

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 167**

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**Introduced by Assembly Member Jones-Sawyer**

January 22, 2015

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

**LEGISLATIVE COUNSEL'S DIGEST**

AB 167, as introduced, Jones-Sawyer. Gambling: Internet poker: unlawful gambling activity.

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

This bill, which would be known as the Internet Poker Consumer Protection Act of 2015, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible entities to apply for a 4-year license to operate an authorized poker Web site offering the play of authorized Internet poker games to registered players within California, as specified. The bill would require that the license be automatically renewed every 4 years upon application, as specified. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not an authorized Internet poker game permitted by the state pursuant to these provisions. The bill would provide that it is unlawful for a person to aggregate computers or any other Internet access device in a place of public accommodation within the state, including a club or other association, or a public or other setting, that can accommodate multiple players to simultaneously play an authorized Internet poker game, or to promote, facilitate, or market that activity. The bill would provide that any violation of the Internet Poker Consumer Protection Act of 2015 is punishable as a felony. By creating new crimes, the bill would impose a state-mandated local program.

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, to adopt regulations to implement the provisions within 270 days after the operative date of this bill, in consultation with the department and federally recognized California Indian tribes, and to facilitate the operation of authorized poker Web sites and expedite the state's receipt of revenues. The bill would require an eligible entity, as defined, to pay an application processing fee sufficient to cover all reasonable costs associated with the review of the entity's suitability for licensure and the issuance of the license, for deposit into the Internet Poker Fund, as created by the bill, to be continuously appropriated to the department and the commission in the amounts necessary to perform their duties pursuant to this bill. The bill would require an entity seeking to act as a service provider to apply for a service provider license, employees of a licensed operator or a licensed service provider to obtain

employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits. The bill would establish a tribal gaming regulatory authority process for the purpose of processing tribal employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee to pay a one-time license deposit into the General Fund in the amount of \$10,000,000. The license deposit would be credited against quarterly fees equivalent to 8.5% of the licensee's gross gaming revenue proceeds, as specified. The bill would require an applicant for an operator license to provide documentation establishing that the applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified.

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

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

The bill would provide that specified provisions are not severable.

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

This bill would make legislative findings to that effect.

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

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

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

## DIGEST KEY

Vote: 2/3 Appropriation: YES Fiscal Committee: YES Local Program: YES

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## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### SECTION 1.

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

#### **CHAPTER 5.2. The Internet Poker Consumer Protection Act of 2015**

##### **Article 1. Title, Legislative Declarations, and Statement of Legislative Intent**

##### **19990.101.**

This chapter shall be known and may be cited as the Internet Poker Consumer Protection Act of 2015.

##### **19990.102.**

The Legislature hereby finds and declares all of the following:

(a) Since the development of the Internet, Web sites offering gambling have raised consumer protection and enforcement concerns for federal and state governments as these Internet Web sites are often operated by unknown persons located in many different countries, subject to little or no oversight, and have sought to attract customers from the United States.

(b) Californians participate in illegal online gambling on unregulated Internet Web sites every week. Neither federal nor California laws provide any consumer protections for California players. California players assume all risks, any negative social or financial impacts are borne by the citizens of California, and the revenues generated from online gambling are being realized by offshore operators and do not provide any benefits to the citizens of California.

(c) The presence, operation, and expansion of offshore, unlicensed, and unregulated Internet gambling Web sites available to Californians endanger Californians because the current Internet gambling Web sites operate illegally and without regulation as demonstrated by criminal investigations of some Internet gambling purveyors, and questions have arisen about the honesty and the fairness of the games played on Internet gambling Web sites as well as the true purpose for, and use of, proceeds generated by these unregulated Internet gambling Web sites. In addition, some of the unlicensed and unregulated Internet gambling activity interferes with rights Californians preserved to federally recognized tribal governments when amending the state's Constitution, with that amendment providing tribes the sole and exclusive right to engage in slot machine and house-banked casino-style gaming in California. California, thus, has a state interest in authorizing and regulating legitimate Internet poker and in ensuring that those activities are consistent with existing public policy regarding the playing of poker games within the state. The public interest will be best served by requiring that those entities who desire to own or operate Internet poker Web sites within the state continue to comply with the existing standards and rigorous scrutiny that must be met in order to qualify to offer poker games within the state.

(d) These rights were separately guaranteed in 1999, and at various times thereafter, when the state negotiated and entered into compacts with tribes pursuant to the federal Indian Gaming Regulatory Act of 1988 (IGRA), under which signatory tribes possess the exclusive right within the state to operate "gaming devices." "Gaming device" is defined in those compacts to include any electronic, electromechanical, electrical, or video device that, for consideration, permits: individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith. Internet gaming necessitates the use of an electronic device, whether in a private or a public setting, to participate in a game. The authorization of Internet gaming could, therefore, constitute a breach of those compacts and jeopardize the payments being made to the state. As such, the Legislature recognizes that the forms of Internet gaming authorized to be played within the state must be strictly limited and that the authorization of any form of Internet gaming, with the exception of poker as described in this chapter, would violate compact exclusivity. This includes, but is not limited to, any slot or casino-style game.

(e) Tribally owned and operated casinos have contributed to local economies, generated tens of thousands of jobs for Californians, provided hundreds of millions of dollars in revenues for the state since the advent of Indian gaming, and are entitled to the full protection of the laws of this state. As such, the state is presently engaged in regulatory and enforcement efforts to combat the rise of illegal gambling activity that threatens not only protected rights, but the health and welfare of all Californians.

(f) In October 2006, Congress passed the SAFE Port Act (Public Law 109-347), to increase the security of United States ports. Embedded within the language of that act was a section entitled the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA), which prohibits the use of banking instruments, including credit cards, checks, or fund transfers, for interstate Internet gambling. UIGEA includes exceptions, including, but not limited to, one that permits individual states to create a regulatory framework to enable intrastate Internet gambling, provided the bets or wagers are made exclusively within a single state whose state laws or regulations comply with all of the following:

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

(A) Age and location verification requirements.

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

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

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

(A) The Interstate Horseracing Act of 1978.

(B) The Professional and Amateur Sports Protection Act.

(C) The Gambling Devices Transportation Act.

(D) IGRA.

(g) State authorization to operate Internet poker consistent with federal law, and heightened regulation and enforcement regarding Internet gambling activity that goes beyond poker, provides California with the means to protect its citizens and consumers under certain conditions by providing a framework to ensure that, among other things, the state is not subject to an unnecessary and unprecedented expansion of gambling, minors are prevented from gambling, citizens participating in Internet poker activities are protected, and the state is not deprived of income tax revenues to which it would otherwise be entitled from these activities.

(h) The Legislature recognizes that the regulation of gambling activities within the state's jurisdiction is of particular concern to the public interest, particularly with the advent of the Internet, and inherent dangers associated with online gambling activities, and accordingly recognizes the need to protect Californians from an unprecedented expansion of gambling activities within the state. This chapter is a vehicle to generate additional resources to protect Californians from this increased illegal Internet gambling activity.

(i) The state currently maintains and implements substantial regulatory and law enforcement efforts to protect thousands of Californians who gamble and play, among other things, real-money poker in licensed California card rooms.

(j) Federally recognized Indian tribes in California offer real-money poker, including electronically aided poker, on their Indian lands as a "class II" game under IGRA.

(k) While the state, federal government, and tribal governments exercise regulatory authority over various real-money poker games offered in California, none of those entities presently provide licensing requirements, regulatory structure, or law enforcement tools to protect millions of Californians who play the same games daily for money on the Internet.

(l) In order to protect Californians who gamble online, allow state law enforcement to ensure consumer protection, and ensure compliance with the California Constitution and negotiated compacts and secretarial procedures, it is in the best interest of the state and its citizens to authorize, implement, and create a legal system for intrastate Internet gambling that is limited to the game of poker.

(m) The California Gambling Control Commission and the Department of Justice, in conjunction with other state agencies and tribal gaming regulatory authorities, have the expertise to issue licenses to conduct intrastate Internet poker to existing operators of regulated gaming. Further, strict suitability standards must be imposed on those persons and entities seeking to work for or provide services to licensed operators in order to ensure that the highest level of integrity is maintained.

(n) The state also possesses a legitimate interest in protecting the integrity of state-authorized intrastate Internet poker by licensing those entities that have significant experience operating in a regulated land-based gaming facility environment. The state's interests are best met, therefore, by licensing only those entities in California that are currently permitted to offer gaming activities and are in good standing with the appropriate state, federal, and tribal regulatory agencies.

(o) This chapter will permit a qualified card room, horseracing association, or federally recognized California Indian tribe, to obtain a license from the state to operate authorized poker games via the Internet for players within the jurisdiction of California.

(p) Participation by tribes will further the interests of the state because tribes have significant experience operating and regulating real-money games.

(q) The authorization of intrastate Internet poker pursuant to this chapter does not violate any tribal-state compact or the California Constitution. Application of UIGEA in California, as set forth in this chapter, also does not violate federal Indian law by impinging upon protected tribal sovereignty. Accordingly, nothing in this chapter shall alter, diminish, or impact the rights and obligations of tribes in existing tribal-state compacts or secretarial procedures approved pursuant to IGRA, or require that those compacts be renegotiated. At the same time, a tribal licensee does not relinquish any rights under its compact with the state by virtue of participating in intrastate Internet poker pursuant to this chapter, which is intended to respect the regulatory obligations and responsibilities of state, tribal, and federal authorities.

**19990.103.**

It is the intent of the Legislature to create a licensing and regulatory framework and enforcement mechanisms to do all of the following:

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

(b) Ensure the state possesses sufficient resources to enforce prohibitions of illegal gambling activity, in part, by establishing a regulatory enforcement fund and by empowering the department to retain a portion of receipts collected from illegal operations and, as necessary, receipts collected in accordance with this chapter.

(c) Authorize and direct the commission to issue a license to certain existing operators of land-based gaming facilities in California that meet the eligibility requirements and timely submit the required application and registration fees pursuant to this chapter.

(d) Ensure that each licensee complies with applicable laws and regulations.

(e) Grant power to the state agencies authorized in this chapter to oversee the operations of each licensee, including the operations of those licensed by a tribal gaming regulatory authority under this chapter whose licenses and permits have been reviewed and approved by the commission in accordance with this chapter, and to enforce the provisions of this chapter to ensure that the interests of the state and registered players are protected.

(f) Establish a process that includes a determination of suitability of owners, officers, directors, and key employees, requires that each employee of a licensee receives all necessary work permits from the state, and coordinates that investigation with any suitability review undertaken by a participating tribe's gaming regulatory authority.

(g) Ensure that the state is able to collect income tax revenues from registered players participating in Internet poker activity in the state.

(h) Deposit regulatory fees collected by the state from each licensed operator into the Internet Poker Fund, as established in Section 19990.801, which shall be administered by the department, and continuously appropriated for the following:

(1) The actual costs of license oversight, consumer protection, state regulation, and problem gambling programs.

(2) Other purposes related to this chapter as the Legislature may decide, including, but not limited to, enforcement efforts related to illegal Internet gambling activities.

(i) Create systems to protect each registered player's private information and prevent fraud and identity theft.

(j) Ensure that registered players are able to have their financial transactions processed in a secure, timely, and transparent fashion.

(k) Require that each licensed operator provide registered players with accessible customer service.

(l) Require that each licensed operator's Internet poker Web site contain information relating to problem gambling, including a telephone number that an individual may call to seek information and assistance for a potential gambling addiction.

(m) Ensure that the licensed operator maintains responsibility for the Internet poker business and is not serving as a facade for an entity not eligible to be a licensed operator. The Internet poker Web site shall identify who is the actual licensed operator to ensure protection of players.

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

(o) As a matter of statewide concern, preempt any city, county, or city and county from enacting any law or ordinance regulating or taxing any matter covered in this chapter.

## **Article 2. Definitions**

### **19990.201.**

For the purposes of this chapter, the following words have the following meanings:

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

(b) "Authorized poker Web site" means a Web site on which authorized Internet poker games are offered for play by a licensed operator pursuant to this chapter.

(c) "Background investigation" means a process of reviewing and compiling personal and criminal history and financial information through inquiries of various law enforcement and public sources to establish a person's qualifications and suitability for any necessary license or employee work permit issued pursuant to this chapter.

(d) "Bet" means the placement of a wager in a game.

(e) "Card room" means a gambling enterprise, as defined in subdivision (m) of Section 19805.

(f) "Commission" means the California Gambling Control Commission.

(g) "Core functions" and "core functioning" mean any of the following:

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

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

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

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

(i) "Department" means the Department of Justice.

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

(k) (1) (A) "Eligible entity" includes all of the following:

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

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

(iii) A California-owned and operated horse racing association that is based in California and that operates pursuant to Chapter 4 (commencing with Section 19400), whose owner or owners have been authorized, subject to oversight by, and in good standing with, the applicable state regulatory authorities.

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

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

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

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

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

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

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

(o) "Game" means any gambling game.

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

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

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

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

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

(t) "Initial operator license" means an operator license that is issued pursuant to subdivision (h) of Section 19990.402.

(u) "Internet access device" means a personal computer or mobile communications device used for connecting to the Internet.

(v) "Internet Poker Fund" means the fund established pursuant to Section 19990.801.

(w) "Intrastate" means within the borders and jurisdiction of California.

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

(y) "Land-based gaming facility" means a gambling establishment, as defined in subdivision (o) of Section 19805, that is operated pursuant to Chapter 5 (commencing with Section 19800), a horse racetrack that is operated pursuant to Chapter 4 (commencing with Section 19400), or a casino operated by a tribe on Indian land in California.

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

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

(ab) "Licensee" means a licensed operator or licensed service provider.

(ac) "Net position" means the residual difference between assets and liabilities, as defined by generally accepted accounting principles.

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

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

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

(ag) "Per hand game" means an authorized Internet poker game for which the licensed operator charges the player for each hand played.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) “Service provider” does not include a provider of goods or services that provides similar goods or services to the public for purposes other than the operation of an authorized poker Web site, including, but not limited to, payment processors and geolocation service providers.

(as) “State” means the State of California.

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

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

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

(aw) "Tournament winnings" means the amount of any prize awarded to a registered player in a tournament.

(ax) "Tribal gaming regulatory authority" means the gaming regulatory authority of a federally recognized California Indian tribe that has the authority to regulate gaming on the tribe's Indian lands pursuant to IGRA.

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

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

### **Article 3. Intrastate Internet Poker in California**

#### **19990.301.**

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

#### **19990.302.**

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

#### **19990.303.**

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

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

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

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

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

#### **19990.304.**

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

#### **19990.305.**

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

#### **19990.306.**

A person shall not do either of the following:

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

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

#### **19990.307.**

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

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

#### **19990.401.**

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

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

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

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

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

- (A) Approval of an authorized Internet poker game.
- (B) Authorized Internet poker game rules.
- (C) Authorized Internet poker gaming activities.
- (D) Registered player-assessed fees, as necessary.

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

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

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

#### **19990.402.**

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

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

(c) In order to ensure that licensed operators are not mere facades for unlicensed, unqualified, or undisclosed interests, an applicant for an operator license pursuant to this chapter shall provide documentation to the commission establishing that, if the license is granted, the license applicant will be able, through its own net position or through credit extended directly to the

applicant, and with full recourse to it, by a federal or state chartered financial institution not involved with the core functions of the authorized poker Web site, that is entirely secured by an equivalent amount of its own net position, to pay the license deposit required by subdivision (a) of Section 19990.519. In addition, a licensed operator shall submit regular financial reports to the department establishing that the operator meets financial viability requirements, as determined by the commission. The commission may terminate a license if the operator fails to submit the required reports or meet the financial viability requirements.

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

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

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

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

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

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

#### **19990.403.**

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

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

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

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

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

#### **19990.404.**

(a) An entity seeking to act as a service provider shall apply to the department for a determination of suitability. If the department determines the applicant is suitable to receive a license, the applicant shall then apply to the commission for a service

provider license, and obtain a service provider license, before providing goods or services to a licensed operator in connection with the operation of an authorized poker Web site.

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

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

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

(1) All officers of the license applicant.

(2) The owner or owners of either of the following:

(A) The license applicant.

(B) Any corporate affiliate of the license applicant.

(3) Any persons otherwise providing goods to, or performing services for, the license applicant related to core functions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) For purposes of this subdivision, an "institutional investor" includes all of the following:

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

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

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

(D) A closed-end investment trust.

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

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

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

#### **19990.405.**

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

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

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

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

- (1) The person failed to clearly establish eligibility and qualifications in accordance with this chapter.
- (2) The person failed to timely provide information, documentation, and assurances required by this chapter or requested by the department, or, with respect to a licensed applicant, failed to reveal any fact material to qualification, or supplied information that is untrue or misleading as to a material fact pertaining to the suitability criteria.
- (3) The person has been convicted of a felony, including a conviction by a federal court or a court in another state or foreign jurisdiction for a crime that would constitute a felony if committed in California, except that a conviction of a felony involving the hunting or fishing rights of a tribal member while on his or her reservation shall not be included among the class of disqualifying felonies.
- (4) The person has been convicted of a misdemeanor in a jurisdiction involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code. However, the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the department or affect the applicant's burden.
- (5) The person has associated with criminal profiteering activity or organized crime, as defined in Section 186.2 of the Penal Code.
- (6) The person has contemptuously defied a legislative investigative body, or other official investigative body of a state or of the United States or a foreign jurisdiction, when that body is engaged in the investigation of crimes relating to poker, official corruption related to poker activities, or criminal profiteering activity or organized crime, as defined in Section 186.2 of the Penal Code.
- (7) The person is less than 21 years of age.
- (8) (A) The person has been convicted in a court of competent jurisdiction of a felony consisting of either having accepted a bet over the Internet in violation of United States or California law, or having aided or abetted that unlawful activity.
- (B) A licensee shall not enter into a contract or agreement with a person or entity described in subparagraph (A).
- (c) License applications shall be treated as follows:
  - (1) The commission shall reject the license application of an applicant found to be ineligible for licensure.
  - (2) If denial of the application, or approval of the license with restrictions or conditions on the license, is recommended, the department shall prepare and file with the commission written reasons upon which the recommendation is based. Prior to filing its recommendation with the commission, the department shall meet with the applicant, or the applicant's duly authorized representative, and inform the applicant generally of the basis for a proposed recommendation that the application be denied, restricted, or conditioned.
  - (3) This section does not require the department to divulge to the applicant confidential information received from a law enforcement agency or information received from a person with assurances that the information would be maintained confidential, nor to divulge any information that might reveal the identity of an informant or jeopardize the safety of a person.
  - (4) Denial of an application shall be without prejudice to a new and different application filed in accordance with any regulations adopted by the commission with respect to the submission of applications.
  - (5) An applicant may withdraw its application for a license at any time prior to final action on the application by the commission by filing a written request with the commission to withdraw the application, absent knowledge of a specific reason to suspect that the person or entity may be found unsuitable.

**19990.406.**

- (a) This chapter does not restrict the authority of a tribe that is a licensed operator or that owns a tribal enterprise that is a licensed operator to conduct suitability reviews of its service providers.
- (b) This chapter also does not prohibit a tribal gaming regulatory authority from providing the results of its suitability investigations or determinations to the commission or department for its consideration in issuance of licenses pursuant to this chapter.

**Article 5. Requirements for the Operation of an Authorized Poker Web Site**  
**19990.501.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



(A) A person registers as a registered player.

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

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

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

**19990.502.**

A licensed operator shall offer only authorized Internet poker games and process bets in accordance with the specified game and betting rules established by the licensed operator and approved by the commission pursuant to Section 19990.503.

**19990.503.**

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

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

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

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

**19990.504.**

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

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

(1) The name of the game.

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

(3) The rules of the game.

(4) All instructions on how to play.

(5) The unit and total bets permitted.

(6) Per hand charges assessed to registered players.

(7) The registered player's current account balance, which shall be updated in real time.

(8) Any other information that a licensed operator or the department determines is necessary for the registered player to have in real time to compete fairly in the game.

(c) A licensed operator shall display a link on its authorized poker Web site that includes the following information for each tournament offered:

(1) Tournament rules.

(2) Tournament charge.

(3) Games offered during the tournament.

(4) Prize structure and number of registered players that will be paid.

(5) Buy-in amount, re-buy amount, and add-on amount.

(d) Data used to create game results shall be unpredictable so that it is infeasible to predict the next occurrence in a game.

(e) A licensed operator shall deploy controls and technology to minimize fraud or cheating through collusion, including external exchange of information between different players, or any other means.

(1) If a licensed operator becomes aware that fraud or cheating is taking place or has taken place, it shall take steps to stop those activities immediately and inform the department of all relevant facts.

(2) The department shall not impose a fine against a licensed operator to prevent fraud or cheating if the licensed operator can demonstrate that it acted responsibly to prevent those activities as soon as the licensed operator became aware of them.

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

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

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

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

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

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

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

#### **19990.505.**

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

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

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

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

(1) First name and surname.

(2) Principal residence address.

(3) Telephone number.

(4) Social security number.

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

(6) Valid email address.

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

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

#### **19990.506.**

- (a) A licensed operator shall provide a means for registered players to put funds into a registered player account and transfer funds out of that account.
- (b) A registered player shall identify the source of funds to be used to put money into the registered player account established once the registration process is complete.
- (c) At the time of establishing a registered player account, a registered player shall designate the bank account into which funds from the registered player's authorized poker Web site account are to be transferred.
- (d) A registered player shall not establish more than one account on the same authorized poker Web site.
- (e) While playing an authorized Internet poker game, the game system shall not permit a registered player to increase the amount of money that player has available at a game table while a hand is in play. Any increase to the funds available to a player during a hand shall not take effect until the following hand.
- (f) A licensed operator shall maintain records on the balance of each registered player's account.
- (g) A licensed operator shall not permit a registered player to place a bet unless the registered player's account has sufficient funds to cover the amount of the bet.
- (h) A licensed operator shall not provide credit to a registered player's account or act as agent for a credit provider to facilitate the provision of funds.
- (i) Interest shall not be paid by a licensed operator with respect to a registered player's account.
- (j) A licensed operator shall segregate funds it holds in all registered player accounts from all of its other assets.
- (k) A licensed operator shall not commingle funds in the segregated account containing funds paid by registered players with any other funds held by the licensed operator, including, but not limited to, operating funds of the licensed operator. Both the accounts of the licensed operator and its segregated registered player accounts shall be held in financial institutions located in the state.
- (l) Funds held in a registered player's account shall be used only for the following purposes:
  - (1) To pay per hand or tournament charges owed by a registered player to the licensed operator for play of authorized Internet poker games.
  - (2) To transfer funds from one registered player's account to the account of another registered player to reconcile the result of a loss in the play of an authorized Internet poker game.
  - (3) To transfer funds from a registered player's account to a temporary account to be held by a licensed operator pending the outcome of an authorized Internet poker game.
  - (4) To remit tax proceeds due and owing from a registered player to the Franchise Tax Board.
  - (5) To transfer funds from a registered player's account with the licensed operator to an account specified by that registered player upon that registered player's request.

**19990.507.**

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

- (a) Personally identifiable information shall not be shared with any nongovernmental third parties, except as provided in Section 19990.512.
- (b) All personally identifiable information about registered players shall be shared with state agencies, including, but not limited to, the department, the commission, the Franchise Tax Board, and the Department of Child Support Services as necessary to assist them in fulfilling their obligations.
- (c) Personally identifiable information may be shared with governmental agencies only as set forth in subdivision (b) or subject to court order as provided in Section 19990.512.

**19990.508.**

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

**19990.509.**

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

- (a) A person or registered player provided false information to the licensed operator, including, but not limited to, in the registration process.
- (b) The registered player has not updated registration information to keep it current.
- (c) The registered player has violated the authorized poker Web site's Terms of Use Registered Player's Agreement.
- (d) The person has already been registered.
- (e) The licensed operator suspects that the registered player has participated in an illegal or unauthorized activity on the authorized poker Web site.
- (f) The licensed operator is directed by a state agency to suspend or revoke the registered player's account.

**19990.510.**

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

- (a) Set a limit on the deposits that can be made per day.
- (b) Set a limit on the aggregate losses in a registered player's account within a specified period of time.
- (c) Set a limit on the amount of time that a registered player can play.

**19990.511.**

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

**19990.512.**

- (a) A licensed operator shall protect the privacy of registered players and their personally identifiable information.
- (b) A licensed operator shall comply with all applicable state and federal privacy and data protection laws.
- (c) At the time a registered player registers with a licensed operator, and at least one time per year thereafter, a licensed operator shall provide notice in the form of a separate, written statement, delivered via the United States Postal Service or electronic mail, to the registered player that clearly and conspicuously informs the registered player of all of the following:
  - (1) The nature of personally identifiable information collected or to be collected with respect to the registered player and the nature of the use of that information.
  - (2) The nature, frequency, and purpose of any disclosure that may be made of personally identifiable information, including an identification of the types of persons to whom the disclosure may be made.
  - (3) The period during which personally identifiable information will be maintained by the licensed operator.
  - (4) The times and place at which the registered player may have access to personally identifiable information in accordance with subdivision (h).
  - (5) The limitations provided by this section with respect to the collection and disclosure of personally identifiable information by a licensed operator.
- (d) A licensed operator shall not collect personally identifiable information concerning any registered player without the prior written or electronic consent of the registered player.
- (e) A licensed operator may collect personally identifiable information in order to do both of the following:
  - (1) Obtain information necessary to operate the authorized poker Web site and offer authorized Internet poker games to registered players pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **19990.513.**

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

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

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

(c) The identity of registered players.

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

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

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

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

**19990.514.**

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

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

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

**19990.515.**

A licensed operator shall do all of the following:

(a) Implement technical systems that materially aid the commission in the protection of registered players. Software shall meet, at a minimum, international industry standards as verified by an independent gaming test laboratory that is licensed or registered in any United States jurisdiction to test, approve, and certify the software.

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

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

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

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

(f) Document and implement preventative and detective controls addressing money laundering and fraud risks.

**19990.516.**

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

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

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

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

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

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

**19990.517.**

A licensed operator may do any of the following:

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

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

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

- (d) Enable a chat function between registered players if it has in place effective controls against collusion.
- (e) Post Internet Web links on the Internet Web sites it controls to permit registered players to access remote Internet Web sites.
- (f) Offer authorized Internet poker games on up to two authorized poker Web sites pursuant to its license.
- (g) Enter into contractual agreements with one or more licensed operators for the purpose of ensuring adequate player liquidity.

**19990.518.**

There are three categories of application fees, regulatory fees, and license deposits, as follows:

- (a) **Application Processing Fee.** In order to cover the costs of suitability investigations and other costs of processing an application for a license or work permit, the applicant shall deposit the applicable application processing fee as provided in subdivision (a) of Section 19990.402, subdivision (e) of Section 19990.403, subdivision (b) of Section 19990.404, or Section 19990.605. Any balance of the application processing fee that remains after completion of the determination of suitability shall be refunded to the applicant. If additional moneys are needed to complete the determination of suitability of the license applicant, the applicant shall pay the funds necessary to complete the determination of suitability.
- (b) **One-time License Deposit.** Prior to offering any games for play or accepting any bets on its authorized poker Web site, a licensed operator shall pay the one-time license deposit as provided in subdivision (a) of Section 19990.519. This deposit shall be an advance against the duty on gross gaming revenues specified in subdivision (b) of Section 19990.519.
- (c) **Ongoing Regulatory Fees.** Following issuance of a license and beginning of operations thereunder, the licensed operator shall pay the ongoing regulatory fees set forth in subdivision (c) of Section 19990.519.

**19990.519.**

(a) In support of the application for a license pursuant to this chapter, prior to offering games or accepting bets on its authorized poker Web site, the licensed operator shall remit to the Treasurer a one-time license deposit in the amount of ten million dollars (\$10,000,000), to be deposited into the General Fund, and credited against charges imposed pursuant to subdivision (b) on the licensed operator's gross gaming revenues. Upon depletion of the license deposit, the department shall notify the licensed operator to commence quarterly payments to the state in accordance with subdivision (b).

(b) In consideration of the substantial value of each license, a licensed operator shall remit to the Treasurer on a quarterly basis for deposit in the General Fund an amount equal to 8.5 percent of its gross gaming revenues.

(1) Each quarterly payment shall be due on the 10th day of the month following the end of each quarter.

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

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

**19990.520.**

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

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

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

**19990.521.**

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

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

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

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

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

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

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

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

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

#### **19990.522.**

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

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

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

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

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

#### **19990.523.**

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

#### **19990.524.**

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

#### **19990.525.**

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

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



- (B) The contract provides access to expertise that has been tested and proven in the poker industry.
  - (C) The department or commission retains administrative control and responsibility for ensuring compliance with this chapter.
- (2) In order to expedite the implementation of intrastate Internet poker, a contract entered into pursuant to paragraph (1) is not subject to the Public Contracts Code, or otherwise applicable contracting provisions of the Government Code.
- (b) A state agency with a duty pursuant to this chapter may enter into agreements to share information with other regulatory and law enforcement agencies to assist in performing the state agency's duty.

## **Article 6. Employee Work Permits**

### **19990.601.**

- (a) Except as provided in Section 19990.602, a licensee shall submit an application and applicable fees to the department and apply to the commission for an employee work permit on behalf of each employee.
- (b) Prior to initiating operations and thereafter, a licensee shall ensure that every employee has been issued an employee work permit by the commission prior to that person having access to the licensee's facilities. The permit shall be renewed every two years.
- (c) The commission shall issue an employee work permit only if, based on all of the information and documents submitted, the commission is satisfied that the applicant is, at a minimum, all of the following:
- (1) A person of good character, honesty, and integrity.
  - (2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the integrity of a gaming operation or public interest of this state, or to the effective regulation and control of controlled gambling, as defined in Section 19805, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of incidental business and financial arrangements.
  - (3) A person who is in all other respects qualified to hold an employee work permit as provided in this chapter.
- (d) The commission shall not issue an employee work permit unless the applicant meets the qualification standards adopted by the commission by regulation. A tribal gaming regulatory authority may impose additional qualifications with respect to activities on Indian lands.

### **19990.602.**

- (a) A tribe that is a licensed operator, or that owns a tribal enterprise that is a licensed operator, may elect to participate in the tribal gaming regulatory authority process prescribed by this section for the issuance of employee work permits. If the tribe does not elect to participate in the tribal gaming regulatory authority process as provided in this section, then the process specified in this section regarding submission and action by the tribal gaming regulatory authority on the application for employee work permit shall not apply, and the other provisions of this chapter shall instead govern.
- (b) The joint state and tribal processes required pursuant to this section are intended to promote and involve joint cooperation among the tribal gaming regulatory authority, the commission, and the department.
- (c) The tribal employee work permit process shall be as follows:
- (1) All applications for employee work permits first shall be filed with the tribal gaming regulatory authority, which shall promptly file a copy of the application with the commission, together with information regarding the filing date and the payment of fees and deposits. The application shall be accompanied by the fees required in Section 19990.605, except those fees shall be deposited into a tribal account created for the purpose of holding the deposited funds and using them for the costs of the suitability review and the issuance of the license.
  - (2) In reviewing an application for a work permit, the tribal gaming regulatory authority shall determine whether issuance of the employee work permit would meet the suitability standards set forth in this chapter. The tribal gaming regulatory authority shall not issue a permit unless, based on all information and documents submitted, the tribal gaming regulatory authority determines that the applicant meets all of the criteria set forth in this chapter for the issuance of the employee work permit.
  - (3) The tribal gaming regulatory authority shall conduct, or cause to be conducted, all necessary determinations of suitability reasonably required to determine that the applicant is qualified for an employee work permit under the standards set forth in this chapter for the issuance of the employee work permit.

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

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

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

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

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

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

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

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

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

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

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

### **19990.603.**

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

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

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

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

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

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

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

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

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

#### **19990.604.**

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

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

#### **19990.605.**

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

#### **19990.606.**

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

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

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

#### **19990.607.**

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

(2) A licensed operator or service provider shall not enter into a contract or agreement with a person whose application for a gambling license or an employee work permit has been withdrawn with prejudice, or with a business enterprise under the control

of that person, for the period of time during which the person is prohibited from filing a new application for a gambling license or an employee work permit.

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

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

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

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

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

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

## **Article 7. Protection of Registered Players**

### **19990.701.**

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

### **19990.702.**

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

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

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

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

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

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

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

## **Article 8. Financial Provisions for State Regulation and Unlawful Gambling Enforcement**

### **19990.801.**

The Treasurer shall transfer all amounts received pursuant to subdivision (a) of Section 19990.402, subdivision (e) of Section 19990.403, subdivision (b) of Section 19990.404, subdivision (c) of Section 19990.519, and Section 19990.605 to the Controller for deposit in the Internet Poker Fund, which is created in the State Treasury, to be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the department

and the commission, without regard to fiscal years, in the amounts necessary for the department and the commission to perform their duties under this chapter.

**19990.802.**

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

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

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

(3) \_\_\_\_ percent of the duties paid by licensed operators pursuant to subdivision (b) of Section 19990.519.

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

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

**19990.803.**

(a) Except as provided in subdivision (f) of Section 19990.501, a person who engages or conspires to engage in activities prohibited by this chapter, or activities prohibited by Section 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330d, 330.1, 330.4, or 331 of the Penal Code, is liable for a civil penalty not to exceed \_\_\_\_ dollars (\$\_\_\_\_) for each violation, in addition to any other penalty or remedy that may be imposed by law, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, a county counsel authorized by agreement with the district attorney in an action involving the violation of a county ordinance, the city attorney of a city having a population in excess of 750,000 persons, the city attorney of a city and county, or, with the consent of the district attorney, the city prosecutor in a city with a full-time city prosecutor, in a court of competent jurisdiction.

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

(1) The nature and seriousness of the misconduct.

(2) The number of violations.

(3) The persistence of the misconduct.

(4) The length of time over which the misconduct occurred.

(5) The willfulness of the defendant's misconduct.

(6) The defendant's assets, liabilities, and net worth.

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

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

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

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

(2) The revenue from all civil penalties allocated to the Unlawful Gambling Enforcement Fund pursuant to subparagraph (A) of paragraph (1), upon appropriation by the Legislature, shall be used by the Attorney General exclusively to support the

investigation and enforcement of violations of California's gambling laws, including the implementation of judgments obtained from prosecution and investigation of those violations and violations of Sections 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330d, 330.1, 330.4, and 331 of the Penal Code, and other activities that are in furtherance of this chapter.

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

#### **19990.804.**

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

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

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

#### **19990.901.**

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

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

#### **19990.1001.**

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

#### **19990.1002.**

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

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

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

### **Article 11. Partial Severability**

#### **19990.1101.**

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

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

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

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

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

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

## **SEC. 2.**

The Legislature finds and declares that Chapter 5.2 (commencing with Section 19990.101) of Division 8 of the Business and Professions Code, as added by Section 1 of this act, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution.

Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

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

### **SEC. 3.**

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

### **SEC. 4.**

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

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