otherwise providing goods or performing services in
38 connection with the operation of authorized games for the license
39 applicant or licensee, or any of its subcontractors, shall be subject
40 to this subdivision. If a licensee desires to enter into an agreement

1 with a person to provide goods or services in connection with the
2 operation of authorized games, that person shall be subject to this
3 subdivision and investigation and a finding of suitability as set
4 forth in Section 19990.23.

5 (c) In addition to any other confidentiality protections afforded
6 to license applicants, the state and its agencies shall treat the
7 proprietary information of any license applicant as confidential to
8 protect the license applicant and to protect the security of any
9 prospective intrastate Internet gambling Web site. This chapter
10 shall not prohibit the exchange of confidential information among
11 state agencies considering a license application. The confidentiality
12 provisions in this chapter exempt proprietary information supplied
13 by a license applicant to a state agency from public disclosure
14 consistent with subdivision (b) of Section 6253 of the Government
15 Code.

16 (d) A license applicant that has been deemed suitable and
17 eligible shall submit to the department, together with its
18 application, an application fee of no less than one million dollars
19 (\$1,000,000), and no greater than five million dollars (\$5,000,000),
20 as determined by the department for the reasonably anticipated
21 costs to complete necessary background checks and evaluate the
22 suitability of the applicant. All fees shall be deposited into the
23 Internet Gambling Licensing Fund, as hereby created, and to be
24 administered by the department. Notwithstanding Section 13340
25 of the Government Code, all moneys in the fund are continuously
26 appropriated to the department, without regard to fiscal years, in
27 the amounts necessary for the department to perform its duties
28 under this section and Section 19990.23. Any funds associated
29 with the license applicant that remain after completion of
30 background checks and the finding of suitability shall be refunded
31 to the applicant. If additional moneys are needed to complete the
32 investigation of the license applicant, the applicant shall pay the
33 funds necessary to complete the investigation.

34 (e) A federally recognized California Indian tribe, including,
35 but not limited to, the governing body of that tribe or any entity
36 that is an affiliate of that tribe, that applies for a license pursuant
37 to this chapter shall waive its sovereignty for the purpose of
38 evaluation of its application. The application shall affirmatively
39 declare that the license applicant is subject to the state's jurisdiction
40 as set forth in this chapter and in the regulations adopted by state

1 agencies. Any license issued pursuant to this chapter to a federally
2 recognized California Indian tribe shall include that tribe's
3 affirmative agreement, in a form acceptable to the department, to
4 be subject to the jurisdiction of the state for all purposes under this
5 chapter.

6 19990.23. (a) The department shall review the suitability of
7 a license applicant to operate an intrastate Internet gambling Web
8 site.

9 (b) The department may establish a process to conduct a
10 preliminary determination of suitability based on a partial
11 investigation of license applicants. The partial investigation is
12 intended to screen out applicants that do not meet the suitability
13 requirements of this chapter. The partial investigation shall include
14 fingerprint-based state and federal criminal history checks, inquiries
15 into various public databases regarding credit history and any civil
16 litigation, and a review of the applicant's financial status, which
17 shall include the required submission of income statements and
18 balance sheets for the prior 12-month period. A full investigation
19 shall be conducted of only those persons that pass partial
20 investigation and that will undergo a full investigation pursuant
21 to subdivision (c). Those applicants that do not pass the partial
22 investigation may appeal the decision to the commission.

23 (c) The department shall conduct a full investigation into the
24 suitability of any license applicant to operate an intrastate Internet
25 gambling Web site. The investigation shall include all of the
26 following persons:

- 27 (1) The license applicant and all of its subcontractors.
28 (2) All officers of the license applicant.
29 (3) The owner or owners of the following:
30 (A) The license applicant.
31 (B) Any affiliate of the license applicant.
32 (C) Any subcontractors of a license applicant, or other persons
33 otherwise providing goods to, or performing services for, the
34 license applicant.

35 (d) (1) A department-approved, independent forensic accounting
36 firm shall prepare a report on each applicant undergoing a full
37 investigation, on a form developed by the department, and at the
38 applicant's expense. The report shall include the financial
39 information necessary for the department to make a determination

1 of suitability, as specified in regulation adopted by the department
2 for this purpose.

3 (2) The department may, by regulation, specify additional
4 requirements regarding the contents of the report described in
5 paragraph (1) and any other financial information or documentation
6 required to be submitted with the application.

7 (e) The department shall issue a finding of suitability for a
8 license applicant to operate an intrastate Internet gambling Web
9 site only if, based on all of the information and documents
10 submitted, the department is satisfied that each of the persons
11 subject to investigation pursuant to this section is both of the
12 following:

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

17 (2) A person whose prior activities, criminal record, if any,
18 reputation, habits, and associations do not pose a threat to the
19 public interest of this state, or to the effective regulation and control
20 of controlled gambling, or create or enhance the dangers of
21 unsuitable, unfair, or illegal practices, methods, and activities in
22 the conduct of controlled gambling or in the carrying on of the
23 business and financial arrangements incidental thereto.

24 (f) The department shall issue a finding that a license applicant
25 is not suitable to operate an intrastate Internet gambling Web site
26 if it finds that any person subject to investigation pursuant to this
27 section has done any of the following:

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

30 (2) Failed to timely provide information, documentation, and
31 assurances required by this chapter or requested by the department,
32 or, with respect to a license applicant, failed to reveal any fact
33 material to qualification, or supplied information that is untrue or
34 misleading as to a material fact pertaining to the suitability criteria.

35 (3) Been convicted of a felony, including a conviction by a
36 federal court or a court in another state or foreign jurisdiction for
37 a crime that would constitute a felony if committed in California.

38 (4) Been convicted of any misdemeanor involving dishonesty
39 or moral turpitude within the 10-year period immediately preceding
40 the submission of the application, unless the applicant has been

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

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

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

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

16 (8) Has accepted any wager from persons in the United States
17 on any form of Internet gaming that has not been affirmatively
18 authorized by law in this state or the United States after December
19 31, 2006, or has been the holder of a direct or indirect financial
20 interest in a person or entity that has accepted such a wager.

21 (g) The department shall request that the United States
22 Department of Justice or any other federal agency or agency of a
23 state other than California provide any information about any
24 license applicant or any of its subcontractors as part of its inquiry
25 as to the suitability of a license applicant to operate an intrastate
26 Internet gambling Web site.

27 (h) (1) The department shall reject the license application of
28 any applicant found to be unsuitable to be a licensee.

29 (2) The department shall provide to the applicant a written
30 explanation listing the reasons for denial of the license application.

31 (3) This section neither requires the department to divulge to
32 the applicant any confidential information received from any law
33 enforcement agency or any information received from any person
34 with assurances that the information would be maintained
35 confidential, nor to divulge any information that might reveal the
36 identity of any informant or jeopardize the safety of any 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 department with respect to the submission of
40 applications.

1 19990.235. (a) A finding of suitability by a state gaming
2 agency within the United States with expertise recognized within
3 the gaming industry, and that is also recognized as meeting this
4 standard by the department, shall be grounds for a state provisional
5 finding of suitability with respect to a particular person or entity
6 until a permanent suitability finding is issued by the department
7 as to that person or entity.

8 (b) This section shall remain in effect only until January 1, 2016,
9 and as of that date is repealed, unless a later enacted statute, that
10 is enacted before January 1, 2016, deletes or extends that date.

11 19990.24. In addition to any other data that the department
12 shall request from license applicants as a matter of law and to
13 ensure that any license applicant is legally, technically, and
14 financially qualified to become a licensee, the department shall
15 request that any license applicant name, describe, or provide all
16 of the following:

17 (a) The license applicant's qualifications and the qualifications
18 of its executives and employees to receive an employee work
19 permit as set forth in Section 19990.31.

20 (b) The license applicant's experience and qualifications to
21 provide the services anticipated of a licensee as set forth in Article
22 5 (commencing with Section 19990.30).

23 (c) The names of all of the license applicant's owners,
24 executives, and employees, as well as sufficient personally
25 identifiable information on each of those persons to conduct
26 background checks as required by the department.

27 (d) The fingerprints of the owners, directors, managers,
28 executives, and employees of the licensee, its affiliates, and
29 subcontractors taken using live scan technology.

30 (e) Documentation and information relating to the license
31 applicant and its direct and indirect owners, including, but not
32 limited to, all of the following:

33 (1) With respect to the license applicant and any of its
34 subcontractors, proof of formation in California, including, as
35 applicable, articles of incorporation, articles of organization,
36 bylaws, operating agreement, partnership agreement, or other
37 formation or charter documents.

38 (2) Current and historical audited financial and accounting
39 records.

40 (3) Any documents relating to legal and regulatory proceedings.

1 (4) Any documents relating to the license applicant’s business
2 history.

3 (5) Any documents relating to the nature and sources of the
4 license applicant’s financing, including, but not limited to,
5 operating agreements, partnership agreements, stock purchase
6 agreements, pro forma cap tables, pro forma statements of profits
7 and loss, investor rights agreements, voting agreements, and
8 shareholder agreements. These materials may be submitted subject
9 to a request for confidentiality.

10 (6) Any documentation that demonstrates that the license
11 applicant is financially qualified to perform the obligations of a
12 licensee as described in this article.

13 (7) An independent financial audit report by a certified public
14 accountant.

15 (f) Documentation and information relating to all proposed
16 subcontractors of the license applicant, including, but not limited
17 to, all of the following:

18 (1) A description of the services to be provided by each
19 subcontractor.

20 (2) Information for each subcontractor as set forth in
21 subdivisions (b), (c), and (d).

22 (3) For subcontractors that are not formed in California, a
23 commitment in writing by the subcontractor to create a California
24 subsidiary prior to the commencement of authorized games
25 provided by the licensee. The commitment required pursuant to
26 this paragraph shall be subject to the cure provisions of Section
27 19990.61.

28 (g) A description of the games and services the license applicant
29 proposes to offer to registered players.

30 (h) A description of how the licensee’s facilities will accomplish
31 the goals of this chapter, including, but not limited to:

32 (1) The licensee’s location within the state.

33 (2) The licensee’s security systems.

34 (i) The license applicant’s proposal for how it will facilitate
35 compliance with all of the standards set forth in this chapter and
36 federal law, including, but not limited to, Section 5362(10)(B) of
37 Title 31 of the United States Code, including, but not limited to,
38 all of the following:

39 (1) Age and location verification requirements reasonably
40 designed to block access to minors and persons located out of state.

1 (2) Appropriate data security standards to prevent unauthorized
2 access by any persons whose age and current location have not
3 been verified in accordance with this chapter and applicable
4 regulations.

5 (3) The requirement that the licensee be located in California
6 and all bets be initiated and received or otherwise made exclusively
7 within California.

8 (j) The system requirements that the license applicant plans to
9 implement to achieve the state's goals under this chapter, including,
10 but not limited to:

11 (1) Connectivity.

12 (2) Hardware.

13 (3) Software.

14 (4) Antifraud systems.

15 (5) Virus prevention.

16 (6) Data protection.

17 (7) Access controls.

18 (8) Firewalls.

19 (9) Disaster recovery.

20 (10) Redundancy.

21 (11) Gaming systems, including, but not limited to, hardware
22 and software that ensure all of the following:

23 (A) The games are legal.

24 (B) The games are independent and fair and played by live
25 persons.

26 (C) Game and betting rules are available to all registered players.

27 (D) All data used for the conduct of each game is randomly
28 generated and unpredictable.

29 (12) Accounting systems, including but not limited to, those for
30 any of the following:

31 (A) Registered player accounts.

32 (B) Per hand charges.

33 (C) Transparency and reporting to all state agencies.

34 (D) Distribution of funds, pursuant to the license and this
35 chapter, to the state and registered players.

36 (E) Ongoing auditing.

37 (13) Facility security systems to protect the intrastate Internet
38 gambling Web site from either internal or external threats.

39 (k) The license applicant's proposal to facilitate the statutory
40 duties and responsibilities of the state agencies with jurisdiction

1 over aspects of the licensee’s operations, including, but not limited
2 to, all of the following:

- 3 (1) The department.
- 4 (2) The commission.
- 5 (3) The Treasurer.
- 6 (4) The Franchise Tax Board.

7 (l) An acknowledgment by the license applicant that the terms
8 and conditions of the license issued by the state may be modified
9 by the state after three years, and at any time thereafter, at which
10 point the licensee may either agree to be subject to that
11 modification or relinquish the license.

12 (m) In addition to demonstrating that the license applicant is
13 legally, technically, and financially qualified to become a licensee,
14 a licensee shall describe how it will comply with the requirements
15 of this chapter.

16 19990.25. (a) A holder of an owner license issued pursuant to
17 subdivision (a) of Section 19851, and who is in good standing,
18 shall not be deemed unqualified to operate a land-based gambling
19 entity by reason of an investment in a license applicant or a
20 licensee.

21 (b) An official representative of the government of a federally
22 recognized California Indian tribe with a tribal-state gaming
23 compact with the state shall not be deemed unqualified to operate
24 a land-based gambling entity by reason of an investment in a
25 license applicant or a licensee.

26 (c) (1) A license applicant whose application is denied may
27 bring an action to appeal that decision to the Superior Court of the
28 County of Sacramento. The decision of the Superior Court of the
29 County of Sacramento is not appealable. No remedy other than an
30 injunction is available pursuant to this subdivision.

31 (2) The Superior Court of the County of Sacramento shall uphold
32 the decision by the department if there is any substantial evidence
33 to support the department’s decision to deny the license application.

34 (3) If the Superior Court of the County of Sacramento finds for
35 the license applicant, it shall return the application to the
36 department for action consistent with the decision of the court.

37 19990.26. (a) At least two years after the initial issue date of
38 any license pursuant to this chapter, but no later than three years
39 after that date, the Bureau of State Audits shall issue a report to
40 the Legislature consistent with Section 19990.96.

1 (b) At least three years after the initial issue date of any license
2 pursuant to this chapter, but no later than four years after that date,
3 the department, the commission, the Legislature, and licensees
4 shall meet to review the operation of intrastate Internet gambling
5 Web sites pursuant to this chapter. The department may renegotiate
6 the terms and conditions of the licenses with the licensees, based
7 in large part on the report and recommendations of the Bureau of
8 State Audits to the Legislature pursuant to Section 19990.96 with
9 respect to all aspects of the licensees' operations, obligations, and
10 economics. The state reserves the right to make reasonable
11 modifications to the terms and conditions of the licenses after that
12 three-year review, and at any time thereafter, to balance the
13 relationship between the licensees and the state.

14 (c) If the Legislature statutorily approves new or modified
15 license terms and conditions relating to the rights and obligations
16 of the licensees, which modification may include amendment of
17 this chapter, the department shall notify existing licensees of the
18 new terms and conditions in accordance with the statutory changes
19 approved by the Legislature. A licensee shall indicate whether it
20 accepts the new or modified license terms and conditions within
21 30 days of receiving notification from the department. A licensee's
22 acceptance of the new or modified license terms and conditions
23 shall apply for the remaining term of the license, or until those
24 terms and conditions are subsequently modified by the Legislature.
25 The licensee also may decline to accept the new or modified license
26 terms and conditions, but, pursuant to that declination, shall
27 relinquish the license to the state without compensation.

28 (d) If the department recommends no changes to the terms and
29 conditions of the license, or if the Legislature does not approve
30 any changes to the terms or conditions of the license, the licensees
31 shall continue to operate under the existing terms and conditions
32 of the license, and the license shall remain in force for the
33 remainder of the term of the license, or until those terms and
34 conditions are subsequently renegotiated and are approved by the
35 Legislature.

36 (e) No relicensing shall be required upon modification.

1 Article 5. Rights and Obligations of Licensees

2
3 19990.30. (a) A licensee shall comply with the terms of this
4 chapter.

5 (b) In the event of commercial infeasibility created by a change
6 in federal law rendering the provision of intrastate Internet
7 gambling services illegal, or some other event, a licensee may
8 abandon its operations after providing the department with 90
9 days' advance notice of its intent and a statement explaining its
10 interpretation that continuing to operate the intrastate Internet
11 gambling Web site is commercially infeasible. In response to that
12 notice, the state may file an action in the Superior Court of the
13 County of Sacramento as it deems necessary to protect any state
14 interests, including, but not limited to, the interests of registered
15 players.

16 (c) In the event that any dispute arises between the state and the
17 licensee, either the department or a licensee may file an action in
18 the superior court of any county in which the department has an
19 office for an interpretation of the rights and responsibilities of the
20 state and the licensee pursuant to this chapter.

21 19990.31. (a) Prior to initiating operations and thereafter, a
22 licensee shall ensure that every employee has been issued an
23 employee work permit by the department, pursuant to standards
24 adopted by the department, prior to that person having access to
25 the licensee's facilities. The permit shall be renewed every two
26 years.

27 (b) An employee work permit shall not be issued unless, based
28 on all of the information and documents submitted, the department
29 is satisfied that the applicant is, at a minimum, all of the following:

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

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

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

1 (c) The department shall disqualify an applicant for an employee
2 work permit for any of the following reasons:

3 (1) Failure of the applicant to clearly establish eligibility and
4 qualification in accordance with this chapter.

5 (2) Failure of the applicant to provide timely information,
6 documentation, and assurances required by this chapter or requested
7 by any state official, or failure of the applicant to reveal any fact
8 material to the qualification, or the supplying of information that
9 is untrue or misleading as to a material fact pertaining to the
10 qualification criteria.

11 (3) Conviction of a felony, including a conviction by a federal
12 court or a court in another state for a crime that would constitute
13 a felony if committed in California.

14 (4) Conviction of the applicant for any misdemeanor involving
15 dishonesty or moral turpitude within the 10-year period
16 immediately preceding the submission of the application, unless
17 the applicant has been granted relief pursuant to Section 1203.4,
18 1203.4a, or 1203.45 of the Penal Code. However, the granting of
19 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
20 Code shall not constitute a limitation on the discretion of the
21 department or affect the applicant's burden under subdivision (b).

22 (5) Association of the applicant with criminal profiteering
23 activity or organized crime, as defined by Section 186.2 of the
24 Penal Code.

25 (6) Contemptuous defiance by the applicant of any legislative
26 investigative body, or other official investigative body of any state
27 or of the United States, when that body is engaged in the
28 investigation of crimes relating to gambling, official corruption
29 related to gambling activities, or criminal profiteering activity or
30 organized crime, as defined by Section 186.2 of the Penal Code.

31 (7) The applicant is less than 21 years of age.

32 (d) A licensee shall apply for an employee work permit on behalf
33 of each employee.

34 (e) A person shall not be issued an employee work permit unless
35 the person meets the qualification standards adopted by the
36 department.

37 (f) The department shall establish a fee to be paid by a licensee
38 in submitting applications for employee work permits on behalf
39 of that licensee's employees. The department shall establish
40 processes for the revocation or suspension of an intrastate Internet

1 gambling Web site license or employee work permit, and to
2 withdraw an application for an intrastate Internet gambling Web
3 site license or employee work permit.

4 (g) (1) A licensee or subcontractor of a licensee shall not enter
5 into, without prior approval of the department, any contract or
6 agreement with a person who is denied a gambling license or
7 employee work permit pursuant to Chapter 5 (commencing with
8 Section 19800), or whose gambling license or employee work
9 permit is suspended or revoked by the department, or with any
10 business enterprise under the control of that person, after the date
11 of receipt of notice of the department's action.

12 (2) A licensee or subcontractor of a licensee shall not enter into
13 any contract or agreement with a person or entity that has accepted
14 any wager from persons in the United States on any form of
15 Internet gaming that has not been affirmatively authorized by law
16 in this state or the United States after December 31, 2006, or has
17 been the holder of a direct or indirect financial interest in a person
18 or entity that has accepted such a wager.

19 (h) A licensee or subcontractor of a licensee shall not employ,
20 without prior approval of the department, any person in any
21 capacity for which he or she is required to have an employee work
22 permit, if the person has been denied a gambling license or an
23 employee work permit pursuant to Chapter 5 (commencing with
24 Section 19800), or if his or her gambling license or employee work
25 permit has been suspended or revoked after the date of receipt of
26 notice of the action by the department. A licensee or subcontractor
27 of a licensee shall not enter into a contract or agreement with a
28 person whose application for a gambling license or an employee
29 work permit has been withdrawn with prejudice, or with any
30 business enterprise under the control of that person, for the period
31 of time during which the person is prohibited from filing a new
32 application for a gambling license or an employee work permit.

33 (i) If an employee who is required to hold an employee work
34 permit pursuant to this chapter is denied an employee work permit,
35 or has his or her employee work permit revoked by the department,
36 the employee shall be terminated in all capacities. The employee
37 shall not be permitted to exercise a significant influence over the
38 gambling operation, or any part thereof, upon notification of the
39 licensee of the department's action.

1 (1) If an employee who is required to hold an employee work
2 permit pursuant to this chapter has his or her employee work permit
3 suspended, the employee shall be suspended in all capacities. The
4 employee shall not be permitted to exercise a significant influence
5 over the gambling operation, or any part thereof, during the period
6 of suspension, upon notification of the licensee of the department's
7 action.

8 (2) If a licensee or subcontractor of a licensee designates another
9 employee to replace the employee whose employment was
10 terminated or suspended, the licensee or subcontractor shall
11 promptly notify the department and shall apply for an employee
12 work permit on behalf of the newly designated employee.

13 (j) A licensee or subcontractor of a licensee shall not pay to a
14 person whose employment has been terminated or suspended
15 pursuant to subdivision (i) any remuneration for any service
16 performed in any capacity in which the person is required to hold
17 an employee work permit, except for amounts due for services
18 rendered before the date of receipt of notice of the department's
19 action of suspension or termination.

20 (k) Except as provided in subdivision (i), a contract or agreement
21 for the provision of services or property to a licensee or
22 subcontractor or for the conduct of any activity pertaining to the
23 operation of an intrastate Internet gambling Web site, which is to
24 be performed by a person required by this chapter or by regulations
25 adopted pursuant to this chapter, to hold an employee work permit,
26 shall be terminated upon a suspension or revocation of the person's
27 employee work permit.

28 (l) In any case in which a contract or agreement for the provision
29 of services or property to a licensee or an affiliate thereof, or for
30 the conduct of any activity at an intrastate Internet gambling Web
31 site, is to be performed by a person required by this chapter or by
32 regulations adopted by the department to hold an employee work
33 permit, the contract shall be deemed to include a provision for its
34 termination without liability on the part of the licensee, affiliate,
35 or subcontractor upon a suspension or revocation of the person's
36 employee work permit. In any action brought by the department
37 to terminate a contract pursuant to subdivision (k) or this
38 subdivision, it shall not be a defense that the agreement does not
39 expressly include the provision described in this subdivision, and
40 the lack of express inclusion of the provision in the agreement

1 shall not be a basis for enforcement of the contract by a party
2 thereto.

3 (m) If a licensee does not comply with the requirements of this
4 section, the department may impose a civil fine of not more than
5 ____ dollars (\$____) per occurrence. In the event that a licensee
6 negligently, willfully, or wantonly fails to comply with these
7 requirements, the department may initiate an enforcement action
8 and subject a licensee to a civil fine of ____ dollars (\$____) and
9 may begin proceedings to suspend or revoke the licensee's license.

10 19990.32. The licensee shall be responsible for providing
11 current and accurate documentation on a timely basis to all state
12 agencies as provided in this chapter.

13 (a) In addition to any other confidentiality protections provided
14 to persons licensed by the state, the state and its agencies shall
15 treat the proprietary information provided by a licensee as
16 confidential to protect the licensee and to protect the security of
17 the intrastate Internet gambling Web site.

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

22 19990.33. (a) Changes in ownership of the licensee shall be
23 approved by the department prior to the closing of any proposed
24 transaction.

25 (b) The department shall investigate to ensure that any person
26 acquiring interest in a licensee is suitable and otherwise financially,
27 technically, and legally qualified to be a licensee consistent with
28 the provisions of this chapter. If an acquiring person is found to
29 be unsuitable to be a licensee or otherwise not financially,
30 technically, or legally qualified to be a licensee, the licensee or
31 the acquiring person may challenge that determination consistent
32 with subdivision (c) of Section 19990.25.

33 19990.34. All facilities, software, including downloadable
34 programs, and any other property, both tangible and intangible,
35 used by the licensee in offering authorized games for play on an
36 intrastate Internet gambling Web site shall be the property of the
37 licensee or its subcontractors, and shall be approved by the
38 department.

39 19990.35. (a) A licensee shall ensure that registered players
40 are eligible to play authorized games and implement appropriate

1 data security standards to prevent access by a person whose age
2 and location has not been verified in accordance with this chapter.

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

5 (c) A registered player shall not be less than 21 years of age.

6 (1) Online games shall not be provided, directly or indirectly,
7 to any person under 21 years of age.

8 (2) Each licensee shall do all of the following:

9 (A) Prior to registering a person as a registered player or
10 permitting a person to play an authorized game, the licensee shall
11 verify that the person is 21 years of age or older. The licensee or
12 seller shall attempt to match the name, address, and date of birth
13 provided by the person to information contained in records in a
14 database of individuals who have been verified to be 21 years of
15 age or older by reference to an appropriate database of government
16 records. The licensee also shall verify that the billing address on
17 the check or credit card offered for payment by the person matches
18 the address listed in the database.

19 (B) If the licensee is unable to verify that the person is 21 years
20 of age or older pursuant to subparagraph (A), the licensee shall
21 require the person to submit an age-verification kit consisting of
22 an attestation signed by the person that he or she is 21 years of age
23 or older and a copy of a valid form of government identification.
24 For the purposes of this section, a valid form of government
25 identification includes a driver's license, state identification card,
26 passport, official naturalization or immigration document, such as
27 an alien registration receipt card or an immigrant visa, or United
28 States military identification. The licensee also shall verify that
29 the billing address on the check or credit card provided by the
30 person matches the address listed in the government identification.

31 (C) The licensee shall not permit registered players to make
32 payments by money order or cash. The licensee shall submit to
33 each credit card company with which it has credit card sales,
34 information in an appropriate form and format so that the words
35 "Internet gambling" may be printed on the purchaser's credit card
36 statement when a payment to a licensee is made by credit card
37 payment.

38 (3) If a licensee complies with the requirements of paragraph
39 (2), and a person under 21 years of age participates in an authorized

1 game provided by the licensee, the licensee is not in violation of
2 this section.

3 (4) The department may assess civil penalties against a person
4 that violates this section, according to the following schedule:

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

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

10 (C) Not less than four thousand dollars (\$4,000) and not more
11 than five thousand dollars (\$5,000) for the third violation.

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

15 (E) Ten thousand dollars (\$10,000) for a fifth or subsequent
16 violation.

17 (d) The department shall, by regulation, provide a process for
18 a licensee to exclude from play any person who has filled out an
19 online self-exclusion form.

20 (1) The department shall develop an online self-exclusion form
21 within six months of the operative date of this chapter.

22 (2) The department shall deliver the form to each licensee.

23 (3) A licensee shall prominently display a link to the
24 department's Responsible Gambling Internet Web page and the
25 online self-exclusion form on the Internet Web page that is
26 displayed when either of the following occurs:

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

28 (B) Each time a registered player accesses the intrastate Internet
29 gambling Web site prior to playing.

30 (4) A licensee shall retain the online self-exclusion form to
31 identify persons who want to be excluded from play.

32 (5) A licensee that has made commercially reasonable efforts
33 to comply with this subdivision shall not be held liable in any way
34 if a person who has filled out an online self-exclusion form plays
35 despite that person's request to be excluded.

36 19990.36. A licensee shall only offer authorized games and
37 process bets in accordance with the specified game and betting
38 rules established by the licensee and approved by the department
39 pursuant to Section 19990.14.

1 19990.37. (a) In order to propose a game for play, a licensee
2 shall provide the department with both of the following:
3 (1) Game rules and betting rules it proposes to offer to
4 registered players.
5 (2) Documentation relating to development and testing of the
6 game’s software.
7 (b) The department shall approve the game rules and betting
8 rules before a licensee may offer the game to registered players.
9 19990.38. (a) A licensee shall ensure that games are fair.
10 (b) The gaming system shall display for each game the following
11 information:
12 (1) The name of the game.
13 (2) Any restrictions on play.
14 (3) The rules of the game.
15 (4) All instructions on how to play.
16 (5) The unit and total bets permitted.
17 (6) The registered player’s current account balance which shall
18 be updated in real time.
19 (7) Any other information that a licensee determines is necessary
20 for the registered player to have in real time to compete fairly in
21 the game.
22 (c) Data used to create game results shall be unpredictable so
23 that it is infeasible to predict the next occurrence in a game, given
24 complete knowledge of the algorithm or hardware generating the
25 sequence and all previously generated numbers.
26 (d) A licensee shall deploy controls and technology to minimize
27 fraud or cheating through collusion, including external exchange
28 of information between different players, robotic play, or any other
29 means.
30 (1) If a licensee becomes aware that fraud or cheating is taking
31 place or has taken place, it shall take steps to stop those activities
32 immediately and inform the department of all relevant facts.
33 (2) The department shall not impose liquidated damages against
34 a licensee to prevent fraud or cheating if the licensee can
35 demonstrate that it acted responsibly to prevent those activities as
36 soon as the licensee became aware of them.
37 (e) In a per hand game, if the gaming server or software does
38 not allow a game to be completed, the game shall be void and all
39 funds relating to the incomplete game shall be returned to the
40 registered player’s account.

1 (f) In a tournament, if the gaming server or software does not
2 allow the tournament to be completed, all prize money shall be
3 distributed among players in accordance with the procedure
4 published by the licensee prior to the commencement of the
5 tournament.

6 19990.39. (a) A licensee shall register players and establish
7 player accounts prior to play.

8 (b) A person shall not participate in any game provided by a
9 licensee unless the person is a registered player and holds an
10 account.

11 (c) Accounts shall be established in person, by mail, telephone,
12 or by any electronic means.

13 (d) To register and establish an account, a person shall provide
14 the following registration information:

15 (1) First name and surname.

16 (2) Principal residence address.

17 (3) Telephone number.

18 (4) Social security number.

19 (5) Identification or certification to prove that person is at least
20 21 years of age.

21 (6) Valid e-mail address.

22 (e) A licensee shall provide registered players with the means
23 to update the registration information provided to the licensee.

24 (f) Nothing in this section shall prevent a licensee from entering
25 into a marketing agreement with any third party to recruit people
26 to become registered players if the registration process described
27 in this section is under the sole control of the licensee.

28 19990.40. (a) A licensee shall provide a means for registered
29 players to put funds into a registered player account and transfer
30 funds out of that account.

31 (b) A registered player shall identify the source of funds to be
32 used to put money into the account established once the registration
33 process is complete, and a licensee shall provide a means for a
34 registered player to transfer money into and out of the player's
35 intrastate Internet gambling Web site account.

36 (c) At the time of establishing an intrastate Internet gambling
37 Web site account, a registered player shall designate the bank
38 account into which funds from the registered player's intrastate
39 Internet gambling Web site account are to be transferred.

1 (d) A registered player shall establish only one account on any
2 intrastate Internet gambling Web site.

3 (e) While playing an authorized game, a licensee shall not permit
4 a registered player to increase the amount of money in that
5 registered player's account after that hand has started and before
6 its completion.

7 (f) A licensee shall maintain records on the balance of each
8 registered player's account.

9 (g) A licensee shall not permit a registered player to place a
10 wager unless the registered player's account has sufficient funds
11 to cover the amount of the wager.

12 (h) A licensee shall not provide credit to a registered player's
13 account or act as agent for a credit provider to facilitate the
14 provision of funds.

15 (i) No interest shall be paid by a licensee with respect to
16 registered player accounts.

17 19990.41. (a) A licensee shall segregate funds it holds in all
18 registered player accounts from all of its other assets.

19 (b) A licensee shall not commingle funds in the segregated
20 account containing funds paid by registered players with any other
21 funds held by the licensee, including, but not limited to, operating
22 funds of the licensee. Both the accounts of the licensee and its
23 segregated registered player accounts shall be held in financial
24 institutions located in the state.

25 (c) Funds held in a registered player's account shall only be
26 used for the following purposes:

27 (1) To pay per hand or tournament charges owed by a registered
28 player to the licensee for play of authorized games.

29 (2) To transfer funds from one registered player's account to
30 the account of another registered player to reconcile the result of
31 a loss in the play of an authorized game.

32 (3) To transfer funds from a registered player's account to a
33 temporary account to be held by a licensee pending the outcome
34 of an authorized game.

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

37 (5) To transfer funds from a registered player's account with
38 the licensee to an account specified by a registered player upon
39 that registered player's request.

1 19990.42. Prior to completing the registration process, a
2 licensee shall explain to the person who is registering in a
3 conspicuous fashion the privacy policies of the intrastate Internet
4 gambling Web site, and a person shall assent to the following
5 policies:

6 (a) No personally identifiable information shall be shared with
7 any nongovernment third parties except as provided in subdivision
8 (j) of Section 19990.47.

9 (b) All personally identifiable information about registered
10 players shall be shared with state agencies, including, but not
11 limited to, the department, the commission, and the Franchise Tax
12 Board, as necessary to assist them in fulfilling their obligations
13 under this chapter.

14 (c) Personally identifiable information may be shared with
15 government agencies only as set forth in subdivision (b) or subject
16 to court order as provided in subdivision (j) of Section 19990.47.

17 19990.43. A licensee may require that a registered player, or
18 a person registering as a player, agree to a Terms of Use Registered
19 Player's Agreement.

20 19990.44. A licensee may suspend or revoke the account of a
21 registered player for any of the following reasons:

22 (a) A person or registered player provided false information to
23 the licensee, including, but not limited to, in the registration
24 process.

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

27 (c) The registered player has violated the intrastate Internet
28 gambling Web site's Terms of Use Registered Player's Agreement.

29 (d) The person has already been registered.

30 (e) The licensee suspects that the registered player has
31 participated in an illegal or unauthorized activity on the intrastate
32 Internet gambling Web site.

33 (f) The licensee is directed by a state agency to suspend or
34 revoke the registered player's account.

35 19990.45. (a) Upon registration, and each time a registered
36 player logs into an intrastate Internet gambling Web site, the
37 licensee shall permit a registered player to adjust his or her play
38 settings to:

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

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

3 (b) During play, in order to assist a registered player to decide
4 whether to suspend play, the registered player's screen shall do
5 all of the following:

6 (1) Indicate how long the player has been playing.

7 (2) Indicate the net change in value to a registered player's
8 account since the time of last logging in.

9 (3) At least once every six hours require the registered player
10 to confirm that the player has read the message or give an option
11 to the player to end the session or return to the game.

12 19990.46. A licensee shall establish a toll-free telephone
13 customer service hotline that shall be available to registered players
14 24 hours per day, 365 days a year. All employees shall be
15 physically present in the state while in contact with registered
16 players. However, the licensee shall have discretion to use the
17 expertise of personnel not physically present in the state when
18 necessary to protect registered players and state interests, including,
19 but not limited to, for the purposes of diagnosing and addressing
20 technological problems, investigating fraud and collusion, and
21 supervising software and configuration changes. The licensee shall
22 give notice to the department when using personnel who are out
23 of state.

24 19990.47. (a) A licensee shall protect the privacy of registered
25 players and their personally identifiable information.

26 (b) A licensee shall comply with all state and federal privacy
27 and data protection laws.

28 (c) At the time of registration with a licensee as a registered
29 player, and at least once a year thereafter, a licensee shall provide
30 notice in the form of a separate, written statement, delivered via
31 postal service or electronic mail, to the registered player that clearly
32 and conspicuously informs the registered player of all of the
33 following:

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

37 (2) The nature, frequency, and purpose of any disclosure that
38 may be made of personally identifiable information, including an
39 identification of the types of persons to whom the disclosure may
40 be made.

1 (3) The period during which personally identifiable information
2 will be maintained by the licensee.

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

6 (5) The limitations provided by this section with respect to the
7 collection and disclosure of personally identifiable information by
8 a licensee and the right of the registered player under subdivision
9 (j) or (k) to enforce those limitations.

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

13 (e) A licensee may collect personally identifiable information
14 in order to do both of the following:

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

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

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

27 (g) A licensee may disclose personally identifiable information
28 if the disclosure is any of the following:

29 (1) Necessary to render, or conduct a legitimate business activity
30 related to, the provision of authorized games to the registered
31 player by the licensee.

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

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

37 (A) The licensee has provided the registered player the
38 opportunity to prohibit or limit the disclosure.

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

4 (4) To the department to fulfill its obligations under this chapter
5 or a state agency as authorized in this chapter.

6 (h) A registered player shall be provided access to all personally
7 identifiable information regarding that registered player that is
8 collected and maintained by a licensee. The information shall be
9 made available to the registered player at reasonable times and at
10 a place designated by the licensee. A registered player shall be
11 provided reasonable opportunity to correct any error in the
12 information.

13 (i) A licensee shall destroy personally identifiable information
14 if the information is no longer necessary for the purpose for which
15 it was collected, and there are no pending requests or orders for
16 access to the information under subdivision (k).

17 (j) Any person aggrieved by any act of a licensee in violation
18 of this section may bring a civil action in any superior court. The
19 court may award:

20 (1) Actual damages but not less than the rate of ____ a day for
21 each day of violation or ____, whichever is higher.

22 (2) Punitive damages.

23 (3) Reasonable attorney's fees and other litigation costs
24 reasonably incurred.

25 (k) Except as provided in subdivision (g), a governmental or
26 nongovernmental third party may obtain personally identifiable
27 information concerning a registered player pursuant to a court
28 order only if, in the court proceeding relevant to the court order,
29 both of the following apply:

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

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

38 19990.48. A licensee shall establish a book of accounts and
39 regularly audit all of its financial records and reports, which shall,
40 at a minimum, include all of the following:

- 1 (a) Monthly auditable and aggregate financial statements of
2 gambling transactions.
- 3 (b) Monthly calculation of all amounts payable to the state.
- 4 (c) The identity of registered players.
- 5 (d) The balance on each registered player's account at the start
6 of a session of play, the amount won or lost by each registered
7 player during a game, and the balance on the registered player's
8 account.
- 9 (e) The wagers placed on each game, time stamped by the games
10 server.
- 11 (f) The result of each game, time stamped by the games server.
- 12 (g) The amount, if any, as determined by the registered player,
13 withheld from winnings for federal or state income tax purposes.
- 14 19990.49. (a) A licensee shall make all financial records
15 established and maintained pursuant to Section 19990.48,
16 including, but not limited to, all books, records, documents,
17 financial information, and financial reports, available on both an
18 electronic basis and in hard copy, as required by the department
19 or other state agencies so that those state agencies can fulfill their
20 responsibilities under this chapter.
- 21 (b) The licensee's data shall be retained in a manner by which
22 it may be accessed by the state agencies online.
- 23 (c) Notwithstanding subdivision (b), data covered by
24 subdivisions (d), (e), and (f) of Section 19990.48 shall be accessible
25 to the state agencies online for 120 days, and, thereafter, archived
26 and retained for one year.
- 27 19990.50. (a) A licensee shall implement technical systems
28 that materially aid the department in the protection of registered
29 players.
- 30 (b) A licensee shall define and document its methodology for
31 developing software and applications and describe the manner in
32 which software protects registered players from fraud and other
33 risks in the play of authorized games and in the management of
34 registered player accounts.
- 35 (c) A licensee shall meet minimum game server connectivity
36 requirements to ensure that registered players are protected from
37 losses due to connectivity problems.
- 38 (d) A licensee shall ensure that all transactions involving
39 registered players' funds shall be recoverable by the system in the
40 event of a failure or malfunction.

1 (e) All information required for reviewing a game interrupted
2 due to loss of connectivity shall be recoverable by the licensee.

3 (f) Preventative and detective controls addressing money
4 laundering and fraud risks shall be documented and implemented
5 by the licensee.

6 19990.51. (a) A licensee may charge registered players to play
7 in authorized games.

8 (b) Per hand charges are permitted.

9 (1) A per hand charge shall be designated and conspicuously
10 posted on the screen prior to the start of each authorized game.

11 (2) A licensee may vary the per hand charges to registered
12 players based on betting limits or other factors.

13 (c) Tournament charges shall be permitted.

14 (1) A tournament charge shall be designated and conspicuously
15 posted on the screen prior to the start of the first authorized game
16 of any tournament.

17 (2) A licensee may vary tournament charges based on
18 tournament prizes or other factors.

19 (d) A licensee shall provide notice to the department of the
20 charges to registered players prior to initiating play.

21 19990.52. A licensee may enter into an agreement with any
22 third party to sponsor or underwrite prizes for a tournament, subject
23 to the approval of the department.

24 19990.53. A licensee may enter into an agreement to sell
25 advertisement space on any Internet Web site it controls, subject
26 to the approval of the department.

27 19990.535. (a) A licensee may enter into an agreement with
28 a third party for marketing, or any other purpose consistent with
29 this chapter, including, but not limited to, displaying the name of
30 a marketing partner on a screen viewed by a registered player.

31 (b) A licensee shall not utilize any brand or business name, trade
32 or service mark, software, customer information, or other data
33 acquired, derived, or developed directly or indirectly from any
34 operation that has accepted any wager from persons in the United
35 States on any form of Internet gaming that has not been
36 affirmatively authorized by law in this state or the United States
37 after December 31, 2006. To the extent any business relationships
38 or financial arrangements were utilized or existed to further any
39 such illegal Internet gambling, those relationships and arrangements
40 shall be discontinued.

1 19990.54. A licensee may enable a chat function between
2 registered players if it has in place effective controls against
3 collusion, subject to the approval of the department.

4 19990.55. A licensee may post Internet Web links on the
5 Internet Web sites it controls to permit registered players to access
6 remote Internet Web sites, subject to the approval of the
7 department.

8 19990.56. A licensee may enter into contractual agreements
9 with one or more licensees for the purpose of ensuring adequate
10 player liquidity, subject to the approval of the department.

11 19990.57. A licensee may allow a registered player to
12 participate simultaneously in multiple games or tournaments, if
13 the licensee has demonstrated to the department that it has technical
14 controls that prohibit a registered player from playing multiple
15 hands simultaneously in the same game, subject to the approval
16 of the department.

17 19990.58. (a) Any entity licensed to operate an intrastate
18 Internet gambling Web site shall remit to the Treasurer for deposit
19 in the General Fund a nonrefundable license fee in the amount of
20 thirty million dollars (\$30,000,000). This amount shall be credited
21 against fees imposed pursuant to subdivision (b) on the licensee's
22 gross gaming revenue proceeds for the first three years of operation.
23 Upon depletion of the license fee, the department shall notify the
24 licensee to commence monthly payments to the state in accordance
25 with subdivision (b).

26 (b) A licensee shall remit to the Treasurer on a monthly basis
27 for deposit in the General Fund, an amount equal to 10 percent of
28 its gross revenues.

29 (1) Each monthly payment shall be due on the 10th day of the
30 following month.

31 (2) A licensee shall make all electronic and written financial
32 records available to the Treasurer, the commission, and the
33 department on an electronic basis.

34 (3) For the purposes of determining gross revenues, the licensee
35 and the Treasurer shall use generally accepted accounting
36 principles.

37 (c) Each licensee shall pay a regulatory fee, to be deposited in
38 the Internet Gambling Fund as established by Section 19990.86,
39 in an amount to be determined by the department for the actual
40 costs of license oversight, consumer protection, state regulation,

1 problem gambling programs, and other purposes related to this
2 chapter.

3 19990.59. (a) The licensee shall facilitate the collection of
4 personal income taxes from registered players by the Franchise
5 Tax Board.

6 (b) The licensee shall withhold 5 percent of tournament winnings
7 for state income tax if the winnings less the tournament charge are
8 more than six hundred dollars (\$600) and are at least 300 times
9 the tournament charge.

10 (1) The licensee shall transfer that withheld income to the
11 Franchise Tax Board.

12 (2) Winnings and losses of the registered player from other
13 tournaments sponsored by the licensee during the year are not
14 taken into account in arriving at the six-hundred-dollar (\$600)
15 amount. Required withholding is determined on a
16 tournament-by-tournament basis.

17 (c) Within six months of the operative date of this chapter, the
18 Franchise Tax Board shall publish a form to be used annually by
19 a licensee to ensure that the state is able to collect income tax
20 revenues from registered players. The Franchise Tax Board shall
21 provide a date by which the form is required to be filed. The form
22 shall include, but shall not be limited to, the following information:

23 (1) The registered player's first name and surname.

24 (2) Social security number.

25 (3) The total amount the registered player deposited in his or
26 her account during the year.

27 (4) The registered player's total winnings, if any, during the
28 year.

29 (5) The registered player's total losses, if any, during the year.

30 (6) The total amount withheld by the licensee, if any, during
31 the year for purposes of federal or state income taxes.

32 (7) Whether the registered player opened or closed his or her
33 account during the year.

34 (d) The licensee shall electronically file a copy of the form with
35 the Franchise Tax Board for each registered player who held an
36 account with the licensee for all, or any portion of, the taxable
37 year. The licensee shall electronically provide each registered
38 player with a copy of the form.

39 19990.60. (a) A security interest in a licensee shall not be
40 enforced without the prior approval of the department.

1 (b) It is unlawful for any person to sell, purchase, lease,
2 hypothecate, borrow, or loan money, or create a voting trust
3 agreement or any other agreement of any sort with a licensee or
4 with respect to any portion of the provision of authorized games,
5 except in accordance with the department.

6 (c) Every licensee that is involved in a transaction for the
7 extension or redemption of credit by the licensee, or for the
8 payment, receipt, or transfer of coin, currency, or other monetary
9 instruments, as specified by the department, in an amount,
10 denomination, or amount and denomination, or under
11 circumstances prescribed by regulation, and any other participant
12 in the transaction, as specified by the department, shall, if required
13 by regulation, make and retain a record of, or file with the
14 department a report on, the transaction, at the time and in the
15 manner prescribed by regulation.

16 19990.61. (a) A licensee shall act expeditiously to cure any
17 violation of this chapter, or any regulation adopted pursuant to this
18 chapter, in the offer or administration of authorized games that
19 interferes with its obligations to the state or registered players
20 under this chapter.

21 (b) If a licensee becomes aware of any violation, it shall notify
22 the department immediately and work with the department to
23 develop a plan to rectify the violation.

24 (c) If the department becomes aware of any violation, or if it
25 becomes aware of any activities that might lead to a violation, the
26 department shall provide notice of that violation to the licensee
27 and a reasonable opportunity to cure the violation.

28 (d) All state agencies with responsibilities under this chapter
29 shall report any actual or suspected violation of this chapter, or
30 any regulation adopted pursuant to this chapter, or activities that
31 may lead to such a violation, to the department immediately so
32 that the department can assess whether it needs to commence an
33 investigation or enforcement action.

34 (e) A licensee shall be afforded a reasonable time period to cure
35 any reported violation. The department may assess penalties for
36 any violation of this chapter, or any regulation adopted pursuant
37 to this chapter.

38 (f) The department shall have the subpoena power in an
39 investigation of any violation of this chapter, or any regulation
40 adopted pursuant to this chapter.

1 (g) The department may revoke or suspend any license or work
2 permit under this chapter upon reaching a finding that the licensee
3 or employee is in violation of any provision of this chapter, or any
4 regulation adopted pursuant to this chapter.

5 (h) A licensee may appeal any decision of the department
6 pursuant to this section to the superior court. The superior court
7 shall hear any appeal de novo.

8 19990.62. The department shall protect the rights and assets
9 of registered players on an intrastate Internet gambling Web site
10 if the licensee's license pursuant to this chapter is revoked or the
11 licensee becomes bankrupt.

12 19990.63. (a) A licensee shall at all times indemnify, defend,
13 and hold harmless the state and its agencies from and against any
14 claims, damages, liabilities, costs, and expenses, including, but
15 not limited to, reasonable attorney's fees and expenses arising out
16 of any third-party claim made against the state or any of its
17 agencies relating to actions of the licensee and this chapter.
18 However, the state shall not enter into a settlement agreement
19 related to any of those claims, damages, liabilities, costs, or
20 expenses without the prior written approval of the licensee.

21 (b) The state and its agencies shall promptly notify a licensee
22 of any claim or litigation to which the indemnity set forth in Section
23 19990.62 applies.

24 (c) At the option of a licensee, it may assume the defense of
25 any claim or litigation. If a licensee assumes the defense of any
26 claim or litigation, the licensee's obligation with respect thereto
27 shall be limited to the payment of any settlement approved by the
28 licensee, or any judgment in connection with that claim or
29 litigation.

30

31 Article 6. Authority of State Agencies

32

33 19990.70. (a) (1) The department, and any other state agency
34 with a duty pursuant to this chapter, shall adopt regulations, in
35 consultation with the commission, to implement this chapter and
36 facilitate the operation of intrastate Internet gambling Web sites
37 in compliance with this chapter no later than 12 months after the
38 operative date of this chapter.

39 (2) The regulations adopted by the department shall address
40 underage gambling and problem gambling.

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

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

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

14 19990.71. The Legislature may, by a statute adopted by a
15 majority vote of both houses, do either of the following:

16 (a) Opt out of, or opt into, any federal framework for Internet
17 gambling.

18 (b) If the United States Department of Justice notifies the
19 department in writing that it is permissible under federal law, enter
20 into any agreement with other states to provide Internet gambling.

21 19990.72. The department may outsource its regulatory
22 functions under this chapter where optimal to provide efficient,
23 effective, and robust regulation with access to worldwide expertise
24 tested and proven in the gambling industry.

25
26 Article 7. Protection of Registered Players
27

28 19990.75. A licensee shall use its best efforts to protect
29 registered players. Subject to the approval of the department, and
30 consistent with uniform standards established by the department
31 by regulation, each licensee shall establish administrative
32 procedures to resolve registered player complaints.

33 19990.76. In the event a registered player has a complaint
34 against a licensee, the exclusive remedy shall be to register the
35 complaint with the department, unless an action is brought pursuant
36 to the remedies described in subdivision (j) of Section 19990.47.

37 19990.77. (a) The department, in consultation with the
38 commission, shall establish regulations with respect to registered
39 player complaints.

1 (b) Under the regulations, the department shall do all of the
2 following:

3 (1) Investigate registered player complaints to determine if a
4 licensee has failed to meet its obligations to a registered player.

5 (2) Attempt to resolve complaints by registered players if a
6 licensee fails to meet an obligation to a registered player.

7 (3) Initiate enforcement actions to require specific performance
8 of any obligation that a licensee has to a registered player and
9 payment by the licensee of restitution to a registered player for
10 actual losses and interest thereon.

11 19990.78. A licensee may appeal any action by the department
12 pursuant to this article to the superior court, which shall review
13 the appeal de novo.

14

15 Article 8. Disposition of State Regulatory Proceeds

16

17 19990.86. (a) The Treasurer shall transfer all amounts received
18 from a licensee pursuant to subdivision (c) of Section 19990.58
19 to the Controller for deposit in the Internet Gambling Fund, which
20 is created in the State Treasury, to be administered by the
21 Controller subject to annual appropriation by the Legislature. These
22 amounts shall not be subject to the formulas established by statute
23 directing expenditures from the General Fund.

24 (b) The state agencies shall submit revenue needs to fulfill their
25 obligations under this chapter for the upcoming fiscal year to the
26 Senate Committee on Budget and Fiscal Review and the Assembly
27 Committee on Budget, as well as the Senate and Assembly
28 Committees on Governmental Organization and the Department
29 of Finance on or before March 31 of the preceding fiscal year. A
30 justification of those costs shall be provided with each submission
31 of revenue needs.

32 (c) The State Department of Alcohol and Drug Programs, Office
33 of Problem Gambling, shall submit revenue needs for programs
34 to alleviate problem gambling that results from the offering of
35 authorized games for the upcoming fiscal year to the Senate
36 Committee on Budget and Fiscal Review and the Assembly
37 Committee on Budget, as well as the Senate and Assembly
38 Committees on Governmental Organization, the Senate and
39 Assembly Committees on Human Services, and the Department
40 of Finance on or before March 31 of the preceding fiscal year. A

1 justification of those costs shall be provided with each submission
2 of revenue needs.

3 (d) All remaining proceeds not allocated to subdivisions (b) and
4 (c) shall remain in the Internet Gambling Fund subject to
5 appropriation by the Legislature.

6

7

Article 9. Preemption of Local Regulation

8

9 19990.90. A city, county, or city and county shall not regulate,
10 tax, or enter into a contract with respect to any matter related to
11 this chapter. This section shall not prohibit or limit the investigation
12 and prosecution of any violation of this chapter.

13

14

Article 10. Reports to the Legislature

15

16 19990.95. Notwithstanding Section 10231.5 of the Government
17 Code, within one year of the operative date of this chapter and,
18 annually thereafter, the department, in consultation with the
19 commission, the Treasurer, and the Franchise Tax Board, shall
20 issue a report to the Legislature describing the state's efforts to
21 meet the policy goals articulated in this chapter. The report shall
22 be submitted in compliance with Section 9795 of the Government
23 Code.

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19990.96. (a) At least two years after the issue date of any
license pursuant to this chapter, but no later than three years after
that date, the Bureau of State Audits shall issue a report to the
Legislature detailing the implementation of this chapter. The State
Auditor may advise the Legislature on any recommendations
regarding the terms of licensure, including the consideration paid
to the state, the economic and operational impacts upon the licensee
and the state, and any other issues that may be relevant to the state's
decision whether to impose modifications on existing licensees.
The report may also advise the Legislature as to any proposed
changes to Article 5 (commencing with Section 19990.30) of this
chapter. The State Auditor shall advise the Legislature whether
continuation of the moratorium on state gaming contained in
Section 19962 is justified, given statewide competition with
legalized Internet gambling.

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

4 (c) Pursuant to Section 10231.5 of the Government Code, this
5 section is repealed on January 1, 2019.

6 SEC. 2. The Legislature finds and declares that Section 1 of
7 this act, which adds Chapter 5.2 (commencing with Section
8 19990.01) to Division 8 of the Business and Professions Code,
9 imposes a limitation on the public's right of access to the meetings
10 of public bodies or the writings of public officials and agencies
11 within the meaning of Section 3 of Article I of the California
12 Constitution. Pursuant to that constitutional provision, the
13 Legislature makes the following findings to demonstrate the interest
14 protected by this limitation and the need for protecting that interest:

15 The limitations on the people's rights of access set forth in this
16 chapter are necessary to protect the privacy and integrity of
17 information submitted by the registered players as well as the
18 proprietary information of the license applicants and licensees.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

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

32 In order to protect the interests of Californians who play online
33 gambling games and to ensure that people play fair games, that
34 the state realizes the revenues, and that suitable persons operate
35 online gambling Internet Web sites, it is necessary that this act
36 take effect immediately.