

AMENDED IN ASSEMBLY AUGUST 18, 2016

AMENDED IN ASSEMBLY JUNE 27, 2016

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AMENDED IN ASSEMBLY APRIL 20, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2863

Introduced by Assembly Members Gray and Jones-Sawyer

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill, which would be known as the Internet Poker Consumer Protection Act of 2016, would establish a framework to authorize intrastate Internet poker, as specified. The bill would authorize eligible

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

This bill would require the commission, and any other state agency with a duty pursuant to these provisions, *in consultation with the department and federally recognized California Indian tribes*, to adopt regulations *within 270 days after the effective date of this bill* 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~~; *these provisions* 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 *as an operator* 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 *to the commission* for a service provider license, *and would require a person seeking to act as a marketing affiliate to apply to the commission for a marketing affiliate license or registration before providing the services of a marketing affiliate to a licensed operator in connection with the operation of an authorized poker Web site.* The bill would require *these applicants to pay an application processing fee, for deposit into the Internet Poker Fund, sufficient to cover the reasonable costs associated with the issuance of a license or registration.* The bill would require employees

of a licensed operator or operator; a licensed service provider provider; or licensed or registered marketing affiliate to obtain employee work permits, and owners, officers, and directors of a licensed operator to be subject to a suitability review and obtain employee work permits. The bill would prohibit the commission from granting an applicant a service provider license until January 1, 2021, if the applicant accepted a bet or wager of any form on Internet gambling, as specified, between December 31, 2006, and December 31, 2011, from a person located in the United States and without a license or authority pursuant to comparable federal or state law in the jurisdiction where the bet or wager was made or the facilitation of the wager or financial transaction occurred. The bill, notwithstanding that provision, would authorize an applicant for a service provider license who meets the description above to obtain a service provider license before January 1, 2021, if the applicant pays a one-time fee in the amount of \$20,000,000, to be deposited into the General Fund, and otherwise meets the qualifications and suitability criteria under these provisions. *The bill would prohibit an applicant for a service provider license that is found unsuitable as a covered person, as defined, from being eligible to be found suitable for a service provider license until January 1, 2022, and would prohibit, during this waiting period, the applicant or any other person from using any covered asset, as defined, in this state.* The bill would require an agreement between a licensed operator and a service provider that is a California-owned and operated horse racing association to ensure that at least 50% of the gross gaming revenue that the licensed operator derives from the service provided by the service provider is paid to the service provider. The bill would establish a tribal gaming regulatory authority process for the purpose of processing tribal employee work permits, and authorize a tribe that is a licensed operator to elect to participate in the tribal gaming regulatory authority process.

This bill would require the payment of an annual regulatory fee, for deposit into the Internet Poker Fund, to be continuously appropriated for the actual costs of license oversight, consumer protection, state regulation, and other purposes related to this bill. The bill would require each licensee *licensed operator* to pay a one-time license deposit in the amount of \$12,500,000 for deposit into the General Fund. The bill would require each licensed operator to remit to the Treasurer on an annual a quarterly basis for deposit in the General Fund a specified percentage 10% of its gross gaming revenues pursuant to the applicable rate percent, as specified. *revenues, as specified.* One-half of the

one-time license deposit would be credited against the ~~annual~~ *quarterly* charge on gross gaming revenues. The bill would require the commission to administer and collect this ~~annual~~ *quarterly* charge pursuant to the procedures set forth in the Fee Collection Procedures Law. By expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program. The bill would require an applicant for an operator license to provide documentation establishing that the applicant is qualified to pay the one-time license deposit through its own net position or through credit directly to the applicant, as specified. The bill would require up to \$57,000,000 of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be deposited into the California Horse Racing Internet Poker Account, which the bill would establish in the General Fund. The bill would continuously appropriate the funds in the account to the California Horse Racing Board for distribution, as specified. The bill would require up to \$3,000,000 of the moneys collected each fiscal year pursuant to the license deposit and annual fees provisions to be transferred to the State Treasury to the credit of the Fair and Exposition Fund, a continuously appropriated fund, to the benefit of state designated fairs, as specified.

This bill would establish the Unlawful Gambling Enforcement Fund within the General Fund for purposes of ensuring adequate resources for law enforcement charged with enforcing the prohibitions and protections of the provisions described above. The bill would authorize the Attorney General, and other public prosecutors, as specified, to bring a civil action to recover a civil ~~penalty in an unspecified amount~~ *penalty, in an amount to be determined by the court based on specified factors, and, at the discretion of the court, restitution payable to any person injured as a result of the violation*, against a person who engages in those prohibited activities described above, or other specified unlawful gambling activities in connection with the use of an Internet access device. The bill would ~~provide for an unspecified percentage of~~ *require* the revenues from *certain* civil penalties collected to be deposited into the ~~fund~~ *Unlawful Gambling Enforcement Fund* and ~~used~~ *would authorize up to \$10,000,000 of those moneys, upon appropriation by the Legislature, to be annually expended by the Attorney General, for law enforcement activities pursuant to these* ~~provisions, upon appropriation by the Legislature.~~ *provisions.*

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~~, and would ~~repeal its provisions on January 1, 2024~~. *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.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 19619.8 is added to the Business and
2 Professions Code, to read:

3 19619.8. The moneys collected each fiscal year pursuant to
4 subdivisions (a) and (b) of Section 19990.519 shall be deposited
5 as follows:

6 (a) Eighty-five percent, in an amount not to exceed fifty-seven
7 million dollars (\$57,000,000), in the California Horse Racing
8 Internet Poker Account, which is hereby created in the General
9 Fund. Notwithstanding Section 13340 of the Government Code,
10 the funds in the California Horse Racing Internet Poker Account
11 are continuously appropriated to the board, which shall annually
12 distribute the funds in the California Horse Racing Internet Poker
13 Account according to all of the following:

1 (1) One and three-twentieths percent to the defined contribution
2 retirement plan for California-licensed jockeys established pursuant
3 to paragraph (1) of subdivision (i) of Section 19604 and
4 administered as specified in this chapter.

5 (2) One and three-twentieths percent to provide health and
6 welfare benefits for California-licensed jockeys, former
7 California-licensed jockeys, and their dependents pursuant to
8 Section 19612.9.

9 (3) Two and three-tenths percent to supplement the pension
10 plan for parimutuel employees administered on behalf of the labor
11 organization that has historically represented the employees who
12 accept or process any form of wagering at the horse racing meetings
13 and for other entities licensed to conduct wagering on horse races
14 in California. Moneys distributed pursuant to this paragraph shall
15 supplement, and not supplant, moneys distributed to that fund
16 pursuant to this chapter or any other law.

17 (4) Ninety-five and four-tenths percent to racing associations
18 or fairs as commissions, to horsemen participating in the racing
19 meeting in the form of purses, and as incentive awards, in the same
20 relative proportion as they were generated or earned at each racing
21 association or fair on races conducted or imported by that racing
22 association or fair during the prior calendar year. Notwithstanding
23 any other law, the distributions with respect to each breed of racing
24 may be altered upon the approval of the board, in accordance with
25 an agreement signed by the respective associations, fairs,
26 horsemen's organizations, and breeders organizations receiving
27 those distributions.

28 (b) Five percent, in an amount not to exceed three million dollars
29 (\$3,000,000), to the State Treasury to the credit of the Fair and
30 Exposition Fund, to be deposited in the separate account in the
31 fund specified in Section 19606.1 to benefit state designated fairs
32 as defined in Sections 19418, 19418.1, 19418.2, and 19418.3.
33 Revenues deposited into the separate account in the fund pursuant
34 to this section, notwithstanding Section 19606.1 or any other law
35 to the contrary, shall be allocated only to fairs in Class I to IV+,
36 inclusive, as classified by the department pursuant to Section 4507
37 of the Food and Agricultural Code.

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

1 CHAPTER 5.2. THE INTERNET POKER CONSUMER PROTECTION
2 ACT OF 2016
3

4 Article 1. Title and Legislative Declarations
5

6 19990.101. This chapter shall be known and may be cited as
7 the Internet Poker Consumer Protection Act of 2016.

8 19990.102. The Legislature hereby finds and declares all of
9 the following:

10 (a) In October 2006, the United States Congress passed the
11 Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)
12 (31 U.S.C. Secs. 5361 et seq.), which generally prohibits the use
13 of banking instruments, including credit cards, checks, and fund
14 transfers, for interstate Internet gambling.

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

20 (c) This chapter shall only authorize poker games to be played
21 via the Internet. No other game may be played via the Internet
22 pursuant to this chapter.
23

24 Article 2. Definitions
25

26 19990.201. For the purposes of this chapter, the following
27 words have the following meanings:

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

32 (b) “Authorized poker Web site” means a *an Internet* Web site
33 on which authorized Internet poker games are offered for play by
34 a licensed operator pursuant to this chapter.

35 (c) “Background investigation” means a process of reviewing
36 and compiling personal and criminal history and financial
37 information through inquiries of various law enforcement and
38 public sources to establish a person’s qualifications and suitability
39 for any necessary license or employee work permit issued pursuant
40 to this chapter.

1 (d) “Bet” means the placement of a wager in a game.

2 (e) “Card room” means a gambling enterprise, as defined in
3 subdivision (m) of Section 19805.

4 (f) “Commission” means the California Gambling Control
5 Commission.

6 (g) “Core functions” and “core functioning” mean any of the
7 following:

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

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

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

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

23 (i) “Covered asset” means any tangible or intangible asset
24 specifically designed for use in, and used in connection with, the
25 operation of an interactive gaming facility that, after December
26 31, 2006, knowingly and intentionally operated interactive gaming
27 that involved patrons located in the United States, unless and to
28 the extent that activity was licensed at all times by a state or the
29 federal government, including, without limitation, all of the
30 following:

31 (1) Any trademark, trade name, service mark, or similar
32 intellectual property under which an interactive gaming facility
33 was identified to the patrons of the interactive gaming facility.

34 (2) Any information regarding persons via a database, customer
35 list, or any derivative of a database or customer list.

36 (3) Any software or hardware relating to the management,
37 administration, development, testing, or control of an interactive
38 gaming facility.

39 (j) “Covered person” means any person who meets any of the
40 following criteria:

1 (1) *Has at any time owned, in whole or in significant part, an*
2 *interactive gaming facility or an entity operating an interactive*
3 *gaming facility that, after December 31, 2006, knowingly and*
4 *intentionally operated interactive gaming that involved patrons*
5 *located in the United States, unless and to the extent that activity*
6 *was licensed at all times by a state or the federal government.*

7 (2) *After December 31, 2006, acted, or proposed to act, on*
8 *behalf of a person described in paragraph (1) and knowingly and*
9 *intentionally provided, or proposed to provide, to that person any*
10 *services as an interactive gaming service provider with knowledge*
11 *that the interactive gaming facility’s operation of interactive*
12 *gaming involved patrons located in the United States.*

13 (3) *Purchased or acquired, directly or indirectly, either of the*
14 *following:*

15 (A) *In whole or in significant part, a person described in*
16 *paragraph (1) or (2).*

17 (B) *Any covered assets, in whole or in part, from a person*
18 *described in paragraph (1) or (2).*

19 ~~(i)~~

20 (k) “Department” means the Department of Justice.

21 ~~(j)~~

22 (l) “Determination of suitability” or “suitability review” means
23 the process, including, but not limited to, conducting a background
24 investigation, to determine whether an applicant for a license or
25 employee work permit issued pursuant to this chapter meets the
26 qualification criteria described in this chapter or whether the
27 applicant is disqualified on any of the grounds specified in this
28 chapter.

29 ~~(k)~~

30 (m) (1) (A) “Eligible entity” includes both of the following:

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

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

1 (B) An entity identified in this paragraph shall have operated
2 its land-based gaming facility for at least three years immediately
3 preceding its application to secure a license to operate an Internet
4 poker Web site pursuant to this chapter, and shall ~~be~~ *have been* in
5 good standing during that time period with the applicable federal,
6 state, and tribal regulatory authorities. *An incorporation or other*
7 *change in legal form or ownership during the five years*
8 *immediately preceding its application to secure a license to operate*
9 *an Internet poker Web site pursuant to this chapter that did not*
10 *alter the beneficial ownership of the card room shall not disqualify*
11 *from licensure a card room that is otherwise eligible for licensure.*

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

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

23 (B) *This chapter does not restrict a card room or the card*
24 *room's owners from forming a separate business entity to apply*
25 *for or hold any license issued under this chapter. The beneficial*
26 *owners of that separate business entity shall be limited to the card*
27 *room or the card room's owners, including ownership transfers*
28 *approved under Section 19990.522. A separate business entity*
29 *described in this subparagraph is an "eligible entity" under this*
30 *chapter and may claim the operating experience of the card room*
31 *in order to satisfy the experience requirement described in*
32 *subparagraph (B) of paragraph (1).*

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

38 (†)

39 (n) "Employee" means any natural person employed in, or
40 serving as a consultant or independent contractor with respect to,

1 the core functioning of the actual operation of an authorized poker
2 Web site.

3 (m)

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

8 (n)

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

11 (o)

12 (q) “Game” means any gambling game.

13 (p)

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

17 (q)

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

22 (r)

23 (t) (1) “Gross gaming revenues” means the total amount of
24 moneys paid by players to the operator to participate in authorized
25 games before deducting the cost of operating those activities except
26 for fees to ~~marketing affiliates and~~ payment processing fees.

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

34 (s)

35 (u) “IGRA” means the federal Indian Gaming Regulatory Act
36 of 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et
37 seq.).

38 (t)

39 (v) “Initial operator license” means an operator license that is
40 issued pursuant to subdivision (h) of Section 19990.402.

1 (w) *“Interactive gaming” means the conduct of gambling games*
 2 *through the use of communications technology that allows a*
 3 *person, utilizing money, checks, electronic checks, electronic*
 4 *transfers of money, credit cards, debit cards, or any other*
 5 *instrumentality, to transmit information to a computer to assist in*
 6 *the placing of a bet or wager and corresponding information*
 7 *related to the display of the game, game outcomes, or other similar*
 8 *information. As used in this section, “communications technology”*
 9 *means any method used, and the components employed by, an*
 10 *establishment to facilitate the transmission of information,*
 11 *including, but not limited to, transmission and reception by systems*
 12 *based on wire, cable, radio, microwave, light, optics, or computer*
 13 *data networks, including, but not limited to, the Internet and*
 14 *intranets.*

15 (x) *“Interactive gaming facility” means an Internet Web site,*
 16 *or similar communications facility in which transmissions may*
 17 *cross any state’s boundaries, through which a person operates*
 18 *interactive gaming through the use of communications technology.*

19 (y) *“Interactive service provider” means a person who acts on*
 20 *behalf of an establishment licensed to operate interactive gaming*
 21 *and does any of the following:*

22 (1) *Manages, administers, or controls wagers that are initiated,*
 23 *received, or made on an interactive gaming system.*

24 (2) *Manages, administers, or controls the games with which*
 25 *wagers that are initiated, received, or made on an interactive*
 26 *gaming system are associated.*

27 (3) *Maintains or operates the software or hardware of an*
 28 *interactive gaming system.*

29 (4) *Provides products, services, information, or assets to an*
 30 *establishment licensed in any state to operate interactive gaming*
 31 *and receives for that a percentage of gaming revenue from the*
 32 *establishment’s interactive gaming system.*

33 ~~(t)~~

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

36 ~~(v)~~

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

39 ~~(w)~~

1 (ab) “Intrastate” means within the borders and jurisdiction of
2 California.

3 ~~(x)~~

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

13 ~~(y)~~

14 (ad) “Land-based gaming facility” means a gambling
15 establishment, as defined in subdivision (o) of Section 19805, that
16 is operated pursuant to Chapter 5 (commencing with Section
17 19800), or a casino operated by a tribe on Indian land in California.

18 ~~(z)~~

19 (ae) “Licensed operator” means an eligible entity licensed
20 pursuant to this chapter to offer the play of authorized Internet
21 poker games to registered players on an authorized poker Web
22 site.

23 ~~(aa)~~

24 (af) “Licensed service provider” means a person licensed
25 pursuant to this chapter to provide *certain* goods or ~~services~~
26 *services, as determined by the commission*, to a licensed operator
27 for use in the operation of an authorized poker Web site.

28 ~~(ab)~~

29 (ag) “Licensee” means a ~~licensed operator or operator~~, licensed
30 ~~service provider, provider, or licensed marketing affiliate.~~

31 (ah) (1) “Marketing affiliate” means either of the following:

32 (A) A person other than a licensed operator or service provider
33 who, for a fee or other consideration, provides or refers players
34 to a licensed operator’s authorized poker Web site.

35 (B) A subaffiliate of a person described in subparagraph (A)
36 who, for a fee or other consideration, provides or refers players
37 to a licensed operator’s authorized poker Web site.

38 (2) “Marketing affiliate” does not include a provider of goods
39 and services who provides similar advertising or marketing
40 predominantly for purposes other than for gambling activities for

1 *the same rates, fees, costs, pay per impression, or click as charged*
2 *a nongambling business and is not otherwise directly or indirectly*
3 *involved in the operation of an authorized poker Web site.*

4 ~~(ae)~~

5 (ai) “Net position” means the residual difference between assets
6 and liabilities, as defined by generally accepted accounting
7 principles.

8 ~~(ad)~~

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

13 ~~(ae)~~

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

25 ~~(af)~~

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

28 ~~(ag)~~

29 (am) “Per hand game” means an authorized Internet poker game
30 for which the licensed operator charges the player for each hand
31 played.

32 ~~(ah)~~

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

39 ~~(ai)~~

1 (ao) “Play-for-fun game” means a version of a lawfully played
2 ~~gambling game~~ *game, including, but not limited to, a game of*
3 *poker played over the Internet*, in which there is no requirement
4 to pay to play or any possibility of winning any prize or other
5 consideration ~~of or~~ value, including, but not limited to, games
6 offered only for purposes of training, education, marketing, or
7 amusement.

8 (aj)

9 (ap) “Play-for-free game” means a version of a lawfully played
10 ~~gambling game~~ *game, including, but not limited to, a game of*
11 *poker played over the Internet*, that may include prizes or pots,
12 without requiring *or allowing* a fee or other consideration for the
13 right to ~~play~~ *play the game or any aspect of the game*.

14 (ak)

15 (aq) “Play settings” means the options and default parameters
16 made available by a licensed operator to a registered player in the
17 play of authorized Internet poker games.

18 (al)

19 (ar) (1) “Poker” means any of several nonbanked card games
20 commonly referred to as “poker” that meet all of the following
21 criteria:

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

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

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

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

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

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

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

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

38 (I) *An authorized Internet poker game shall not include any*
39 *feature that uses an element of chance to determine the amount*
40 *or availability of any prize, payment, or award.*

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

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

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

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

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

15 (~~am~~)

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

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

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

34 (~~am~~)

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

38 (~~ae~~)

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

1 including, but not limited to, payment processors and geolocation
2 service providers.

3 *(ay) “Significant part” means, with respect to ownership,*
4 *purchase, or acquisition of an entity, interactive gaming facility,*
5 *or person, holding 5 percent or more of the entity, interactive*
6 *gaming facility, or person or any amount of ownership that*
7 *provides control over the entity, interactive gaming facility, or*
8 *person.*

9 ~~(as)~~

10 *(az) “State” means the State of California.*

11 ~~(at)~~

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

17 ~~(au)~~

18 *(bc) “Tournament” means a competition approved by the*
19 *department in which registered players play a series of authorized*
20 *Internet poker games to decide the winner.*

21 ~~(av)~~

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

24 ~~(aw)~~

25 *(be) “Tournament winnings” means the amount of any prize*
26 *awarded to a registered player in a tournament.*

27 ~~(ax)~~

28 *(bf) “Tribal gaming regulatory authority” means the gaming*
29 *regulatory authority of a federally recognized California Indian*
30 *tribe that has the authority to regulate gaming on the tribe’s Indian*
31 *lands pursuant to IGRA.*

32 ~~(ay)~~

33 *(bg) “Tribe” means a federally recognized California Indian*
34 *tribe, including, but not limited to, the governing body of that tribe*
35 *or any entity that is wholly owned by the tribe.*

36 ~~(az)~~

37 *(bh) “Unlawful Gambling Enforcement Fund” means the fund*
38 *established pursuant to Section 19990.802, the revenue of which*
39 *is dedicated to enforcing the prohibitions of this chapter.*

1 Article 3. Intrastate Internet Poker in California

2
3 19990.301. Under the federal Unlawful Internet Gambling
4 Enforcement Act of 2006, California is permitted to authorize
5 games played via the Internet as long as all players and the online
6 wagering is located within the jurisdiction of the state and the
7 games are not played by minors.

8 19990.302. Notwithstanding any other law, a person who is
9 21 years of age or older and located within California is hereby
10 permitted to participate as a registered player in an authorized
11 Internet poker game provided by a licensed operator on an
12 authorized poker Web site.

13 19990.303. (a) A person shall not do any of the following:

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

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

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

24 (b) Subject to an opportunity to cure pursuant to Section
25 19990.521, a violation of this chapter is a felony, punishable by
26 imprisonment pursuant to subdivision (h) of Section 1170 of the
27 Penal Code.

28 19990.304. This chapter does not limit or restrict activities or
29 conduct permitted pursuant to Chapter 5 (commencing with Section
30 19800) or IGRA.

31 19990.305. This chapter does not authorize any game offered
32 in Nevada or New Jersey other than poker.

33 19990.306. A person shall not do either of the following:

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

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

1 19990.307. This chapter does not apply to play-for-fun or
2 play-for-free games.

3
4 Article 4. Licensing of ~~Operators and~~ *Operators, Service*
5 ~~Providers~~ *Providers, and Marketing Affiliates*
6

7 19990.401. (a) (1) Within 270 days after the effective date of
8 this chapter, the commission, and any other state agency with a
9 duty pursuant to this chapter, shall, in consultation with the
10 department and tribes, adopt regulations pursuant to the
11 Administrative Procedure Act (Chapter 3.5 (commencing with
12 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
13 Code) to implement this chapter, and to facilitate the operation of
14 authorized poker Web sites and expedite the state's receipt of
15 revenues in compliance with this chapter. The initial adoption,
16 amendment, or repeal of a regulation authorized by this section is
17 deemed to address an emergency, for purposes of Sections 11346.1
18 and 11349.6 of the Government Code, and the commission and
19 those other state agencies are hereby exempted for that purpose
20 from the requirements of subdivision (b) of Section 11346.1 of
21 the Government Code. After the initial adoption, amendment, or
22 repeal of an emergency regulation pursuant to this section, the
23 commission and those other state agencies shall not request
24 approval from the Office of Administrative Law to readopt the
25 regulation as an emergency regulation pursuant to Section 11346.1
26 of the Government Code, but shall promulgate permanent
27 regulations in accordance with all applicable law.

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

- 30 (A) Underage gambling and problem gambling.
31 (B) Gaming system technical standards and practices.
32 (C) Hardware and software standards and compliance.
33 (D) ~~License~~ *License, registration*, and work permit issuance
34 and processes.
35 (E) Suitability standards and determinations.
36 (F) Temporary, provisional, and emergency *licensing, work*
37 *permits, registrations, and* approvals.
38 (G) Effect of receiverships, bankruptcy, insolvency, inheritance,
39 and trusts affecting ownership of a licensee.
40 (H) Appeals from adverse decisions.

1 (I) *Accusations, disciplinary proceedings, fines, suspensions,*
 2 *license or registration revocations, and hearings.*

3 (J) *Accounting, minimum internal controls, and reporting*
 4 *practices.*

5 (K) *Marketing affiliate agreements and reporting, and the*
 6 *duration of initial and renewal registrations and licenses for*
 7 *marketing affiliates.*

8 (L) *Rules for poker promotions.*

9 (M) *The approval of transfers of ownership interests, employee*
 10 *profit sharing plans, stock options, and bonus plans related to the*
 11 *performance or profitability of the business.*

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

14 (A) Approval of an authorized Internet poker game.

15 (B) Authorized Internet poker game rules.

16 (C) Authorized Internet poker gaming activities.

17 (D) Registered player-assessed fees, as necessary.

18 (E) In order to assist the department’s enforcement of Section
 19 19990.526, a procedure for the department to access any list of
 20 customers or any database containing customer information that
 21 was accrued or created by a licensed service provider prior to the
 22 effective date of the regulations described in this subdivision.

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

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

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

34 19990.402. (a) Authorized Internet poker games may be
 35 offered only by entities licensed pursuant to this chapter. An
 36 eligible entity seeking to offer authorized Internet poker games
 37 shall apply to the department for a determination of suitability. If
 38 the department determines the applicant is suitable to receive a
 39 license, the applicant shall then apply to the commission for an
 40 operator license. The applicant shall pay an application processing

1 fee sufficient to cover the reasonable costs associated with the
2 determination of suitability and the issuance of the license.

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

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

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

36 (e) The commission shall issue an operator license to an
37 applicant determined by the commission to qualify as an eligible
38 entity within 150 days of receiving an application, if the applicant
39 has already been subjected to a determination of suitability by the

1 department and has been approved by the department to apply to
 2 the commission for licensure. ~~At~~

3 (1) *Except as provided in paragraph (2), all applicants shall*
 4 *undergo a determination of suitability prior to applying for an*
 5 *eligibility determination by the commission.*

6 (2) *Notwithstanding Section 19990.405, an applicant for an*
 7 *operator license that is a tribe identified as an eligible entity shall*
 8 *be deemed suitable if it submits a completed license application.*

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

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

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

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

38 19990.403. (a) A licensee’s employees in direct contact with
 39 registered players shall be physically present in the state.

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

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

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

26 (e) A license applicant shall submit to the department, together
27 with its application, an application processing fee as specified in
28 subdivision (a) of Section ~~19990.402~~. *19990.402, subdivision (b)*
29 *of Section 19990.404, and subdivisions (b) and (d) of Section*
30 *19990.405. All moneys collected by the state pursuant to this*
31 *subdivision shall be deposited into the Internet Poker Fund.*

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

1 applicant's assets acquired before the enactment of the act that
2 added this section, or both, with respect to its operations in the
3 state.

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

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

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

- 36 (1) All officers of the license applicant.
37 (2) The owner or owners of either of the following:
38 (A) The license applicant.
39 (B) Any corporate affiliate of the license applicant.

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

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

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

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

31 (f) (1) There is a rebuttable presumption that an applicant for
32 a service provider license is unsuitable if either of the following
33 ~~occurred~~: *conditions are met*:

34 ~~(A) A member of the board of directors of, the chief executive~~
35 ~~officer of, or a shareholder holding more than 10 percent of the~~
36 ~~shares of the applicant, or its corporate affiliate, has held a similar~~
37 ~~or equivalent position with an organization that knowingly and~~
38 ~~willfully accepted a bet, or engaged in a financial transaction~~
39 ~~related to that bet, after December 31, 2006, from a person located~~
40 ~~in the United States on any form of Internet gambling, including,~~

1 but not limited to, poker, that was not affirmatively authorized by
2 the law of the United States, or of the state in which the bet or
3 related financial transaction was initiated, or that was otherwise
4 legal.

5 (B) A member of the board of directors of, the chief executive
6 officer of, or a shareholder holding more than 10 percent of the
7 shares of the applicant, or its corporate affiliate, has held a similar
8 or equivalent position with an organization that knowingly
9 facilitated or otherwise provided services with respect to bets, or
10 engaged in a financial transaction related to those bets, after
11 December 31, 2006, involving persons located in the United States,
12 and acted with knowledge of the fact that those bets or financial
13 transactions were not affirmatively authorized by the law of the
14 United States, or of the state in which the bet or related financial
15 transaction was initiated, or that was otherwise legal.

16 (A) *The applicant or any person employed or affiliated with the*
17 *applicant is a covered person.*

18 (B) *The applicant owns, leases, operates, or in any manner*
19 *utilizes covered assets, whether purchased or otherwise acquired*
20 *directly or indirectly.*

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

24 (A) The acceptance of the bet or wager, the engagement in the
25 transaction, or the facilitation of the wager or financial transaction
26 was not knowing or intentional.

27 (B) The bet or wager was accepted, or the transaction was
28 engaged in, notwithstanding reasonable efforts by the applicant,
29 or its corporate or marketing affiliate, to exclude bets or wagers
30 from the person.

31 (C) ~~The acceptance of the bet or wager, the engagement in the~~
32 ~~transaction, or the facilitation of the wager or financial transaction~~
33 ~~occurred within a reasonable time period in order to cease those~~
34 ~~activities in the United States.~~

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

37 (3) This subdivision shall not limit the department's authority
38 to make a determination regarding suitability pursuant to Section
39 ~~19990.405. 19990.406.~~

1 ~~(g) (1) Except as provided in paragraph (2), an applicant for a~~
2 ~~service provider license shall not be granted a license until January~~
3 ~~1, 2021, if the applicant, or its corporate or marketing affiliate,~~
4 ~~accepted a bet or wager on any form of Internet gambling, or~~
5 ~~engaged in a transaction related to those bets or wagers, and both~~
6 ~~of the following conditions are met:~~

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

9 ~~(B) The applicant did not have a license or authority pursuant~~
10 ~~to comparable federal or state law in a jurisdiction where the bet~~
11 ~~or wager was made or the facilitation of the wager or financial~~
12 ~~transaction occurred.~~

13 ~~(2) If an applicant for a service provider license meets the~~
14 ~~description in paragraph (1), the applicant, if he or she otherwise~~
15 ~~meets the qualifications and suitability criteria under this chapter,~~
16 ~~shall pay a one-time fee in the amount of twenty million dollars~~
17 ~~(\$20,000,000), to be deposited into the General Fund, to obtain a~~
18 ~~service provider license before January 1, 2021.~~

19 *(g) An applicant for a service provider license that is found*
20 *unsuitable as a covered person shall not be eligible to be found*
21 *suitable for a license until January 1, 2022.*

22 *(1) During the waiting period described in this subdivision, an*
23 *applicant or person shall not use any covered asset in this state.*

24 *(2) A covered person shall not be found suitable for licensure*
25 *under this section unless that covered person expressly submits to*
26 *the jurisdiction of the United States and of each state in which*
27 *patrons of interactive gaming operated by that covered person*
28 *after December 31, 2006, were located and agrees to waive any*
29 *statutes of limitation, equitable remedies, or laches that otherwise*
30 *would preclude prosecution for a violation of any federal law or*
31 *the law of any state in connection with that operation of interactive*
32 *gaming after that date.*

33 ~~(h) An institutional investor holding less than 5 percent of~~
34 ~~the equity securities of a service provider's holding or intermediary~~
35 ~~companies shall be granted a waiver of a determination of~~
36 ~~suitability or other requirement if all of the following apply:~~

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

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

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

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

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

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

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

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

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

1 information about, or actions of, an institutional investor holding
2 its equity securities when that information or action may impact
3 upon the eligibility of the institutional investor for a waiver
4 pursuant to paragraph (2).

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

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

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

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

22 (C) A collective investment trust organized by banks under Part
23 9 of the Rules of the Office of the Comptroller of the Currency
24 (12 C.F.R. Sec. 9.1 et seq.).

25 (D) A closed-end investment trust.

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

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

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

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

38 *19990.405. (a) A person seeking to act as a marketing affiliate*
39 *shall apply to the commission for a marketing affiliate license or*
40 *registration, and obtain a marketing affiliate license or*

1 registration, before providing the services of a marketing affiliate
2 to a licensed operator in connection with the operation of an
3 authorized poker Web site.

4 (b) (1) A marketing affiliate that is a card room or a tribe
5 operating a land-based gambling facility in good standing shall
6 register with the commission as a marketing affiliate.

7 (2) A background investigation shall not be required for a
8 marketing affiliate registrant described in this subdivision.

9 (3) A marketing affiliate registrant described in this subdivision
10 shall pay an application processing fee sufficient to cover the
11 reasonable costs associated with the issuance of the registration.

12 (4) A marketing affiliate registrant described in this subdivision
13 shall provide annual reports to the commission regarding its
14 marketing affiliate activity.

15 (c) Notwithstanding subdivision (b), the commission may, at its
16 discretion, require any person to apply for a marketing affiliate
17 license pursuant to subdivision (d), including any person who has
18 any financial interest in any business or organization that is or
19 was engaged in any form of gambling or transactions related to
20 gambling prohibited by the law of the federal or state jurisdiction
21 in which those activities or transactions originated or occurred.

22 (d) A marketing affiliate that is not eligible to register pursuant
23 to subdivision (b), or that is required by the commission to apply
24 for a marketing affiliate license pursuant to subdivision (c), shall
25 apply to the commission for a marketing affiliate license. The
26 department shall review the suitability of an applicant for a
27 marketing affiliate license. An applicant for a marketing affiliate
28 license shall pay an application processing fee sufficient to cover
29 the reasonable costs associated with the issuance of the license.
30 Before issuing a marketing affiliate license to an applicant, the
31 department shall conduct the investigation required by this section
32 of all of the following persons:

33 (1) All officers of the license applicant.

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

35 (A) The license applicant.

36 (B) Any corporate affiliate of the license applicant.

37 (3) Any persons otherwise providing goods to, or performing
38 services for, the license applicant in exchange for a payment based
39 on volume or revenues.

1 (4) Any person deemed by the department to have significant
2 influence over the license applicant.

3 (5) Any other person specified by the commission.

4 (e) An investigation shall include a review and evaluation of
5 the information necessary for the department to make a
6 determination of suitability, as specified in regulations adopted
7 pursuant to this chapter, consisting of, but not limited to, personal
8 history, prior activities and associations, credit history, civil
9 litigation, past and present financial affairs and standing, and
10 business activities, including whether the applicant or an affiliate
11 of the applicant has a financial interest in any business or
12 organization that is or was engaged in any form of gambling or
13 transactions related to gambling prohibited by the law of the
14 federal or state jurisdiction in which those activities or transactions
15 originated or occurred. The commission or department may specify
16 additional information or documentation required to be submitted.

17 (f) This section does not limit the department's authority to
18 make a determination regarding suitability pursuant to Section
19 19990.406.

20 (g) The commission and department shall give priority
21 consideration to marketing affiliate applications from persons
22 with contractual agreements with licensed operators or licensed
23 operator applicants.

24 ~~19990.405.~~

25 19990.406. (a) The department shall issue a finding that a
26 license applicant is suitable to obtain a license only if, based on
27 all of the information and documents submitted, the department
28 is satisfied that each of the persons subject to a determination of
29 suitability pursuant to this article is both of the following:

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

34 (2) A person whose prior activities, criminal record, if any,
35 reputation, habits, and associations do not pose a threat to the
36 public interest of the state, or to the effective regulation and control
37 of authorized Internet poker games, or create or enhance the
38 dangers of unsuitable, unfair, or illegal practices, methods, and
39 activities in the conduct of authorized Internet poker games or in

1 the carrying on of the business and financial arrangements
2 incidental thereto.

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

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

9 (2) The person failed to timely provide information,
10 documentation, and assurances required by this chapter or requested
11 by the department, or, with respect to a licensed applicant, failed
12 to reveal any fact material to qualification, or supplied information
13 that is untrue or misleading as to a material fact pertaining to the
14 suitability criteria.

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

22 (4) The person has been convicted of a misdemeanor in a
23 jurisdiction involving dishonesty or moral turpitude within the
24 10-year period immediately preceding the submission of the
25 application, unless the applicant has been granted relief pursuant
26 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.
27 However, the granting of relief pursuant to Section 1203.4,
28 1203.4a, or 1203.45 of the Penal Code shall not constitute a
29 limitation on the discretion of the department or affect the
30 applicant's burden.

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

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

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

1 (8) (A) The person has been convicted in a court of competent
2 jurisdiction of a felony consisting of either having accepted a bet
3 over the Internet in violation of federal or state law, or having
4 aided or abetted that unlawful activity.

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

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

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

10 (2) If denial of the application, or approval of the license with
11 restrictions or conditions on the license, is recommended, the
12 department shall prepare and file with the commission written
13 reasons upon which the recommendation is based. Prior to filing
14 its recommendation with the commission, the department shall
15 meet with the applicant, or the applicant's duly authorized
16 representative, and inform the applicant generally of the basis for
17 a proposed recommendation that the application be denied,
18 restricted, or conditioned.

19 (3) This section does not require the department to divulge to
20 the applicant confidential information received from a law
21 enforcement agency or information received from a person with
22 assurances that the information would be maintained confidential,
23 nor to divulge any information that might reveal the identity of an
24 informant or jeopardize the safety of a person.

25 (4) Denial of an application shall be without prejudice to a new
26 and different application filed in accordance with any regulations
27 adopted by the commission with respect to the submission of
28 applications.

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

34 ~~19990.406.~~

35 *19990.407.* (a) This chapter does not restrict the authority of
36 a tribe that is a licensed operator or that owns a tribal enterprise
37 that is a licensed operator to conduct suitability reviews of its
38 service providers.

39 (b) This chapter also does not prohibit a tribal gaming regulatory
40 authority from providing the results of its suitability investigations

1 or determinations to the commission or department for its
2 consideration in issuance of licenses pursuant to this chapter.

3

4 Article 5. Requirements for the Operation of an Authorized
5 Poker Web Site
6

7 19990.501. (a) A licensed operator shall ensure that registered
8 players are eligible to play authorized Internet poker games and
9 implement appropriate data security standards to prevent access
10 by a person whose age and location have not been verified in
11 accordance with this chapter.

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

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

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

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

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

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

30 ~~(4)~~

31 (3) If the licensed operator is unable to verify that the person is
32 21 years of age or older pursuant to paragraph (1), the licensed
33 operator shall require the person to submit age-verification
34 documents consisting of an attestation signed by the person that
35 he or she is 21 years of age or older and a copy of a valid form of
36 government identification. For the purposes of this section, a valid
37 form of government identification includes a driver’s license, state
38 identification card, passport, official naturalization or immigration
39 document, such as an alien registration receipt card or an immigrant
40 visa, or United States military identification. The licensed operator

1 shall verify that the physical billing address on the check or credit
2 card provided by the person matches the address listed on his or
3 her government identification.

4 *(4) The licensed operator shall ensure that the name and*
5 *physical billing address associated with any financial instrument*
6 *provided by a registered player's to make deposits matches the*
7 *name and physical billing address, if applicable, that was verified*
8 *at the time of, or subsequent to, that registered player's*
9 *registration.*

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

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

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

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

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

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

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

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

3 (g) The commission shall, by regulation, provide a process for
 4 a licensee to exclude from play any person who has filled out an
 5 ~~online self-exclusion form.~~ *registered player to voluntarily restrict*
 6 *his or her play or restrict his or her access to an authorized poker*
 7 *Web site. The commission may, by regulation, establish a voluntary*
 8 *self-exclusion program to allow a licensed operator to exclude*
 9 *from play on its authorized poker Web site any registered player*
 10 *who has filled out an online self-exclusion form.*

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

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

15 (3) A licensed operator shall prominently display a link *on its*
 16 *authorized poker Web site* to the department's Responsible
 17 Gambling Internet Web site and the online self-exclusion form ~~on~~
 18 ~~the authorized poker Web site that is form.~~ *The link shall be*
 19 *displayed when either of the following occurs:*

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

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

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

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

30 19990.502. A licensed operator shall offer only authorized
 31 Internet poker games and process bets in accordance with the
 32 specified game and betting rules established by the licensed
 33 operator and approved by the department pursuant to Section
 34 19990.503.

35 19990.503. (a) In order to propose a game for play, a licensed
 36 operator shall provide the department with both of the following
 37 via electronic means or via mail:

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

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

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

6 19990.504. (a) A licensed operator shall ensure that games
7 are fair.

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

11 (1) The name of the game.

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

13 (3) The rules of the game.

14 (4) All instructions on how to play.

15 (5) The unit and total bets permitted.

16 (6) Per hand charges assessed to registered players.

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

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

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

25 (1) Tournament rules.

26 (2) Tournament charge.

27 (3) Games offered during the tournament.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 19990.505. (a) A licensed operator shall register players and
31 establish registered player accounts prior to play.

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

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

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

40 (1) First name and surname.

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

- 1 (h) A licensed operator shall not provide credit to a registered
- 2 player’s account or act as agent for a credit provider to facilitate
- 3 the provision of funds.
- 4 (i) Interest shall not be paid by a licensed operator with respect
- 5 to a registered player’s account.
- 6 (j) A licensed operator shall segregate funds it holds in all
- 7 registered player accounts from all of its other assets.
- 8 (k) A licensed operator shall not commingle funds in the
- 9 segregated account containing funds ~~paid~~ *deposited* by registered
- 10 players with any other funds held by the licensed operator,
- 11 including, but not limited to, operating funds of the licensed
- 12 operator. Both the accounts of the licensed operator and its
- 13 segregated registered player accounts shall be held in financial
- 14 institutions located in the state.
- 15 (l) Funds held in a registered player’s account shall be used only
- 16 for the following purposes:
- 17 (1) To pay per ~~hand~~ *hand, participation*, or tournament charges
- 18 owed by a registered player to the licensed operator for play of
- 19 authorized Internet poker games.
- 20 (2) To transfer funds from one registered player’s account to
- 21 the account of another registered player to reconcile the result of
- 22 a loss in the play of an authorized Internet poker game.
- 23 (3) To transfer funds from a registered player’s account to a
- 24 temporary account to be held by a licensed operator pending the
- 25 outcome of an authorized Internet poker game.
- 26 (4) To remit tax proceeds due and owing from a registered player
- 27 to the Franchise Tax Board.
- 28 (5) To transfer funds from a registered player’s account with
- 29 the licensed operator to an account specified by that registered
- 30 player upon that registered player’s request.
- 31 19990.507. Prior to completing the registration process, a
- 32 licensed operator shall explain in a conspicuous fashion to the
- 33 person who is registering the privacy policies of the authorized
- 34 poker Web site, and the person shall assent to the following
- 35 policies:
- 36 (a) Personally identifiable information shall not be shared with
- 37 any nongovernmental third parties, except as provided in Section
- 38 19990.512.
- 39 (b) All personally identifiable information about registered
- 40 players shall be shared with state agencies, including, but not

1 limited to, the department, the commission, the Franchise Tax
2 Board, and the Department of Child Support Services as necessary
3 to assist them in fulfilling their obligations.

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

7 19990.508. A licensed operator may require that a registered
8 player, or a person registering as a player, agree to a Terms of Use
9 Registered Player’s Agreement.

10 19990.509. A licensed operator may suspend or revoke the
11 account of a registered player for any of the following reasons:

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

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

17 (c) The registered player has violated the authorized poker Web
18 site’s Terms of Use Registered Player’s Agreement.

19 (d) The person has already been registered.

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

23 (f) The licensed operator is directed by a state agency to suspend
24 or revoke the registered player’s account.

25 19990.510. Upon registration, and each time a registered player
26 logs into an authorized poker Web site, the licensed operator shall
27 permit a registered player to adjust his or her play settings to:

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

29 (b) Set a limit on the aggregate losses in a registered player’s
30 account within a specified period of time.

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

33 19990.511. A licensed operator shall offer customer support
34 that shall be available to registered players 24 hours per day, 365
35 days per year.

36 19990.512. (a) A licensed operator shall protect the privacy
37 of registered players and their personally identifiable information.

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

1 (c) At the time a registered player registers with a licensed
2 operator, and at least one time per year thereafter, a licensed
3 operator shall provide notice in the form of a separate, written
4 statement, delivered via the United States Postal Service or
5 electronic mail, to the registered player that clearly and
6 conspicuously informs the registered player of all of the following:

7 (1) The nature of personally identifiable information collected
8 or to be collected with respect to the registered player and the
9 nature of the use of that information.

10 (2) The nature, frequency, and purpose of any disclosure that
11 may be made of personally identifiable information, including an
12 identification of the types of persons to whom the disclosure may
13 be made.

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

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

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

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

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

27 (1) Obtain information necessary to operate the authorized poker
28 Web site and offer authorized Internet poker games to registered
29 players pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) The third party offers clear and convincing evidence that
39 the subject of the information is reasonably suspected of engaging
40 in criminal activity or otherwise relevant to a pending civil action

1 and that the information sought would be material evidence in the
2 case.

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

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

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

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

12 (c) The identity of registered players.

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

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

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

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

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

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

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

38 19990.515. A licensed operator shall do all of the following:

39 (a) Implement technical systems that materially aid the
40 commission in the protection of registered players. Software shall

1 meet, at a minimum, international industry standards as verified
2 by an independent gaming test laboratory that is licensed or
3 registered in any United States jurisdiction to test, approve, and
4 certify the software.

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

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

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

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

19 (f) Document and implement preventive and detective controls
20 addressing money laundering and fraud risks.

21 19990.516. (a) A licensed operator may charge registered
22 players to play in authorized Internet poker games.

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

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

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

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

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

35 19990.517. A licensed operator may do any of the following:

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

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

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

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

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

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

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

15 19990.518. There are three categories of application fees,
16 regulatory fees, and license deposits, as follows:

17 (a) Application Processing Fee. In order to cover the costs of
18 suitability investigations and other costs of processing an
19 application for a license or work permit, the applicant shall deposit
20 the applicable application processing fee as provided in subdivision
21 (a) of Section 19990.402, subdivision (e) of Section 19990.403,
22 subdivision (b) of Section 19990.404, *subdivisions (b) and (d) of*
23 *Section 19990.405*, or Section 19990.605. Any balance of the
24 application processing fee that remains after completion of the
25 determination of suitability shall be refunded to the applicant. If
26 additional moneys are needed to complete the determination of
27 suitability of the license applicant, the applicant shall pay the funds
28 necessary to complete the determination of suitability.

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

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

37 19990.519. (a) In support of the application for a license
38 pursuant to this chapter, prior to offering games or accepting bets
39 on its authorized poker Web site, the licensed operator shall remit
40 to the Treasurer a one-time license deposit in the amount of twelve

1 million five hundred thousand dollars (\$12,500,000), to be
2 deposited into the General Fund, subject to Section 19619.8, and
3 six million two hundred fifty thousand dollars (\$6,250,000) of the
4 one-time license deposit shall be credited against the duty imposed
5 on the licensed operator's gross gaming revenues pursuant to
6 subdivision (b). Upon depletion of the credit amount, the
7 commission shall notify the licensed operator to commence with
8 the annual payments to the state in accordance with subdivision
9 (b).

10 (b) (1) In consideration of the substantial value of each license,
11 a licensed operator shall remit to the Treasurer on ~~an annual a~~
12 ~~quarterly~~ basis for deposit in the General Fund, subject to Section
13 19619.8, ~~a percentage of its gross gaming revenues pursuant to~~
14 ~~the applicable rate percent described in paragraph (2): an amount~~
15 ~~equal to 10 percent of its gross gaming revenues.~~

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

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

23 (B) ~~If annual gross gaming revenues are more than one hundred~~
24 ~~fifty million dollars (\$150,000,000) and less than or equal to two~~
25 ~~hundred fifty million dollars (\$250,000,000), the rate percent is~~
26 ~~10 percent.~~

27 (C) ~~If annual gross gaming revenues are more than two hundred~~
28 ~~fifty million dollars (\$250,000,000) and less than or equal to three~~
29 ~~hundred fifty million dollars (\$350,000,000), the rate percent is~~
30 ~~12.5 percent.~~

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

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

38 (B)

39 (2) ~~Each annual quarterly payment shall be due 30 days after~~
40 ~~the licensed operator receives the notification from the commission~~

1 ~~described in subparagraph (A).~~ *on the 10th day of the month*
2 *following the end of each quarter.*

3 ~~(4)~~

4 (3) The commission shall administer and collect the duty
5 imposed by this subdivision pursuant to the Fee Collection
6 Procedures Law (Part 30 (commencing with Section 55001) of
7 *Division 2 of the Revenue and Taxation Code*). For purposes of
8 this subdivision, the references to “fee” in the Fee Collection
9 Procedures Law shall include the duty imposed by this subdivision,
10 and, except when the context provides otherwise, references to
11 “feepayer” in that law shall include a licensed operator required
12 to pay the duty imposed by this subdivision and references to the
13 “board” in that law shall refer instead to the commission.

14 ~~(5)~~

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

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

24 19990.520. (a) The licensed operator shall facilitate the
25 collection of personal income taxes from registered players by the
26 Franchise Tax Board and shall be responsible for providing current
27 and accurate documentation on a timely basis to all state agencies,
28 as provided in this chapter.

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

33 (c) The confidentiality provisions of this chapter exempt
34 proprietary information supplied by a licensee to a state agency
35 from public disclosure consistent with subdivision (b) of Section
36 6253 of the Government Code.

37 19990.521. (a) A licensee shall act expeditiously to cure any
38 violation of this chapter, or any regulation adopted pursuant to this
39 chapter, in the offer or administration of authorized Internet poker

1 games that interferes with its obligations to the state or registered
2 players under this chapter.

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

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

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

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

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

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

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

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

8 19990.522. (a) (1) A license issued pursuant to this chapter
9 is not transferable.

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

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

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

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

26 19990.523. All facilities, software, including downloadable
27 programs, and any other property, both tangible and intangible,
28 used by the licensed operator in offering authorized Internet poker
29 games for play on an authorized poker Web site shall be the
30 property of the licensed operator or its licensed service providers,
31 and shall be subject to the review of the department and the
32 approval of the commission.

33 19990.524. If any dispute arises between the state and a
34 licensee, either the commission or a licensee may file an action in
35 the superior court of any county in which the commission has an
36 office for an interpretation of the rights and responsibilities of the
37 state and the licensee pursuant to this chapter.

38 19990.525. (a) (1) The department or commission may
39 contract with other public or private entities, including, but not
40 limited to, state, tribal, and international regulatory agencies, for

1 the provision of services related to a responsibility imposed on the
2 department or commission by this chapter if all of the following
3 are satisfied:

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

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

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

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

14 (b) A state agency with a duty pursuant to this chapter may enter
15 into agreements to share information with other regulatory and
16 law enforcement agencies to assist in performing the state agency's
17 duty.

18 19990.526. (a) Until January 1, 2019, a licensed service
19 provider shall not, for any purpose, use any list of customers or
20 database containing customer information that was accrued or
21 created prior to the effective date of the regulations described in
22 subdivision (a) of Section 19990.401.

23 (b) Pursuant to subdivision (b) of Section 19990.303, a violation
24 of subdivision (a) is a felony, punishable pursuant to subdivision
25 (h) of Section 1170 of the Penal Code.

26

27 Article 6. Employee Work Permits

28

29 19990.601. (a) Except as provided in Section 19990.602, a
30 licensee shall submit an application and applicable fees to the
31 department and apply to the commission for an employee work
32 permit on behalf of each employee.

33 (b) Prior to initiating operations and thereafter, a licensee shall
34 ensure that every employee has been issued an employee work
35 permit by the commission prior to that person having access to the
36 licensee's facilities. The permit shall be renewed every two years.

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

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

2 (2) A person whose prior activities, criminal record, if any,
3 reputation, habits, and associations do not pose a threat to the
4 integrity of a gaming operation or public interest of this state, or
5 to the effective regulation and control of controlled gambling, as
6 defined in Section 19805, or create or enhance the dangers of
7 unsuitable, unfair, or illegal practices, methods, and activities in
8 the conduct of controlled gambling or in the carrying on of
9 incidental business and financial arrangements.

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

12 (d) The commission shall not issue an employee work permit
13 unless the applicant meets the qualification standards adopted by
14 the commission by regulation. A tribal gaming regulatory authority
15 may impose additional qualifications with respect to activities on
16 Indian lands.

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

27 (b) The joint state and tribal processes required pursuant to this
28 section are intended to promote and involve joint cooperation
29 among the tribal gaming regulatory authority, the commission,
30 and the department.

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

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

1 (2) In reviewing an application for a work permit, the tribal
2 gaming regulatory authority shall determine whether issuance of
3 the employee work permit would meet the suitability standards
4 set forth in this chapter. The tribal gaming regulatory authority
5 shall not issue a permit unless, based on all information and
6 documents submitted, the tribal gaming regulatory authority
7 determines that the applicant meets all of the criteria set forth in
8 this chapter for the issuance of the employee work permit.

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

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

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

34 (6) Upon receipt of a completed license application and a
35 determination by the tribal gaming regulatory authority that the
36 applicant is eligible and suitable for the employee work permit,
37 the tribal gaming regulatory authority shall transmit to the
38 commission a notice of intent to issue a permit to the applicant.
39 The tribal gaming regulatory authority shall not issue an employee

1 work permit until the process required by paragraph (7) is
2 complete.

3 (7) After receipt of the tribal gaming regulatory authority's
4 notice pursuant to paragraph (6), and upon completion of the
5 necessary ~~determination of suitability~~, *review*, the commission
6 shall issue a notice to the tribal gaming regulatory authority stating
7 its finding that the applicant is suitable or is not suitable for the
8 requested permit. *The commission shall defer to the tribal gaming*
9 *regulatory authority's determination unless the commission*
10 *concludes that the determination was clearly erroneous.* The
11 commission may charge an additional application processing fee
12 pursuant to Section 19990.605 to cover the reasonable costs of
13 conducting its verification of suitability.

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

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

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

39 (8) A tribal permit application submitted pursuant to this section
40 may be denied, and any permit issued may be revoked, if the tribal

1 gaming regulatory authority determines that the application is
2 incomplete or deficient, or if the applicant is determined to be
3 unsuitable or otherwise unqualified for a permit. Pending
4 consideration of revocation, the tribal gaming regulatory authority
5 may suspend a permit. All rights to notice and hearing shall be
6 governed by the rules of the tribal gaming regulatory authority,
7 which shall meet minimum requirements to be developed among
8 the tribes, the commission, and the department, and as to which
9 the applicant shall be notified in writing, along with notice of an
10 intent to suspend or revoke the permit.

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

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

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

29 19990.603. An applicant for an employee work permit is
30 disqualified if the applicant is described by any of the following:

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

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

39 (c) The applicant has been convicted of a felony, including a
40 conviction by a federal court or a court in another state or foreign

1 jurisdiction for a crime that would constitute a felony if committed
2 in California, except that a conviction of a felony involving the
3 hunting or fishing rights of a tribal member while on his or her
4 reservation shall not be included among the class of disqualifying
5 felonies.

6 (d) The applicant has been convicted of a misdemeanor in a
7 jurisdiction involving dishonesty or moral turpitude within the
8 10-year period immediately preceding the submission of the
9 application, unless the applicant has been granted relief pursuant
10 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.
11 However, the granting of relief pursuant to Section 1203.4,
12 1203.4a, or 1203.45 of the Penal Code shall not constitute a
13 limitation on the discretion of the department or affect the
14 applicant's burden.

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

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

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

26 (h) The applicant was a member of the board of directors or the
27 ultimate parent company of, the chief executive officer of, or a
28 shareholder holding more than 10 percent of the shares of, an
29 entity, or its corporate or marketing affiliate, and was directly
30 involved in an executive decision making capacity that led the
31 entity, or its affiliate, to facilitate a wager or financial transaction
32 relating to Internet gambling in the United States, unless any of
33 the following applies:

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

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

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

4 19990.604. (a) If a licensed operator has any owners, officers,
5 or directors who are not employees, it shall ensure that each of
6 those persons obtains an employee work permit before having any
7 role or decisionmaking authority regarding the licensed operator's
8 gaming operations.

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

18 19990.605. The commission, the department, and, if applicable,
19 the tribal gaming regulatory authority, shall establish application
20 processing fees to be paid by a licensee for the reasonable cost of
21 determinations of suitability for, and issuance of, employee work
22 permit applications. The commission shall establish processes for
23 the revocation or suspension of an employee work permit, and to
24 withdraw an application for an employee work permit.

25 19990.606. ~~A licensed operator or service provider~~ *licensee*
26 shall not enter into, without prior approval of the commission, a
27 contract or agreement with either of the following:

28 (a) A person who is denied a gambling license or employee
29 work permit pursuant to Chapter 5 (commencing with Section
30 19800), or whose gambling license or employee work permit is
31 suspended or revoked.

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

35 19990.607. (a) (1) ~~A licensed operator or service provider~~
36 *licensee* shall not employ, without prior approval of the
37 commission, a person in any capacity for which he or she is
38 required to have an employee work permit, if the person has been
39 denied a gambling license or an employee work permit pursuant
40 to Chapter 5 (commencing with Section 19800), or if his or her

1 gambling license or employee work permit has been suspended or
2 revoked after the date of receipt of notice of the action by the
3 commission or tribal gaming regulatory authority.

4 (2) ~~A licensed operator or service provider licensee~~ shall not
5 enter into a contract or agreement with a person whose application
6 for a gambling license or an employee work permit has been
7 withdrawn with prejudice, or with a business enterprise under the
8 control of that person, for the period of time during which the
9 person is prohibited from filing a new application for a gambling
10 license or an employee work permit.

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

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

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

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

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

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

17

18 Article 7. Protection of Registered Players

19

20 19990.701. A licensed operator shall use its best efforts to
21 protect registered players. Subject to the approval of the
22 department, and consistent with uniform standards established by
23 the department by regulation, each licensed operator shall establish
24 administrative procedures to resolve registered player complaints.

25 19990.702. (a) If a registered player has a complaint against
26 a licensed operator, the exclusive remedy shall be to register the
27 complaint with the department.

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

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

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

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

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

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

4
 5 Article 8. Financial Provisions for State Regulation and
 6 Unlawful Gambling Enforcement
 7

8 19990.801. The Treasurer shall transfer all amounts received
 9 pursuant to subdivision (a) of Section 19990.402, subdivision (e)
 10 of Section 19990.403, subdivision (b) of Section 19990.404,
 11 *subdivisions (b) and (d) of Section 19990.405*, subdivision (c) of
 12 Section 19990.519, and Section 19990.605 to the Controller for
 13 deposit in the Internet Poker Fund, which is created in the State
 14 Treasury, to be administered by the department. Notwithstanding
 15 Section 13340 of the Government Code, all moneys in the fund
 16 are continuously appropriated to the department and the
 17 commission, without regard to fiscal years, in the amounts
 18 necessary for the department and the commission to perform their
 19 duties under this chapter.

20 19990.802. (a) The Unlawful Gambling Enforcement Fund is
 21 hereby established within the General Fund for purposes of
 22 ensuring adequate resources for law enforcement charged with
 23 enforcing the prohibitions and protections of this chapter. The
 24 Unlawful Gambling Enforcement Fund shall be funded by
 25 depositing:

26 (1) ~~_____ percent of the~~ *The* revenue from the civil penalties
 27 recovered by law enforcement authorities pursuant to Section
 28 19990.803 into the fund prior to the distribution required under
 29 subdivision (c) of Section 19990.803.

30 (2) All amounts or property recovered pursuant to Section
 31 19990.804.

32 (3) ~~_____ percent of the duties paid by licensed operators~~
 33 ~~pursuant to subdivision (b) of Section 19990.519, after any~~
 34 ~~distribution required by Section 19619.8.~~

35 (4)
 36 (3) The revenue from the civil penalties recovered pursuant to
 37 subdivision (f) of Section 19990.501.

38 (b) Up to ~~_____ ten~~ million dollars (~~\$_____~~) (*\$10,000,000*) in the
 39 fund may be expended annually by the Attorney General, upon
 40 appropriation by the Legislature, for the purposes of this chapter.

1 19990.803. (a) (1) Except as provided in subdivision (f) of
2 Section 19990.501, a person who engages or conspires to engage
3 in activities prohibited by this chapter, or in connection with the
4 use of an Internet access device, *engages in* activities prohibited
5 by Section 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1,
6 330.4, or 331 of the Penal Code, is liable for a civil penalty ~~not to~~
7 ~~exceed _____ dollars (\$_____)~~ for each violation, *the amount of*
8 *which shall be determined by the court based on the criteria*
9 *described in subdivision (b)*, in addition to any other penalty or
10 remedy that may be imposed by ~~law, which law~~. *The civil penalty*
11 *shall be assessed and recovered in a civil action brought in the*
12 *name of the people of the State of California by the Attorney*
13 *General, a district attorney, a county counsel authorized by*
14 *agreement with the district attorney in an action involving the*
15 *violation of a county ordinance, the city attorney of a city having*
16 *a population in excess of 750,000 persons, the city attorney of a*
17 *city and county, or, with the consent of the district attorney, the*
18 *city prosecutor in a city with a full-time city prosecutor, in a court*
19 *of competent jurisdiction.*

20 (2) *In addition to the imposition of a civil penalty, the court may*
21 *order any person found liable to make restitution to any person*
22 *injured as a result of the violation.*

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

- 27 (1) The nature and seriousness of the misconduct.
- 28 (2) The number of violations.
- 29 (3) The persistence of the misconduct.
- 30 (4) The length of time over which the misconduct occurred.
- 31 (5) The willfulness of the defendant's misconduct.
- 32 (6) *The amount of illicit gain resulting from the misconduct.*
- 33 ~~(6)~~
- 34 (7) The defendant's assets, liabilities, and net worth.

35 (c) (1) Subject to paragraph (1) of subdivision (a) of Section
36 19990.802, civil penalties recovered by law enforcement authorities
37 pursuant to this section shall be allocated as follows:

38 (A) If the action is brought by the Attorney General, one-half
39 of the penalty collected shall be paid to the treasurer of the county
40 in which the judgment was entered for deposit into that county's

1 general fund, and one-half to the Treasurer for deposit into the
 2 Unlawful Gambling Enforcement Fund.

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

7 (C) If the action is brought by a city attorney or city prosecutor,
 8 one-half of the penalty collected shall be paid to the treasurer of
 9 the city in which the judgment was entered for deposit into that
 10 city’s general fund, and one-half to the treasurer of the county in
 11 which judgment was entered for deposit into that county’s general
 12 fund. If the action is brought by the city attorney of a city and
 13 county, the entire amount of the penalty collected shall be paid to
 14 the treasurer of the city and county in which the judgment was
 15 entered.

16 (2) The revenue from all civil penalties allocated to the Unlawful
 17 Gambling Enforcement Fund pursuant to subparagraph (A) of
 18 paragraph (1), upon appropriation by the Legislature, shall be used
 19 by the Attorney General exclusively to support the investigation
 20 and enforcement of violations of California’s gambling laws,
 21 including the implementation of judgments obtained from
 22 prosecution and investigation of those violations and violations
 23 of, in connection with the use of an Internet access device, Sections
 24 321, 322, 323, 324, 326, 330, 330a, 330b, 330c, 330.1, 330.4, and
 25 331 of the Penal Code, and other activities that are in furtherance
 26 of this chapter.

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

34 19990.804. (a) Any money, other representative of value, or
 35 real or personal property used in, or derived from, the play of a
 36 game provided on the Internet that is not authorized by the state
 37 pursuant to this chapter is subject to seizure by the department or
 38 by a peace officer.

39 (b) Upon a finding by a court that the money, other
 40 representative of value, or real or personal property was used in,

1 or derived from, the play of a game provided on the Internet that
2 is not authorized by the state pursuant to this chapter, that money
3 or property shall be forfeited to the Unlawful Gambling
4 Enforcement Fund established in Section 19990.802.

5
6 Article 9. Preemption of Local Regulation
7

8 19990.901. A city, county, or city and county shall not regulate,
9 tax, or enter into a contract with respect to any matter related to
10 this chapter. This section does not prohibit or limit the investigation
11 and prosecution of any violation of this chapter.
12

13 Article 10. Reports to the Legislature
14

15 19990.1001. Notwithstanding Section 10231.5 of the
16 Government Code, within one year of the operative date of this
17 chapter, and annually thereafter, the commission, in consultation
18 with the department, the Treasurer, and the Franchise Tax Board,
19 shall issue a report to the Legislature describing the state's efforts
20 to meet the policy goals articulated in this chapter. The report shall
21 be submitted in compliance with Section 9795 of the Government
22 Code.

23 19990.1002. (a) At least four years after the issue date of any
24 license pursuant to this chapter, but no later than five years after
25 that date, the Bureau of State Audits shall issue a report to the
26 Legislature detailing the implementation of this chapter.

27 (b) A report submitted pursuant to subdivision (a) shall be
28 submitted in compliance with Section 9795 of the Government
29 Code.
30

31 Article 11. Partial Severability ~~and Repeal of Chapter~~
32

33 19990.1101. (a) Except as provided in subdivision (b), the
34 provisions of this chapter are severable. If any provision of this
35 chapter, other than those listed in subdivision (b), or its application,
36 is held invalid, that invalidity shall not affect other provisions or
37 applications that can be given effect without the invalid provision
38 or application.

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

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

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

8 *(B) Any provision in Article 4 (commencing with Section
9 19990.401), and any related definition, that governs the licensing
10 of operators and service providers.*

11 *(C) Any provision in Article 5 (commencing with Section
12 19990.501), and any related definition, that sets forth the
13 requirements for the operation of an authorized poker Web site.*

14 *(D) Section 19990.306, and any related definition, that prohibits
15 the aggregation of computers or devices.*

16 ~~(C)~~

17 *(E) Limiting the entities that are eligible for an operator license.*

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

21 ~~19990.1102. This chapter shall remain in effect only until
22 January 1, 2024, and as of that date is repealed, unless a later
23 enacted statute, that is enacted before January 1, 2024, deletes or
24 extends that date.~~

25 SEC. 3. The Legislature finds and declares that Chapter 5.2
26 (commencing with Section 19990.101) of Division 8 of the
27 Business and Professions Code, as added by Section 2 of this act,
28 imposes a limitation on the public’s right of access to the meetings
29 of public bodies or the writings of public officials and agencies
30 within the meaning of Section 3 of Article I of the California
31 Constitution. Pursuant to that constitutional provision, the
32 Legislature makes the following findings to demonstrate the interest
33 protected by this limitation and the need for protecting that interest:

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

38 SEC. 4. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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

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