

SENATE No. 2495

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of the Senate amendment (Ways and Means) to the House Bill establishing expanded gaming in the Commonwealth (House, No. 4619).

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

1 region 1: suffolk, middlesex, essex and worcester counties;

2 region 2: norfolk, bristol, plymouth, nantucket, dukes and barnstable counties;

3 region 3: hampshire, hamden, franklin and berkshire counties.

4 Gaming licenses shall only be issued to applicants who are qualified under the criteria set
5 forth in this chapter as determined by the commission. Within any of the regions, if the
6 commission is not convinced that there is an applicant that has both met the eligibility criteria
7 and provided convincing evidence that the applicant will provide value to the region in which the
8 gaming establishment is proposed to be located and to the commonwealth, no gaming license
9 shall be awarded in that region.

10 (b) No other gaming license shall be issued by the commission for a period of 10 years.

11 (c) No gaming licensee shall transfer a license or any direct or indirect interest in the
12 license or a gaming establishment without the majority approval of the commission. Any person

13 seeking to acquire a license through a transfer shall qualify for licensure under this chapter. The
14 commission shall reject any license transfer or transfer of interest in the gaming establishment to
15 an unsuitable person and may reject a proposed transfer that, in the opinion of the commission,
16 would be disadvantageous to the interests of the commonwealth.

17 (d) (1) Notwithstanding any general or special law or rule or regulation to the contrary,
18 the commission may grant, upon request of an applicant for a gaming license, a gaming beverage
19 license for the sale and distribution of alcoholic beverages to be drunk on the premises of a
20 gaming establishment. The alcoholic beverage control commission shall have the exclusive
21 authority to enforce, regulate and control the distribution of alcoholic beverages in the gaming
22 establishment.

23 (2) Chapter 138 and the rules and regulations promulgated by the alcoholic beverages
24 control commission shall apply to a gaming establishment and a gaming beverage license unless
25 otherwise provided by this section.

26 (3) The fee for the gaming beverage license and any renewals of the license shall be
27 determined by the commission. The application fee shall be remitted with the gaming
28 application fee.

29 (4) A licensee under this section shall be permitted to distribute alcohol free of charge
30 and for on-premise consumption to patrons in the gaming area or as a complimentary service or
31 item in the gaming establishment; provided, however, that the commission shall promulgate
32 regulations on such distribution as well as the forms of identification that may be presented to the
33 licensee to demonstrate proof that a person has attained the age of 21.

34 (5) The request submitted to the commission for a gaming beverage license by an
35 applicant for a gaming license shall detail all areas where alcoholic beverages will be served
36 within the gaming establishment. In issuing a gaming beverage license, the commission shall
37 describe the scope of the particular license and any restrictions and limitations; provided, that the
38 license shall not permit the sale or distribution of alcoholic beverages between the hours of 2
39 a.m. and 8 a.m.

40 (6) A gaming licensee shall be responsible for violations of gaming beverage license in
41 the gaming establishment. The commission may revoke, suspend, refuse to renew or refuse to
42 transfer a gaming beverage license for violations of chapter 138, regulations promulgated by the
43 alcoholic beverages control commission and the regulations adopted by the commission. If, at
44 any time, a licensee elects temporary suspension of their gaming license due to violations of this
45 section, said licensee shall owe the commonwealth the average tax on gross gaming revenue
46 based on an appropriate period of time as determined by the commission for the number of days
47 operation was suspended.

48 (7) A gaming beverage license shall be nontransferable without prior approval from the
49 commission. If the license granted under this section is cancelled, revoked or no longer in use, it
50 shall be returned physically, with all the legal rights, privileges and restrictions pertaining to the
51 license, to the commission and the commission may then grant the license to a new gaming
52 licensee under the same conditions as specified in this section.

53 (8) A license granted under this section shall not decrease the number of such licenses
54 authorized to be granted to the host community under chapter 138.

55 (e) A gaming license issued under this chapter shall be valid for a period of 10 years from
56 the date of first issuance. Ten years after issuance, and every 10 years thereafter, the
57 commission shall perform a thorough review of the business strategy of the gaming
58 establishment which shall include plans for expansion and marketing submitted by the licensee.
59 The commission shall establish procedures for renewal and set the renewal fee based on the cost
60 associated with the evaluation of a licensee requesting a renewed gaming license.

61 A gaming licensee shall issue an annual report to the board explicitly stating its progress
62 on meeting each of the stated goals and stipulations from the licensee's original application. If a
63 licensee is unable to meet stated goals within a reasonable time frame, as determined by the
64 board, the board may levy additional fees, so long as the fees are fair and reasonable and the
65 commission may revoke the license, so long as the licensee has been afforded a proper hearing
66 on the matter.

67 Nothing in this section shall preclude the board at any time from reviewing the business
68 operations of a gaming licensee to ensure that the conditions of licensure are being met,
69 including, but not limited to, the suitability of the licensee and any affiliates and the fiscal
70 stability of the gaming establishment.

71 (f) The commission may condition, suspend or revoke a gaming license upon a finding
72 that a licensee: (i) has committed a criminal or civil offense under this chapter or any other laws
73 of the commonwealth; (ii) is not in compliance with gaming regulations or is under criminal
74 investigation in another jurisdiction; (iii) has breached a condition of the gaming license; (iv) is
75 conducting business with or employing a person or entity subject to license or registration under
76 this chapter that is not licensed or registered; (v) is no longer capable of maintaining operations

77 at a gaming establishment; or (vi) whose business practice, upon a determination by the
78 commission, is injurious to the policy objectives of this chapter.

79 (g) Whenever any person contracts to transfer any property relating to an ongoing gaming
80 establishment, including a security holding in a gaming licensee or holding or intermediary
81 company, under circumstances which require that the transferee obtain licensure under this
82 chapter, the contract shall not specify a closing or settlement date which is sooner than 121 days
83 after the submission of a completed application for licensure or qualification, which application
84 shall include a fully executed and approved trust agreement.

85 The commission shall hold a hearing and render a decision on the interim authorization of
86 the applicant. If the commission grants interim authorization, then the closing or settlement may
87 occur without interruption of gaming operations. If the commission denies interim authorization,
88 there shall be no closing or settlement until the commission makes a determination on the
89 qualification of the applicant. If the commission then denies qualification the contract shall be
90 terminated for all purposes without liability on the part of the transferor.

91 (h) No person or affiliate shall be awarded, purchase or otherwise hold or have a financial
92 interest in more than 1 gaming license issued by the commission.

93 (i) When granting the gaming licenses, the commission shall take into consideration the
94 physical distance in of the proposed gaming establishments as they relate to each other and how
95 to maximize the benefits to the commonwealth. No gaming establishment shall be located
96 within 40 miles of any other gaming establishment in the commonwealth.

97 (j) The commission shall evaluate all gaming license applications to determine which
98 application provides the highest and best value to the region and to the commonwealth based on

99 the criteria set out in this chapter, and any other terms the commission determines by regulation.
100 If there is more than 1 applicant in a region who is determined by the commission to be eligible
101 for a gaming license under this section, the commission shall allow each eligible applicant to
102 resubmit its application. An eligible applicant may, in its resubmitted application, voluntarily
103 increase the license fee required by subsection (k) and may modify any portion of their
104 application related to the factors listed in section 16. The commission shall consider the entire
105 application and not base its decision solely on the additional license fee payments in determining
106 which applicant shall be awarded a license.

107 (k) A gaming licensee which has received a license in region 1 or 2 shall pay to the board
108 a fee of not less than \$75,000,000 and a gaming licensee which has received a license in region 3
109 shall pay to the board a fee of not less than \$50,000,000. These fees shall be paid not later than
110 30 days after the final award of the license which sets forth the conditions to be satisfied by the
111 licensee before the gaming establishment may be opened to the public.

112 Section 18. (a) The board shall prescribe the form of the gaming license, which shall
113 include, but shall not be limited to, the following license conditions:

114 Each gaming licensee shall have an affirmative obligation to abide by every statement
115 made in its application to the board under section 13 and every statement made in its bid
116 submission to the board under section 17.

117 Each gaming licensee shall comply with all laws of the commonwealth and all rules and
118 regulations promulgated under this chapter.

119 Each gaming licensee shall abide by all state and local building codes.

120 Each gaming licensee shall pay daily to the board the gross gaming revenue payment.

121 Each gaming licensee shall make, or cause to be made, capital expenditures to its gaming
122 establishment in a minimum aggregate amount equal to or greater than 3.5 per cent of the net
123 gaming revenues derived from the establishment.

124 No person including, but not limited to, substantial party in interest, affiliates and those
125 entities established under the rules and regulations of the state secretary, shall transfer a license,
126 a direct or indirect real interest, structure, real property, premises, facility, personal interest or
127 pecuniary interest under a license issued under this chapter or enter into an option contract,
128 management contract or other agreement or contract providing for such transfer in the present or
129 future, without the notification to, and approval by, the commission. The commission may
130 promulgate rules and regulations, under section 5, that create exemptions from the approval
131 requirement; provided, that:

132 in no event shall a bona fide commercial financial institution licensed by the division of
133 banks which becomes a substantial party of interest with a licensee be considered a transferee;

134 the commission may require the transferor, transferee, or both, to pay to the board an
135 amount representing the commonwealth's share of the increased value for the transferred
136 licenses, property or interest; provided, further, that the commission shall consider as a factor in
137 determining the amount of the payment the market value of said license, property or interest
138 when it was acquired and at the time of the transfer; provided, further, that the commission may
139 place additional conditions or restrictions on said transfer that the commission considers suitable;
140 provided, further, that the commission may reject said transfer if the commission considers the
141 transfer unsuitable; and

142 any payments collected by the board on behalf of the commonwealth based on said
143 transfer shall be deposited in the same manner as license fees are deposited.

144 No gaming licensee shall be permitted to change its business governing structure without
145 the notification and approval of the commission.

146 No gaming licensee shall operate, invest or own, in whole or in part, another licensee's
147 license or gaming establishment. The commission shall promulgate rules and regulations, under
148 section 5, to address violations of this subsection.

149 Each gaming licensee shall cooperate with the commission, the board and the attorney
150 general in all gaming-related investigations. Each licensee shall make readily available all
151 documents, materials, equipment, personnel and any other items requested during all
152 investigations. Material that the licensee considers a trade secret or detrimental to the licensee if
153 it were made public may, with the board's approval, be protected from public disclosure and the
154 gaming licensee may require non-disclosure agreements with the board before disclosing such
155 material.

156 Each gaming licensee shall cooperate with the commission, the board and the attorney
157 general with respect to the investigation of any criminal matter that is discovered on the gaming
158 establishment. The gaming licensee shall, upon receipt of criminal or civil process compelling
159 testimony or production of documents in connection with a civil or criminal investigation,
160 immediately disclose such information to the board. This section shall not prohibit private
161 persons or public entities from seeking any remedy or damages against a gaming licensee.

162 Each gaming licensee shall allow the board to conduct warrantless searches of the
163 licensee's gaming area.

164 Each gaming licensee shall have a duty to inform the board of any action which the
165 licensee reasonably believes would constitute a violation of this chapter, and shall assist the
166 board and any federal or state law enforcement agency in the investigation and prosecution of
167 such violation. No person who informs the board of such an action shall be discriminated against
168 by an applicant or licensee as a consequence for having supplied of such information.

169 Each gaming licensee shall agree to be a state lottery reseller for the purpose of lottery,
170 multi-jurisdictional lottery and keno games and to demonstrate that state lottery and keno games
171 are readily accessible to people in the gaming establishment.

172 Each gaming licensee shall provide an office for the board at the gaming establishment.
173 The board shall establish the minimum requirements for said office.

174 Each gaming licensee shall provide an office for the designated state police unit at the
175 gaming establishment. The board shall establish the minimum requirements for square footage
176 for the state police office, office furnishings and parking space.

177 Each gaming licensee shall collect and annually report to the board a detailed statistical
178 report on the number, job titles and salary of employees hired and retained in employment at the
179 gaming establishment.

180 Each gaming licensee shall agree to make a good faith effort to identify and recruit
181 candidates from the local labor market area and other nearby labor market areas to ensure a
182 diverse workforce.

183 Each gaming licensee shall establish, fund and maintain internal human resource hiring
184 and training practices that promote the development of a skilled and diverse workforce with
185 access to promotion opportunities by:

186 establishing transparent career paths with measurable criteria within the gaming
187 establishment that lead to increased responsibility and higher pay grades that are designed to
188 allow employees to pursue career advancement and promotion;

189 establishing employee access to additional resources, such as tuition reimbursement or
190 stipend policies, to enable employees to acquire the education or job training needed to advance
191 career ladders based on increased responsibility and pay grades; and

192 establishing an on-site child day care program.

193 Each gaming licensee shall formulate for board approval and abide by an affirmative-
194 action program of equal opportunity by which the applicant guarantees to provide equal
195 employment opportunities to all employees qualified for licensure in all employment categories,
196 including a person with a disability, under the laws of the commonwealth.

197 Each gaming licensee shall employ only those persons licensed by the commission or
198 registered by the board.

199 Each gaming licensee shall do business only with those vendors licensed by the
200 commission or registered by the board.

201 Each gaming licensee shall provide to the board aggregate demographic information with
202 respect to the licensee's customers in a manner and under a schedule to be defined by the board.

203 Each gaming licensee shall meet the requirements under clauses 7 through 11 of
204 subsection (a) of section 12 and clause (23) of subsection (a) of section 13 to the satisfaction of
205 the board.

206 Each gaming licensee shall provide complimentary on-site space for an independent
207 substance abuse, compulsive gambling and mental health counseling service and establish a
208 program to train the gaming employees in the identification of and intervention with customers
209 exhibiting problem gaming behavior.

210 Each gaming licensee shall keep conspicuously posted in the gaming area a notice
211 containing the name and a telephone number for problem gambling assistance. The board may
212 require the licensee to provide this information in more than 1 language.

213 Each gaming licensee shall provide a process for individuals to exclude such individuals'
214 names and contact information from the gaming licensee's database or any other list held by the
215 gaming licensee for use in marketing or promotional communications.

216 Each gaming licensee shall meet the requirements under clause (22) of subsection (a) of
217 section 13 to the satisfaction of the board.

218 Each gaming licensee shall institute additional public health strategies as required by the
219 board.

220 (b) The board may include any reasonable additional requirements to the license
221 conditions.

222 Section 19. (a) No person or business shall conduct any business with a gaming licensee
223 regarding the licensee's gaming establishment unless such person has been licensed by the
224 commission or registered by the board.

225 (1) No person or business shall manufacture, sell, distribute or repair gaming equipment
226 or slot machines, other than antique slot machines as defined in section 5A of chapter 271,
227 without a valid gaming vendor license issued by the commission.

228 (2) Non-gaming vendors shall be required to register with the board and shall produce
229 such information as the board may require; provided, however, that the board may require any
230 vendor otherwise considered a non-gaming vendor, which regularly conducts over \$250,000 of
231 business with a gaming licensee within a 12 month period, or \$100,000 of business within a 3
232 year period, to be licensed as a gaming vendor.

233 (b) Any person seeking a gaming vendor license shall file an application with the board.
234 Such application shall be on a form prescribed by the board and shall include, but shall not be
235 limited to, the following:

236 (1) the name of the applicant;

237 (2) the mailing address and if a corporation, the name of the state under the laws of which
238 the corporation is incorporated, the location of the corporation's principal place of business and
239 the names and addresses of the corporation's directors and stockholders;

240 (3) any criminal or arrest record;

241 (4) any civil judgments obtained against the person pertaining to antitrust or security
242 regulation;

243 (5) the identity of every person or entity having a direct or indirect interest in the business
244 and the nature of such interest; provided, that, if the entity is a trust, the application shall disclose
245 the names and addresses of all beneficiaries; provided, further, that if the entity is a partnership,
246 the names and addresses of all partners, both general and limited; and provided, further, that if
247 the disclosed entity is a limited liability company, the names and addresses of all members;

248 (6) an independent audit report of all financial activities and interests including, but not
249 limited to, the disclosure of all contributions, donations, loans or any other financial transactions
250 to or from any gaming licensee or operator of a gaming establishment in the past 5 years; and

251 (7) clear and convincing evidence of financial stability including, but not limited to, bank
252 accounts, records, references, business and personal income and disbursement schedules, tax
253 returns and other reports filed by government agencies and business and personal accounting
254 check records and ledgers.

255 The board may require such other information as it deems appropriate including, without
256 limitation, information related to the financial integrity of the applicant and may require the
257 applicant to submit other documentation the board considers appropriate.

258 (c) Any person owning more than 5 per cent of the common stock of a company required
259 to be licensed as a gaming vendor, or a holding, intermediary or subsidiary of such company,
260 shall be required to file for licensure. The commission may waive the licensing requirements for
261 institutional investors holding up to 15 per cent of the stock of the company, or holding,
262 intermediary or subsidiary company of the company, upon a showing by the person seeking the
263 waiver that the applicant purchased the securities for investment purposes only and does not have
264 any intention to influence or affect the affairs or operations of the company or a holding,

265 intermediary or subsidiary of the such company. Any institutional investor granted a waiver
266 which subsequently determines to influence or affect the affairs or operations of the gaming
267 vendor, or a holding, intermediary or subsidiary of the gaming vendor, shall provide not less than
268 30 days notice to the board of such intent and shall file an application and be subject to the
269 licensing requirements of this chapter before taking an action that may influence or affect the
270 affairs of the applicant company or a holding, intermediary or subsidiary of the applicant
271 company.

272 (d) The board, by a majority vote of all members, may (i) make a recommendation to the
273 commission that it deny a gaming vendor license application; (ii) extend the period for issuing a
274 recommendation in order to obtain additional information necessary for a complete evaluation of
275 the gaming vendor license application; or (iii) recommend to the commission that it grant the
276 applicant a gaming vendor license.

277 (e) The board may deny an application for registration of a non-gaming vendor or
278 supplier if the board finds that an applicant or registrant is disqualified under section 11 or may
279 be unsuitable for registration under section 14.

280 (f) The commission or board, in the case of a non-gaming vendor, may condition,
281 suspend or revoke any license or registration under this section if the commission or board finds
282 that a licensee or registrant has:

283 (i) been arrested or convicted of a crime;

284 (ii) failed to comply with section 10 or

285 (iii) failed to comply with this chapter pertaining to licensees.

286 (g) The board shall establish a master vendor list to monitor all gaming and non-gaming
287 vendor contracts with a gaming establishment. A vendor doing business with a gaming
288 establishment which has failed to submit an application for licensure or registration shall be
289 prohibited from engaging in any future business with a gaming establishment; provided, that the
290 board may terminate any contracts that have been entered into with an unlicensed or unregistered
291 vendor.

292 (h) Each gaming licensee shall have a continuing duty to inform the board of all gaming
293 and non-gaming vendor contracts.

294 (i) A license or registration issued under this section shall be issued for a term of 3 years.
295 It shall be the responsibility of the vendor to ensure that the vendor's license or registration is
296 current.

297 (j) The board shall establish fees for gaming vendor licenses which shall include costs
298 incurred for conducting a background investigation into an applicant for said license. The board
299 shall establish fees for non-gaming vendor registration which shall include costs incurred for
300 conducting a background investigation into an applicant for said registration.

301 (k) The board shall monitor the conduct of all gaming vendors and other persons having a
302 material involvement, directly or indirectly, with a gaming vendor to ensure that gaming vendor
303 licenses are not issued to, or held by, and there is no direct or indirect material involvement with,
304 a gaming vendor by unqualified, disqualified or unsuitable persons.

305 Section 20. (a) Each labor organization, union or affiliate seeking to represent employees
306 who are employed at a gaming establishment shall register with the board.

307 (b) Neither a labor organization, nor its officers who are not otherwise licensed or
308 registered under this chapter, may hold any financial interest in a gaming establishment whose
309 employees are represented by the organization.

310 Section 21. (a) A gaming licensee shall be permitted to issue credit to a patron of a
311 gaming establishment under regulations promulgated under section 5. Such regulations shall
312 include, but not be limited to: (i) procedures for confirming that a patron has an established
313 credit history and is in good standing; (ii) whether the patron has a good credit history with the
314 gaming establishment; (iii) authorization of a credit instrument; (iv) methods for acknowledging
315 a credit instrument and payment of debt; and (v) information to be provided by the patron to the
316 gaming establishment to be shared with the board for auditing purposes.

317 (b) Except as otherwise authorized by the board through regulations under section 5, no
318 establishment, nor any person acting on behalf of an establishment shall: (1) cash any check,
319 make any loan or otherwise provide or allow to a person any credit or advance of anything of
320 value, or which represents value, to enable a person to place a wager; or (2) release or discharge
321 a debt, either in whole or in part, or make a loan which represents any losses incurred by a player
322 in gaming activity, without maintaining a written record of the release or discharge under the
323 rules of the commission. Nothing in this section shall prohibit an establishment from accepting
324 credit cards for non-gaming related purchases or services.

325 (c) Checks cashed in conformity with the requirements of this chapter shall be valid
326 instruments enforceable under the laws of the commonwealth. Any check cashed, transferred,
327 conveyed or given in violation of this chapter or regulations promulgated under section 5 shall be
328 invalid and unenforceable.

329 (d) The commission shall establish by regulation, under section 5, procedures and
330 standards for approving promotional gaming credits; provided, that, no such credit shall be
331 reported as a promotional gaming credit by an operator of a gaming establishment unless the
332 operator can establish that the credit was issued by the gaming establishment and received from a
333 patron as a wager at a game in the gaming establishment; provided, further, that such
334 promotional gaming credit shall not be taxable for the purposes of determining gross revenue.

335 (e) No other person or entity, other than a gaming licensee licensed under this chapter,
336 shall issue credit to a person while the person is a patron of a gaming establishment.

337 (f) Debt collections under this section and debt collection regulations promulgated under
338 section 5 shall be limited to key gaming employees or attorneys acting directly on behalf of
339 gaming licensees; provided further that a key gaming employee shall be prohibited from making
340 any such collections if the key gaming employee serves as a junket representative for the gaming
341 establishment.

342 Section 22. (a) No junkets may be organized or permitted and no person may act as a
343 junket representative or junket enterprise except as authorized by the board under this chapter.

344 (b) A junket representative employed by a gaming licensee or affiliate shall be licensed as
345 a gaming employee; provided, however, that a junket representative need not be a resident of the
346 commonwealth. A person who holds a valid gaming employee license may act as a junket
347 representative while employed by a gaming licensee or an affiliate. No gaming licensee shall
348 employ or otherwise engage a junket representative who is not licensed under this chapter.

349 (c) The board shall deny an application for a license under this section if the board finds
350 that an applicant is disqualified under section 11 or may be unsuitable for licensure under section
351 14.

352 (d) Each gaming licensee, junket representative or junket enterprise shall file a report
353 with the board with respect to each list of junket patrons or potential junket patrons purchased
354 directly or indirectly by the gaming licensee, junket representative or enterprise.

355 (e) No junket enterprise or junket representative or person acting as a junket
356 representative shall: (i) engage in efforts to collect upon checks that have been returned by banks
357 without full and final payment; (ii) exercise approval authority with regard to the authorization or
358 issuance of credit under this chapter; (iii) act on behalf of or under any arrangement with a
359 gaming licensee or a gaming patron with regard to the redemption, consolidation or substitution
360 of the gaming patron's checks awaiting deposit; (iv) individually receive or retain any fee from a
361 patron for the privilege of participating in a junket; or (v) pay for any services, including
362 transportation, or other items of value provided to, or for the benefit of, any patron participating
363 in a junket.

364 Section 23. (a) No gaming licensee shall offer complimentary services, gifts, cash or
365 other items of value to any person unless those complimentary services or items are provided
366 through a complimentary distribution program which shall be filed and approved by the board
367 upon the implementation of the program or maintained under regulations adopted under section
368 5.

369 (b) Gaming licensees shall submit quarterly reports to the board covering all
370 complimentary services offered or engaged in by the licensee during the immediately preceding

371 quarter. The reports shall identify regulated complimentary services and the costs of those
372 services, the number of people who received each service or item and such other information as
373 the board may require. The report shall also document any services or items valued in excess of
374 \$2,000 that were provided to patrons, including detailed reasons as to why they were provided.

375 (c) Complimentary services or items shall be valued in an amount based upon the retail
376 price normally charged by the gaming licensee for the service or item. The value of a
377 complimentary service or item not normally offered for sale by a gaming licensee or provided by
378 a third party on behalf of a gaming licensee shall be the cost to the gaming licensee of providing
379 the service or item, as determined under rules adopted by the commission.

380 Section 24. (a) Upon revocation or suspension of a gaming license under section 26 or
381 upon the failure or refusal to renew a gaming license the commission may appoint a conservator
382 to temporarily manage and operate the business of the licensee relating to the gaming
383 establishment. Such conservator shall be a person of similar experience in the field of gaming
384 management and, in the case of replacing a gaming licensee, shall have experience operating a
385 gaming establishment of similar caliber in another jurisdiction, and shall be in good standing in
386 all jurisdictions in which the conservator operates a gaming establishment.

387 Upon appointment, a conservator shall agree to all licensing provisions of the former
388 licensee.

389 (b) A conservator shall, before assuming managerial or operational duties, execute and
390 file a bond for the faithful performance of such duties payable to the board with such surety and
391 in such form and amount as the board shall approve.

392 (c) The board shall require that the former or suspended licensee purchase liability
393 insurance, in an amount determined by the board, to protect a conservator from liability for acts
394 or omissions of the conservator during the conservator's appointment reasonably related to, and
395 within the scope of, the conservator's duties.

396 (d) During the period of temporary management of the gaming establishment, the
397 commission shall initiate proceedings under this chapter to award a new gaming license to a
398 qualified applicant whose gaming establishment shall be located at the site of the preexisting
399 gaming establishment.

400 (e) Applicants for a new gaming license shall be qualified for licensure under this
401 chapter; provided, however, that the commission shall determine an appropriate level of
402 investment by an applicant into the preexisting gaming establishment.

403 (f) Upon award of a new gaming license, the new gaming licensee shall pay the licensing
404 fee.

405 Section 25. (a) There shall be within the board an investigations and enforcement bureau,
406 which shall be the primary enforcement agent for regulatory matters under this chapter. The
407 bureau shall perform such functions as the chair of the board determines in relation to
408 enforcement, including the investigations of all licensees under this chapter. The bureau shall be
409 under the supervision and control of the deputy director for investigations and enforcement. The
410 deputy director shall be the executive and administrative head of the bureau and shall be
411 responsible for administering and enforcing the law relative to the bureau and to each
412 administrative unit of the bureau. The duties given to the deputy director in this chapter and in

413 any other general or special law shall be exercised and discharged subject to the direction,
414 control and supervision of the chair of the board.

415 (b) The bureau shall be a law enforcement agency and its employees shall have such law
416 enforcement powers as to effectuate the purposes of this chapter, including the power to receive
417 intelligence on an applicant or licensee under this chapter and to investigate a suspected violation
418 of this chapter.

419 (c) Officers and employees of the gaming enforcement unit of the state police assigned to
420 the commission under section 70 of chapter 22C shall work with employees of the bureau, under
421 the direction of the deputy director, to investigate violations of this chapter by a licensee under
422 this chapter or any activity taking place on the premises of a gaming establishment. Officers
423 assigned to work with the bureau shall record their time and submit total hours to the bureau.
424 The board shall reimburse the state police.

425 (d) The bureau shall notify the division of gaming enforcement in the office of the
426 attorney general of any criminal violations by a gaming licensee. The bureau and the division
427 shall cooperate on the regulatory and criminal enforcement of this chapter and may determine
428 whether to proceed with civil or criminal sanctions, or both against said licensee.

429 (e) To further effectuate the purposes of this chapter with respect to the investigation and
430 enforcement of licensed gaming establishments and licensees, the bureau may obtain or provide
431 pertinent information regarding applicants or licensees from or to law enforcement entities or
432 gaming authorities and other domestic, federal or foreign jurisdictions, including the federal
433 bureau of investigation and may send or receive such information electronically.

434 (f) The gaming enforcement unit of the department of state police shall have exclusive
435 police jurisdiction of any criminal activity relating to the operation of a gaming establishment or
436 relating to games or gaming that occurs inside a gaming establishment; provided, however, that
437 the state police shall have concurrent jurisdiction with the law enforcement agency of the host
438 community on all other policing matters and, in consultation with the board, shall execute a
439 memorandum of understanding with the law enforcement agency of the host community that
440 shall include, but not be limited to, procedures involving: (i) assignment of police officers of the
441 host community to the gaming enforcement unit of the state police; (ii) first responder calls from
442 the gaming establishment; (iii) emergencies occurring within the gaming establishment,
443 including the gaming area; and (iv) criminal investigations involving employees or patrons of the
444 gaming establishment.

445 Section 26. (a) The board shall have the authority to issue orders requiring persons to
446 cease activity which violates this chapter, a regulation adopted under this chapter or a law related
447 to gaming in the commonwealth. The board may, in its order, require compliance with such
448 terms and conditions as are reasonably necessary to effectuate the purposes of this chapter.

449 (b) If the board finds, under the procedures established in this section and the regulations
450 adopted under said section 5, that a person is not in compliance with an order issued under this
451 section, it shall assess a civil administrative penalty on such person and the regulations adopted
452 under section 5. The penalty may be assessed whether or not the violation was willful. In
453 determining the amount of the civil penalty, the board shall consider: (i) the nature of the
454 violation; (ii) the length of time the violation occurred; (iii) the risk to the public and to the
455 integrity of gaming operations created by the conduct of the person; (iv) the seriousness of the
456 conduct of the person; (v) any justification or excuse for such conduct by the person; (vi) the

457 prior history of the particular person involved with respect to gaming activity; (vii) any
458 corrective action taken by person to prevent future misconduct; and (viii) other relevant factors.

459 (c) In addition to collecting any civil penalties recoverable under this chapter or any other
460 general or special law, the board may bring an action in the superior court to restrain, prevent or
461 enjoin any conduct prohibited by this chapter or to compel action to comply immediately and
462 fully with an order issued by the bureau. Except in the case of an emergency during which, in the
463 opinion of the court, immediate abatement of the unlawful conduct is required to protect the
464 public interest, the court may in its decree fix a reasonable time during which the person
465 responsible for the unlawful conduct may abate and correct the violation. The expense of the
466 proceeding shall be recoverable from the subject of the proceeding.

467 (d) Upon a recommendation from the board, the commission may issue orders to
468 condition, suspend or revoke a license or permit issued under this chapter.

469 (e) The board may issue an order to cease and desist any activity if the board finds that a
470 licensee has engaged in or is about to engage in an act or practice which constitutes a violation of
471 this chapter or laws of the commonwealth and may take such affirmative action to effectuate the
472 order. If the board finds that the licensee is engaged in an act or practice that would cause
473 irreparable harm to the security and integrity of the gaming establishment or the interests of the
474 commonwealth in ensuring the security and integrity of gaming under this chapter, the board
475 may issue a temporary suspension of the license.

476 (f) Any licensee who has been issued a temporary order of suspension by the board shall
477 be entitled to a hearing before the commission on such suspension within 7 days of the day on

478 which the order was issued. At the conclusion of the hearing, the commission may issue a final
479 order to condition, suspend or revoke the license in question.

480 (g) Any licensee shall have the right to an adjudicatory hearing on an order issued by the
481 board under chapter 30A.

482 Section 27. (a) The board may assess a civil administrative penalty on a licensee or
483 registrant who fails to comply with any provision of this chapter or any regulation or order
484 adopted by the commission; provided, however, that such noncompliance occurred after the
485 board had given the licensee or registrant written notice of such noncompliance and the time
486 stated in the notice for coming into compliance had elapsed. The board may assess a civil
487 administrative penalty on a licensee or registrant without providing written notice of such
488 noncompliance if the failure to comply: (i) was part of a pattern of noncompliance and not an
489 isolated instance; (ii) was willful or neglectful and not the result of error; (iii) resulted in a
490 significant breach to the integrity of the gaming establishment or gaming laws of the
491 commonwealth; and (iv) consisted of failure to promptly report to the board any knowledge of
492 evidence or circumstances that would cause a reasonable person to believe that a violation of this
493 chapter had been committed. The civil administrative penalty shall be in addition to any other
494 civil penalty that may be prescribed by law.

495 (b) For the purpose of determining whether such noncompliance was part of a pattern of
496 noncompliance and not an isolated instance, the board shall consider without limitation the
497 following: (i) whether the board had previously notified the person of such noncompliance on
498 more than 1 occasion during the previous month or of any noncompliance similar to the current
499 noncompliance during the previous 6 months; or (ii) whether the current and previous instances

500 of noncompliance, considered together, indicate a potential threat to the integrity of the gaming
501 establishment and gaming in the commonwealth or an interference with the commission's ability
502 to efficiently and effectively regulate gaming in the commonwealth and enforce any regulation,
503 license or order. If a licensee or registrant who has received a notice of noncompliance fails to
504 come into compliance within the time period stated in such notice, the civil administrative
505 penalty may be assessed by the board upon such licensee or registrant from the date of receipt of
506 such notice.

507 (c) Whenever the board seeks to assess a civil administrative penalty on a licensee or
508 registrant, the board shall cause to be served upon such licensee or registrant, either by service,
509 in hand, or by certified mail, return receipt requested, a written notice of the board's intent to
510 assess a civil administrative penalty which shall include:

511 (i) a concise statement of the alleged act or omission for which the board seeks to assess
512 the civil administrative penalty;

513 (ii) each law, regulation, order, license or approval which has not been complied with as a
514 result of the alleged act or omission;

515 (iii) the amount which the board seeks to assess as a civil administrative penalty for each
516 such alleged act or omission;

517 (iv) a statement of the licensee's or registrant's right to an adjudicatory hearing on the
518 proposed assessment;

519 (v) the requirements such licensee or registrant shall comply with to avoid waiving the
520 licensee's or registrant's right to an adjudicatory hearing; and

521 (vi) the manner of payment of the penalty if the licensee or registrant elects to pay the
522 penalty and waive an adjudicatory hearing.

523 After written notice of noncompliance or intent to assess a civil administrative penalty
524 has been given, each subsequent day during which such noncompliance occurs or continues shall
525 constitute a separate offense and may be subject to a separate civil administrative penalty if
526 reasonable efforts have not been made by the licensee or registrant to promptly come into
527 compliance.

528 (d) Whenever the board seeks to assess a civil administrative penalty on a licensee or
529 registrant, such licensee or registrant shall have the right to an adjudicatory hearing. Chapter
530 30A shall apply to adjudicatory hearings under this chapter; provided, that, if there is a conflict
531 between this chapter and said chapter 30A, this chapter shall govern.

532 (e) A licensee or registrant shall be deemed to have waived the licensee's or registrant's
533 right to an adjudicatory hearing unless, within 21 days of the date of the board's notice that it
534 seeks to assess a civil administrative penalty, the licensee or registrant files with the board a
535 written statement denying the occurrence of the acts or omissions alleged by the board in such
536 notice or asserting that the amount of the proposed civil administrative penalty is excessive. In an
537 adjudicatory hearing the board shall be required to prove the occurrence of each act or omission
538 alleged by the board by a preponderance of the evidence.

539 (f) If a licensee or registrant waives the licensee's or registrant's right to an adjudicatory
540 hearing, the proposed civil administrative penalty shall be final immediately upon such waiver.
541 If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, the civil

542 administrative penalty shall be final upon the expiration of 30 days if no action for judicial
543 review of the decision is commenced under chapter 30A.

544 (g) A licensee or registrant who institutes proceedings for judicial review of the final
545 assessment of a civil administrative penalty shall place the full amount of the final assessment in
546 an interest-bearing escrow account in the custody of the clerk or magistrate of the reviewing
547 court. The establishment of such an interest-bearing escrow account shall be a condition
548 precedent to the jurisdiction of the reviewing court unless the party seeking judicial review
549 demonstrates in a preliminary hearing held within 30 days of the filing of the complaint an
550 inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the
551 interest-bearing escrow account or may require, in lieu of such interest-bearing escrow account,
552 the posting of a bond payable directly to the commonwealth in the amount of 125 per cent of the
553 assessed penalty.

554 (i) If, after judicial review, in a case where the requirement for an escrow account
555 has been waived, and in cases where a bond has been posted in lieu of such requirement, the
556 court affirms, in whole or in part, the assessment of a civil administrative penalty the board shall
557 be paid the amount of the penalty together with interest at the rate set forth in section 6C of
558 chapter 231.