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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 695 Session of  
2015

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INTRODUCED BY MICCARELLI, DIAMOND, BARRAR, COHEN AND DeLUCA,  
MARCH 3, 2015

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REFERRED TO COMMITTEE ON GAMING OVERSIGHT, MARCH 3, 2015

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AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, providing for authorized interactive gaming and for  
3 duties of Pennsylvania Gaming Control Board and Department of  
4 Health; imposing an interactive gaming tax; and prescribing  
5 penalties.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 4 of the Pennsylvania Consolidated Statutes  
9 is amended by adding a chapter to read:

10 CHAPTER 13B

11 AUTHORIZED INTERACTIVE GAMING

12 Sec.

13 13B01. Legislative policy.

14 13B02. Definitions.

15 13B03. Regulation and enforcement by board.

16 13B04. Prohibition on unauthorized Internet gaming.

17 13B05. Application for license.

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19 13B07. Institutional investors.

- 1 13B08. Presumption of unsuitability.
- 2 13B09. Licensing fee.
- 3 13B10. Accounting and operational internal controls.
- 4 13B11. Interactive gaming tax.
- 5 13B12. Prohibition on Internet cafes.
- 6 13B13. Testing of hardware, software and equipment.
- 7 13B14. Expanded compulsive and problem gambling programs.
- 8 13B15. Application of other provisions of this part.
- 9 § 13B01. Legislative policy.

10 The General Assembly recognizes the following public policy  
11 purposes and declares that the following objectives of the  
12 Commonwealth are to be served by this chapter:

13 (1) The legalization of slot machines and table games in  
14 Pennsylvania has delivered substantial benefits to the  
15 Commonwealth, including tax revenue for property tax relief  
16 and general economic development, the creation of more than  
17 15,000 jobs and significant contributions to the horse racing  
18 and agricultural industries.

19 (2) Developments in technology and recent legal  
20 decisions have created an opportunity to legalize interactive  
21 poker as a means to further enhance and complement the  
22 benefits delivered by casino gaming and licensed facilities  
23 to or for the benefit of the communities in which they  
24 operate.

25 (3) Interactive gaming operates by having players  
26 establish and draw funds from an individual account to place  
27 a wager in authorized games through the Internet and similar  
28 communications media. The Commonwealth currently authorizes  
29 gaming in the form of slot machines and banking and  
30 nonbanking table games, including poker. These gaming

1 operations provide licensed entities in this Commonwealth the  
2 appropriate level of experience to introduce a platform for  
3 interactive gaming that protects the player and the integrity  
4 of the game.

5 (4) It is a vital public interest that licensed entities  
6 retain responsibility for the interactive gaming software and  
7 hardware which shall remain under their ultimate operational  
8 and supervisory control. Vendors' ability to provide the  
9 interactive gaming platform must depend solely on, and be  
10 tied to, the status of the licensed entity for which they are  
11 providing their services. To ensure that actual control and  
12 supervision remains with the licensed entity, the licensed  
13 entity's publicly accessible Internet website or similar  
14 public portal must be marketed and made available to the  
15 public under the licensed entity's own name and brands and  
16 not the brands of third parties.

17 (5) Poker is unlike banking games in important respects  
18 that make it well-suited for interactive gaming. Poker  
19 operators are not participants in the games and are  
20 indifferent to the outcome because winnings come from the  
21 pool of other players, not the house. In addition, winning at  
22 poker involves some measure of skill. Skillful poker players  
23 can earn winnings in the long term, while players of banking  
24 games play against odds favoring the house.

25 (6) Any interactive gaming enforcement and regulatory  
26 structure must begin from the premise that participation in a  
27 lawful and licensed gaming industry is a privilege, not a  
28 right and that regulatory oversight is intended to safeguard  
29 the integrity of the games and participants and to ensure  
30 accountability.

1           (7) The passage of the Unlawful Internet Gambling  
2 Enforcement Act of 2006, codified at 31 U.S.C. Ch. 53, Subch.  
3 IV (relating to prohibition on funding of unlawful Internet  
4 gambling), clarified issues concerning the scope and  
5 interpretation of State law, including the importance of the  
6 location of the wager, wagering activity and website. For  
7 purposes of suitability for licensing under this act, persons  
8 who provided goods or services related to Internet gaming  
9 involving citizens of this Commonwealth that ceased  
10 operations as a result of the enactment of the Unlawful  
11 Internet Gambling Enforcement Act should be regarded  
12 differently from those that continued to flout Federal and  
13 State law. Granting licenses or allowing the use of the  
14 assets of persons who ignored Federal and State law would  
15 reward unlawful gaming activity, permit manifestly unsuitable  
16 persons to profit from their unlawful gaming activity and  
17 create unfair competition with licensees that respected  
18 Federal and State law.

19           (8) The Commonwealth has entrusted the control and  
20 regulation of gaming to the Pennsylvania Gaming Control Board  
21 for the past seven years. Based on that experience, it is now  
22 appropriate to delegate the responsibility for the  
23 implementation and regulation of interactive gaming to the  
24 board.

25           (9) Authorized interactive gaming, once fully developed,  
26 will allow persons in this Commonwealth to participate in  
27 interactive poker, not only with other persons in this  
28 Commonwealth, but with persons in other cooperating United  
29 States jurisdictions where interactive gaming has been  
30 authorized.

1           (10) The expansion of gaming through the authorization  
2 of interactive gaming requires the Commonwealth to take steps  
3 to increase awareness of problem gambling across interactive  
4 channels and to implement effective strategies for  
5 prevention, assessment and treatment of this behavioral  
6 disorder.

7 § 13B02. Definitions.

8           The following words and phrases when used in this chapter  
9 shall have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11           "Affiliate." As defined in section 1103 (relating to  
12 definitions). The term does not include an individual.

13           "Authorized game." Any interactive poker game approved by  
14 the board pursuant to this chapter.

15           "Authorized participant." A person placing a wager who is  
16 either physically present in this Commonwealth or located in a  
17 jurisdiction with which the Commonwealth has negotiated an  
18 interactive gaming agreement. The intermediate routing of  
19 electronic data in connection with interactive games shall not  
20 determine the location or locations in which a wager is  
21 initiated, received or otherwise made.

22           "Covered asset." Any of the following categories of assets,  
23 if specifically designed for use and knowingly and willfully  
24 used in connection with wagers or gambling games, using the  
25 Internet and involving customers located in the United States  
26 after December 31, 2006, unless licensed by a Federal or State  
27 authority to engage in such activity:

28           (1) any trademark, trade name, service mark or similar  
29 intellectual property that is used to identify any aspect of  
30 the Internet website or the operator offering the wagers or

1 interactive games to its customers;

2 (2) any database or customer list of individuals  
3 residing in the United States who placed wagers or  
4 participated in interactive games with or through an Internet  
5 website or operator not licensed by a Federal or State  
6 authority to engage in such activity;

7 (3) any derivative of a database or customer list  
8 described in paragraph (2); or

9 (4) software, including any derivative, update or  
10 customization of such software, or hardware relating to the  
11 management, administration, development, testing or control  
12 of the Internet website, the interactive games or wagers  
13 offered through the website or the operator.

14 "Gross interactive gaming revenue." The total of all cash or  
15 cash equivalents paid by authorized participants to a licensee  
16 in consideration for the play of interactive games minus:

17 (1) The total of cash or cash equivalents paid out to  
18 players as winnings.

19 (2) Promotional gaming credits.

20 (3) The cash equivalent value of any personal property  
21 or other noncash item of value included in a drawing, contest  
22 or tournament and distributed to players.

23 (4) Taxes paid to other states or territories of the  
24 United States pursuant to interactive gaming agreements  
25 implemented under this chapter.

26 (5) Revenues from nongaming sources, such as food,  
27 beverages, souvenirs, advertising, clothing or other  
28 nongaming sources.

29 Amounts deposited with a licensee for purposes of interactive  
30 gaming and amounts taken in fraudulent acts perpetrated against

1 a licensee for which the licensee is not reimbursed shall be  
2 considered to have been paid to the licensee for purposes of  
3 calculating gross interactive gaming revenue.

4 "Interactive game." Any game offered through the use of  
5 communications technology that allows a person, utilizing money,  
6 checks, electronic checks, electronic transfers of money, credit  
7 cards, debit cards or any other instrumentality, to transmit to  
8 electronic information to assist in the placing of a wager and  
9 corresponding information related to the display of the game,  
10 game outcomes or other similar information. The term does not  
11 include the conduct of gaming that occurs entirely among  
12 participants located within the licensed facility of the  
13 licensee or its affiliate, to the extent that any such gaming  
14 may be authorized by the board, or nongambling games that do not  
15 otherwise require a license under the laws of this Commonwealth.  
16 For purposes of this definition, "communications technology"  
17 means any method used and the components employed by an  
18 establishment to facilitate the transmission of information,  
19 including, but not limited to, transmission and reception by  
20 systems based on wire, cable, radio, microwave, light, optics or  
21 computer data networks, including, but not limited to, the  
22 Internet and intranets.

23 "Interactive gaming agreement." A negotiated agreement  
24 between the Commonwealth and one or more of the states or  
25 territories of the United States in which interactive gaming is  
26 legally authorized that permits persons located in such other  
27 jurisdictions to place wagers on interactive games with  
28 licensees in this Commonwealth or to permit persons located in  
29 this Commonwealth to place wagers on interactive games with  
30 licensees in such other jurisdictions, or both. Agreements may

1 contain other provisions the board deems appropriate, except  
2 that only authorized games may be permitted to be offered to  
3 persons located in this Commonwealth pursuant to an agreement.

4 "Interactive gaming license." A license issued by the board  
5 pursuant to this chapter which authorizes the holder to offer  
6 authorized games for play by, and to accept bets and wagers  
7 associated with authorized games from, authorized participants.

8 "Interactive gaming platform." The combination of hardware  
9 and software designed and used to manage, conduct or record  
10 interactive games or the wagers associated with those games and  
11 which has been approved by the board for purposes of the conduct  
12 of authorized games.

13 "Interactive gaming skin." The portal to an interactive  
14 gaming platform or Internet website through which an authorized  
15 game is made available to customers in this Commonwealth.

16 "Internet." A computer network of interoperable packet-  
17 switched data networks.

18 "Key interactive gaming employee." An individual employed by  
19 a licensee, significant vendor or applicant, or by a holding or  
20 intermediary company of a licensee, significant vendor or  
21 applicant, who is involved in the operation of, or of the wagers  
22 associated with, interactive gaming and who is empowered to make  
23 discretionary decisions that regulate interactive gaming  
24 operations.

25 "Licensee." A licensed entity that holds an interactive  
26 gaming license.

27 "Poker." Any of several card games traditionally known as  
28 poker, in which players compete against each other and not  
29 against the person operating the game, including a game using an  
30 electronic device that simulates a deck of cards. The term



1 includes cash games and tournaments. Licensees may assess a rake  
2 or any other type of fee associated with the game, contest or  
3 tournament but may not wager with or against any player.

4 "Promotional gaming credit." Any bonus, promotion or amount  
5 received by a licensee from an authorized participant for which  
6 the licensee can demonstrate that it or its affiliate has not  
7 received cash.

8 "Significant vendor." A person who offers or proposes to  
9 offer any of the following services with respect to interactive  
10 gaming:

11 (1) management, administration or control of wagers or  
12 of the interactive games themselves;

13 (2) development, maintenance, provision or operation of  
14 an interactive gaming platform or any discrete component  
15 thereof;

16 (3) sale, licensing or other receipt of compensation for  
17 selling or licensing a database or customer list of  
18 individuals residing in the United States selected, in whole  
19 or in part, because they placed wagers or participated in  
20 gambling games with or through an Internet website or  
21 operator or any derivative of such a database or customer  
22 list;

23 (4) provision of any product, service or asset to a  
24 licensee or significant vendor in return for a percentage of  
25 interactive gaming revenue, not including fees to financial  
26 institutions and payment providers for facilitating a deposit  
27 or withdrawal by an authorized participant; or

28 (5) provision of any trademark, trade name, service mark  
29 or similar intellectual property under which a licensee or  
30 significant vendor identifies to customers the authorized

1 games, the website or equivalent hosting the authorized  
2 games, any interactive gaming skin or the interactive gaming  
3 platform, but excluding intellectual property of a person  
4 providing only art or graphics.

5 The term does not include any key interactive gaming employee of  
6 a licensee or significant vendor. A significant vendor must be  
7 licensed by the board to provide these services.

8 § 13B03. Regulation and enforcement by board.

9 (a) General rule.--The board shall promulgate regulations  
10 for the operation and conduct of interactive gaming in this  
11 Commonwealth and shall enforce the regulations.

12 (b) Powers and duties.--

13 (1) The board shall authorize licensees and significant  
14 vendors to conduct interactive gaming involving authorized  
15 participants, subject to the provisions of this chapter and  
16 other applicable provisions of law. The board shall also  
17 develop standards for evaluating and approving interactive  
18 gaming platforms for use with interactive gaming.

19 (2) The board may determine in its discretion the  
20 categories of employees who satisfy the definition of "key  
21 interactive employee" and may exclude from the scope of this  
22 definition any particular licensee, significant vendor,  
23 applicant or employee or category of employee it deems  
24 appropriate.

25 (c) Delegated authority.--The board is designated as the  
26 agency of the Commonwealth with the power and authority to  
27 negotiate and enter into interactive gaming agreements on behalf  
28 of the Commonwealth consistent with this chapter.

29 (d) Interactive gaming agreements.--To the extent  
30 practicable, the board shall negotiate interactive gaming

1 agreements with other states, territories or possessions of the  
2 United States in which interactive gaming has been authorized to  
3 allow players in this Commonwealth to participate in authorized  
4 games with players in such other jurisdictions.

5 § 13B04. Prohibition on unauthorized Internet gaming.

6 (a) Unauthorized gaming.--

7 (1) It shall be unlawful for any person to willfully and  
8 knowingly operate, carry on, offer or expose for play any  
9 interactive game or to accept any bet or wager associated  
10 with any interactive game from any person physically located  
11 in this Commonwealth at the time of such play that is not  
12 within the scope of a valid and current license issued by the  
13 board pursuant to this chapter or by another state, territory  
14 or possession of the United States with which the  
15 Commonwealth has an interactive gaming agreement that permits  
16 such activity.

17 (2) It shall be unlawful for any person to willfully and  
18 knowingly provide services with respect to any interactive  
19 game, bet or wager specified in paragraph (1).

20 (b) Grading of offense.--A person who violates subsection

21 (a) commits a misdemeanor of the first degree. For a second or  
22 subsequent violation of subsection (a), a person commits a  
23 felony of the second degree.

24 (c) Penalties.--

25 (1) For a first violation of subsection (a), a person  
26 shall be sentenced to pay a fine of:

27 (i) not less than \$75,000 nor more than \$150,000, if  
28 the person is an individual;

29 (ii) not less than \$150,000 nor more than \$300,000,  
30 if the person is a licensed manufacturer or supplier; or

1           (iii) not less than \$300,000 nor more than \$600,000,  
2           if the person is a licensed gaming entity.

3           (2) For a second or subsequent violation of subsection  
4           (a), a person shall be sentenced to pay a fine of:

5           (i) Not less than \$150,000 nor more than \$300,000,  
6           if the person is an individual.

7           (ii) Not less than \$300,000 nor more than \$600,000,  
8           if the person is a licensed manufacturer or supplier.

9           (iii) Not less than \$600,000 nor more than  
10           \$1,200,000, if the person is a licensed gaming entity.

11           (d) Forfeiture.--If a person places a wager on an  
12           interactive game from a location in which such activity is  
13           unauthorized, the person shall forfeit all entitlement to any  
14           winnings and the moneys associated with any such forfeited  
15           winnings shall be deposited by the licensee into the Compulsive  
16           and Problem Gambling Treatment Fund established under section  
17           1509(b) (relating to compulsive and problem gambling program).

18           (e) Tax Liability.--An unlicensed person offering  
19           interactive games to persons in this Commonwealth shall be  
20           liable for all taxes required by this chapter in the same manner  
21           and amounts as if such person were a licensee. Timely payment of  
22           such taxes shall not constitute a defense to any prosecution or  
23           other proceeding in connection with unauthorized interactive  
24           gaming, except for a prosecution or proceeding alleging failure  
25           to make such payment.

26           § 13B05. Application for license.

27           (a) Filing of application.--Ninety days from the effective  
28           date of this section, the board shall permit filing of  
29           applications for licenses pursuant to this chapter. The  
30           application shall include, as applicable:

1           (1) The name and business address of the applicant,  
2 including an organizational chart which identifies the  
3 applicant's relationship to any person that holds a slot  
4 machine license and a table game operation certificate issued  
5 by the board.

6           (2) Identification of and a detailed description of the  
7 qualifications of any proposed significant vendors. Detailed  
8 information shall be provided describing the specific  
9 operational responsibilities of significant vendors and the  
10 nature of the economic relationship with those significant  
11 vendors.

12           (3) A detailed description of the technical protocols  
13 and parameters of the interactive gaming platform proposed to  
14 be utilized.

15           (4) Identification and a description of the interactive  
16 games the applicant proposes to make available.

17           (5) Such other information as the board, in its  
18 discretion, shall determine to require.

19 (b) Temporary authorization.--

20           (1) During the first 18 months from the effective date  
21 of this section, the board may issue temporary authorizations  
22 to applicants for licensing as a significant vendor, which  
23 may remain in effect until the shorter of 12 months after the  
24 date of issue or the date by which the board considers the  
25 subject application. Temporary authorizations may be renewed  
26 not more than once, upon a showing of good cause. Temporary  
27 authorization shall allow the applicant to engage in all of  
28 the functions of a fully licensed significant vendor for the  
29 duration of the temporary authorization.

30           (2) No temporary authorization may be issued unless:

1           (i) The applicant has submitted a complete license  
2           application.

3           (ii) The applicant agrees to pay the fee prescribed  
4           in section 13B09 (relating to licensing fee) within 60  
5           days of issuance of the temporary authorization, which  
6           may be refundable in the event a permanent license is not  
7           issued. Failure to make timely payment shall result in  
8           revocation of the temporary authorization.

9           (iii) The bureau has stated that it has no objection  
10           to the issuance of a temporary authorization to the  
11           applicant.

12           (3) Within 45 days of the date that the bureau receives  
13           the completed application of an applicant for investigation,  
14           the bureau shall conduct a preliminary investigation of the  
15           applicant and any key interactive gaming employee of the  
16           applicant, which shall include:

17           (i) a criminal background investigation of the  
18           applicant and any key interactive gaming employee of the  
19           applicant; and

20           (ii) any investigation necessary to determine  
21           whether the applicant or any key interactive gaming  
22           employee of the applicant may fall within the scope of  
23           section 13B08 (relating to presumption of unsuitability).

24           (4) If the bureau's preliminary investigation discloses  
25           no material adverse information, then the bureau shall issue  
26           to the executive director a statement of no objection to the  
27           issuance of a temporary authorization to the applicant.

28           (5) If the bureau's preliminary investigation discloses  
29           material adverse information or if the bureau is unable to  
30           confirm that section 13B08 does not apply, it shall register

1 an objection and no temporary authorization may be issued  
2 until the material concern is resolved or, if applicable,  
3 confirmation that section 13B08 does not apply is received.

4 (6) If the bureau's full investigation of an applicant  
5 discloses material adverse information, the temporary  
6 authorization of any applicant may be suspended or withdrawn  
7 upon a showing of cause by the bureau.

8 § 13B06. Board consideration of application.

9 (a) Suitability.--A holder, or an affiliate of a holder, of  
10 a slot machine license and table game operation certificate,  
11 whose license and certificate are in good standing, shall be  
12 considered suitable to be issued an interactive gaming license  
13 by the board without additional investigation, subject to the  
14 provisions of section 13B08 (relating to presumption of  
15 unsuitability).

16 (b) Significant vendors.--The board shall determine the  
17 suitability of any significant vendors, consistent with the  
18 requirements of this chapter.

19 (c) Qualifications.--A review of the suitability of a person  
20 to hold a license as a licensee or significant vendor shall  
21 include the review and determination of whether:

22 (1) The person possesses the requisite experience and  
23 skill to perform the functions consistent with the  
24 requirements of this chapter.

25 (2) The applicant is a person of good character, honesty  
26 and integrity.

27 (3) The applicant is a person whose prior activities,  
28 criminal record, if any, reputation, habits and associations  
29 do not:

30 (i) pose a threat to the public interest or to the

1 effective regulation and control of interactive gaming;  
2 or

3 (ii) create or enhance the dangers of unsuitable,  
4 unfair or illegal practices, methods and activities in  
5 the conduct of interactive gaming or in the carrying on  
6 of the business and financial arrangements incidental to  
7 such gaming.

8 (4) The applicant has disclosed to the board all known  
9 affiliations or relationships, whether direct or indirect,  
10 with persons and covered assets of persons described by  
11 section 13B08.

12 (d) Owners and key interactive gaming employees.--In  
13 connection with an application for a license as a licensee or  
14 significant vendor, the applicant shall identify and the board  
15 shall determine the suitability of an applicant's owners, chief  
16 executive officer, chief financial officer, any other officer  
17 whom the board deems significantly involved in the management or  
18 control of the applicant and all key interactive gaming  
19 employees.

20 (e) Brand transparency.--The board may not approve the  
21 application of any prospective licensee and shall suspend the  
22 license of any licensee if the licensee's Internet website  
23 through which authorized games are offered to customers in this  
24 Commonwealth or any interactive gaming skin with which the  
25 licensee is associated is identified by a brand or name that is  
26 not owned or controlled by the licensee or an affiliate of the  
27 licensee.

28 (f) Issuance of order.--The board shall issue an order  
29 granting or denying an application for a license as a licensee  
30 or significant vendor within 120 days of the date on which a



1 properly completed application and any additional information  
2 that the board may require is filed. If the board approves an  
3 application, it may impose reasonable conditions of licensure  
4 consistent with the requirements of this chapter.

5 § 13B07. Institutional investors.

6 (a) Declaration of investment intent.--

7 (1) An institutional investor holding less than 25% of  
8 the equity securities of a licensee's, significant vendor's  
9 or applicant's holding or intermediary companies, shall be  
10 granted a waiver of any investigation of suitability or other  
11 requirement if the securities are those of a corporation,  
12 whether publicly traded or privately held, and the holdings  
13 of the securities were purchased for investment purposes  
14 only. The institutional investor shall file a certified  
15 statement that it has no intention of influencing or  
16 affecting the affairs of the licensee, significant vendor,  
17 applicant or its holding or intermediary companies. However,  
18 an institutional investor shall be permitted to vote on  
19 matters put to the vote of the outstanding security holders.

20 (2) The board may grant a waiver to an institutional  
21 investor holding a higher percentage of such securities upon  
22 a showing of good cause and if the conditions specified in  
23 paragraph (1) are met.

24 (3) An institutional investor granted a waiver under  
25 this subsection who subsequently decides to influence or  
26 affect the affairs of the licensee, significant vendor or  
27 applicant's holding or intermediary company shall provide not  
28 less than 30 days' notice of such intent and shall file with  
29 the board a request for determination of suitability before  
30 taking any action that may influence or affect the affairs of

1 the issuer. An institutional investor shall be permitted to  
2 vote on matters put to the vote of the outstanding security  
3 holders.

4 (4) If an institutional investor changes its investment  
5 intent or if the board finds reasonable cause to believe that  
6 the institutional investor may be found unsuitable, no action  
7 other than divestiture shall be taken by the institutional  
8 investor with respect to its security holdings until there  
9 has been compliance with any requirements established by the  
10 board, which may include the execution of a trust agreement.

11 (5) The licensee or significant vendor or applicant and  
12 its relevant holding, intermediary or subsidiary company  
13 shall notify the board immediately of any information about,  
14 or actions of, an institutional investor holding its equity  
15 securities where such information or action may impact the  
16 eligibility of the institutional investor for a waiver  
17 pursuant to this subsection.

18 (b) Failure to declare.--If the board finds:

19 (1) that an institutional investor holding any security  
20 of a holding or intermediary company of a licensee or  
21 significant vendor or applicant or, where relevant, of  
22 another subsidiary company of a holding or intermediary  
23 company of a licensee or significant vendor or applicant  
24 which is related in any way to the financing of the licensee  
25 or significant vendor or applicant, fails to comply with the  
26 provisions of subsection (a); or

27 (2) by reason of the extent or nature of its holdings,  
28 an institutional investor is in a position to exercise such a  
29 substantial impact upon the controlling interests of a  
30 licensee or significant vendor or applicant that

1 investigation and determination of suitability of the  
2 institutional investor is necessary to protect the public  
3 interest;

4 then the board may take any necessary action otherwise  
5 authorized under this chapter to protect the public interest.

6 § 13B08. Presumption of unsuitability.

7 (a) General rule.--The board may not issue a license to or  
8 otherwise find suitable any prospective licensee or significant  
9 vendor, or key interactive gaming employee of a licensee or  
10 significant vender, who has:

11 (1) At any time, either directly or through a third  
12 party whom it controlled or owned in whole or in significant  
13 part, knowingly or willfully:

14 (i) accepted or made available wagers on interactive  
15 games using the Internet from persons located in the  
16 United States after December 31, 2006, unless licensed by  
17 a Federal or State authority to engage in such activity;  
18 or

19 (ii) facilitated or otherwise provided services with  
20 respect to wagers or interactive games using the Internet  
21 involving persons located in the United States for a  
22 person described in subparagraph (i), if such activities  
23 or services would cause such person to be considered a  
24 significant vendor if those activities or services were  
25 provided with respect to interactive games pursuant to  
26 this chapter, and if such person acted with knowledge of  
27 the fact that such wagers or interactive games involved  
28 persons located in the United States.

29 (2) Purchased or acquired, directly or indirectly, in  
30 whole or in significant part, a third party described in

1 paragraph (1) or will use that third party or a covered asset  
2 in connection with interactive gaming.

3 (b) Appeal procedures.--A prospective licensee, significant  
4 vendor or key interactive gaming employee may appeal a  
5 determination by the board that it is within the scope of  
6 subsection (a) only in accordance with the following procedures:

7 (1) The board shall afford the prospective licensee or  
8 significant vendor a hearing at which such person may provide  
9 evidence to support the basis on which it seeks relief.

10 (2) The prospective licensee or significant vendor must  
11 demonstrate by a preponderance of the evidence that:

12 (i) its conduct in connection with interactive games  
13 and wagers involving persons located in the United States  
14 was not unlawful; and

15 (ii) if applicable, the covered assets to be used or  
16 that are being used by such person in connection with  
17 interactive gaming were not used in a manner that was  
18 unlawful, in each case under Federal law and the laws of  
19 each state in which persons making the wagers or playing  
20 the games were located.

21 (3) The determination of the board shall be made without  
22 regard to whether the person has been prosecuted under the  
23 criminal laws of any state, the United States or other  
24 jurisdiction or has been prosecuted and the proceeding  
25 terminated in a manner other than with a conviction.

26 (4) If the prohibition is waived, the prospective  
27 licensee or significant vendor shall satisfy all otherwise  
28 applicable license and suitability requirements.

29 § 13B09. Licensing fee.

30 If the board grants an application under section 13B05

1 (relating to application for license) within 60 days of entry of  
2 the board's order, the successful applicant shall pay a  
3 licensing fee of \$5,000,000 if a licensee or \$50,000 if a  
4 significant vendor.

5 § 13B10. Accounting and operational internal controls.

6 Each interactive gaming license applicant shall submit to the  
7 board and department, in such manner as the board shall require,  
8 a description of its administrative and accounting procedures in  
9 detail, including its written system of internal control. In  
10 addition to other such standards that the board, in its  
11 discretion, may choose to require, the board shall require  
12 licensees to implement appropriate safeguards:

13 (1) To ensure, to a reasonable degree of certainty, that  
14 authorized participants are not less than 21 years of age.

15 (2) To ensure, to a reasonable degree of certainty, that  
16 authorized participants are physically located within this  
17 Commonwealth or such other jurisdiction that is permissible  
18 under this chapter.

19 (3) To protect, to a reasonable degree of certainty, the  
20 privacy and online security of authorized participants.

21 (4) To ensure, to a reasonable degree of certainty, that  
22 the interactive games are fair and honest and that  
23 appropriate measures are in place to deter, detect and, to  
24 the extent reasonably possible, to prevent cheating,  
25 including collusion, and use of cheating devices, including  
26 the use of software programs, sometimes referred to as  
27 "bots," that make bets or wagers according to algorithms.

28 (5) To minimize compulsive gambling and to provide  
29 notice to authorized participants of resources to help  
30 problem gamblers.

1       (6) To ensure authorized participants' funds are held in  
2       accounts segregated from the funds of licensees and otherwise  
3       are protected from corporate insolvency, financial risk or  
4       criminal or civil actions against the licensee.

5       § 13B11. Interactive gaming tax.

6       (a) Weekly taxation.--Each licensee shall report to the  
7       department and pay from its daily gross interactive gaming  
8       revenue, on a form and in a manner prescribed by the department,  
9       a tax of 14% of its daily gross interactive gaming revenue,  
10       which shall be payable to the department on a weekly basis and  
11       shall be based upon gross interactive gaming revenue for the  
12       previous week.

13       (b) Taxes on out-of-State wagering.--The tax rate which  
14       shall be assessed and collected by the department with respect  
15       to any wagers placed by residents of this Commonwealth with an  
16       interactive gaming operator outside of this Commonwealth, but  
17       authorized pursuant to an interactive gaming agreement, shall be  
18       governed by the agreement but may not exceed 14% of gross  
19       interactive gaming revenue derived from residents of this  
20       Commonwealth.

21       (c) Taxes held in trust.--All funds owed to the Commonwealth  
22       under this section shall be held in trust for the Commonwealth  
23       by the licensee until the funds are paid to the department.  
24       Unless otherwise agreed to by the board, a licensee shall  
25       establish a separate bank account into which such funds shall be  
26       deposited and maintained until paid to the department.

27       (d) Federal presumption.--In the event Federal law  
28       authorizes interactive gaming which establishes a tax based on  
29       gross interactive gaming revenue, deposits or the substantial  
30       equivalent of or intended substitute for either of them, of

1 which a portion is allocated to the states, that tax shall  
2 supersede, in its entirety, the tax imposed by this section.  
3 § 13B12. Prohibition on Internet cafes.

4 (a) General rule.--No organization or commercial enterprise,  
5 other than a licensee, shall operate a place of public  
6 accommodation, club, including a club or association limited to  
7 dues-paying members or similar restricted groups, or similar  
8 establishment in which computer terminals or similar access  
9 devices are advertised or made available to be used principally  
10 for the purpose of accessing interactive games.

11 (b) Construction.--Nothing in this section shall be  
12 construed to require the owner or operator of a hotel or motel  
13 or other public place of general use in this Commonwealth to  
14 prohibit or block guests from playing interactive games.  
15 § 13B13. Testing of hardware, software and equipment.

16 (a) Testing by the board.--The board may expand its testing  
17 facility, utilize the services of a private testing facility or  
18 adopt the testing and certification standards of another  
19 jurisdiction and may approve computer hardware, software or  
20 associated equipment based on the prior approval of a private  
21 testing facility or of another jurisdiction whose standards the  
22 board reasonably determines are adequate and comparable to those  
23 required by this part. Costs associated with the expansion of  
24 its own testing facility shall be assessed on significant  
25 vendors licensed to provide interactive gaming platforms.

26 (b) Approval.--

27 (1) No interactive gaming platform may be utilized by a  
28 licensee unless approved by the board or its testing and  
29 certification facility under this section. The board shall  
30 not approve an interactive gaming platform unless the

1 platform is subject to the control, and is the ultimate  
2 responsibility, of the licensee.

3 (2) This subsection shall not be construed to prohibit a  
4 licensee from licensing use or delegating daily operation of  
5 the interactive gaming platform from or to a significant  
6 vendor.

7 § 13B14. Expanded compulsive and problem gambling programs.

8 (a) Expanded programs.--

9 (1) The board and the Department of Health shall jointly  
10 develop expanded programs to address compulsive and problem  
11 gambling issues relating to interactive gaming.

12 (2) Licensees shall address compulsive and problem  
13 gambling issues in the context of interactive gaming in their  
14 respective compulsive and problem gambling plans on file with  
15 the board.

16 (b) Message.--Licensees shall permanently and continuously  
17 display the following message to persons at the time of logging  
18 on to the Internet websites of the licensees or any interactive  
19 gaming skin:

20 If you or someone you know has a gambling problem and  
21 wants help, call 1-800-GAMBLER.

22 § 13B15. Application of other provisions of this part.

23 The following sections of this part, which are expressly  
24 applicable to the conduct or operation of slot machines or table  
25 games, are also deemed applicable to interactive gaming under  
26 this chapter:

27 (1) The board's power and duty to require that licensees  
28 prohibit persons under 21 years of age from playing  
29 interactive games under section 1207(8) (relating to  
30 regulatory authority of board).



1           (2) The obligation to include information on interactive  
2 gaming in the board's annual report under section 1211(a.1)  
3 (relating to reports of board).

4           (3) The procedures, parameters and time frames for  
5 promulgating temporary regulations under section 13A03(a) and  
6 (b) (relating to temporary table game regulations).

7           (4) Manufacturing licensing requirements pursuant to  
8 section 1317.1 (relating to manufacturer licenses).

9           (5) Gaming service provider requirements pursuant to  
10 section 1317.2 (relating to gaming service provider).

11           (6) Permit renewal requirements pursuant to section 1326  
12 (relating to license renewals).

13           (7) Section 1402 (relating to gross terminal revenue  
14 deductions), except that recovery of the costs and expenses  
15 of regulating interactive gaming under this chapter shall be  
16 limited to 1% of gross interactive gaming revenue.

17           (8) The declaration that it shall be unlawful for an  
18 individual under 21 years of age to wager, play or attempt to  
19 play an interactive game under section 1518(a) (13.1)  
20 (relating to prohibited acts; penalties).

21 Section 2. This act shall take effect in 60 days.