

**SENATE . . . . . No. 2039**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
\_\_\_\_\_

An Act revitalizing live racing in the Commonwealth..

*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. Chapter 6 of the General Laws is hereby amended by striking out section  
2 48, as appearing in the 2004 Official Edition, and inserting in place thereof the following  
3 section:- Section 48. The state lottery and gaming commission shall oversee and execute the  
4 duties of chapter 128, chapter 128A and any other general or special law involving the state  
5 racing commission.

6           SECTION 2. The General Laws are hereby amended by striking out chapter 12B.

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

11           SECTION 4. Said Chapter 10 of the General Laws is hereby amended by inserting after  
12 section 24A, as so appearing, the following:-

13           Section 24B. Notwithstanding any general or special law to the contrary, the commission  
14 is shall implement chapter 10A, chapter 128A, and chapter 128C, any special or general law that  
15 pertains to chapter 10A, chapter 128A, and chapter 128C, and any special or general law as it  
16 pertains to live and simulcast racing, to exercise all powers granted thereunder, and to  
17 promulgate all rules and regulations necessary thereof.

18           When exercising its duties under chapter 10A, chapter 128A, and chapter 128C, the  
19 commission shall comply with the following:

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

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

31           (c)     The commission may require any person to apply for a license as provided in this  
32 chapter and approve or disapprove any such application or other transactions, events, and  
33 processes as provided in this chapter. Any application to receive any license under this chapter

34 shall constitute a request for a determination of the applicant's general character, integrity, and  
35 ability to participate or engage in, or be associated with, gaming.

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

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

40 (f) The commission may issue regulations providing for a fine or penalty or interest  
41 on such fine or penalty, upon any gaming licensee, for violation of this chapter. The commission  
42 may approve or disapprove transactions and events as provided in this chapter, take actions  
43 reasonably designed to ensure that no unsuitable persons are associated with controlled gaming,  
44 and take actions reasonably designed to ensure that gaming activities take place only in suitable  
45 premises.

46 (g) The commission shall, pursuant to sections 2 and 3 of chapter 30A, promulgate  
47 regulations necessary to carry out the powers and the provisions of this chapter, chapter 128A,  
48 and chapter 128C; and specifically shall promulgate regulations as to the following matters:

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

52 (2) the licensing of gaming suppliers, including regulations relating to the application  
53 process, background checks, license fees, bonding requirements, and revocations and suspension  
54 of licenses;

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

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

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

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

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

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

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

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

77 (11) the method and standards of operation of licensed gaming establishments including,  
78 but not limited to, games, the type and manner of gaming, wagering limitations, odds, and hours  
79 of operation; provided, however, the commission shall not restrict the number of hours of  
80 operation of any licensed gaming establishment to fewer hours than of any competing licensed  
81 gaming establishment

82 (12) the manufacturing, distribution, sale, testing, servicing, and inspection of gaming  
83 equipment, including requirements for the identification and licensing of same. The commission  
84 may contract with an independent testing laboratory to conduct any necessary testing under this  
85 section. The independent testing laboratory must have a national reputation which is  
86 demonstrably competent and qualified to scientifically test and evaluate slot machines for  
87 compliance with this chapter and to otherwise perform the functions assigned to it in this chapter.  
88 An independent testing laboratory shall not be owned or controlled by a licensee. The use of an  
89 independent testing laboratory for any purpose related to the conduct of slot machine gaming by  
90 a licensee under this chapter shall be made from a list of one or more laboratories approved by  
91 the commission.

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

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

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

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

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

103 (18) the minimum procedures to be adopted by each licensed gaming establishment to  
104 exercise effective supervisory and management control over its fiscal affairs, including the  
105 requirement of an annual audit undertaken in accordance with generally accepted accounting  
106 principles, and the requirement that quarterly reports be provided by licensed gaming  
107 establishments to the commission no more than 30 days after the close of each quarter;

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

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

111 (21) the licensing and regulation of central computer system provider, which services  
112 electronic gaming devices and on and off site auditing of said electronic gaming devices;  
113 provided that, the commission shall ensure that the central computer system shall employ a  
114 widely accepted gaming industry protocol to facilitate slot machine manufacturers' ability to  
115 communicate with the statewide system; and provided further, that said central computer system

116 selected by the commission shall be prohibited from providing electronic gaming devices, or any  
117 other form of player activated terminal for use in connection with said central computer system.

118 (22) whether and under what conditions persons under age 21 may be permitted to enter  
119 facilities with electronic gaming devices.

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

126 (i) Each operating license shall be issued for an initial term of 5 years, and may be  
127 renewed at the discretion of the commission for a term not to exceed 5 years; provided further,  
128 that the commission shall set a renewal fee on the license of not less than \$25,000,000.

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

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

137 conducted in the establishment for which the license is issued until it is replaced by a succeeding  
138 license.

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

142 (m) No person or entity licensed as a licensed gaming operator, gaming establishment  
143 or racing meeting licensee, under chapter 10A, chapter 128A or chapter 128C of the General  
144 Laws, shall be permitted to transfer a direct or indirect real interest, personal interest, pecuniary  
145 interest, including, but limited to, substantial party in interest and affiliates defined under section  
146 2 of chapter 10A of the General Laws, in the interests of the licensee's corporate governing  
147 structure, including those defined under Chapter 108A, Chapter 109, Chapter 155, Chapter 156,  
148 Chapter 156A, Chapter 156B, Chapter 156C and Chapter 156D of the General Laws and those  
149 entities established under the rules and regulations of the Secretary of State, the licensee's  
150 establishment, licensee's structure, licensee's real property, licensee's premise or licensee's  
151 facility, or enter into an option contract, management contract, or other agreement or contract  
152 providing for such transfer in the present or future, without the notification and approval the  
153 commission, and the commission may require either the transferer or transferee or both, as  
154 determined by the commission, to pay to the Commonwealth an amount representing the  
155 Commonwealth's share of the increased value for said of said property or contracts. The  
156 commission shall promulgate rules and regulations for the determination of the payment which  
157 serves in the best interest of the Commonwealth as a result of the transfer; provided that the  
158 commission may consider the actual increase or decrease in the pecuniary value of said license,  
159 the real property, and the shares of interest among the time it was initially purchased, the time of



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

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

183 place any condition or restriction on the transfer of a license or substantial interest or party of  
184 interest, and in all instances it shall consider whether additional compensation is owed to the  
185 Commonwealth.

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

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

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

201 (r) The commission may investigate fraud, deceit, misrepresentation or violations by  
202 any licensee under this chapter, or the occurrence of any such activity involving any licensee. If  
203 the commission has reasonable basis to believe that any licensee has been or is engaged in  
204 criminal behavior or that criminal activity is occurring within or involving any licensed gaming

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

221 All assignment and reassignments to the commission, except as the commissioner of  
222 public safety shall determine that an emergency exists or its threatened, shall be subject to the  
223 approval of the commission. Nothing herein shall prevent licensees from applying to the state  
224 police if they have jurisdiction in the area where gaming establishment is located, or to the police  
225 department of a city or town wherein the gaming establishment is located, in order that such  
226 police agency may furnish a police detail for safety or traffic purposes at any gaming  
227 establishment authorized by this chapter. The total cost for any such police detail shall be a sum

228 equal to the salaries of the police officers comprising such detail, plus a sum to cover the  
229 administrative expenses incurred by the department of each such police officer, which is to be  
230 paid by the licensee.

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

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

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

246 (v) The commission shall require the licensee to provide annual updates regarding  
247 the condition of the facility and the commission shall approve plans for all capital projects in  
248 excess of \$500,000, and projects that would substantially change the use of the property other  
249 than as a racetrack.

250 (w) The commission may, one-year after four licenses to the racing meeting licensees  
251 have been granted in the Commonwealth under Chapter 10A of the General Laws, make a  
252 determination on the viability of granting 1 additional gaming operator license in either  
253 Hampden, or Hampshire County; provided however, that said license shall be a granted only to a  
254 parimutuel racetrack in accordance with Chapter 128A of General Laws, and is authorized to  
255 conduct simulcast racing pursuant to 128C of the General Laws and is authorized to be a lottery  
256 reseller, pursuant to Chapter 10 of the General Laws; provided, that in making such  
257 determination, said commission shall take into consideration the economic impact,  
258 environmental issues, public safety impact, effect on traffic and infrastructure and other relevant  
259 costs, benefits and factors of granting and additional license. The applicant for said license shall  
260 be required to fulfill the requirements under this Chapter and Chapter 10A of the General Laws  
261 and the rules and regulations set forth by the commission. No current or former licensed gaming  
262 operator under Chapter 10A of the General Laws or racing meeting licensee under Chapter 128A  
263 of the General Laws shall have any direct or indirect, real interest, personal interest or pecuniary  
264 interest the applicant's license application. Nothing in this section shall preclude any city or  
265 town in the commonwealth from prohibiting the use and operation of electronic gaming devices  
266 in the community, from imposing local controls or conditions on electronic gaming devices,  
267 from enacting or enforcing applicable zoning laws or regulations, or from imposing any fee or  
268 tax otherwise authorized, provided any inspection, tax, or fee is not inconsistent with this act, or  
269 the laws of the United States.

270 SECTION 5. Said chapter 10 is hereby further amended by inserting after section 26, as  
271 so appearing, the following section:-

272           Section 26a. The Treasurer shall appoint, subject to the approval of the commission, a  
273 director for division of racing and gaming established under chapter 10A of the General Laws,  
274 hereinafter called the executive director, who shall serve at the pleasure of the commission, shall  
275 devote his entire time and attention to the duties of his office, and shall receive such salary as the  
276 commission may determine. The executive director shall serve for a term of five years. The  
277 executive director shall not serve more than two consecutive terms. He shall supervise and  
278 administer the operation of licensed parimutuel wagering and licensed gaming establishments in  
279 accordance with the provisions of the chapter 128A, chapter 128C, chapter 10A of the General  
280 Laws, any special laws, and rules and regulations made thereunder.

281           The executive director shall, subject to the approval of the commission, appoint such  
282 deputy directors and such other professional, technical and clerical assistants and employees as  
283 may be necessary; provided, however, that such deputies, assistants and employees shall not be  
284 subject to chapter 31 and section 9A of chapter 30.

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

291           The executive director shall, subject to the approval of the commission and the applicable  
292 laws relating to public contracts, enter into contracts for the operation of his offer, or any part

293 thereof. No contract awarded or entered into by the executive director shall be assigned by the  
294 holder thereof except with the specific approval of the commission.

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

298 SECTION 6. The General Laws, as appearing in the 2004 official edition, is hereby  
299 amended by inserting after chapter 10 the following new chapter:-

300 Chapter 10A. Live Racing and Gaming

301 Section 1. (a) This act shall be known and may be cited as the "Live Racing  
302 Revitalization Act."

303 (b) No applicant for a license or other affirmative approval within the scope of this  
304 chapter has any property or other right to a license or to the granting of the approval sought. Any  
305 license issued or other approval granted pursuant to this chapter is a fully revocable privilege,  
306 and no holder acquires any vested right therein or thereunder. Except as otherwise provided  
307 herein, no person other than a licensee hereunder shall have any right to or interest in gaming  
308 revenue in the form of a percentage or contractual interest of any sums payable hereunder

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

314 (d) In the event of any conflict between the provisions of this chapter and the  
315 provisions of any other general or special law, or local ordinance, the provisions of this chapter,  
316 chapter 10, chapter 128A and chapter 128C shall prevail.

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

319 "Affiliate," any person that a licensee or applicant directly or indirectly controls or  
320 in which an applicant or licensee possesses an interest. For the purposes of this definition,  
321 "controls" means either (i) directly or indirectly holding more than 10 percent of voting  
322 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,  
323 general partners, trustees, or members of an entity's governing body are representative of, or are  
324 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,  
325 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of  
326 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general  
327 partners, trustees, or members of an entity's governing body are representatives of, or are directly  
328 or indirectly controlled by, the licensee or applicant.

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

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

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



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

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

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

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

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

347 "Division," means the Division of Racing and Gaming established under section 3.

348 "Electronic Gaming Device" means any game of chance mechanical, electronic or  
349 otherwise featuring coin drop and payout as well as printed tabulations or credits to a paper or  
350 electronic account, whereby the software or hardware of the device predetermines the presence  
351 or lack of a winning combination and payout, including microprocessor-controlled electronic  
352 devices that allow a player to play games of chance, which may be affected by an element of  
353 skill, activated by the insertion of a coin or currency or by the use of a credit and awards game  
354 credits, cash, tokens, replays or a written statement of the player's accumulated credits, which

355 written statements are redeemable for cash; and including slot machines, video lottery terminals  
356 and video facsimile machines of any type.

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

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

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

364 "Gaming equipment," any equipment, device, object or contrivance, or machine,  
365 whether mechanical, electromechanical, or electronic, which is specifically designed or  
366 manufactured for use in the operation of gaming.

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

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

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

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

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

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

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

394 (1) A subsidiary with respect to a holding company, and

395 (2) A holding company with respect to a corporation or limited partnership or other  
396 entity that holds or applies for a gaming license;

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

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

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

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

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

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

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

414 "Racing meeting licensee" the running horse racing meeting licensee in Suffolk  
415 County, harness horse racing meeting licensee in Norfolk County, and dog racing meeting  
416 licensees in Suffolk and Bristol Counties licensed by the State Racing Commission pursuant to  
417 chapter 128A of the General Laws, as amended, to conduct parimutuel racing during calendar

418 year 2006, or their respective assigns; provided, however, that the two dog racing meeting  
419 licensees in Bristol County shall be deemed one for all purposes of this act; and, further,  
420 excluding any licensees of racing meetings held or conducted in connection with a state or  
421 county fair.

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

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

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

431 (b) The executive director of the division shall be appointed by the state and lottery  
432 and gaming commission pursuant to section 26a of chapter 10. The executive director shall be  
433 responsible for the oversight and operation of the division. The executive director shall employ  
434 such professional, technical, and clerical assistants and employees as necessary, subject to  
435 appropriation; provided, however, such assistants and employees shall not be subject to chapter  
436 31 or Section 9(A) of chapter 20 of the General Laws. The executive director shall execute and  
437 enforce the rules, regulations and directives of the commission and provide the necessary  
438 administrative support.

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

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

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

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

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

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

456           (6)     To have access to and to inspect, to examine, to photocopy, and to audit all  
457 relevant and material papers, books, and records of any affiliate of a licensed gaming  
458 establishment that the executive director knows or reasonably suspects is involved in the  
459 financing, operation, or management of any entity licensed pursuant to this chapter, either on the

460 affiliate's premises or elsewhere, as practicable, in the presence of the affiliate or any agent  
461 thereof; and,

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

466 (d) The executive director shall investigate the qualifications of each applicant under  
467 this chapter and make a recommendation to the commission before any license is issued. The  
468 executive director shall also continue to monitor the conduct of all licensees and other persons  
469 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring  
470 that licenses are not issued to, or held by, and there is no direct or indirect material involvement  
471 with a licensee by unqualified, disqualified, or unsuitable persons, or persons whose operations  
472 are conducted in unsuitable manner or in unsuitable or prohibited places, as provided in  
473 commission regulations.

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

477 (f) The executive director shall maintain a file of applications for licenses under this  
478 chapter, together with a record of all action taken by the commission on those applications. Such  
479 applications shall be open to public inspection; provided however, that the executive director  
480 shall prohibit access to information that is a trade secret, or puts the applicant for a license at an  
481 unfair disadvantage with other applicants; provided further, that the executive director shall

482 consult with the division on public records on the appropriate distributing or withholding of said  
483 information. The executive director may maintain any other files and records as it deems  
484 appropriate.

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

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

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

497 (j) The executive director may investigate, fraud, deceit, misrepresentation or  
498 violations of this chapter by any person licensed hereunder or the occurrence of any such activity  
499 within or involving any licensed gaming establishment. If the executive director has reasonable  
500 basis to believe that any licensee has been or is engaged in criminal behavior or that criminal  
501 activity is occurring within or involving any licensed gaming establishment, the executive  
502 director shall report same to the district attorney of the county within which the licensed gaming  
503 establishment is located and the attorney general. The executive director shall make available to



504 said district attorney, the attorney general, and to the commission all relevant information on  
505 such activity.

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

511 (l) The executive director shall make a continuous study and investigation of gaming  
512 throughout the commonwealth in order to ascertain the adequacy and effectiveness of state  
513 gaming law or regulations and may formulate recommendations for changes in such laws and  
514 regulations. The executive director shall make a continuous study and investigation of the  
515 operation and administration of similar laws in other states or countries, of any literature or  
516 reports on the subject, of any federal laws which may affect the operation of gaming in the  
517 commonwealth, all with a view to recommending or effecting changes that will tend to better  
518 serve and implement the purposes of this chapter.

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

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

523 (o) The executive director must include all studies, reports, recommendation and  
524 other collected information required under this chapter, any General Law, special law, or as

525 required by the commission to be included in the commission's annual report required under  
526 section 24b of chapter 10.

527           Section 4.       (a) Notwithstanding the provisions of chapter 137, chapter 271 or any  
528 other general or special law to the contrary, each racing meeting licensee is eligible to be  
529 licensed, subject to all terms and conditions imposed by the commission and subject to each  
530 racing meeting licensees eligibility to hold such license, as determined by the Commission,  
531 which shall include the suitability of each racing meeting licensee to hold, maintain and control  
532 such a license, to operate a gaming establishment; and apply to the commission for the right to be  
533 awarded one of four licenses to operate up to 2,000 electronic gaming devices at said licensee's  
534 premises only; provided further, that only one racing meeting licensee shall be allowed to hold in  
535 whole or in part one license under this section. The commission shall determine how many  
536 electronic gaming devices shall be allowed at each licensee's location, and the suitability of each  
537 licensee to solicit, own, rent, lease, maintain, and operate electronic gaming devices.

538           The commission shall identify the person, persons, entity or entities in possession or  
539 ownership or both of a racing meeting license issued under chapter 128A and chapter 128C. If  
540 there has been a change, intent to change or option to purchase the ownership of the premises or  
541 racing meeting license or both since November 1, 2006, then the applicant shall fully disclose the  
542 information by filing it with the commission within 30 days of the passage of this act, unless  
543 demanded sooner than 30 days by the commission.

544           In addition to paying the fee under subsection (c) of this section and any other provisions  
545 of this chapter, the applicant must provide and the commission must consider the following in  
546 making a determination of whether to issue a license under this section:

547           (1)     The applicant must be a parimutuel licensee licensed under chapter 128A and  
548 also licensed to conducted simulcast racing under chapter 128C,

549           (2)     The applicant must be a licensed lottery reseller and must sell lottery products at  
550 its establishment;

551           (3)     The applicant must demonstrate that it has sufficient capital capacity to install the  
552 electronic gaming devices in a suitable facility within a reasonable period of time after being  
553 licensed and that the applicant’s proposal for electronic gaming devices will provide maximum  
554 amount of return to the Commonwealth at its facility,

555           (4)     The applicant must supply a detailed breakdown of new job creation expected as  
556 a result of receiving a license, which shall not included jobs created at kennels or the backstretch,  
557 so-called,

558           (5)     The applicant must demonstrate that it has an agreement with the host community  
559 for mitigation caused by expanded gaming in addition to those set forth under this chapter,

560           (6)     The applicant must have a certified and binding vote of the legislative authority  
561 and the approval of the executive authority of the city or town where the applicant is located to  
562 have slot machines at the racetrack and the certified voted cannot be prior to January 1, 2005,

563           (7)     The applicant must demonstrate to the commission a plan by which the applicant  
564 shall purchase, lease or finance electronic gaming devices from a electronic gaming device  
565 distributor or manufacturer licensed by the commission, and utilize said devices in the most  
566 efficient manner possible to provide the greatest revenue to the Commonwealth; and

567           (8)     The applicant must meet the licensee bonding requirement as set by the  
568 commission.

569           (b)     The commission shall collect, on behalf of the Commonwealth, from each  
570 licensee a sum equal to 52.5 percent of net gaming revenues from electronic gaming devices;  
571 provided, further, that this percentage shall not be increased, nor decreased for 10 years after the  
572 initial issuance of the license to the applicant; provided, further, that from said sums the  
573 commission shall first pay to the Treasurer, on behalf of the local aid fund, a sum equal to the  
574 diminishment, if any, in said fund attributable to this Chapter, as certified by the Treasurer, and  
575 secretary of administration and finance, and the chairs of the house and senate ways and means  
576 committees. Of the funds collected by the commission under this paragraph, on behalf of the  
577 Commonwealth one-third shall be deposited in the General Fund, one-third shall be deposited in  
578 the Commonwealth Stabilization Fund, and one-third shall be utilized for local aid.

579           The commission shall collect from each licensee a sum equal to 7 percent of net gaming  
580 revenues from electronic gaming devices; which the commission shall then deposit in the purse  
581 account pool established under subsection (l) of this section.

582           The commission shall collect from each licensee a sum equal to 5 percent of net gaming  
583 revenues from electronic gaming devices, which the commission shall deposit in the live racing  
584 promotional fund established under subsection (k) of this section.

585           The commission shall collect from each licensee a sum equal to 2 percent of net gaming  
586 revenues from electronic gaming devices, which the commission shall then deposit in the  
587 community mitigation fund established under subsection (i) of this section.

588           The commission shall collect a sum equal to 0.5 percent of net gaming revenues from  
589 electronic gaming devices, which the commission shall pay toward compulsive gambling  
590 organizations, as determined by the department of public health; provided further, that said  
591 compulsive gambling organization, or organizations shall utilize said monies for the prevention,  
592 intervention and treatment of compulsive gambling in the Commonwealth; provided further that,  
593 not less than 20 percent of the funds received under this paragraph shall be utilized for the  
594 purpose of identification, prevention, intervention, and treatment of compulsive gambling in  
595 minority and immigrant communities; provided further, that the commission shall not pay more  
596 than \$6,000,000 annually to compulsive gambling organizations or organizations, as determined  
597 by the department of public health, and the remainder of said amount shall be collected by the  
598 commission, on behalf of the Commonwealth, and 50 percent of said overage amount shall be  
599 deposited in the General Fund and the other 50 percent of the overage shall be deposited in the  
600 Commonwealth Stabilization Fund.

601           The remaining sums shall be retained by each licensee as said commission shall  
602 determine; provided, further, that each such licensee shall in addition pay all taxes otherwise due  
603 and payable; and provided, that said sums retained by each licensee shall be subject to fees set by  
604 the commission, or by this chapter and taxation by any other General Law; and provided further,  
605 that the commission shall collect from the running horse meeting licensee located in Suffolk  
606 County a sum of not less than \$300,000 by March 31 of each year and the commission shall pay  
607 said amount to The Eighth Pole, Inc. by April 1 of said year.

608           (c)    In addition to all other fees payable hereunder, the commission shall require each  
609 racing licensee that meets the requirement of the commission and the chapter and is authorized

610 by the commission under subsection (a) of this section to operate a gaming establishment, to pay  
611 an initial one time fee of \$50,000,000;

612 (d) No person or party shall operate a gaming establishment without having  
613 obtained all necessary operating licenses from the commission. There shall be a single licensed  
614 operator for each gaming establishment and each racing meeting licensee. No license shall  
615 operate, invest or own, in whole or in part, another licensee's license or establishment. If a  
616 licensee does have more than one license, or operates, invests or owns, in whole or in part,  
617 another license, said licensee shall within 30 days divest the license or interest subject to the  
618 approval of the commission, and shall pay a fine of up to \$5,000 per day; provided further that  
619 persons or entities that violate this section shall be required to surrender to the commission any  
620 licenses issued to the licensee under this chapter, chapter 24, chapter 128A and chapter 128C;  
621 provided further, that the persons or entities shall be prohibited in the future from being able to  
622 apply and receive licenses under said chapters. Failure for a licensee to comply with this section  
623 shall result in a fine of \$5,000 per day.

624 The licensing standards must be met at all times by each officer, director, partner,  
625 and trustee of the operating entity, by each substantial party in interest of the operating entity or  
626 of the premises on which such establishment is located, and by such other party in interest of the  
627 operating entity, the premises, or any holding company or intermediary company of the  
628 operating entity or the premises as the commission may require. In no event shall the  
629 commission permit a person previously convicted of a felony under state or federal law, or any  
630 comparable conviction of a felony of a law in another country or who has not satisfied the  
631 standards for financial capability, to be a substantial party in interest of the gaming operator, the

632 gaming establishment, or of the premises, or to hold any direct or indirect interests in such  
633 gaming operator, gaming establishment or premises.

634 (e) A person may apply to be a licensed operator by filing an application with the  
635 commission. Each application shall disclose the identity of each party in interest, each holding  
636 company and intermediary company, and each affiliate of the operating entity. The application  
637 shall disclose, in the case of the privately held corporation, the names and addresses of all  
638 directors, officers, and stockholders; in the case of a publicly traded corporation, the names and  
639 addresses of all directors, officers, and persons holding at least five percent of the total capital  
640 stock issued and outstanding; in the case of a limited liability company, the names and addresses  
641 of all members of the management committee and all persons holding at least 5 percent of the  
642 membership interests; in the case of a partnership, the names and addresses of all partners, both  
643 general and limited; and in the case of a trust, the names and addresses of all trustees and  
644 beneficiaries.

645 (f) Each operating entity shall identify, in its application, the facilities and structures  
646 that will be constructed on the premises containing the establishment where it proposes to  
647 conduct its gaming operations. The application shall contain such information regarding the  
648 physical location and condition of the premises and the potential impact of the proposed gaming  
649 operations upon adjacent properties and the municipality and region within which the premises  
650 are located, as the commission may require. The application shall disclose the identity of all  
651 parties in interest regarding the premises and to be on the premises; and except as otherwise  
652 permitted herein, no person other than a gaming establishment licensee hereunder shall have any  
653 right to or interest in any gaming revenue derived from electronic gaming devices in the form of  
654 a percentage of such sums or require more than fair market value for rent, leases or services. The

655 application shall identify proposed infrastructure improvements, economic development and job  
656 creation opportunities to the municipality and the region wither the premises are located, as the  
657 commission may require.

658 (g) No licensed operator shall obtain any gaming equipment from a person who does  
659 not hold a license. No licensed operator shall enter into any agreement for the receipt of goods  
660 or services, of any form and in any amount, from a person who does not hold a license, when a  
661 license is required for such agreement under this act or under regulations promulgated by the  
662 commission.

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

666 (i) The community mitigation fund shall be used to provide mitigation resources for  
667 those communities with a licensed parimutuel racetrack or a licensed gaming establishment and  
668 communities that are contiguous with such licensed parimutuel racetracks, or licensed gaming  
669 establishments. Of the amount collected each year by the commission for the purposes of  
670 mitigation, pursuant to subsections (b) and subsection (j) of this section, the city of Taunton  
671 shall receive not less than 5 percent, the town of Raynham shall receive not less than 5 percent,  
672 the town of Plainville shall receive not less than 5 percent from said fund, the city of Revere  
673 shall receive not less than 25 percent, the city of Boston shall receive not less than 25 percent  
674 from said fund, and the remainder shall be deposited into said fund and be distributed by the  
675 commission to address direct increases in the cost of municipal and state public services caused  
676 by each licensed operator, including, but not limited to, improving access roads adjacent or



677 contiguous to the facilities, improving traffic flow, and congestion in the host communities and  
678 contiguous communities, and law enforcement costs experienced by such communities; provided  
679 that, contiguous communities shall mean those whose borders abut by land, or bridge, a  
680 community where a licensed parimutuel racetrack, or licensed gaming establishment is located;  
681 provided further, that said commission, in distributing such funds, shall give priority to  
682 communities with more than 1 licensed pari-mutuel racetrack, or licensed gaming establishment  
683 and communities contiguous to said communities. Any and all unspent funds shall remain in the  
684 account to be appropriated by the commission for future mitigation claims.

685           (j)       The commission is authorized and directed to establish through the division the  
686 live racing promotion fund for each parimutuel racing meeting licensee which are also licensed  
687 gaming operators under this chapter. The purpose of said each fund is to promote, sustain and  
688 improve live racing in the Commonwealth. The money deposited into said account shall be  
689 collected annually by the commission under subsection (a) of this section. The commission shall  
690 establish rules and regulations under what conditions, the method and time, the application and  
691 review process, and the criteria by which said funds may be distributed to the licensee in the  
692 form of reimbursements for costs born by the licensee which is directly associated to the  
693 improvement of the live racing industry at the licensee's facility. As part of the consideration for  
694 reimbursement, the commission shall consider, but is not limited to, the following: capital  
695 improvements to the racetrack, capital improvements to the backstretch area which shall include  
696 suitable housing, toilet facilities and the barns, capital improvements to the spectator area for the  
697 racetrack, capital improvements to the kennels, promoting and advertising the live racing product  
698 and only the live racing product, promoting and encouraging horse breeding in the  
699 Commonwealth, promoting and encouraging better treatment and welfare of horses and dogs,

700 providing for health and human services to backstretch workers, so-called, and jockeys,  
701 providing additional purses beyond those required under Chapter 128A, Chapter 128C, and this  
702 Chapter of the General Laws or any other special law, and holding races specifically for  
703 Massachusetts breed horses. The commission shall on an annual basis review the progress of the  
704 live racing product of each licensee' facility and may withhold distribution of funds if the live  
705 racing product does not demonstrate an improvement; provided that, the commission shall  
706 considered, but is not limited, as the improvement in the progress of live racing: the number of  
707 live racing days actually conducted, the wagers made of live races, and the wagers made on  
708 simulcast of the live races out of the Commonwealth. The commission may provide for  
709 reimbursement to the licensee in circumstances where there is no demonstrable improvement in  
710 the live racing if the commission determines that the degradation of the live racing product was  
711 the result of the weather conditions, race track conditions, strikes, work stoppages, sickness or  
712 quarantine not within the control of the licensee. Should any licensee be unable, for any reason,  
713 to conduct parimutuel live racing under Chapter 128A of the General Laws and is also unable to  
714 conduct simulcast under Chapter 128C of the General Laws then the commission, on behalf of  
715 the Commonwealth, shall deposit the remainder of the funds in the licensee's account in the  
716 General Fund; in addition, all moneys required to be distribution to this fund from subsection (a)  
717 of this section shall instead be collected by the commission on behalf of the Commonwealth.  
718 Should a licensee become licensed or regain a license to conduct parimutuel live racing under  
719 chapter 128A and meet the requirements under chapter 10 and chapter 10A, of the General Laws  
720 and the commission's rule and regulations and is licensed to simulcast racing under chapter  
721 128C, then the commission shall reestablish said account in accordance to this section, but the  
722 licensee is not entitled or shall receive any monies collected on behalf of the Commonwealth

723 during the period of time the licensee was prohibited from conducting live racing. No monies  
724 from this fund can be used to, promote, advertise, purchase, transport, replace, maintain or  
725 dispose of any electronic gaming devices or equipment, simulcast devices or equipment as  
726 defined under this chapter and chapter 128C.

727 (k) The commission is authorized and directed through the division to establish the  
728 live racing purse pool account to be used to supplement the purses of parimutuel racing meeting  
729 licensees which are also licensed gaming operators under this chapter. The commission shall  
730 establish rules and regulations for the collection, application and distribution of said funds in the  
731 live racing purse pool account. Of the funds collected by the commission each year under  
732 subsection (a) of this section for said account, not less than 35% shall be deposited in the purse  
733 account for the running horse racing meeting licensee in Suffolk County, not less than 15% shall  
734 be deposited in the purse account for the harness horse racing meeting licensee in Norfolk  
735 County, not less than 5% shall be deposited in the purse account for the greyhound racing  
736 meeting licensee in Suffolk County, and not less than 5% shall be deposited in the greyhound  
737 racing meeting licensee in Bristol County and the remainder shall be deposited into the purse  
738 account pool and the commission shall determine what the additional amount, if any, is needed  
739 to ensure that the racing meeting licensee's live racing product is competitive with racetracks  
740 with a similar type and to ensure that there are sufficient purse funds to have Massachusetts  
741 breed horses racing at racetracks within Commonwealth. As part of the determination for  
742 additional purse funds to be deposited into each racing meeting licensees' purse account from  
743 said account, the commission shall consider the average purse per race of the twenty 20 running  
744 horse racetracks in the United States from the previous year multiplied by the number of races  
745 completed from the previous year in compliance with chapter 128A of the General Laws, the

746 commission may consider the average purse per race of the 10 harness horse racetracks in the  
747 United States from the previous year multiplied by the number of races completed from the  
748 previous year in compliance with chapter 128A of the General Laws, the commission may  
749 consider the average purse per race of the 10 greyhound racetracks in the United States from the  
750 previous year multiplied by the number of races completed from the previous year in compliance  
751 with chapter 128A of the General Laws, the commission shall conduct a comparison of  
752 racetracks of the same species and types of racing to those Commonwealth's racing meeting  
753 licensee.

754           The commission shall pay 2 percent of the running horse racing meeting licensee purses  
755 provided under the live racing purse pool account to the Massachusetts Thoroughbred Breeders'  
756 Association, Inc. The running horse racing meeting licensee in Suffolk County and the harness  
757 horse racing meeting licensee in Norfolk County shall be required to dedicated not less than 6  
758 percent of the purses distributed under this section towards racing and purses specifically for  
759 Massachusetts breed horses. Unspent money from the live racing purse account pool shall be  
760 retained in said account and may be only be spent by the commission in compliance with this  
761 section.

762           Should any licensee unable to conduct parimutuel live racing under Chapter 128A of the  
763 General Laws for any reason, then the commission shall discontinue depositing purse monies  
764 from the live racing purse pool account into said licensee's purse account after the day live  
765 racing ends; provided, that the division is authorized and directed to recover any unspent purse  
766 funds from said licensee and deposit it into live purse pool account as unspent funds; and  
767 provided further, that any remaining distributions to said licensee not yet made shall be  
768 transferred to the unspent portion of the account. Should a licensee become licensed or regain a

769 license to conduct parimutuel live racing and meet the requirements under Chapter 10 and 10A  
770 of the General Laws and the commission's rule and regulations, then the commission is  
771 authorized to continue distributions from this section into the licensee's purse account in  
772 accordance to this section, but the licensee is not entitled or shall receive any purse monies  
773 during the period of time the licensee was prohibited from conducting live racing.

774           The commission on an annual basis shall collect and maintain information of purse  
775 distribution of all running horse racetracks, harness horse racetracks and greyhound racetracks  
776 within United States, and said information must include, but is not limited to, the annual purse  
777 distribution, daily purse distribution, purse distribution per race, the number of races run, number  
778 of racing performances, number of calendar days of racing, and the average number of races per  
779 racing performance and per calendar day.

780           (1)     Each licensee must have a contract with each racetrack's respective running  
781 horse, harness horse or greyhound association or equivalent live racing animal representation by  
782 December 31 of each year. Failure of a licensee to not have a contract with its appropriate  
783 association to provide for live racing shall result in the commission suspending all gaming and  
784 non-gaming activities at the licensee's establishment until a contract is reached. If an agreement  
785 between the parties is not reach within a time period as determined by the commission then the  
786 commission shall revoke all of the licensee's license pursuant to this chapter.

787           Section 5.     The commission may make an assessment against the licensees for the  
788 purpose of reimbursing the Commonwealth the cost of the division's operation, administration  
789 and regulation. Said assessment shall be certified annually by the commission as sufficient to  
790 reimburse the commonwealth for funds appropriated for the operation of the division, including

791 amounts sufficient to cover the cost of fringe benefits as established by the secretary of  
792 administration and finance pursuant to section 6B of chapter 29 of the General Laws. Said  
793 assessment shall be made proportionately against each licensee on the basis of the amount of net  
794 gaming revenue retained by each licensed operator from the previous fiscal year. If the  
795 commission fails to expend in any fiscal year the total amount assessed under this paragraph, any  
796 amount unexpended shall be credited against the assessment to be made in the following year  
797 and the assessment in such following year shall be reduced by such unexpended amount. If the  
798 commission finds that it is unable to meet its operating budget during a fiscal year and if it  
799 determines that it requires additional funding is needed, then the commission must make a  
800 request to the Governor, the State Treasurer, the House and Senate Committees on Ways and  
801 Means, and the Joint Committee on Consumer Protection and Professional Licensure, and said  
802 request must include a explanation for the request of addition funding.

803           The commission may establish rules and regulations to assess and collect fees pertaining  
804 to individual regulatory, licensing or investigative matters that can be assessed against a licensee;  
805 provided, that any fees assessed and collected regarding an application or investigation of a  
806 license shall be placed in the gaming investigation account under section 8 of this chapter.

807           Section 6. (a) The commission shall cause to be made and kept a record of all  
808 proceedings at all meetings of the commission. These records shall be maintained by the  
809 division and the division shall make said records available to the public for inspection as allowed  
810 by law.

811           (b) Notwithstanding any other general or special law to the contrary all files, records,  
812 reports, and other information in the possession of any state or local governmental agency

813 including tax filings and related information that are relevant to an investigation by the executive  
814 director conducted pursuant to this chapter shall be made available by such agency to the  
815 commission as requested. Any tax or financial information received from a governmental  
816 agency shall be used solely for effectuating the purposes of this chapter. To the extent that these  
817 files, records, reports, or information are confidential or otherwise privileged from disclosure  
818 under any law, they shall not lose that confidential or privileged status for having been disclosed  
819 to the commission; provided further, that the commission shall consult with the division of  
820 public records regarding the handling of said information.

821 (c) The attorney general, every district attorney, and every state and local law  
822 enforcement agency shall notify the commission of any investigation or prosecution of any  
823 person or entity if it appears that a violation of any law related to gaming has occurred.

824 Section 7. (a) No official, member, employee, or agent of the commission and the  
825 division, having obtained access to confidential records or information in the performance of  
826 duties pursuant to this chapter, unless otherwise provided by law, shall knowingly disclose or  
827 furnish the records or information, or any part thereof, to any person who is not authorized by  
828 law to receive it. Violation of this provision shall be punishable by a fine of not more than  
829 \$10,000 or by imprisonment in the house of corrections for not more than 1 year, or by both such  
830 fine and imprisonment.

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

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

839 (d) Any person under the age of 21 years who plays, places wagers at, or collects  
840 winnings from, whether personally or through an agent, any controlled game, or who is  
841 employed as an employee in a licensed gaming establishment shall be punished by imprisonment  
842 in the house of correction for not more than 1 year, or by a fine of not more than \$1,000, or by  
843 both such imprisonment and fine. Any licensee, or other person, who knowingly allows a person  
844 under the age of 21 to play, place wagers at or collect winnings, whether personally or through  
845 an agent, shall be punished by imprisonment in the house of correction for a term of not more  
846 than 1 year or pay a fine of not more than \$10,000, or by both. A subsequent violation of this  
847 section shall subject the licensee to imprisonment in the house of correction for not more than 2  
848 years or pay a fine of not more than \$25,000, or by both.

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



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

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

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

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

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

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

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

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

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

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

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

898 (4) has on his person or in his possession on or off the premises of any licensed  
899 gaming establishment any key or device known to have been designed for the purpose of and

900 suitable for opening, entering or affecting the operation of any gaming or equipment, or for  
901 removing money or other contents therefrom, except where such person is a duly authorized  
902 employee of a licensee acting in furtherance of his employment within a licensed gaming  
903 establishment.

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

907 (l) The conviction of a licensee for violation of, an attempt to violate, or conspiracy  
908 to violate any provision of this chapter or any regulation thereunder may result in the immediate  
909 revocation of all licenses issued to the violator under this chapter; and, in addition, the court,  
910 upon application of the commission, may order that no new or additional license under this  
911 chapter be issued directly or indirectly to the violator, or be issued to any person who owned the  
912 room or premises in which the violation occurred, for one year after the date of revocation.

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

916 (b) All licensees shall have a duty to inform the commission of any action which they  
917 reasonably believe would constitute a violation of this chapter, and shall assist the commission  
918 and any federal or state law enforcement agency in the investigation and prosecution of such  
919 violation. The commission shall hold a hearing under chapter 30A on any licensees' failure to  
920 comply with this paragraph, and may take appropriate actions including suspension or revocation

921 of the license. No person who so informs the commission shall be discriminated against by an  
922 applicant or licensee because of the supplying of such information.

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

926 (a) \$500 or more, the gaming establishment shall immediately notify the executive  
927 director; or

928 (b) less than \$500, the gaming establishment shall inform the patron of his right to  
929 request that the executive director conduct an investigation.

930 The executive director shall conduct whatever investigation it deems necessary and shall  
931 determine, in its sole discretion and without need for a hearing, whether payment should be  
932 made. In the event the executive director determines that payment should be made, all costs of  
933 the investigation shall be borne by the gaming establishment. Failure of the establishment to  
934 notify the executive director or inform the patron as provided herein shall subject the  
935 establishment to disciplinary action.

936 Any party aggrieved by the determination of the executive director may file a petition for  
937 reconsideration with the commission setting forth the basis of the request for reconsideration.

938 Any hearing for reconsideration shall be conducted pursuant to regulations adopted by the  
939 commission.

940 Section 10. Every licensed gaming establishment shall keep conspicuously posted on his  
941 premises a notice containing the name and numbers of the council on compulsive gambling and a

942 statement of its availability to offer assistance. The commission may require the licensee to  
943 provide this information in one or more languages.

944           Section 11.     Any person or entity who knowingly transmits or receives wagers of any  
945 type by any telecommunication device, including telephone, cellular phone, Internet, or local  
946 area network, which shall mean to include wireless local networks, or any other similar device or  
947 equipment, or knowingly installs or maintain said device or equipment for the transmission or  
948 receipt of wagering information shall be punished by imprisonment in the house of correction for  
949 not more than 2 years or pay a fine of not more than \$25,000 per violation or by both; provided,  
950 however, that this section shall not apply to the use of a local area network as a means to place  
951 wagers on a licensed gaming establishment, or use of said devices or equipment by the  
952 commission in its duties in regulating, enforcing and auditing a licensed gaming operator, or use  
953 of said devices or equipment for the purpose of a licensed gaming operator advertising itself.

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

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

963 SECTION 7. Section 1 of chapter 128A of the General Laws, as appearing in the 2004  
964 Official Edition, is hereby amended by striking out the definition of “Commission” and inserting  
965 in place thereof the following definition:-

966 “Commission,” the state lottery and gaming commission, established under section 23 of  
967 chapter 10 of the General Laws.

968 SECTION 8. Section 1 of chapter 128C of the General Laws, as so appearing, is hereby  
969 amended by striking out the definition “Commission,” and inserting in place thereof the  
970 following definition:-

971 “Commission,” the state lottery and gaming commission, established under section 23 of  
972 chapter 10 of the General Laws.

973 SECTION 9. Section 283 of chapter 94 of the General Laws, as appearing in the 2004  
974 Official Edition, is hereby amended by inserting after the word “standards”, in line 8, the  
975 following words:-or is a licensed and regulated under chapter 10A.

976 SECTION 10. Section 17B of chapter 271 of the General Laws, as appearing in the 2004  
977 edition, is amended by inserting after section 17B the following section:-

978 Section 17C. Whoever uses an local area network or the Internet or both, or being the  
979 occupant in control of premises where a local area network or Internet service or both is located,  
980 or a subscriber for an local area network service or Internet service, knowingly permits another  
981 to use the local area network service or Internet service so located or for which he subscribes, as  
982 the case may be, for the purpose of accepting wagers or bets, or buying or selling of pools, or for  
983 placing all or any portion of a wager with another, upon the result of a trial or contest of skill,

984 speed, or endurance of man, beast, bird, or machine, or upon the result of an athletic game or  
985 contest, or upon contests of skill or chance between the wagers, or upon the lottery called the  
986 numbers game, or for the purpose of reporting the same to a headquarters or booking office, or  
987 for the purpose of collecting a fee for providing the devices for contests of skill or chance  
988 between wagers, or who under a name other than his own or otherwise falsely or fictitiously  
989 procures local area network service or Internet service for himself or another for such purposes,  
990 shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year;  
991 provided, however, that this section shall not apply to use of local area networks or other similar  
992 devices of equipment authorized under the provisions of chapter 10A.

993 SECTION 11. Said chapter 271 is hereby further amended by inserting after section 22B,  
994 as so appearing, the following section:-

995 Section 22C. Nothing in this chapter shall authorize the prosecution, arrest or conviction  
996 of any person for promoting or playing, or for allowing to be conducted, promoted or played, the  
997 games authorized and licensed under chapter 10 and 10A; provided, said game are conducted  
998 under a license issued by the Massachusetts state lottery commission, under the provisions of  
999 chapter 10 and 10A.

1000 SECTION 12. The first paragraph of section 12A of chapter 494 of the acts of 1978 is  
1001 hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 1  
1002 of chapter 54 of the acts of 2006, and inserting in place thereof the following words:- , and until  
1003 December 31, 2009.

1004 SECTION 13. The last paragraph of said section 12A of said chapter 494 is hereby  
1005 amended by striking out the words “December 31, 2008”, inserted by section 2 of said chapter  
1006 54, and inserting in place thereof the following words:- December 31, 2009.

1007 SECTION 14. The introductory paragraph of section 13 of said chapter 494 is hereby  
1008 amended by striking out the words “, and until December 31, 2008”, inserted by section 3 of said  
1009 chapter 54, and inserting in place thereof the following words:- , and until December 31, 2009.

1010 SECTION 15. Section 15 of said chapter 494 is hereby amended by striking out the  
1011 words “, and until December 31, 2008”, inserted by section 4 of said chapter 54, and inserting in  
1012 place thereof the following words:- , and until December 31, 2009.

1013 SECTION 16. The first paragraph of section 9 of chapter 277 of the acts of 1986 is  
1014 hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 5  
1015 of said chapter 54, and inserting in place thereof the following words:- , and until December 31,  
1016 2009.

1017 SECTION 17. The first sentence of the first paragraph of section 3 of chapter 114 of the  
1018 acts of 1991 is hereby amended by striking out the words “, and until December 31, 2008”,  
1019 inserted by section 6 of said chapter 54, and inserting in place thereof the following words:- , and  
1020 until December 31, 2009.

1021 SECTION 18. The last paragraph of said section 3 of said chapter 114 is hereby amended  
1022 by striking out the words “December 31, 2008”, inserted by section 7 of said chapter 54, and  
1023 inserting in place thereof the following words:- December 31, 2009.



1024 SECTION 19. The first paragraph of section 4 of said chapter 114 is hereby amended by  
1025 striking out the words “, and until December 31, 2008”, inserted by section 8 of said chapter 54,  
1026 and inserting in place thereof the following words:- , and until December 31, 2009.

1027 SECTION 20. The last paragraph of said section 4 of said chapter 114 is hereby amended  
1028 by striking out the words “December 31, 2008”, inserted by section 9 of said chapter 54, and  
1029 inserting in place thereof the following words:- December 31, 2009.

1030 SECTION 21. The first paragraph of section 5 of said chapter 114 is hereby amended by  
1031 striking out the words “, and until December 31, 2008”, inserted by section 10 of said chapter 54,  
1032 and inserting in place thereof the following words:- , and until December 31, 2009.

1033 SECTION 22. Section 13 of chapter 101 of the acts of 1992 is hereby amended by  
1034 striking out the words “December 31, 2008”, inserted by section 11 of said chapter 54, and  
1035 inserting in place thereof the following words:- December 31, 2009.

1036 SECTION 23. Section 45 of chapter 139 of the acts of 2001 is hereby amended by  
1037 striking out the words “December 31, 2008”, inserted by section 12 of said chapter 54, and  
1038 inserting in place thereof the following words:-December 31, 2009.

1039 SECTION 24. Notwithstanding the provisions of any general or special law or rule or  
1040 regulation to the contrary, including the provisions of chapter 150E of the General Laws, all  
1041 employees, equipment, finances, data, and records of the Massachusetts state racing commission  
1042 shall be transferred to the Massachusetts division of gaming racing and shall be transferred with  
1043 no impairment of employment rights held immediately before the transfer date, without  
1044 interruption of service, without impairment of seniority, retirement or other rights of employees  
1045 and without reduction in compensation or salary grade. All transferred employees shall continue

1046 their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be  
1047 considered employees for the purposes of said chapter 150E. Any collective bargaining  
1048 agreement in effect immediately before the transfer date shall continue in effect and the terms  
1049 and conditions of employment therein shall continue as if the employees had not been so  
1050 transferred, until a new successor agreement is reached with the Massachusetts state lottery  
1051 commission. Within 90 days of said transfer the Massachusetts Labor Relations Commission  
1052 shall conduct an election with said transferred employees selecting from the existing collective  
1053 bargaining representatives, the winner of said election shall be the exclusive bargaining  
1054 representative of all Massachusetts state lottery commission employees. All new employees of  
1055 the Massachusetts state lottery commission shall be placed in said bargaining unit.

1056 SECTION 25. The transfer of powers from the state racing commission to the  
1057 Massachusetts state lottery commission shall occur one year after the passage of this act.  
1058 Members of the Massachusetts gaming control commission members shall be appointed within  
1059 30 days of this act. The Massachusetts gaming control commission and the state racing  
1060 commission shall enter into a memorandum of understanding to transition of the functions, duties  
1061 and responsibilities to the state racing commission to the Massachusetts state lottery and gaming  
1062 commission within 1 year.