

SENATE No. 174

The Commonwealth of Massachusetts

PRESENTED BY:

Michael W. Morrissey

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

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

An Act establishing the Massachusetts gaming control act.

PETITION OF:

NAME:

Michael W. Morrissey

DISTRICT/ADDRESS:

Norfolk and Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING THE MASSACHUSETTS GAMING CONTROL ACT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by striking out chapter 12B.

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

6 SECTION 3. Said Chapter 10 of the General Laws is hereby amended by inserting after
7 section 24A, as so appearing, the following:- Section 24B. Notwithstanding any general or
8 special law to the contrary, the commission is shall implement chapter 10A, any special or
9 general law that pertains to chapter 10A, to exercise all powers granted thereunder, and to
10 promulgate all rules and regulations necessary thereof.

11 When exercising its duties under chapter 10A, the commission shall comply with the
12 following:

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

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

24 (c) The commission may require any person to apply for a license as provided in this
25 chapter and approve or disapprove any such application or other transactions, events, and
26 processes as provided in this chapter and chapter 10A. Any application to receive any license
27 under this chapter and chapter 10A shall constitute a request for a determination of the
28 applicant's general character, integrity, and ability to participate or engage in, or be associated
29 with, gaming.

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

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

34 (f) The commission may issue regulations providing for a fine or penalty or interest
35 on such fine or penalty, upon any gaming licensee, for violation of this chapter and chapter 10A.
36 The commission may approve or disapprove transactions and events as provided in this chapter,
37 and chapter 10A take actions reasonably designed to ensure that no unsuitable persons are
38 associated with controlled gaming, and take actions reasonably designed to ensure that gaming
39 activities take place only in suitable premises.

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

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

46 (2) the licensing of gaming suppliers and gaming testers, including regulations relating to
47 the application process, background checks, license fees, bonding requirements, and
48 revocations and suspension of licenses;

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

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

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

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

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

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

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

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

71 (11) the method and standards of operation of licensed gaming establishments including,
72 but not limited to, games, the type and manner of gaming, wagering limitations, odds,
73 and hours of operation; provided, however, the commission shall not restrict the number

74 of hours of operation of any licensed gaming establishment to fewer hours than of any
75 competing licensed gaming establishment

76 (12) the manufacturing, distribution, sale, testing, servicing, and inspection of gaming
77 equipment, including requirements for the identification and licensing of same; provided
78 that the commission may authorize a licensee to utilize a third party to installing, testing
79 and servicing of gaming equipment; provided further that, said third party is licensed by
80 the commission pursuant to this chapter and chapter 10A;

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

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

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

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

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

92 (18) the minimum procedures to be adopted by each licensed gaming establishment to
93 exercise effective supervisory and management control over its fiscal affairs, including

94 the requirement of internal and independent annual financial and operational audits
95 undertaken in accordance with generally accepted accounting principles, and the
96 requirement that quarterly reports be provided by licensed gaming establishments to the
97 commission no more than 30 days after the close of each quarter;

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

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

101 (21) the licensing and regulation of central computer system provider, which services
102 electronic gaming devices and on and off site auditing of said electronic gaming devices;
103 provided that, the commission shall ensure that the central computer system shall employ
104 a widely accepted gaming industry protocol to facilitate slot machine manufacturers'
105 ability to communicate with the statewide system; and provided further, that said central
106 computer system selected by the commission shall be prohibited from providing
107 electronic gaming devices, or any other form of player activated terminal for use in
108 connection with said central computer system;

109 (22) whether and under what conditions persons under age 21 may be permitted to enter
110 facilities with electronic gaming devices; and

111 (23) the collection of fees associated with application of licenses under this chapter and
112 chapter 10A and fees for investigation under this chapter and chapter 10A.

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

119 (i) Each operating license shall be issued for an initial term of 10 years, and may be
120 renewed at the discretion of the commission for a term not to exceed 10 years; provided that the
121 commission conducts an investigation, which shall include, but is not limited to, the financial
122 and operational functions, impact and mitigation on the host and contiguous communities, and
123 determine the social-economic affect from the licensee prior to reissuance of the license;
124 provided further, that the commission shall set a renewal fee, which shall not be less than
125 \$50,000,000.

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

132 (k) A gaming establishment license issued pursuant to this chapter and chapter 10A
133 must be posted by the licensee and kept posted at all times in a conspicuous place in the area

134 where gaming is conducted in the establishment for which the license is issued until it is replaced
135 by a succeeding license.

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

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

156 initially purchased, the time of receiving a license and the time of the transfer; provided further,
157 that any payment collected by the commission, on behalf of the Commonwealth, shall be
158 deposited in the General Fund..

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

179 that the commission may reject such transfer if it deems it unsuitable. The commission may
180 place any condition or restriction on the transfer of a license or substantial interest or party of
181 interest, and in all instances it shall consider whether additional compensation is owed to the
182 Commonwealth.

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

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

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

198 (r) The commission may investigate fraud, deceit, misrepresentation or violations by
199 any licensee under this chapter, or the occurrence of any such activity involving any licensee. If

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

218 All assignment and reassignments to the commission, except as the commissioner of
219 public safety shall determine that an emergency exists or its threatened, shall be subject to the
220 approval of the commission. Nothing herein shall prevent licensees from applying to the state
221 police if they have jurisdiction in the area where gaming establishment is located, or to the police
222 department of a city or town wherein the gaming establishment is located, in order that such

223 police agency may furnish a police detail for safety or traffic purposes at any gaming
224 establishment authorized by this chapter. The total cost for any such police detail shall be a sum
225 equal to the salaries of the police officers comprising such detail, plus a sum to cover the
226 administrative expenses incurred by the department of each such police officer, which is to be
227 paid by the licensee.

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

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

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

243 (v) The commission shall require the licensee to provide annual updates regarding
244 the condition of the facility and the commission shall approve plans for all capital projects in
245 excess of \$500,000, and projects that would substantially change the use of the property.

246 (w) The commission shall promulgate rules and regulations regarding the minimum
247 standards of employment and employee conditions at licensed gaming establishments. Said rules
248 and regulations shall not be below those practiced by the hotel and service industries in
249 Massachusetts, and the commission shall set a minimum wages for employees at licensed
250 gaming establishments to be based on a minimum of 150% of the federal poverty guideline for a
251 family of four as of September 1, 2008, and shall make annual adjustments based on the changes
252 to the consumer price index.

253 SECTION 4. Said chapter 10 is hereby further amended by inserting after section 26, as
254 so appearing, the following section:- Section 26a. The Treasurer shall appoint, subject to the
255 approval of the commission, a director for division gaming pursuant to chapter 10A, hereinafter
256 called the executive director, who shall serve at the pleasure of the commission, shall devote his
257 entire time and attention to the duties of his office, and shall receive such salary as the
258 commission may determine. The executive director shall serve for a term of five years. The
259 executive director shall not serve more than two consecutive terms. He shall supervise and
260 administer the operation of licensed gaming establishments in accordance with the provisions of
261 the chapter 10A, and any special laws and rules and regulations made thereunder.

262 The executive director shall, subject to the approval of the commission, appoint such
263 deputy directors and such other professional, technical and clerical assistants and employees as

264 may be necessary; provided, however, that such deputies, assistants and employees shall not be
265 subject to chapter 31 and section 9A of chapter 30.

266 The executive director shall confer regularly as necessary or desirable and not less than
267 once every month with the commission on the operation and administration of gaming, shall
268 make available for inspection by the commission, upon request, all books, records, files, and
269 other information and documents of the commission, shall advise the commission and
270 recommend such matters as he deems necessary and advisable to improve the operation and
271 administration of gaming.

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

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

279 SECTION 4. The General Laws, as appearing in the 2008 official edition, is hereby
280 amended by inserting after chapter 10 the following new chapter:-Section 1. (a) This act shall
281 be known and may be cited as the "Massachusetts Gaming Control Act."

282 (b) No applicant for a license or other affirmative approval within the scope of this
283 chapter has any property or other right to a license or to the granting of the approval sought. Any
284 license issued or other approval granted pursuant to this chapter is a fully revocable privilege,

285 and no holder acquires any vested right therein or thereunder. Except as otherwise provided
286 herein, no person other than a licensee hereunder shall have any right to or interest in gaming
287 revenue in the form of a percentage or contractual interest of any sums payable hereunder

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

293 (d) In the event of any conflict between the provisions of this chapter and the
294 provisions of any other general or special law, or local ordinance, the provisions of this chapter
295 and chapter 10 shall prevail.

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

298 "Affiliate," any person that a licensee or applicant directly or indirectly controls or in
299 which an applicant or licensee possesses an interest. For the purposes of this definition,
300 "controls" means either (i) directly or indirectly holding more than 10 percent of voting
301 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,
302 general partners, trustees, or members of an entity's governing body are representative of, or are
303 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,
304 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of
305 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general

306 partners, trustees, or members of an entity's governing body are representatives of, or are directly
307 or indirectly controlled by, the licensee or applicant.

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

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

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

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

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

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

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

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

326 "Division," means the division of gaming established under section 3.

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

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

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

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

343 “Gaming equipment," any equipment, device, object or contrivance, or machine, whether
344 mechanical, electromechanical, or electronic, which is specifically designed or manufactured for
345 use in the operation of gaming.

346 "Gaming license" or "license," any license or work permit issued by the commission
347 under this chapter that authorizes the person named therein to engage or participate in controlled
348 gaming or to operate electronic gaming devices, including work permits and licenses issued to
349 gaming establishments, to gaming suppliers, to parties in interest, to gaming schools, and to
350 officers and directors of licensed persons or entities.

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

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

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

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

363 "Holding company," any corporation, firm, partnership, trust, or other entity that, directly
364 or indirectly, owns, has the power or right to control, or holds with power to vote, all or any part
365 of the partnership interests or outstanding voting securities of a corporation or any other business
366 entity that holds or applies for a gaming license. In addition, a holding company indirectly has,
367 holds, or owns any power or right mentioned herein if it does so through any interest in a
368 subsidiary or affiliate or successive subsidiaries or affiliates, however many of these subsidiaries
369 or affiliates may intervene between the holding company and the corporate licensees or
370 applicant.

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

- 373 (1) A subsidiary with respect to a holding company, and
- 374 (2) A holding company with respect to a corporation or limited partnership or other
375 entity that holds or applies for a gaming license;

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

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

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

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

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

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

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

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

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

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

402 (b) The executive director of the division shall be appointed by the state and lottery
403 and gaming commission pursuant to section 26a of chapter 10. The executive director shall be
404 responsible for the oversight and operation of the division. The executive director shall employ
405 such professional, technical, and clerical assistants and employees as necessary, subject to
406 appropriation; provided, however, such assistants and employees shall not be subject to chapter
407 31 or Section 9(A) of chapter 20 of the General Laws. The executive director shall execute and
408 enforce the rules, regulations and directives of the commission and provide the necessary
409 administrative support.

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

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

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

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

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

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

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

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

438 (8) To collect fees, penalties, fines, payments and other funds on behalf of the
439 commission and transfer said funds in accordance to this chapter.

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

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

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

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

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

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

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

471 (j) The executive director may investigate fraud, deceit, misrepresentation or
472 violations of this chapter by any person licensed hereunder or the occurrence of any such activity
473 within or involving any licensed gaming establishment. If the executive director has reasonable
474 basis to believe that any licensee has been or is engaged in criminal behavior or that criminal
475 activity is occurring within or involving any licensed gaming establishment, the executive
476 director shall report same to the district attorney of the county within which the licensed gaming
477 establishment is located and the attorney general. The executive director shall make available to
478 said district attorney, the attorney general, and to the commission all relevant information on
479 such activity.

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

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

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

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

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

501 Section 4. (a) There shall be no more than two gaming licenses issued to entities.
502 For the purposes of this section, Worcester and Hampden Counties is designated the region one
503 and Bristol County shall be designed as region two. Each region shall be eligible to receive no
504 more than one gaming license. Region one shall be the first region to have applicants apply and
505 a license issued, provided that the commission determines that there is a suitable location for a

506 facility under this section. After license in region one has been issued to a an applicant,
507 applicants for region two shall submit applications and a license may be issued, provided that the
508 commission determines that there is a suitable location for a facility under this section. Should
509 there be more than one entity seeking a gaming license in a single location, the commission shall
510 choose the best proposal possible, which shall include consideration of the amount of fee,
511 established under (c) of this section, the gaming entity ability and willingness to pay said fee to
512 the commonwealth; provided further, that if the commission in its judgment determines that there
513 is no best proposal that meets this section or the commission's standards or does not provide, in
514 the commission's determination, the maximum possible revenue to the Commonwealth, then a
515 license will not be issued.

516 The commission shall designate a site for the development of a casino facility and
517 associated or auxiliary facilities per region; provided further, that the commission shall establish
518 a priority list of locations under region one and region two to be designated as a casino site that
519 meets the requirements of this section. The commission must designate a site for region one
520 before region two, and no license shall be issued at each region before a site has been chosen; but
521 applications for a license can be requested by the commission prior to the site being designated.

522 As part of its determination for a suitable location the commission must investigate and
523 consider the positive and negative affects a casino facility will have to the host community and
524 communities contiguous to the site, provided further, that factors to consider include, but is not
525 limited to, the regional and local economy, job creation or loss, road and traffic, public access,
526 water, drainage, sewer, fire department coverage, police department coverage and other public
527 safety, emergency access, housing, public education influx and other infrastructure related

528 issues; provided further, that all applicants seeking a license shall disclose to the commission all
529 interests, options, agreements in property and provide information, including demographic,
530 geographic, and any other information requested by the commission, to the commission,
531 provided further, that the commission's choice of location must maximize the revenue from the
532 casino facility to the Commonwealth; provided further, that the commission shall consider
533 property whereby a casino facility can be established as soon as reasonable after the license is
534 issued; provided further, that the commission must receive a strong indication from the
535 municipality that it would support having a casino facility within its borders. The commission
536 may hold one or more public hearing at locations of its choosing to solicit comments from any
537 persons regarding the suitability of a location, and the commission may use the information
538 collected as part of the commission's deliberations when searching for a suitable location.

539 The commission shall first consider all property that is owned by the state, a city, a town,
540 a county, an authority, a district or any other political subdivision of the Commonwealth, for a
541 casino facility site that meets the requirements of this section. The commission is authorized to
542 enter into an agreement with any city, a town, a county, an authority, a district or any political
543 subdivision of the Commonwealth for use of said property for the purpose of establishing a
544 casino facility. Any city, town, district, authority, commission or any other political subdivision
545 of the Commonwealth is authorized to enter lease of land to a licensed gaming operator for up to
546 fifty (50) years and shall file said lease agreement with the commission. If the commission in its
547 judgment finds that no property owned by the state, a city, a town, a county, an authority, a
548 district or any other political subdivision of the Commonwealth is suitable for a casino facility,
549 then the commission shall identify any other suitable property that will comply with this
550 paragraph; and, the commission may utilize its powers under (h) of this section to acquire said

551 property. If the commission determines in its best judgment there is no best site, then a license
552 shall not be issued and the commission shall locate an appropriate location elsewhere in the
553 Commonwealth. The commission shall report on the sites considered and chosen for a casino
554 facility, report on the reasons and method of why a location was chosen or not chosen, and, if
555 necessary, a recommendation for a location outside the scope of this chapter and explain why
556 said location is appropriate to the governor, the treasurer, the house and senate clerks, the house
557 and senate committees on ways and means, and the committee on consumer protection and
558 professional licensure, within thirty (30) days after a site is chosen.

559 No single gaming entity, including its individual shareholders, shall have more than one
560 gaming license.

561 Said licensees shall pay monthly to the commission, on behalf of the Commonwealth, a
562 sum equal to twenty-five (25%) percent of net gaming revenues; provided, that this percentage
563 shall not be increased for not less than ten (10) years after the initial issuance of the license to the
564 applicant; provided further, that from said sums the commission shall first pay to the Treasurer,
565 on behalf of the local aid fund, a sum equal to the diminishment, if any, in said fund attributable
566 to this act, as certified by the Treasurer, and secretary of administration and finance, and the
567 chairs of the house and senate ways and means committees, provided further that, said sums to
568 the local aid fund and the calculation determining that said sums should be placed in the local aid
569 fund shall be part of the commission's annual report as required under this chapter; and provided
570 further, that the remaining funds collected shall be deposited into the General Fund.

571 The commission shall determine the maximum number of electronic gaming devices to
572 be at each licensed premise on an annual basis. The licensee may petition the commission
573 requesting additional electronic gaming devices and the commission may at its discretion decide

574 whether to increase or decrease the number of gaming devices. The commission shall annually
575 determine the maximum number of wagering games and the types of wagering that a licensee is
576 permitted to have at the establishment; provided however, that the licensee shall be permitted to
577 petition the commission for additional wagering games and new types of wagering games and
578 the commission shall consider whether to grant the licensee's request.

579 In addition to paying the fee under subsection (b) of this section and any fees other
580 provisions of this chapter, the applicant must provide and the commission must consider the
581 following in making a determination of whether to issue a license under this section:

- 582 (1) The applicant must be eligible to be licensed lottery reseller and must agree sell
583 lottery products at its establishment in a conspicuous location;
- 584 (2) must demonstrate that the applicant is able to invest no less than \$750 million
585 into the facility and property, which shall not include the purchase or lease price
586 of the land where the facility will be located;
- 587 (3) the applicant must supply a detailed breakdown of new job creation expected as a
588 result of receiving a license;
- 589 (4) must have a certified and binding vote from the city or town where the gaming
590 facility will be located, including those gaming entities located on public land,
591 and said vote must not be prior to January 1, 2009;
- 592 (5) must have an agreement between the city or town and the applicant to have a
593 gaming facility and said agreement shall include all stipulations of
594 responsibilities between the city or town and the gaming facility and said
595 agreement must be determined as reasonable by the commission, provided further

596 that, said agreement, when executed and accepted by the commission, shall be
597 deemed to be and treated as approval for all purposes under all otherwise
598 applicable local zoning and impact laws, with respect to all gaming operations
599 and gaming establishments and related buildings, structures and use on the
600 licensed premises and the same shall be considered a continuation of an existing
601 use for all purposes under all applicable law;

602 (6) must meet the licensee bonding requirement as set by the commission;

603 (7) must have a debt to equity ratio of not more than four to one (4:1) when the
604 application is submitted;

605 (8) the applicant must demonstrate to the commission a plan by which the applicant
606 shall purchase, lease or finance electronic gaming devices from a electronic
607 gaming device distributor or manufacturer licensed by the commission, and
608 utilize said devices in the most efficient manner possible to provide the greatest
609 revenue to the Commonwealth;

610 (9) the applicant must meet the licensee bonding requirement as set by the
611 commission;

612 (10) pay an application fee as set by the commission, provided that said fee shall not
613 be less than \$50,000; and

614 (11) applicant is able to demonstrate it is able to comply with the provisions of this
615 chapter.

616 (b) The one time initial license fee for region one shall be determined through an
617 auction, provided that, the commission shall set the starting bid, provided, that said starting bid
618 shall not be less than one hundred million dollars (\$100,000,000); provided, that the applicants

619 have meet all the qualification set forth by the commission and under this chapter. After the
620 issuance of a license for issue and the conditions of this chapter, the one-time initial license fee
621 for region two the starting bid shall not be less than the final lowest bid for region one or one
622 hundred million dollars (\$100,000,000), whichever is larger; provided that, the applicants have
623 meet all the qualification set forth by the commission and under this chapter.

624 The commission shall establish rules and regulations to conduct the auctions, collect fees,
625 conduct assessments and a process to address a situation should an applicant fails to pay the fee.
626 All such fees collected under the auction process by the commission shall be deposited in the
627 General Fund.

628 (c) No person or party shall operate a gaming establishment without having obtained
629 all necessary operating licenses from the commission. There shall be a single licensed operator
630 for each gaming establishment. No license shall operate, invest or own, in whole or in part,
631 another licensee's license or establishment. If a licensee does have more than one license, or
632 operates, invests or owns, in whole or in part, another license, said licensee shall within 30 days
633 divest the license or interest subject to the approval of the commission, and shall pay a fine of up
634 to \$5,000 per day; provided further, that persons or entities that violate this section shall be
635 required to surrender to the commission any licenses issued to the licensee under this chapter,
636 and chapter 24; and provided further, that the persons or entities shall be prohibited in the future
637 from being able to apply and receive licenses under said chapters. Failure for a licensee to
638 comply with this section shall result in a fine of \$5,000 per day.

639 The licensing standards must be met at all times by each officer, director, partner, and
640 trustee of the operating entity, by each substantial party in interest of the operating entity or of

641 the premises on which such establishment is located, and by such other party in interest of the
642 operating entity, the premises, or any holding company or intermediary company of the
643 operating entity or the premises as the commission may require. In no event shall the
644 commission permit a person previously convicted of a felony under state or federal law, or any
645 comparable conviction of a felony of a law in another country or who has not satisfied the
646 standards for financial capability, to be a substantial party in interest of the gaming operator, the
647 gaming establishment, or of the premises, or to hold any direct or indirect interests in such
648 gaming operator, gaming establishment or premises.

649 (d) A person may apply to be a licensed operator by filing an application with the
650 commission. Each application shall disclose the identity of each party in interest, each holding
651 company and intermediary company, and each affiliate of the operating entity. The application
652 shall disclose, in the case of the privately held corporation, the names and addresses of all
653 directors, officers, and stockholders; in the case of a publicly traded corporation, the names and
654 addresses of all directors, officers, and persons holding at least five percent of the total capital
655 stock issued and outstanding; in the case of a limited liability company, the names and addresses
656 of all members of the management committee and all persons holding at least 5 percent of the
657 membership interests; in the case of a partnership, the names and addresses of all partners, both
658 general and limited; and in the case of a trust, the names and addresses of all trustees and
659 beneficiaries.

660 (e) Each operating entity shall identify, in its application, the facilities and structures
661 that will be constructed on the premises containing the establishment where it proposes to
662 conduct its gaming operations. The application shall contain such information regarding the

663 physical location and condition of the premises and the potential impact of the proposed gaming
664 operations upon adjacent properties and the municipality and region within which the premises
665 are located, as the commission may require. The application shall disclose the identity of all
666 parties in interest regarding the premises and to be on the premises; and except as otherwise
667 permitted herein, no person other than a gaming establishment licensee hereunder shall have any
668 right to or interest in any gaming revenue derived from electronic gaming devices in the form of
669 a percentage of such sums or require more than fair market value for rent, leases or services. The
670 application shall identify proposed infrastructure improvements, economic development and job
671 creation opportunities to the municipality and the region wither the premises are located, as the
672 commission may require.

673 (f) No licensed operator shall obtain any gaming equipment or gaming services from
674 a person who does not hold a license. No licensed operator shall enter into any agreement for the
675 receipt of goods or services, of any form and in any amount, from a person who does not hold a
676 license, when a license is required for such agreement under this act or under regulations
677 promulgated by the commission.

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

681 (h) The commission is hereby authorized to acquire all lands, properties, rights, air
682 rights, subsurface rights, easements and other interests necessary for the development of a casino
683 facility and associated or auxiliary facilities, and to convey the same in fee simple absolute for
684 fair market value to, or to enter into a lease for fair market value not to exceed 50 years at a time

685 with, the designated licensee, as and for a site for the project as provided in this chapter. To
686 carry out and effectuate the foregoing purpose, the commission may take by eminent domain
687 under chapter 79 of the general laws, or acquire by purchase, lease, gift, bequest, grant or
688 otherwise from any party, public or private, and hold, clear, repair, operate and, after having
689 taken or acquired the same, convey fee simple or leasehold interest as provided in this act, any
690 lands and other property, real or personal, improved or unimproved, tangible or intangible, and
691 any interest therein.

692 Section 5. The commission shall make an assessment against each licensee for the
693 purpose of reimbursing the Commonwealth the cost of the division's operation, administration
694 and regulation. Said assessment shall be certified annually by the commission as sufficient to
695 reimburse the commonwealth for funds appropriated for the operation of the division, including
696 amounts sufficient to cover the cost of fringe benefits as established by the secretary of
697 administration and finance pursuant to section 6B of chapter 29 of the General Laws. Said
698 assessment shall be made proportionately against each licensee on the basis of the amount of net
699 gaming revenue retained by each licensed operator from the previous fiscal year. If the
700 commission fails to expend in any fiscal year the total amount assessed under this paragraph, any
701 amount unexpended shall be credited against the assessment to be made in the following year
702 and the assessment in such following year shall be reduced by such unexpended amount. If the
703 commission finds that it is unable to meet its operating budget during a fiscal year and if it
704 determines that it requires additional funding is needed, then the commission must make a
705 request to the Governor, the State Treasurer, the House and Senate Committees on Ways and
706 Means, and the Joint Committee on Consumer Protection and Professional Licensure, and said
707 request must include a explanation for the request of addition funding.

708 The commission may establish rules and regulations to assess and collect fees pertaining
709 to individual regulatory, licensing or investigative matters that can be assessed against a licensee;
710 provided, that any fees assessed and collected regarding an application or investigation of a
711 license shall be placed in the gaming investigatory account under section 13 of this chapter.

712 Section 6. The commission shall cause to be made and kept a record of all
713 proceedings at all meetings of the commission. These records shall be maintained by the
714 division and the division shall make said records available to the public for inspection as allowed
715 by law.

716 Notwithstanding any other general or special law to the contrary all files, records, reports,
717 and other information in the possession of any state or local governmental agency including tax
718 filings and related information that are relevant to an investigation by the executive director
719 conducted pursuant to this chapter shall be made available by such agency to the commission as
720 requested. Any tax or financial information received from a governmental agency shall be used
721 solely for effectuating the purposes of this chapter. To the extent that these files, records,
722 reports, or information are confidential or otherwise privileged from disclosure under any law,
723 they shall not lose that confidential or privileged status for having been disclosed to the
724 commission; provided further, that the commission shall consult with the division of public
725 records regarding the handling of said information.

726 The attorney general, every district attorney, and every state and local law enforcement
727 agency shall notify the commission of any investigation or prosecution of any person or entity if
728 it appears that a violation of any law related to gaming has occurred.

729 Section 7. (a) No official, member, employee, or agent of the commission and the
730 division, having obtained access to confidential records or information in the performance of
731 duties pursuant to this chapter, unless otherwise provided by law, shall knowingly disclose or
732 furnish the records or information, or any part thereof, to any person who is not authorized by
733 law to receive it. Violation of this provision shall be punishable by a fine of not more than
734 \$10,000 or by imprisonment in the house of corrections for not more than 1 year, or by both such
735 fine and imprisonment.

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

739 (c) Any person included on the list of persons to be excluded or ejected from a
740 licensed gaming establishment pursuant to regulations promulgated pursuant to this chapter who
741 knowingly enters or remains on the premises of a licensed gaming establishment shall be
742 punished by imprisonment in the house of corrections for not more than 1 year, or by a fine of
743 not more than \$10,000, or both.

744 (d) Any person under the age of 21 years who plays, places wagers at, or collects
745 winnings from, whether personally or through an agent, any controlled game, or who is
746 employed as an employee in a licensed gaming establishment shall be punished by imprisonment
747 in the house of correction for not more than 1 year, or by a fine of not more than \$1,000, or by
748 both such imprisonment and fine. Any licensee, or other person, who knowingly allows a person
749 under the age of 21 to play, place wagers at or collect winnings, whether personally or through
750 an agent, shall be punished by imprisonment in the house of correction for a term of not more

751 than 1 year or pay a fine of not more than \$10,000, or by both. A subsequent violation of this
752 section shall subject the licensee to imprisonment in the house of correction for not more than 2
753 years or pay a fine of not more than \$25,000, or by both.

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

761 (f) Any person who willfully resists, prevents, impedes, interferes with, or makes
762 any false, fictitious or fraudulent statement, or representation to the commission or to the
763 division of racing and gaming or to their agents or employees in the performance of duties
764 pursuant to this chapter, shall be punished by imprisonment in the house of corrections for not
765 more than 2 years, or by a fine of not more than \$5,000, or by both.

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

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

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

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

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

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

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

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

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

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

802 (4) has on his person or in his possession on or off the premises of any licensed
803 gaming establishment any key or device known to have been designed for the purpose of
804 and suitable for opening, entering or affecting the operation of any gaming or equipment,
805 or for removing money or other contents thereof, except where such person is a duly
806 authorized employee of a licensee acting in furtherance of his employment within a
807 licensed gaming establishment.

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

811 (l) The conviction of a licensee for violation of, an attempt to violate, or conspiracy
812 to violate any provision of this chapter or any regulation thereunder may result in the immediate

813 revocation of all licenses issued to the violator under this chapter; and, in addition, the court,
814 upon application of the commission, may order that no new or additional license under this
815 chapter be issued directly or indirectly to the violator, or be issued to any person who owned the
816 room or premises in which the violation occurred, for one year after the date of revocation.

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

820 All licensees shall have a duty to inform the commission of any action which they
821 reasonably believe would constitute a violation of this chapter, and shall assist the commission
822 and any federal or state law enforcement agency in the investigation and prosecution of such
823 violation. The commission shall hold a hearing under chapter 30A on any licensees' failure to
824 comply with this paragraph, and may take appropriate actions including suspension or revocation
825 of the license. No person who so informs the commission shall be discriminated against by an
826 applicant or licensee because of the supplying of such information.

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

830 (a) \$5,000 or more, the gaming establishment shall immediately notify the executive
831 director and shall inform the patron of his or her right to request that the executive
832 director conduct an investigation; or

833 (b) less than \$5,000, the gaming establishment shall inform the patron of his or her
834 right to request that the executive director conduct an investigation.

835 The executive director shall conduct whatever investigation it deems necessary and shall
836 determine, in its sole discretion and without need for a hearing, whether payment should be
837 made. In the event the executive director determines that payment should be made to the patron,
838 all costs of the investigation shall be borne by the gaming establishment. Failure of the
839 establishment to notify the executive director or inform the patron as provided herein shall
840 subject the establishment to disciplinary action under this chapter.

841 Any party aggrieved by the determination of the executive director may file a petition for
842 reconsideration with the commission setting forth the basis of the request for
843 reconsideration. Any hearing for reconsideration shall be conducted pursuant to regulations
844 adopted by the commission.

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

849 Section 11. Any person or entity who knowingly transmits or receives wagers of any
850 type by any telecommunication device, including telephone, cellular phone, Internet, or local
851 area network, which shall mean to include wireless local networks, or any other similar device or
852 equipment, or knowingly installs or maintain said device or equipment for the transmission or
853 receipt of wagering information shall be punished by imprisonment in the house of correction for

854 not more than 2 years or pay a fine of not more than \$25,000 per violation or by both; provided,
855 however, that this section shall not apply to the use of a local area network as a means to place
856 wagers on a licensed gaming establishment, or use of said devices or equipment by the
857 commission in its duties in regulating, enforcing and auditing a licensed gaming operator, or use
858 of said devices or equipment for the purpose of a licensed gaming operator advertising itself.

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

863 The State Auditor may at anytime, at his or her discretion, audit the financial activities
864 and any other activities of any gaming licensee licensed under this chapter; provided further, that
865 the State Auditor shall have access to a gaming licensee's establishment equivalent to those
866 provided to the commission under this chapter. The gaming licensee shall reimburse the
867 Commonwealth for any audit conducted by the State Auditor.

868 Section 13. The commission is authorized to establish a gaming investigatory account.
869 Any and all expenses associated with the licensing of any applicant or investigation of a licensee
870 shall be borne by the applicant or licensee. Pursuant to its regulations, the commission shall
871 require each applicant to deposit with the commission, together with the application, an
872 application fee or in the case of an investigation, an investigation fee, which shall be deposited in
873 the gaming investigatory account. Such fee shall constitute the anticipated costs and charges
874 incurred in the investigation and processing of the application or investigation, and any
875 additional sums as are required by the commission to pay final costs and charges. Expenses may

876 be advanced from the gaming investigatory account by the commission to the executive director.
877 Any money received from an applicant in excess of the costs and charges incurred in the
878 investigation or the processing of the application shall be not refunded and shall remain in the
879 account for future investigations. At the conclusion of the investigation, the executive director
880 shall provide the applicant a written accounting of the costs and charges so incurred.

881 Section 14. The commission shall annually assess and collect a fee, not to exceed than six
882 million (\$6,000,000) dollars, to be paid by the licensees for the treatment of compulsive
883 gambling; provided that, the commission shall conduct a public hearing and collect testimony
884 from the public, licensees and compulsive gambling organizations approved by the department
885 of public health as part of its determination of how much money to assess under this section.
886 Said assessment shall be made proportionately against each licensee on the basis of the amount
887 of net gaming; provided that, no less than 25 per cent of the funds received under this paragraph
888 shall be utilized for the purpose of identification, prevention, intervention, and treatment of
889 compulsive gambling in minority and immigrant communities. The commission shall distribute
890 said funds to compulsive gambling organizations or organizations, as determined by the
891 department of public health.

892 SECTION 5. Section 283 of chapter 94 of the General Laws, as appearing in the 2008
893 Official Edition, is hereby amended by inserting after the word “standards”, in line 8, the
894 following words: -or is a licensed and regulated under chapter 10A.

895 SECTION 6. Section 17 of Chapter 138 of the General Laws, as appearing in the 2002
896 Official Edition, is hereby amended by inserting at the end thereof the following:
897 Notwithstanding the provisions of this section, or anything to the contrary contained herein, the

898 commission is hereby authorized to issue to a licensee of a gaming establishment pursuant to
899 chapter 10A, one or more alcoholic beverage licenses. Said licenses shall not be transferable to
900 any other premises or entity. All other provisions of chapter 138 shall be applicable to the
901 issuance of said license.

902 SECTION 7. Section 17B of chapter 271 of the General Laws, as appearing in the 2008
903 official edition, is amended by inserting after section 17B the following section:- Section 17C.
904 Whoever uses an local area network or the Internet or both, or being the occupant in control of
905 premises where a local area network or Internet service or both is located, or a subscriber for an
906 local area network service or Internet service, knowingly permits another to use the local area
907 network service or Internet service so located or for which he subscribes, as the case may be, for
908 the purpose of accepting wagers or bets, or buying or selling of pools, or for placing all or any
909 portion of a wager with another, upon the result of a trial or contest of skill, speed, or endurance
910 of man, beast, bird, or machine, or upon the result of an athletic game or contest, or upon
911 contests of skill or chance between the wagers, or upon the lottery called the numbers game, or
912 for the purpose of reporting the same to a headquarters or booking office, or for the purpose of
913 collecting a fee for providing the devices for contests of skill or chance between wagers, or who
914 under a name other than his own or otherwise falsely or fictitiously procures local area network
915 service or Internet service for himself or another for such purposes, shall be punished by a fine of
916 not more than \$2,000 or by imprisonment for not more than 1 year; provided, however, that this
917 section shall not apply to use of local area networks or other similar devices of equipment
918 authorized under the provisions of chapter 10A.

919 SECTION 8. Said chapter 271 is hereby further amended by inserting after section 22B,
920 as so appearing, the following section:- Section 22C. Nothing in this chapter shall authorize the
921 prosecution, arrest or conviction of any person for promoting or playing, or for allowing to be
922 conducted, promoted or played, the games authorized and licensed under chapter 10 and 10A;
923 provided, said game are conducted under a license issued by the Massachusetts state lottery
924 commission, under the provisions of chapter 10 and 10A.

925 SECTION 9. Notwithstanding any general or special law to the contrary, the governor
926 shall not concur in a determination that a gaming establishment on newly acquired lands would
927 be in the best interest of an Indian tribe, pursuant to 25 U.S.C. section 2719 (b)(1)(A), unless the
928 house of representatives and senate each have authorized, by majority vote, the governor so to
929 concur. The governor shall not negotiate or enter into a tribal-state compact pursuant to 25
930 U.S.C. section 2710(d)(3) unless the house of representatives and the senate each approve of the
931 governor entering into said compact. The governor shall not transfer or concur in the transfer of
932 any real property located in the commonwealth into trust for the benefit of and Indian tribe,
933 pursuant to 25 U.S.C. section 2719, without the approval, by majority vote, of the house of
934 representatives and the senate. The Massachusetts state lottery commission shall have all powers
935 necessary to undertake the Commonwealth's responsibilities and rights under the terms of any
936 compact entered into between the Commonwealth and any federally recognized tribe under the
937 provisions of the Indian Gaming Regulatory Act.