SENATE DOCKET, NO. 2 FILED ON: 1/5/2011

SENATE . . . . . No. 155

The Commonwealth of Massachusetts

PRESENTED BY:

Jennifer L. Flanagan

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

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

An Act relative to expanded gaming in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Jennifer L. Flanagan	
Steven A. Baddour	
Anthony W. Petruccelli	
Steven A. Tolman	
Gale D. Candaras	
Richard T. Moore	
John Hart, Jr.	
Michael R. Knapik	
Thomas M. McGee	*Third Essex*

SENATE DOCKET, NO. 2 FILED ON: 1/5/2011

SENATE . . . . . No. 155

By Ms. Flanagan, petition (accompanied by bill, Senate, No. 155) of Jennifer L. Flanagan, Steven A. Baddour, Anthony W. Petruccelli, Steven A. Tolman and other members of the Senate for legislation to expand gaming in the Commonwealth [Joint Committee on Economic Development and Emerging Technologies].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to expanded gaming 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:

SECTION 1. Section 7 of chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out clause Tenth and inserting in place thereof the following clause:-

Tenth, "Illegal gaming," any banking or percentage game played with cards, dice, tiles, dominoes, or any electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission, under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) pari-mutuel wagering on horse races, whether live or simulcast, under chapter 128A and chapter 128C; (iv) the game of bingo conducted under chapter 271; and (v) charitable gaming, so called, conducted under chapter 271.

SECTION 2. Section 48 of chapter 6 of the General Laws is hereby repealed.

SECTION 3. Sections 64 and 65 of chapter 10 of the General Laws are hereby repealed.

SECTION 4. Chapter 12 of the General Laws is hereby amended by inserting after section 11L the following section:-

Section 11M. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Board", the Massachusetts gaming control board established in chapter 23K.

"Commission", the Massachusetts gaming commission established in chapter 23K.

"Division", the division of gaming enforcement established in subsection (b).

"Gaming establishment", a gaming establishment as defined in section 2 of chapter 23K.

(b) There shall be in the department of the attorney general a division of gaming enforcement. The attorney general shall designate an assistant attorney general as director of the division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical or other assistants as the work of the division may require.

(c) The division's powers and duties shall include the following: (1) investigate and prosecute allegations of criminal activity related to or impacting the operation of gaming establishments or games; (2) receive and take appropriate action on referrals for criminal prosecution from the commission, board or any other law enforcement body; (3) provide assistance, upon request, to the commission and board in the consideration and promulgation of rules and regulations; (4) ensure that there is no duplication of duties and responsibilities between it, the commission and the board; and (5) recommend persons to be placed on the list of excluded persons maintained by the board.

No employee of the division, or any person engaged by the division in the course of an investigation, other than those in the performance of their official duties, shall place a wager in any gaming establishment licensed under chapter 23K during the period of the employee?s employment or assignment with the division.

Officers and employees of the gaming enforcement unit of the state police assigned to the division shall record their time and submit total hours to the board. The board shall reimburse the state police.

The attorney general shall be reimbursed by the board for the costs of operating the division and legal representation of the commission or board.

SECTION 5. Chapter 12B of the General Laws is hereby repealed.

SECTION 6. Subsection (b) of section 9 of chapter 13 of the General Laws, is hereby amended by striking out the words -, as well as the state racing commission established by section 48 of chapter 6,? inserted by section 29 of chapter 4 of the acts of 2009.

SECTION 7. Subsection (e) of section 9B of said chapter 13 is hereby amended by striking out the words -, as well as the state racing commission established by section 48 of chapter 6,- inserted by section 30 of said chapter 4.

SECTION 8. Said subsection (e) of said section 9B of said chapter 13 is hereby amended by striking out the words ?or regulated by the state racing commission, as established by section 48 of chapter 6? inserted by section 31 of said chapter 4.

SECTION 9. Section 35 of chapter 10 of the General Laws, as appearing in the 2008 Official Edition, is amended by striking out, in lines 2 and 16, the words ?State Lottery Fund? and inserting in place thereof the following words:- State Lottery and Gaming Fund.

SECTION 10. Section 39 of said chapter 10, as so appearing, is hereby amended by striking out, in lines 12 to 13 and in line 19, the words "State Lottery Fund" and inserting in place thereof the following words:- State Lottery and Gaming Fund.

SECTION 11. Section 38 of chapter 22C of the General Laws, as so appearing, is hereby amended by inserting after the word "involving", in lines 36 and 37, the following word:- illegal.

SECTION 12. Said chapter 22C is hereby amended by adding the following section:-

Section 70. The colonel of state police shall establish a gaming enforcement unit whose responsibilities shall include, but not be limited to, the investigation of criminal violations of chapter 23K, chapter 271 or any other general or special law that pertains to gaming.

The gaming enforcement unit shall work in conjunction and cooperation with the bureau of investigations and enforcement under the Massachusetts gaming control board established in said chapter 23K and the division of gaming enforcement in the office of the attorney general established under section 11M of chapter 12 to investigate criminal activity related to gaming in the commonwealth. The colonel shall assign officers and employees of the unit to the bureau of investigations and enforcement, who shall report to the director of the bureau as well as the colonel of the department of state police; the colonel shall also assign officers of the unit to the division of gaming enforcement, who shall report to the chief of the division as well as the colonel of the department of state police. No officer of the unit, other than in the performance of official duties, shall place a wager in any gaming establishment licensed under chapter 23K. The

colonel shall establish a program to rotate officers in and out of this unit. The state police shall be reimbursed by the board for the costs of operating the unit.

SECTION 13: The General Laws are hereby amended by inserting after chapter 23J the following chapter:-

Chapter 23K. The Massachusetts Gaming Commission and Massachusetts Gaming Control Board

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Affiliate", a person who, directly or indirectly, controls or is controlled by, or is under common control with, a specified person.

"Applicant", any person who has applied for a license or registration to engage in activity regulated under this chapter.

"Application", a written request for a finding of suitability to receive a license or engage in an activity which is regulated under this chapter.

"Board", the Massachusetts gaming control board created in section 3.

"Bureau", the investigations and enforcement bureau within the board.

"Business", a corporation, sole proprietorship, partnership, limited liability company or any other organization formed for the purpose of carrying on commercial enterprise.

"Capital expenditure", money spent by a licensee to upgrade or maintain depreciable and tangible long-term physical assets that are capitalized on the licensee? books under generally

accepted accounting principles and excluding expenditures or charges for the usual and customary maintenance and repair of any fixed asset.

"Cashless wagering system", a method of wagering and accounting in which the validity and value of a wagering account, promotional account, wagering instrument or wagering credits, not including slot machine printed vouchers, are determined, monitored and retained for an individual by an electronic system operated and maintained by a licensee which maintains a record of each transaction involving the wagering account, promotional account, wagering instrument or wagering credits, exclusive of the game or gaming device on which wagers are being made, including electronic systems which facilitate electronic transfers of money directly to or from a game or gaming device.

"Cheat", alter the selection of criteria which determines the results of a game or the amount or frequency of payment in a game.

"Cheating and swindling device" or "cheating and swindling game", shall include:

(i) a coin, token or slug other than a lawful coin or legal tender of the United States or a coin not of the same denomination as the coin intended to be used while playing or using any slot machine in a gaming establishment, except that in the playing of a slot machine or similar gaming device, it shall be lawful for a person to use tokens or similar objects which are approved by the commission;

(ii) a bogus or counterfeit chip, coin or die; marked card; a computerized, electronic, electrical, mechanical or magnetic device; tool, drill, wire, key or other device designed, constructed or programmed specifically for:

(A) use in obtaining an advantage in any game;

(B) opening, entering or affecting the operation of any gaming device;

(C) removing from slot machine, other gaming device or drop box any money or other contents from such machine, device or box;

(iii) tools, drills, wires, coins or tokens attached to strings or wires, or electronic or magnetic devices to facilitate the alignment of a winning combination;

(iv) a gaming device that has been manufactured, serviced, marked, plugged or tampered with, or placed in a condition or operated in a manner, to:

(A) deceive, or attempt to deceive, the public; or

(B) alter, or attempt to alter, the normal random selection of characteristics, the normal chance of the game or the result of the game at a gaming establishment.

"Close associate", a person who holds any relevant financial interest in, or is entitled to exercise any power in, the business of an applicant or licensee and, by virtue of that interest or power is able to exercise a significant influence over the management or operation of a gaming establishment or business licensed under this chapter.

"Commission", the Massachusetts gaming commission created in section 2.

"Commissioner", a member of the commission.

"Complimentary service or item", a service or item provided at no cost or at a reduced price.

"Conservator", a person appointed by the commission under section 22 to temporarily manage the operation of a gaming establishment.

"Credit card", a card, code or other device with which a person may defer payment of debt, incur debt and defer the payment of the debt, or purchase property or services and defer payment for the property or services, but not a card, code or other device used to activate a preexisting agreement between a person and a financial institution to extend credit when the person's account at the financial institution is overdrawn or to maintain a specified minimum balance in the person?s account at the financial institution.

"Credit instrument", a writing which evidences a gaming debt owed to a person who holds a gaming license at the time the debt is created, and includes any writing taken in consolidation, redemption or payment of a previous credit instrument.

"Division", the division of gaming enforcement under the office of the attorney general.

"Foreign business", any business that was organized outside of the United States or under the laws of a foreign country.

"Gambling", the playing of a game by a patron of a gaming establishment.

"Game", a banking or percentage game played with cards, dice, tiles, dominoes or an electronic, electrical or mechanical device or machine played for money, property, checks, credit or any representative of value which has been approved by the commission under this chapter.

"Gaming", the dealing, operating, carrying on, conducting, maintaining or exposing for pay of a game.

"Gaming area", the premises of a gaming establishment in which or on which gaming is done.

"Gaming control employee" commissioners, board members and board officers, agents, employees, consultants and advisors.

"Gaming device" or "Gaming equipment", an electronic, electrical, or mechanical contrivance or machine used in connection with gaming or a game.

"Gaming employee", an employee of a gaming establishment who is: (i) directly connected to the operation or maintenance of a gaming device, slot machine or game taking place in a gaming establishment; (ii) provides security in a gaming establishment; (iii) has access to a restricted area of the gaming establishment;(iv) is connected with the operation of a gaming establishment; or (v) is so designated by the commission.

"Gaming establishment", the premises approved under a gaming license which includes a gaming area and other nongaming structures related to the gaming area, including, but not limited to, hotels, restaurants or other amenities.

"Gaming license", a license issued by the commission that permits the licensee to operate a gaming establishment with table games and slot machines.

"Gaming licensee", a licensee who holds a gaming license.

"Gaming position", a designated seat or standing position where a patron of a gaming establishment can play a game.

"Gaming service employee", an employee of a gaming establishment who is not classified as a gaming employee or a key gaming employee, but is required to register with the board.

"Gaming vendor", a person who holds a gaming vendor license and offers goods or services to a gaming licensee on a regular or continuing basis which directly relates to gaming, including, but not limited to, gaming equipment, suppliers and repairers.

"Gaming vendor license", a license issued by the commission that permits the licensee to act as a vendor to a gaming establishment.

"Gross gaming revenue", the total of all sums actually received by a gaming licensee from gaming operations less the total of all sums paid out as winnings to patrons; provided, however, that the total of all sums paid out as winnings to patrons shall not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout; provided, further, that "gross gaming revenue" shall not include any amount received by a gaming licensee from credit extended or collected by the licensee for purposes other than gaming.

"Holding company", a corporation, association, firm, partnership, trust or other form of business organization other than a natural person which, directly or indirectly, owns, has the power or right to control or has the power to vote any significant part of the outstanding voting securities of a corporation or other form of business organization which holds or applies for a gaming license; provided, however, that "holding company", in addition to other reasonable meaning of the words used, a holding company shall indirectly have, hold or own any such power, right or security if it does so through an interest in a subsidiary or successive subsidiaries,

regardless of the number of subsidiaries that may intervene between the holding company and the gaming licensee or applicant.

"Host community", a municipality in which a gaming establishment is located or in which an applicant has proposed locating a gaming establishment.

"Institutional investor", any of the following entities having a 5 per cent or greater ownership interest in a gaming establishment, gaming vendor or gaming licensee, or its holding or management company: a corporation, bank, insurance company, pension fund or pension fund trust, retirement fund, including funds administered by a public agency, employees' profit-sharing fund or employees' profit-sharing trust, an association engaged, as a substantial part of its business or operation, in purchasing or holding securities or a trust in respect of which a bank is a trustee or co-trustee, investment company registered under the federal Investment Company Act of 1940, collective investment trust organized by banks under part 9 of the Rules of the Comptroller of Currency, closed end investment trust, chartered or licensed life insurance company or property and casualty insurance company, investment advisor registered pursuant to the federal Investment Advisors Act of 1940, banking and other chartered or licensed lending institution, and such other persons as the commission may reasonably determine to qualify as an institutional investor for reasons consistent with this chapter.

"Intermediary company", a corporation, association, firm, partnership, trust or any other form of business organization other than a natural person which is a holding company with respect to a corporation or other form of business organization which holds or applies for a gaming license, and is a subsidiary with respect to a holding company.

"Joint venture application", an application submitted by an association of two or more businesses in which one of the businesses is a minority business enterprise or a women business enterprise.

"Junket", an arrangement intended to induce any person to come to a gaming establishment to gamble, where the person is selected or approved for participation on the basis of the person's ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble or on any other basis related to the person's propensity to gamble, and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming licensee or affiliate of the gaming licensee.

"Junket enterprise", a person, other than an applicant for a gaming license or gaming licensee, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed gaming establishment, regardless of whether or not those activities occur within the commonwealth.

"Junket representative", an individual who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, any junket to a gaming establishment, regardless of whether or not those activities occur within the commonwealth.

"Key gaming employee", an employee of a gaming establishment: (i) in a supervisory capacity; (ii) empowered to make discretionary decisions which regulate gaming establishment operations; or (iii) so designated by the commission.

"License", any license required under this chapter.

"List of excluded persons", the list of excluded persons maintained by the commission under section 35.

"Lottery", the state lottery established under section 24 of chapter 10.

"Minority business enterprise" or "MBE", the meaning as defined in section 58 of chapter 7 of the General Laws.

"Non-gaming vendor" a supplier or vendor, including, but not limited to, construction companies, vending machine providers, linen suppliers, garbage handlers, maintenance companies, limousine services, food purveyors or suppliers of alcoholic beverages, which provide goods or services not directly related to games to a gaming establishment or gaming licensee.

"Person", an individual, corporation, association, operation, firm, partnership, trust or other form of business association.

"Promotional gaming credit", a slot machine or table game credit or other item issued by a gaming licensee to a patron to enable the placement of a wager at a slot machine or table game.

"Qualification" or "qualified", the process of licensure set forth by the commission to determine that all gaming licensees, gaming vendors, or the business of a gaming licensee or gaming vendor, meet the same standards of suitability to operate or conduct business with a gaming establishment in the Commonwealth.

"Slot machine", a mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object in the device, contrivance or machine, or upon

payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the individual playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever.

"State police", the state police established in chapter 22C.

"Subsidiary", a corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company; or a significant interest in a firm, association, partnership, trust or other form of business organization, other than a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

"Surrounding communities" municipalities in proximity to a host community which the board determines experience or are likely to experience impacts from the development or operation of a gaming establishment, including municipalities from which the transportation infrastructure provides ready access to an existing or proposed gaming establishment.

"Table game", a game, other than a slot machine, which is authorized by the commission to be played in a gaming establishment.

"Transfer", the sale and every other method, direct or indirect, of disposing of or parting with property or with an interest in property, or with the possession of property, or of fixing a lien upon property or upon an interest in property, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge,

mortgage, lien, encumbrance, gift, security or otherwise; provided, that, the retention of a security interest in property delivered to a corporation shall be deemed a transfer conducted by such corporation.

"Wager", a sum of money or representative of value that is risked on an occurrence for which the outcome is uncertain.

?Women business enterprise? or ?WBE?, the meaning as the term is defined in section 58 of chapter 7 of the General Laws.

Section 2. (a) There shall be a Massachusetts gaming commission to be composed of 5 commissioners.

(b) The governor shall appoint 3 of the commissioners, 1 of whom the governor shall designate as chair. The attorney general and state treasurer shall each appoint 1 commissioner. The appointment of each commissioner shall require the approval of at least 2 of the 3 appointing authorities.

(1) Commissioners shall serve for a term of 5 years.

(2) No commissioner may serve more than 2 full terms.

(3) Not more than 3 commissioners shall be of the same political party.

(4) Not more than 2 commissioners shall be of the same professional background or field.

(5) Each commissioner shall be a United States citizen and a resident of the commonwealth.

(c) The commission shall meet as frequently as necessary but at least once each month.

(d) The gaming control board shall provide the commission with administrative and clerical services and other assistance necessary for the commission to perform its functions.

(e) The chair of the commission may receive an annual salary of $60,000. Commissioners may receive a stipend of $50,000.

(f) Three commissioners shall constitute a quorum and 3 affirmative votes shall be required for an action or recommendation of the commission. The chairman or 3 members of the commission may call a meeting; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations establishing procedures, which may include electronic communications, by which a request to receive notice shall be made and the method by which timely notice may be given.

(g) The governor may remove a commissioner if the commissioner: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a commissioner; (iii) is unable to discharge the powers and duties of the commissioner?s office; (iv) commits gross misconduct; or (v) is convicted of a felony.

(h) No commissioner shall hold, or be a candidate for, elective office in the commonwealth or be an officer or official of a political party.

(i) No commissioner shall be actively engaged or have a pecuniary interest in an applicant for a license under this chapter or any gaming licensee.

(j) The governor shall conduct a background investigation on a candidate for appointment to the commission regarding the financial stability, integrity and responsibility of the candidate

as well as the candidate?s reputation for good character, honesty and integrity prior to appointing the candidate as a commissioner.

(k) No commissioner, other than in the performance of the commissioner?s official duties, shall place a wager in a gaming establishment.

(l) The commission shall be a commission for the purposes of section 3 of chapter 12.

(m) The commission shall be a state authority under the definition in section 1 of chapter 29.

Section 3. (a) There shall be a Massachusetts gaming control board, which shall be comprised of 3 members who shall be appointed by the governor; 1 of whom shall be a certified public accountant or have experience in corporate finance; and 1 of whom shall have experience in law enforcement, investigation or law.

(b) The governor shall appoint 1 member to serve as the chair, coordinate the activities of the board and shall have at least 5 years managerial experience in public or business administration. Each member shall:

(1) be a United States citizen;

(2) be a resident of the commonwealth or shall become a resident within 90 days of appointment; and

(3) serve for a term of 4 years.

(c) Members shall devote their full time and attention to the duties of the board and may receive an annual salary equal to the salary of the secretary of administration and finance;

provided, however, that the chair shall receive a stipend, in addition to the base salary, in an amount equal to 7 per cent of the base salary. No member shall be compensated for any other position.

(d) The governor may remove a board member if the member: (i) is guilty of malfeasance in office; (ii) substantially neglects the duties of a board member; (iii) is unable to discharge the powers and duties of the board member?s office; (iv) commits gross misconduct; or (v) is convicted of a felony.

(e) No board members shall hold, or be a candidate for, elective office in the commonwealth, or be an officer or official of a political party.

(f) No board members shall be actively engaged or have a pecuniary interest in an applicant for a license under this chapter or a gaming establishment licensed under this chapter.

(g) The governor shall conduct a background investigation on a candidate for appointment to the board regarding the financial stability, integrity and responsibility of the candidate as well as the candidate?s reputation for good character, honesty and integrity prior to appointing the candidate as a board member.

(h) The chair of the board shall serve as the board?s executive director. The chair shall be:

(i) the executive and administrative head of the board; and

(ii) responsible for administering and enforcing the laws, regulations and civil and administrative penalties established under this chapter.

(i) The chair shall appoint and employ a chief financial and accounting officer and may employ other employees, consultants, agents and advisors, including legal counsel and shall attend the meetings of the commission. The chief financial and accounting officer of the board shall be in charge of its funds, books of account and accounting records. No funds shall be transferred by the board without the approval and the signatures of the chief financial and accounting officer and the treasurer.

(j) In the case of the absence or vacancy of the chair, or in the case of disability as determined by the board or commission, the governor may designate an acting chair until the vacancy is filled or the absence or disability ceases. The acting chair shall have all the powers and duties of the chair and shall have similar qualifications as the chair.

(k) The chair may establish within the board such administrative units as may be necessary for the efficient and economical administration of the board and when necessary for such purpose, may abolish any such administrative unit or may merge any 2 or more units. The chair shall prepare and keep current a plan of the organization of the board, of the assignment of its functions to its various administrative units, offices and employees and of the places at which and the methods by which the public may receive information or make requests. A current copy of the plan of organization shall be kept on file with the state secretary and in the office of the secretary of administration and finance.

(l) The chair may appoint such persons as the chair considers necessary to perform the functions of the board; provided that chapter 31 and section 9A of chapter 30 shall not apply to any board employee. If an employee serving in a position which is classified under said chapter 31 or in which an employee has tenure by reason of said section 9A of chapter 30 shall be

appointed to a position within the board which is not subject to said chapter 31, the employee shall, upon termination of the employee?s service in such position, be restored to the position which the employee held immediately prior to such appointment; provided, however, that the employee?s service in such position shall be determined by the civil service commission under the standards applied by the civil service commission in administering said chapter 31. Such restoration shall be made without impairment of the employee's civil service status or tenure under said section 9A of chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled the employee. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which the person would otherwise have been eligible.

(m) The board may require a prospective employee to: (i) submit an application and a personal disclosure on a form prescribed by the board which shall include a complete criminal history, including convictions and current charges for all felonies and misdemeanors; (ii) undergo testing which detects the presence of illegal substances in the body; and (iii) provide fingerprints and a photograph consistent with standards adopted by the state police. The board shall verify the identification, employment and education of each prospective employee, including: (i) legal name, including any alias; (ii) all secondary and post secondary educational institutions that the prospective employee attended regardless of graduation status; (iii) place of residence; and (iv) employment history.

(n) (1) The board shall not hire a prospective employee if the prospective employee has: (A) been convicted of a felony; (B) been convicted of a misdemeanor that, in the discretion of the board, bears a close relationship to the duties and responsibilities of the position for which

employment is sought; or (C) intentionally made a false statement concerning a material fact in connection with the prospective employee?s application to the board.

(2) If an employee of the board is charged with a felony or misdemeanor while employed by the board, the board may suspend the employee, with or without pay, and if the employee is convicted the board may terminate the employee?s employment with the board. If an employee of the board is charged with a felony or misdemeanor related to gaming while employed by the board, the board shall suspend the employee, with or without pay, and if the employee is convicted the board shall terminate the employee?s employment with the board.

(o) Immediately upon assuming office, each board member and employee of the board, except for secretarial and clerical personnel, shall swear or affirm, under the penalty of perjury, that the board member or employee possesses no financial interest in any gaming licensee or gaming vendor.

(p) A board employee who, as part of the employee?s duties, is required to be present in a gaming establishment shall be considered an essential state employee.

(q) No board member, or employee of the board, other than in the performance of such member?s or employee?s official duties, shall place a wager in a gaming establishment.

(r) No employee of the board shall pursue any other business or occupation or other gainful employment outside of the board without the prior written approval of the commission that such employment shall not interfere or be in conflict with the employee?s duties to the board.

(s) The board shall be a state authority under the definition in section 1 of chapter 29.

Section 4. (a) All gaming control employees shall:

(i) be sworn to the faithful performance of their official duties

(ii) conduct themselves in a manner so as to render decisions that are fair and impartial and in the public interest;

(iii) avoid impropriety and the appearance of impropriety in all matters under their jurisdiction;

(iv) avoid all prohibited communications;

(v) require staff and personnel subject to their direction and control to observe the same standards of fidelity and diligence;

(vi) disqualify themselves from proceedings in which their impartiality might reasonably be questioned;

(vii) refrain from financial or business dealings which would tend to reflect adversely on impartiality;

(viii) not own, or be in the employ of, or own any stock in, any business which holds a license under this chapter; nor shall a gaming control employee have in any way directly or indirectly a pecuniary interest in, or be connected with, any such business or in the employ or connected with any person financing any such business; provided, that immediate family members of gaming control employees shall not own, or be in the employ of, or own stock in, any business which holds a license under this chapter.

(b) No gaming control employee shall personally, or through any partner or agent, other than in the normal course of the employee?s duties, render any professional service or make or perform any business contract with or for any gaming licensee or gaming vendor, except contracts made with the board for furnishing of services, nor shall the employee directly or indirectly receive any commission, bonus, discount, gift or reward from any gaming licensee.

(c) Neither the board nor any of its officers, agents, employees, consultants or advisors shall be subject to sections 9A, 45, 46 and 52 of chapter 30, or to chapter 31 or to chapter 200 of the acts of 1976.

(d) No individual shall be employed by the board if, during the period commencing 3 years prior to employment, that individual held any direct or indirect interest in, or was employed by, a gaming licensee or gaming vendor.

(e) No commissioner or board member shall hold a direct or indirect interest in, or be employed by, an applicant or by a gaming licensee or gaming vendor for at least 3 years following the termination of the commissioner or board member?s service as such a commissioner or board member.

(f) No employee of the board holding a major policy making position shall acquire interest in, or accept employment with, an applicant or licensee under this chapter for a period of 2 years after the termination of employment with the board.

(g) No employee of the board in a non-major policy making position shall acquire interest in, or accept employment with, any applicant or licensee under this chapter for a period of 1 year after termination of employment with the commission.

(h) Gaming control employees shall be considered state employees under chapters 268A and 268B.

Section 5. The commission shall adopt regulations for the implementation, administration and enforcement of this chapter. The adoption of such regulations shall only be made after the board submits proposed regulations to the commission for the commission?s review and approval. The board, subject to chapter 30A, shall prepare its recommendations and submit such recommendations to the commission. The regulations shall include, but not be limited to, regulations that:

(1) prescribe the method and form of application which an applicant for a license or registration shall follow and complete before consideration of an application by the commission and board;

(2) prescribe the information to be furnished by an applicant or licensee concerning the licensee?s or applicant?s antecedents, habits, character, associates, criminal record, business activities and financial affairs, past or present;

(3) prescribe the criteria for evaluation of the application for a gaming license including with regard to the proposed gaming establishment an evaluation of architectural design and concept excellence, integration of the establishment into its surroundings, tourism appeal, level of capital investment committed, financial strength of the applicant and the robustness of the applicant?s financial plan;

(4) prescribe the information to be furnished by a gaming licensee relating to the licensee?s gaming employees;

(5) require fingerprinting or other methods of identification of an applicant for a license or registration under this chapter;

(6) prescribe the manner and method of collection and payment of fees and issuance of licenses;

(7) prescribe grounds and procedures for the revocation or suspension of a license or registration;

(8) require quarterly financial reports and an annual audit prepared by a certified public accountant attesting to the financial condition of a gaming licensee and disclosing whether the accounts, records and control procedures examined are maintained by the gaming licensee as required by this chapter and the regulations promulgated under this chapter;

(9) prescribe the minimum procedures for effective control over the internal fiscal affairs of a gaming licensee, including the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness and the maintenance of reliable records, accounts and reports of transactions, operations and events, including reports by the commission and board;

(10) provide for a minimum uniform standard of accounting engineering and procedures and a process for the approval of accounting and engineering firms;

(11) establish licensure and registration procedures for employees working at the gaming establishment and minimum training requirements; provided, further, that the commission and board may establish certification procedures for any training schools in the commonwealth as well as the minimum requirements for reciprocal licensing for out-of-state gaming employees;

(12) require that all gaming employees be properly trained in their respective positions;

(13) require a sticker or label to be affixed to the front of all slots machines in a gaming establishment with the odds and holding percentage of the slot machines played in said gaming establishment and the compulsive gambling hotline number;

(14) provide for the interim authorization of a gaming establishment under of section 17;

(15) concern the conduct of junkets and conditions of junket agreements between gaming licensees and junket representatives;

(16) develop standards for granting a waiver under section 45;

(17) require gaming establishments to develop security measures, including checking the parking areas of the gaming establishment for unattended minors and animals every 2 hours;

(18) prescribe the procedure for holding public hearings and seeking public input on the process for siting gaming establishments and the review of all applications for a gaming license before a gaming license is awarded or renewed

The commission may, under section 2 of chapter 30A, promulgate, amend, or repeal any regulation promulgated under this chapter as an emergency regulation if such regulation is necessary to protect the interests of the commonwealth in regulating a gaming establishment.

Section 6. The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the following:

(1) to adopt an official seal;

(2) to execute all instruments necessary or convenient to accomplish the purposes of this chapter;

(3) to enter into agreements or other transactions with any person, including, but not limited to, any public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;

(4) to appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(5) to apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its purposes;

(6) to assure that licenses and registrations shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with a gaming establishment or a gaming licensee, by unqualified, disqualified, or unsuitable persons or persons whose operations are conducted in a manner not conforming with this chapter;

(7) to require an applicant for a position, which requires a license under this chapter, to apply for a license and approve or disapprove any such application or other transactions, events and processes as provided in this chapter;

(8) to require a person who has any kind of business association with a gaming licensee or applicant to be qualified for licensure or registration under this chapter;

(9) to develop criteria, in addition to those outlined in this chapter, to assess which application for a gaming licenses will provide the highest and best value to the commonwealth and the region in which a gaming establishment is to be located;

(10) to determine which applicants shall be awarded a gaming license, a gaming vendor license and other licenses under this chapter;

(11) to deny any application or limit, condition, restrict, revoke or suspend a license, registration, finding of suitability or approval or fine a person licensed, registered, found suitable or approved for any cause the commission deems reasonable;

(12) to issue subpoenas and compel the attendance of witnesses at any place within the commonwealth, administer oaths and require testimony under oath before the commission in the course of a hearing conducted under this chapter;

(13) to conduct adjudicatory proceedings under chapter 30A;

(14) to hear appeals of the board?s suspension or revocation of a license;

(15) to monitor any federal activity regarding internet gaming;

(16) to adopt, amend, or repeal regulations for the administration and enforcement of this chapter; and

(17) to develop criteria, in addition to those outlined in this chapter, to assess which applications for gaming licenses will provide the highest and best value to the commonwealth; provided that the criteria so developed shall include and give additional consideration to a joint venture application.?

Section 7. The board shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the following:

(1) to appoint officers and hire employees;

(2) to adopt an official seal;

(3) to establish, and amend as necessary, such a plan of organization as it may consider expedient under subsection (k) of section 3;

(4) to execute all instruments necessary or convenient to accomplish the purposes of this chapter;

(5) to enter into agreements or other transactions with any person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with the board?s powers and duties under this chapter;

(6) to appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

(7) to apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its purposes;

(8) to provide and pay for advisory services and technical assistance as may be necessary in its judgment to carry out the purpose of this chapter and fix the compensation of persons providing such services or assistance;

(9) to prepare, publish and distribute, with or without charge, as the commission or board may determine, such studies, reports and bulletins and other material as the commission and board considers appropriate;

(10) to monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly with a licensee for the purpose of ensuring that licenses are

not issued to or held by, and there is no direct or indirect material involvement with a licensee by unqualified, or unsuitable persons or persons whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places as provided in this chapter;

(11) to recommend:

(i) the denial or approval of an application, license or registration or qualification for licensure;

(ii) conditions, limitations or restrictions of any license, registration, qualification for licensure or approval;

(iii) the suspension or revocation of a license, registration, qualification for licensure or approval or the imposition of a fine upon a person licensed, registered or qualified for licensure or approved for any cause considered reasonable by the board;

(12) to conduct investigations into the qualifications of all applicants for employment by the board and all applicants for registration or licensure under this chapter;

(13) to ensure that there is no duplication of duties and responsibilities between the board, commission and division; provided, however, that the commission may not place any restriction upon the board or the division?s ability to investigate or prosecute violations of this chapter or the regulations adopted under this chapter;

(14) to request and receive from the state police, the criminal history systems board, or other criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation and the federal Internal Revenue Service, such criminal offender record information relating to criminal and background investigations as necessary for the purpose of

evaluating employees of, and applicants for, employment by the board and any gaming licensee or gaming vendor, and evaluating licensees and applicants for licensure;

(15) to be present through its inspectors and agents at all times in gaming establishments to: (i) certify the revenue of the establishment; (ii) receive complaints from the public relating to the conduct of gaming and wagering operations; (iii) examine records of revenues and procedures, inspect and audit all books, documents and records of any gaming licensee or gaming vendor; (iv) conduct periodic reviews of operations and facilities; and (v) otherwise exercise its oversight responsibilities with respect to gaming;

(16) to inspect and have access to all equipment and supplies in a licensed gaming establishment or in any gaming area or other premises where gaming equipment is manufactured, sold or distributed;

(17) to seize and remove from the gaming area or other premises of a gaming licensee and impound any equipment, supplies, documents or records for the purpose of examination and inspection;

(18) to demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a gaming licensee or gaming vendor whom the commission or board suspects is involved in the financing, operation or management of the gaming licensee or gaming vendor; provided, however, that the inspection, examination, photocopying and audit may take place on the affiliate?s premises or elsewhere as practicable, and in the presence of the affiliate or the affiliate?s agent;

(19) to require that the books and financial or other records or statements of a gaming licensee or gaming vendor be kept in a manner that the board considers proper;

(20) to assist the commission in conducting adjudicatory proceedings and developing regulations in accordance with chapter 30A;

(21) to refer cases for criminal prosecution to the appropriate federal, state or local authorities;

(22) to issue subpoenas and compel the attendance of witnesses at any place within the commonwealth, administer oaths and require testimony under oath before the commission and board in the course of any investigation or hearing conducted under this chapter;

(23) to maintain an official internet website for the commission and board;

(24) to establish parameters for elections under clause 7 of subsection (a) of section 12;

(25) to determine which municipalities are the surrounding communities of a proposed gaming establishment; provided, however, that in making such determination the board shall consider factors including, but not limited to, population, infrastructure, distance from the gaming establishment and political boundaries;

(26) to provide technical assistance to cities and towns that are conducting referendum votes or negotiating community mitigation impact agreements for the purposes of this chapter and to facilitate the negotiation of fair and reasonable agreements between an applicant and host or surrounding communities;

(27) to levy and collect assessments, fees and fines and impose penalties and sanctions for violations of this chapter and regulations under section 5;

(28) to levy and collect assessments for the operation of the board, bureau, commission, state police unit and division;

(29) to levy and collect taxes established in section 63;

(30) to ensure that all environmental laws and regulations are followed and the mitigation of any impact on natural resources in the host and surrounding communities as a result of a gaming establishment; and

(31) to receive and investigate or cause to be investigated pursuant to regulations promulgated by the board complaints by employees and prospective employees including contract labor employees, minority business enterprises, and women business enterprises which allege practices that are inconsistent with meeting or contrary to the commitments made by the licensee pursuant to subsections (18), (19), (20) and (21) of section 16 of this chapter; and

(32) to establish a system of sanctions, including but not limited to fines and penalties, for failure to comply with the requirements of a gaming license, in particular subsections (18), (19), (20), (20), (21) and (22).

Section 8. The board shall administer and enforce chapter 128A and 128C and any other general or special law related to pari-mutuel wagering. The board shall serve as a host racing commission and an off-track betting commission for purposes of 15 U.S.C.A.3001, et seq.

Section 9. (a) The board may require anyone with an interest in the business of an applicant for a gaming license or a close associate of an applicant for a gaming license, to be qualified for licensure by meeting the criteria set forth in sections 11 and 14 and to provide any other information that the board requires.

(1) For every business which applies for a gaming license, the board shall determine whether: each officer and director of a corporation, other than a publicly traded corporation; general partner and limited partner of a limited partnership; and member or transferee of a member?s interest in a limited-liability company; and director and manager of a limited-liability company which applies for a gaming license meets the standards for qualification of licensure under sections 11 and 14. The board may also require that any of an applicant?s business? individual stockholders, lenders, holders of evidence of indebtedness, underwriters, close associates, key gaming employees, key executives, agents or employees shall also be required to meet the standards for qualification of licensure.

(2) Any person owning more than 5 per cent of the common stock of the applicant company directly or indirectly or a holding, intermediary or subsidiary of an applicant company may be required to meet the qualifications for licensure under sections 11 and 14. The board may waive these requirements for institutional investors holding up to 15 per cent of the stock of the applicant company or holding, intermediary or subsidiary company of the applicant company upon a showing by the person seeking the waiver that the applicant purchased the securities for investment purposes only and does not have an intention to influence or affect the affairs or operations of the applicant company or a holding, intermediary or subsidiary of the applicant company. An institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the applicant company or a holding, intermediary or subsidiary of the applicant company shall provide not less than 30 days notice to the board of such intent and the board shall ensure that the institutional investor meets the qualifications for licensure under sections 11 and 14 before the institutional investor may take an action that may

influence or affect the affairs of the applicant company or a holding, intermediary or subsidiary of the applicant company.

(3) The board may require a person who is required to be qualified for licensure by this section to meet the standards for qualification of licensure under sections 11 and 14 and any other standards the board determines before providing a recommendation to the commission on a gaming license application under section 14.

(b) The board shall require any person involved in the financing of an applicant?s proposed gaming establishment to be qualified for licensure under sections 11 and 14 and may grant a waiver under clause (2) of subsection (a).

(c) If a corporation or other form of business organization applying for a gaming license is to become a subsidiary, each holding company, intermediary company and other entity having an interest in the applicant shall be required to be qualified for licensure under sections 11 and 14.

(d) The board may require that a company or individual that may exercise control or provide direction to an applicant company or a holding, intermediary or subsidiary of an applicant company be qualified for licensure under section 11 and 14 and may allow such person to seek a waiver under clause (2) of subsection (a).

Section 10. (a) After a gaming license is awarded to an applicant, the board may require that anyone with an interest in the gaming establishment be licensed by the commission or registered by the board.

(1) When a business is awarded a gaming license, all close associates, key gaming employees, institutional investors, junket representatives, junket enterprises, each officer and director if it is a corporation other than a publicly traded corporation, each general partner and limited partner if it is a limited partnership, and if it is a limited-liability company each member, transferee of a member?s interest in the limited-liability company, director and manager of the limited-liability company, shall be licensed by the commission prior to the business beginning operations at the gaming establishment.

(2) Any person owning more than 5 per cent of the common stock of the gaming licensee or a holding, intermediary or subsidiary of a gaming licensee shall be licensed. The board may waive the licensing requirements for institutional investors holding up to 15 per cent of the stock of the gaming licensee or holding, intermediary or a subsidiary company of the gaming licensee upon a showing by the person seeking the waiver that the applicant purchased the securities for investment purposes only and does not have an intention to influence or affect the affairs or operations of the gaming licensee or a holding, intermediary or a subsidiary of the gaming licensee. An institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the gaming licensee or a holding, intermediary or a subsidiary of the gaming licensee shall provide not less than 30 days notice to the board of such intent and shall file an application and be subject to the licensing requirements of this chapter before taking an action that may influence or affect the affairs of the gaming licensee or a holding, intermediary or a subsidiary of the gaming licensee.

(3) All other gaming employees, gaming service employees, or any other person or business with an interest in the gaming establishment as determined by the board, shall be required to register with the board and provide such information as the board may require.

(b) Any person required to be licensed shall file an application with the board and shall provide any additional information as the board requires. The application shall be on a form prescribed by the board and shall include, but shall not be limited to, the following:

(1) the name of the applicant;

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

(3) any criminal or arrest record;

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

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

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

(7) clear and convincing evidence of financial stability including, but not limited to, bank accounts, records, references, business and personal income and disbursement schedules, tax returns and other reports filed with government agencies and business and personal accounting check records and ledgers. The board may require such other information and documentation as it deems appropriate including, without limitation, information related to the financial integrity of the applicant.

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

(d) The commission may deny an application for a license and the board may deny an application for a registration if the board or commission finds that a license applicant or registrant is disqualified under section 11 or is unsuitable under section 14.

(e) A person who is required to be licensed under this section as a general or limited partner shall not serve as such a partner for a licensee until the person obtains the required license or waiver from the commission.

(f) The board shall require any person involved in the financing of a gaming establishment to be licensed under this section but may grant a waiver under clause (2) of subsection (a).

(g) A person serving in a position that is required to be licensed or registered shall apply to be licensed by the commission or registered by the board not later than 30 days after taking a

position with the business. A person who is required to be licensed or registered under a decision of the board shall apply for a license or registration not later than 30 days after the decision.

(h) If a corporation or other form of business organization holding a gaming license is to become a subsidiary, the board shall require each holding company, intermediary company and other entity to be licensed.

(i) The commission and board may require the licensing of a company or individual that may exercise control or provide direction to a gaming licensee or a holding, intermediary or subsidiary of a gaming licensee.

(j) The commission or board may condition, suspend or revoke a license or registration under this section if the commission or board finds that a licensee or registrant has:

(1) been arrested or convicted of a crime; or

(2) failed to comply with this chapter pertaining to licensees or registrants.

Section 11. The commission shall deny an application for a gaming license or a license or registration issued under this chapter, if the applicant:

(i) has been convicted of a felony or other convictions involving embezzlement, theft, fraud or perjury; provided, however, that for convictions which occurred before the 10-year period immediately preceding application for licensure, an applicant may demonstrate and the commission shall consider, the applicant?s rehabilitation and whether such conviction should not result in a denial of the application under this section;

(ii) submitted an application for a license under this chapter that contains false or misleading information;

(iii) committed prior acts which have not been prosecuted or convicted but form a pattern of misconduct that make the applicant unsuitable for a license under this chapter; or

(iv) has affiliates or close associates who would not qualify for a license or whose relationship with the applicant could pose an injurious threat to the interests of the commonwealth in awarding a gaming license to the applicant.

Section 12. (a) No applicant shall be eligible to bid on a gaming license unless the applicant meets the following initial criteria and clearly states as part of an application that the applicant shall:

(1) agree to be a state lottery reseller for the purpose of lottery and keno games and demonstrates that state lottery and keno games would be readily accessible to guests of the gaming establishment;

(2) prior to beginning operations, invest not less than $600,000,000 into a gaming establishment proposed to be located in region 1or 2 and not less than $400,000,000 into a gaming establishment proposed to be located in region 3, which shall not include the purchase of the land where the gaming establishment would be located;

(3) meet the licensee bonding requirement as set by the board;

(4) have a debt to equity ratio of not more than 4 to 1 when the application is submitted;

(5) own or acquire within 60 days after a license has been awarded, the land where the gaming establishment is proposed to be constructed;

(6) demonstrate the ability to pay and commit to paying the licensing fee of at least $75,000,000 if the gaming establishment is to be located in region 1or 2 or $50,000,000 if the

gaming establishment is to be located in region 3 and the operating licensing payment of 25 per cent of all gross gaming revenues; and demonstrate the ability to raise and commit to invest the funds required in subsection (2);

(7) have received a certified and binding vote on a ballot question at an election in the host community, in favor of such license; provided, that, the vote must take place after the effective date of this chapter; provided, further, that a binding vote shall be conducted not less than 60 days after the execution of a signed agreement between the host community and the applicant as provided in subsection (10); provided, further, that the city, town or district that holds an election shall be reimbursed for its expenses related to the election by the applicant; provided, further, that, upon the signing of an agreement between the host community and the applicant as provided in subsection (10), and on the request of the applicant, the city or town clerk shall set a date certain for an election on said ballot question in the host community; provided, further that, at such election, the question submitted to the voters shall be worded as follows:-- ?Shall the (city/town) of _____ permit the Massachusetts Gaming Commission to authorize a gaming facility to be located at ____[description of site]_____? YES _____ NO _____?; provided, further, that, if a majority of the votes cast in a host community in answer to the ballot question is in the affirmative, such host community shall be taken to have voted in favor of the applicant?s license.

(8) provide a community impact fee to the host community;

(9) pay for infrastructure costs of the host and surrounding communities incurred in direct relation to the construction and operation of a gaming establishment;

(10) provide to the commission a signed agreement between the host community and the applicant to have a gaming establishment located within the host community; provided, that the agreement shall include the community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment;

(11) comply with state and local building codes and local ordinances and bylaws;

(12) formulate for board approval and abide by an affirmative marketing program by which the applicant identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of (i) minority business enterprises and women business enterprises to participate as contractors in the design phase of the gaming establishment, (ii) minority business enterprises and women business enterprises to participate as contractors in the construction phaseof the gaming establishment, and (iii) minority business enterprises and women business enterprises to participate as vendors in the provision of goods and services procured by the gaming facility and any businesses operated as part of the gaming establishment;

(13) formulate for board approval and abide by an affirmative-action program of equal opportunity whereby the applicant establishes specific goals for the utilization of minorities and women on said design phase and construction phase jobs; provided that such goals be equal to or greater than the goals contained in the Executive Office of Administration and Finance Administration Bulletin #14. In furtherance of specific goals for the utilization of minorities and women on said construction jobs, the licensee will send to each labor union or representative of workers with which the applicant has a collective bargaining agreement or other contract or

understanding, a notice advising the labor union or workers' representative of the applicant's commitments;

(14) collect and annually report to the board a detailed statistical report on the number, job titles, salary, gender, race, ethnicity and disability of employees hired and retained in employment at the gaming establishment;

(15) formulate for board approval and abide by an affirmative-action program of equal opportunity whereby the licensee guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with a disability, under the laws of the commonwealth and whereby the licensee shall establish specific goals for the utilization of minorities and women; provided that such goals be equal to or greater than the proportion of minority and women population in the Commonwealth as reported by the most recent U.S. Census data;

(16) formulate for board approval and abide by an affirmative marketing program by which the licensee identifies specific goals, expressed as an overall program goal applicable to the total dollar amount or value of contracts entered into, for the utilization of (i) minority business enterprises and women business enterprises to participate as contractors in the design phase of the gaming establishment, (ii) minority business enterprises and women business enterprises to participate as contractors in the construction phase of the gaming establishment, and (iii) minority business enterprises and women business enterprises to participate as vendors in the provision of goods and services procured by the gaming facility and any businesses operated as part of the gaming establishment. Said specific goals for the utilization of such minority business enterprises and women business enterprises shall be based on the availability

of such minority business enterprises and women business enterprises engaged in the type of work to be contracted by the licensee;

(17) formulate for board approval and abide by an affirmative-action program of equal opportunity whereby the licensee establishes specific goals for the utilization of minorities and women on said design phase and construction phase jobs; provided that such goals be equal to or greater than the goals contained in Executive Office of Administration and Finance Administration Bulletin #14. In furtherance of said specific goals for the utilization of minorities and women on said construction jobs, the licensee will send to each labor union or representative of workers with which the licensee or its agent has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the licensee's commitments;

(18) provide to the board, on a quarterly basis, a detailed statistical report on the number, gender, ethnicity and race of individuals hired to perform labor as part of the construction phases of the gaming establishment;

(19) collect and annually provide to the board a detailed statistical report on the total dollar amounts contracted with and actually paid to minority business enterprises and women business enterprises in (i) design phase contracts, (ii) construction phase contracts) and (iii) contracts for each and every good and service procured by the gaming establishment. Said statistical report shall also identify the amounts so contracted as a percentage of total dollar amounts contracted with and actually paid to all firms; and

(20) pay to the board a non-refundable application fee in the amount of $350,000.

(b) Notwithstanding any general or special law to the contrary, the construction of a new gaming facility or the reuse of an existing structure or facility for the purposes of establishment of a gaming facility shall require a review under sections 61 to 62H, inclusive, of chapter 30: the Massachusetts Environmental Policy Act; and 301 CMR 11.00.

Section 13. (a) The board shall prescribe the form of the application for a gaming license which shall require, but not be limited to, the following:

(1) the name of the applicant;

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

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

(4) whether the applicant is a federally recognized Native American tribe located in the commonwealth or is partnering with a federally recognized Native American tribe located in the commonwealth; provided, that if the applicant is a federally recognized Native American tribe located in the commonwealth, such an applicant shall indicate whether the applicant has entered into a contractual agreement with the commonwealth and whether the tribe has entered into an agreement with the commonwealth to waive its rights under the Indian Regulatory Gaming act, 25 U.S.C. sections 2701, et seq. and be subject to the civil and criminal laws,

statutes, ordinances and jurisdiction of the commonwealth with respect to activities relating to the development and operation of a gaming establishment;

(5) information and documentation to demonstrate that the applicant has sufficient business ability and experience to establish the likelihood of creation and maintenance of a successful gaming establishment;

(6) if an applicant has ever applied for or has been granted a license to conduct gaming in another jurisdiction, or has had a license issued by any other jurisdiction that has been denied, restricted, suspended, revoked or not renewed the applicant shall include a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation or nonrenewal, including the identity of the licensing authority, the date each action was taken and the reason for each action;

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

(8) clear and convincing evidence of financial stability including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies and business and personal accounting check records and ledgers;

(9) evidence of ability and commitment to pay the gaming license fee;

(10) a capital investment plan and the total amount of investment proposed by the applicant in the proposed gaming establishment, including all facilities, amenities and infrastructure;

(11) evidence of sufficient capital to finance the proposed capital investment plan, including investment in all facilities, amenities, infrastructure improvements as specified in the design plan and continued operation of the proposed gaming establishment; provided, that, a gaming licensee shall engage a third-party engineering and accounting firms to certify expenses of its capital investment plan and provide documentation of such accounting to the board; provided, further, that, the third-party engineering and accounting firms shall be approved by the board and shall certify expenses under rules and regulations adopted by the commission under section 5; provided, further, that, the design plan shall describe timelines and milestones for design and construction of such infrastructure improvements and the applicant shall make quarterly reports on the progress of such infrastructure improvements to the board, the respective host communities and the house and senate committees on ways and means;

(12) the location for the proposed gaming establishment, which shall include the address, maps, book and page numbers from the appropriate registry of deeds, assessed value of the land at the time of application and ownership interests over the past 20 years including all interests, options, agreements in property and demographic, geographic and environmental information and any other information requested by the commission related to the proposed location;

(13) the design plans for the proposed gaming establishment, including, but not limited to:

(i) detailed design plans detailing all phases of construction;

(ii) the names and addresses of the architects, engineers and designers;

(iii) a detailed timeline for construction that includes all phases of construction for the gaming establishment and non-gaming structures; and

(iv) the number of construction hours estimated to complete the work and whether the developer has contracts with labor organizations or a provision assuring labor harmony during all phases of such construction, renovation or reconstruction of the development, and capital and routine maintenance;

(14) a detailed description of types of games to be conducted at the gaming establishment; number and type of each games and the specific gaming area;

(15) a detailed description of the other amenities at the gaming establishment, including but not limited to:

(i) the number of hotels and rooms per hotel and other amenities to be located at the proposed gaming establishment;

(ii) the number of restaurants and other dining establishments to be located at the proposed gaming establishment; and

(iii) a description of ancillary entertainment services and amenities to be offered at the proposed gaming establishment;

(16) a detailed description of the proposed internal controls and security systems at the proposed gaming establishment;

(17) whether the applicant purchased or intends to purchase publicly owned land for the proposed gaming establishment;

(18) the number of permanent employees to be employed at the gaming establishment, including detailed information on pay rate and benefits;

(19) a detailed description of the proposed gaming establishment?s hiring and training practices, how it will promote the development of a skilled and diverse workforce, how it will provide opportunities for promotion;

(20) whether the applicant would agree to hire any qualified persons permanently employed as of June 1, 2010 at a facility authorized to conduct simulcasting under chapter 128C that is in operation on June 1, 2010 within the region for which the gaming license was granted if said facility terminates operation within 1 year of the commission awarding the gaming license, subject to all other requirements and conditions of employment under this chapter;

(21) whether the applicant has a contract with organized labor and has the support of organized labor for its application;

(22) an agreement and detailed description of how the applicant will mitigate potential negative public health consequences associated with gambling and the operation of a gambling establishment;

(23) completed studies and reports as required by the board, which shall include, but shall not be limited to, an examination of the proposed gaming establishment?s: (a) economic benefits to the region and the commonwealth; (b) local and regional social, environmental, traffic and infrastructure impacts; (c) impact on the local and regional economy, including on cultural

institutions and on small businesses in the host and surrounding communities; (d) cost to the host community and surrounding communities and the commonwealth for the proposed gaming establishment to be located at the proposed location; and (e) the estimated municipal and state tax revenue to be generated by the gaming establishment;

(24) a statement as to whether the applicant?s proposed gaming establishment is part of or in accord with a regional or local economic development plan;

(25) a plan to identify, evaluate and mitigate social, economic, cultural and public safety impacts in surrounding communities; provided, that, the plan shall include proposed surrounding community impact fees and participation by the surrounding communities in identifying impacts and mitigation agreements with the surrounding communities;

(26) the names of proposed vendors of gaming equipment;

(27) responses to any additional questions that the board may ask; and

(28) a plan to identify, evaluate and mitigate transportation infrastructure impacts in surrounding communities.

(b) Applications for licenses shall be public records for the purposes of section 10 of chapter 66; provided further that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under chapter 66.

Section 14. (a) Upon receipt of an application for a license or registration under this chapter, the board shall investigate the suitability of the applicant. In evaluating the suitability of

an applicant, the board shall consider the overall reputation of the applicant including, but not limited to:

(1) the integrity, honesty, character and reputation of the applicant;

(2) the financial stability and background of the applicant;

(3) the business practices and the business ability of the applicant;

(4) whether the applicant has a history of compliance with gaming licensing requirements in other jurisdictions;

(5) whether the applicant, at the time of application, is a defendant in litigation involving its business practices;

(6) the suitability of all parties in interest to the gaming license, including affiliates, close associates and the financial resources of the applicant; and

(7) whether the applicant is disqualified from receiving a license under section 11; provided, however, that in considering the rehabilitation of an applicant for a gaming license, the commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial responsibility, character, reputation, integrity and general fitness as such to warrant belief by the commission or board that the applicant will act honestly, fairly, soundly and efficiently as a licensee or registrant.

(b) If the board determines during its suitability investigation under subsection (a) that an applicant for a gaming license has failed to: (i) establish the applicant?s integrity or the integrity of an affiliate, close associate, financial source or person required to be qualified by the board;

(ii) demonstrate responsible business practices in any jurisdiction; (iii) overcome any other reason, as determined by the board, as to why it would be injurious to the interests of the commonwealth in awarding the applicant a gaming license, the board shall cease any further review and recommend to the commission that the application be denied.

Section 15. (a) If the board has determined an applicant for a gaming license is suitable to receive a gaming license, the board shall commence a review of the applicant?s entire application.

(b) The board shall identify which communities shall be designated as the surrounding communities of a proposed gaming establishment. In making that determination the board shall consider the plan submitted by the applicant under clause (24) of subsection (a) of section 13, information received from the public and factors which include, but shall not be limited to, population, infrastructure, distance from the gaming establishment and political boundaries. Prior to the public hearing, the applicant shall provide to the board a signed agreement with each of the surrounding communities; provided that each agreement shall include a surrounding community impact fee and all stipulations of responsibility between the community and the applicant, including stipulations of known impacts from the development and operation of the gaming establishment. When necessary the board may facilitate the negotiation of fair and reasonable agreements between the applicant and surrounding communities.

(c) After a review of the entire application and any independent evaluations, the board shall conduct a public hearing on the application under section 11? of chapter 30A. An applicant for a gaming license and a municipality designated as a host or surrounding community shall be given at least 30 days notice of the public hearing. The board shall hold the public hearing within

the host community; provided, however, that the host community may request that the board hold the hearing in another city or town upon request by a majority of members of the town council, or in a city having a Plan D or Plan E charter, the city manager and the city council and in any other city the mayor and city council and in towns a majority vote of those present and voting at a town meeting and approval by the board of selectmen.

(d) The public hearing shall provide the board the opportunity to address questions and concerns relative to the proposal of an applicant for a gaming license including the breadth and quality of the gaming area and amenities, the integration of the establishment into the surrounding community, the extent of required mitigation plans, as well as receive input from members of the public from the impacted community or communities. During the hearing, along with allowing members of the public to give verbal testimony, the board may read into the record letters of support, opposition or concern from members of the public.

(e) Not later than 90 days after the conclusion of the public hearing the board shall take action on the application. The board, by a majority vote of all members, may: (i) make a recommendation to the commission that the commission deny the application; (ii) extend the period for issuing a recommendation in order to obtain additional information necessary for a complete evaluation of the application; or (iii) recommend to the commission that the commission grant the applicant a gaming license.

(f) Upon making a decision to recommend denial of an application, the board shall prepare and file the board?s decision with the commission and, if requested by the applicant, shall further prepare and file a statement of the reasons for the recommendation of denial, including specific findings of fact.

(g) The applicant shall be entitled to a hearing before the commission after the filing of the board?s recommendation. The applicant shall have the right to contest the board?s findings. A representative of the board shall also appear at the hearing and the commission may put such questions to that representative as it deems appropriate.

(h) Not later than 60 days after the receipt of the recommendation of the board, the commission shall take action on the application. The commission, by majority vote of all commissioners, may: (i) deny the application; (ii) extend the period for issuing a decision in order to obtain any additional information necessary for a complete evaluation of the application; or (iii) grant the application for a gaming license.

(i) Upon denial of an application, the commission shall prepare and publish its order and, if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including specific findings of fact.

(j) The commission shall have full discretion as to whether to issue a license. Applicants shall have no legal right or privilege to a gaming license and shall not be entitled to any further review if denied.

Section 16. (a) In determining whether an applicant should receive a gaming license, the commission shall evaluate:

(1) whether the proposed gaming establishment offers the highest and best value creating a secure and robust gaming market in the region and the commonwealth;

(2) the revenues received by the commonwealth;

(3) the number and quality of the jobs provided by the proposed gaming establishment;

(4) the degree to which the proposed gaming establishment meets the criteria identified in regulations adopted under section 5;

(5) the degree to which potential impacts on host and surrounding communities which might result from the development or operation of the gaming establishment are mitigated;

(6) the degree to which potential adverse effects which might result from the project including but not limited to, the cost of meeting the increase in demand for public health care, child care, public transportation, affordable housing and social services, are mitigated;

(7) the distance between the proposed gaming establishment and any other gaming establishment;

(8) how well the proposal protects the lottery from adverse impacts due to expanded gaming, including, but not limited to, developing cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents;

(9) how well the proposal promotes local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, hotels, retail outlets and performing arts organizations;

(10) how well the proposal implements an affirmative marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of (i) minority business enterprises and women business

enterprises to participate as contractors in the design of the gaming establishment, (ii) minority business enterprises and women business enterprises to participate as contractors in the construction of the gaming establishment, and (iii) minority business enterprises and women business enterprises to participate as vendors in the provision of goods and services procured by the gaming facility and any businesses operated as part of the gaming establishment;

(11) how well the proposal implements a workforce development plan that (i) incorporates an affirmative-action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with a disability, (ii) utilizes the existing labor force in the commonwealth, (iii) estimates the number of construction jobs a proposed gaming establishment will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities and women on said construction jobs, (iv) identifies workforce training programs offered by the gaming establishment, and (v) identifies the methods for accessing employment at the gaming establishment; (whether the proposal would build a gaming establishment with a variety of amenities and operate in partnership with local hotels, dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;

(12) whether the proposal takes additional measures to address problem gambling, including, but not limited to, training gaming employees in prevention programs targeted toward vulnerable populations and to identify patrons exhibiting problems with gambling;

(13) the market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments;

(14) whether the proposal utilizes sustainable development and high performance design principles, including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the stretch energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of the executive office of energy and environmental affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to converse water and manage storm water; (v) demonstration that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources qualified by the department of energy resources under section 11F of chapter 25A; and (vii) developing an on-going plan to sub-meter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;

(15) whether the proposal establishes, funds and maintains human resource hiring and training practices and promotes the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that: (i) establishes transparent career paths within the establishment, leading to increased responsibility and pay, with measurable criteria designed to assist employees pursuing career advancement and promotion; (ii) provides employees access to additional resources, such as tuition reimbursement or stipend

policies, to enable employees to acquire education or job training needed to advance on those career paths; and (iii) establishes an on-site child day care program;

(16) whether the applicant would contracts with local business owners to provide services and goods to the gaming establishment; and

(17) the degree to which the proposed gaming establishment provides a suitable buffer to residential and commercial abutters.

(b) The commission shall issue a statement of findings of how each applicant proposes to meet the objectives in subsection (a).

Section 17. (a) The commission may issue not more than 3 gaming licenses based on the applications and bids submitted to the commission. Not more than 1 license may be awarded per region, as follows:

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

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

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

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

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

(c) No gaming licensee shall transfer a license or any direct or indirect interest in the license or a gaming establishment without the majority approval of the commission. Any person seeking to acquire a license through a transfer shall qualify for licensure under this chapter. The commission shall reject any license transfer or transfer of interest in the gaming establishment to an unsuitable person and may reject a proposed transfer that, in the opinion of the commission, would be disadvantageous to the interests of the commonwealth.

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

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

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

(4) A licensee under this section shall be permitted to distribute alcohol free of charge and for on-premise consumption to patrons in the gaming area or as a complimentary service or item in the gaming establishment; provided, however, that the commission shall

promulgate regulations on such distribution as well as the forms of identification that may be presented to the licensee to demonstrate proof that a person has attained the age of 21.

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

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

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

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

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

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

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

(f) The commission may condition, suspend or revoke a gaming license upon a finding that a licensee: (i) has committed a criminal or civil offense under this chapter or any other laws of the commonwealth; (ii) is not in compliance with gaming regulations or is under criminal investigation in another jurisdiction; (iii) has breached a condition of the gaming license; (iv) is

conducting business with or employing a person or entity subject to license or registration under this chapter that is not licensed or registered; (v) is no longer capable of maintaining operations at a gaming establishment; or (vi) whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.

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

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

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

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

(j) The commission shall evaluate all gaming license applications to determine which application provides the highest and best value to the region and to the commonwealth based on the criteria set out in this chapter, and any other terms the commission determines by regulation. If there is more than 1 applicant in a region who is determined by the commission to be eligible for a gaming license under this section, the commission shall allow each eligible applicant to resubmit its application. An eligible applicant may, in its resubmitted application, voluntarily increase the license fee required by subsection (k) and may modify any portion of their application related to the factors listed in section 16. The commission shall consider the entire application and not base its decision solely on the additional license fee payments in determining which applicant shall be awarded a license.

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

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

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

(2) Each gaming licensee shall comply with all laws of the commonwealth and all rules and regulations promulgated under this chapter.

(3) Each gaming licensee shall abide by all state and local building codes.

(4) Each gaming licensee shall pay daily to the board the gross gaming revenue payment.

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

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

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

(ii) the commission may require the transferor, transferee, or both, to pay to the board an amount representing the commonwealth?s share of the increased value for the transferred licenses, property or interest; provided, further, that the commission shall consider as a factor in determining the amount of the payment the market value of said license, property or interest when it was acquired and at the time of the transfer; provided, further, that the

commission may place additional conditions or restrictions on said transfer that the commission considers suitable; provided, further, that the commission may reject said transfer if the commission considers the transfer unsuitable; and

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

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

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

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

(10) Each gaming licensee shall cooperate with the commission, the board and the attorney general with respect to the investigation of any criminal matter that is discovered on the gaming establishment. The gaming licensee shall, upon receipt of criminal or civil process compelling testimony or production of documents in connection with a civil or criminal investigation, immediately disclose such information to the board. This section shall not prohibit

private persons or public entities from seeking any remedy or damages against a gaming licensee.

(11) Each gaming licensee shall allow the board to conduct warrantless searches of the licensee?s gaming area.

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

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

(14) Each gaming licensee shall provide an office for the board at the gaming establishment. The board shall establish the minimum requirements for said office.

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

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

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

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

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

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

(iii) establishing an on-site child day care program.

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

(20) Each gaming licensee shall employ only those persons licensed by the commission or registered by the board.

(21) Each gaming licensee shall do business only with those vendors licensed by the commission or registered by the board.

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

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

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

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

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

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

(28) Each gaming licensee shall institute additional public health strategies as required by the board.

(29) No gaming licensee or gaming establishment shall authorize or conduct direct marketing and promotional communications relative to gaming targeted towards persons under the age of 21.

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

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

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

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

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

(1) the name of the applicant;

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

(3) any criminal or arrest record;

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

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

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

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

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

(c) Any person owning more than 5 per cent of the common stock of a company required to be licensed as a gaming vendor, or a holding, intermediary or subsidiary of such company, shall be required to file for licensure. The commission may waive the licensing requirements for institutional investors holding up to 15 per cent of the stock of the company, or holding, intermediary or subsidiary company of the company, upon a showing by the person seeking the waiver that the applicant purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the company or a holding, intermediary or subsidiary of the such company. Any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the gaming vendor, or a holding, intermediary or subsidiary of the gaming vendor, shall provide not less than 30 days notice to the board of such intent and shall file an application and be subject to the licensing requirements of this chapter before taking an action that may influence or affect the affairs of the applicant company or a holding, intermediary or subsidiary of the applicant company.

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

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

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

(i) been arrested or convicted of a crime;

(ii) failed to comply with section 10; or

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

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

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

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

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

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

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

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

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

(b) Except as otherwise authorized by the board through regulations under section 5, no establishment, nor any person acting on behalf of an establishment shall: (1) cash any check, make any loan or otherwise provide or allow to a person any credit or advance of anything of value, or which represents value, to enable a person to place a wager; or (2) release or discharge a debt, either in whole or in part, or make a loan which represents any losses incurred by a player in gaming activity, without maintaining a written record of the release or discharge under the

rules of the commission. Nothing in this section shall prohibit an establishment from accepting credit cards for non-gaming related purchases or services.

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

(c 1/2) The commission shall, in consultation with the department of transitional assistance, the department of labor and workforce development, the department of housing and community development or the applicable administering agency, establish by regulation, under section 5, procedures and standards to prohibit an establishment or any person acting on behalf of an establishment from: (1) cashing a government-issued check; (2) from operating on its premises any credit card or ATM machine that would allow a patron to obtain cash from a government-issued Electronic Benefits Transfer Card; and (3) from extending or issuing credit to a patron of a gaming establishment who receives any form of income-based public assistance including, but not limited to, the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Emergency Aid to Elders, Disabled and Children, public housing assistance, MassHealth and unemployment insurance. The procedures and standards established shall ensure the privacy of all patrons receiving public assistance.

(d) The commission shall establish by regulation, under section 5, procedures and standards for approving promotional gaming credits; provided, that, no such credit shall be reported as a promotional gaming credit by an operator of a gaming establishment unless the operator can establish that the credit was issued by the gaming establishment and received from a

patron as a wager at a game in the gaming establishment; provided, further, that such promotional gaming credit shall not be taxable for the purposes of determining gross revenue.

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

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

(g) On an annual basis, each gaming licensee shall report to the commission the number of debt collection processes on patrons that the commission initiates and the total amount recovered by the licensee. Notwithstanding any general or special laws to the contrary, this report shall be considered public record.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) If, after such review in a case where an interest-bearing escrow account has been established, the court affirms the assessment of such penalty, in whole or in part, the board shall be paid the amount of the penalty together with the accumulated interest on the amount of the penalty in such interest-bearing escrow account.

(iii) If the court sets aside the assessment of a civil administrative penalty in a case where the amount of such penalty has been deposited in an interest-bearing escrow account, the licensee or registrant on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest on the amount deposited.

(h) Each licensee or registrant who fails to pay a civil administrative penalty in a timely fashion, and each person who issues a bond under this section and who fails to pay to the board in a timely fashion the required amount, shall be liable to the commonwealth for up to 3 times the amount of the civil administrative penalty, or the amount of economic benefit realized by the licensee or registrant as a result of noncompliance, whichever is greater, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection of the penalty. The rate of interest shall be the rate set forth in section 6C of chapter 231.

Section 28. (a) Whoever conducts or operates, or permits to be conducted or operated, any game or gaming device in violation of this chapter or the regulations adopted under this chapter shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2? years, or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(b) Whoever employs, or continues to employ, an individual in a position, the duties of which require a license or registration under this chapter, who is not so licensed or registered, shall be punished by imprisonment the house of correction for not more than 6 months, or by a

fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(c) Whoever works or is employed in a position, the duties of which require licensing or registration under this chapter, without the required license or registration, shall be punished by imprisonment in the house of correction for not more than 6 months or a fine not to exceed $10,000, or both.

(d) A gaming licensee who, without the permission of the commission: (i) places a game or gaming device into play or displays a game or gaming device in a gaming establishment; or (ii) receives, directly or indirectly, any compensation or reward or any percentage or share of the revenue for keeping, running or carrying on a game, or owning the real property upon, or the location within which any game occurs, shall be punished by imprisonment in the house of correction for not more than 2? years or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(e) Whoever conducts or operates any game or gaming device after the person?s gaming license has expired and prior to the actual renewal of the gaming license shall be punished by imprisonment in the house of correction for not more than 1? years or a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(f) A gaming licensee who knowingly fails to exclude from the licensee?s gaming establishment any person placed by the commission on the list of excluded persons shall be punished by a fine not to exceed $5,000 or by imprisonment in the house of correction for not

more than 1 year, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(g) Whoever willfully:

(i) fails to report, pay or truthfully account for and pay over a license fee or tax imposed by this chapter or by the regulations adopted under this chapter; or

(ii) evades or defeats, or attempts to evade or defeat, a license fee or tax or payment of a license fee or tax shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2? years or a fine not to exceed $100,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $5,000,000.

Section 29. Whoever willfully resists, prevents, impedes, interferes with, or makes any false, fictitious or fraudulent statement or representation to the board, bureau, commission or division or to agents or employees of the board, bureau, commission or division in the lawful performance of the agent?s or employee?s duties under this chapter shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2? years, or by a fine not to exceed $25,000, or both.

Section 30. (a) Whoever, during a game in a gaming establishment, knowingly and by any trick or sleight of hand performance or by a fraud or fraudulent scheme, cards, dice or other gaming device, for himself, for another or for a representative of either:

(i) wins, or attempts to win, money or property; or

(ii) reduces, or attempts to reduce, a losing wager in a gaming establishment shall be guilty of cheating and swindling.

(b) Whoever knowingly uses a cheating and swindling device or game in a gaming establishment shall be guilty of cheating and swindling.

(c) Whoever commits the offense of cheating and swindling shall be punished as follows:

(i) if the value of the money, property or wager cheated and swindled is $75,000 or more, by imprisonment in the state prison for not more than 10 years or in the house of correction for not more than 2? years or by a fine not to exceed $1,000,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $10,000,000;

(ii) if the value of the money, property or wager cheated and swindled is $10,000 or more but less than $75,000, by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 2? years or by a fine not to exceed $500,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $5,000,000;

(iii) if the value of the money, property or wager cheated and swindled is $1,000 or more but less than $10,000, by imprisonment in the state prison for not more than 3 years or in the house of correction for not more than 2? years or by a fine not to exceed $100,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $1,000,000;

(iv) if nothing of value was obtained in violation of this subsection or if the value of the money, property or wager cheated and swindled is less than $1,000, by imprisonment in the house of correction for not more than 2? years or by a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(d) Each episode or transaction of swindling and cheating may be the subject of a separate prosecution and conviction. In the discretion of the commonwealth, multiple episodes or transactions of swindling and cheating committed as part of a single scheme or course of conduct may be treated as a single offense and the amounts involved in acts of swindling and cheating committed according to a scheme or course of conduct, whether by the same person or several persons, may be aggregated in determining the value of money, property or wager involved in the offense.

(e) A gaming licensee, or an employee of a gaming licensee, who, in a gaming establishment, knowingly:

(i) conducts or operates any game using a cheating and swindling device or game;

(ii) displays for play a cheating and swindling game; or

(iii) permits to be conducted, operated or displayed, any cheating and swindling device or game shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2? years, or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

Section 31. (a) Whoever possesses a cheating and swindling device or game, with the intent to defraud, cheat or steal, shall be punished by imprisonment in the house of correction for not more than 2? years, or by a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $100,000.

(b) Possession of a cheating and swindling device or game within a gaming establishment shall constitute prima facie evidence of an intent to defraud, cheat or steal, except possession by a licensee or an employee of a licensee, acting lawfully in furtherance of such person's employment within the gaming establishment, shall be punished by imprisonment in the house of correction for not more than 2? years, or a fine not to exceed $10,000, or both.

Section 32. Whoever manufactures, distributes, sells or services a gaming device, in violation of this chapter or regulations adopted under this chapter and for the purpose of defrauding, cheating or stealing from a person playing, operating or conducting a game in a gaming establishment, shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2? years, or by a fine not to exceed $25,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $150,000.

Section 33. (a) Any device, game or gaming device possessed, used, manufactured, distributed, sold or serviced in violation of this chapter shall be subject to seizure and forfeiture by the division or bureau. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive, of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said chapter 94C, the commission shall be considered a police department, entitled to a police department?s distribution of forfeiture proceedings.

Section 34. (a) Whoever, being under 21 years old, plays, places wagers at, or collects winnings from, whether personally or through an agent, a game in a gaming establishment shall be punished by imprisonment in the house of correction for not more than 6 months or a fine not to exceed $1,000, or both.

(b) Whoever, being a gaming licensee or an employee of a gaming licensee, who knowingly allows a person under the age of 21 to play, place wagers at, or collect winnings from a game in a gaming establishment, whether personally or through an agent, shall be punished, for a first offense, by imprisonment in a the house of correction for not more than 1 year or a fine not to exceed $10,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $500,000 and, for a second or subsequent offense, by imprisonment in the house of correction for not more than 2 years or a fine not to exceed $50,000, or both, and in the case of a person other than a natural person, by a fine not to exceed $1,000,000.

Section 35. (a) The board shall, by regulation promulgated under section 5, provide for the establishment of a list of excluded persons who are to be excluded or ejected from a gaming establishment. In determining the list of excluded persons, the board may consider, but shall not be limited to:

(1) whether a person has been convicted of a criminal offense under the laws of any state or the United States that is punishable by more than 6 months in prison, a crime of moral turpitude or a violation of the gaming laws of any state;

(2) whether a person has violated or conspired to violate this chapter relating to:

(i) failure to disclose an interest in a gaming establishment for which the person must obtain a license; or

(ii) willful evasion of fees or taxes;

(3) whether a person has a notorious or unsavory reputation which would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements; and

(4) the potential of injurious threat to the interests of the commonwealth in the gaming establishment.

(b) No person shall be placed on the list of excluded persons due to race, color, religion, national origin, ancestry, sexual orientation, disability or sex.

(c) The board may revoke, limit, condition, suspend or fine a gaming establishment if such establishment knowingly fails to exclude or eject from its premises any person placed by the commission on the list of excluded persons.

(d) Whenever the board places a name on the list of excluded persons, the board shall serve written notice upon that person by personal service, registered or certified mail return receipt requested to the last ascertainable address, or by publication in a daily newspaper of general circulation for 1 week.

(e) (1) Within 30 days of receipt of service by mail or 60 days after the last publication under subsection (d), a person placed on the list of excluded persons may request an adjudicatory hearing before the commission under chapter 30A and show cause as to why the person should be removed from the list of excluded persons. Failure to demand a hearing within the time allotted in this section shall preclude the person from having an administrative hearing, but in no way affect the person?s right to petition for judicial review.

(2) Upon receipt of a demand for hearing, the commission shall set a time and place for the hearing. This hearing shall be held not later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by agreement of the commission and the person demanding the hearing.

(3) If, upon completion of the hearing, the commission determines that the person was wrongfully placed on the list of excluded persons, the commission shall remove the person?s name from the list of excluded persons and notify all gaming licensees. A person aggrieved by a final decision of the commission in an adjudicatory proceeding under this section may petition for judicial review under section 14 of chapter 30A.

(f) The board shall establish a list of self-excluded persons from gaming establishments. A person may request such person?s name to be placed on the list of self-excluded persons by filing a statement with the board acknowledging that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. The commission shall adopt further regulations, under section 5, for the self-excluded persons list including procedures for placement, removal and transmittal of such list to gaming establishments.

(g) Gaming establishments shall not market to persons on the excluded persons list and shall deny access to complimentaries, check cashing privileges, club programs and other similar benefits to persons on the self-excluded persons list.

(h) Notwithstanding any other law to the contrary, the self-excluded persons list shall not be open to public inspection. Nothing in this section, however, shall prohibit a gaming

establishment from disclosing the identity of persons on the self-excluded persons list under this section to affiliated gaming establishments in this commonwealth or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.

(i) As used in this subsection the following words shall, unless the context clearly requires otherwise, have the following meanings:-

(i) "Problem gambler", a person who chronically or habitually gambles to the extent that: (1) such gambling substantially interferes with the person's social or economic functioning; or (2) the person has lost the power of self-control over such person?s gambling.

(ii) "Relative", the father or mother of an individual; a stepfather, stepmother, stepbrother, stepsister or any blood relative of an individual, including those of the half blood, except cousins who are more distantly related than first cousins; an adoptive relative of equal propinquity to the foregoing; or a spouse of any such persons.

A police officer, physician, spouse, relative, guardian or court official may petition, in writing, a district court for an order of exclusion from gaming establishments applicable to a person whom the petitioner has reason to believe is a problem gambler. Upon receipt of a petition for an order of exclusion of a person and any sworn statements the court may request from the petitioner, the court shall immediately schedule a hearing on the petition and shall cause a summons and a copy of the petition to be served upon the person as provided by section 25 of chapter 276. The person may be represented by legal counsel and may present independent expert or other testimony. The court shall order examination by a qualified psychologist.

If, after a hearing, the court based upon competent testimony finds that said person is a problem gambler and there is a likelihood of serious harm as a result of the person's gambling, the court may order that such person be prohibited from gaming in gaming establishments. The court shall communicate this order to the board, which shall place the person?s name on the list of excluded persons.

(j) A person who is prohibited from gaming in a gaming establishment under this section shall not collect any winnings or recover losses arising as a result of prohibited gaming. Winnings obtained by a person who is prohibited from gaming in a gaming establishment shall be forfeited to the board.

(k) A person who enters the premises of a gaming establishment after having been placed on the list of excluded persons, without first having obtained a determination by the commission that such person should not have been placed on the list of excluded persons, shall be punished by imprisonment in a jail or house of correction for not more than 2? years or by a fine of not more than $10,000, or both.

(l) The board shall pursue an interstate compact for the purposes of sharing information regarding the excluded persons list.

Section 36. A gaming establishment offering a cashless wagering system shall allow individuals to monitor and impose betting limits on their cashless wagering. The gaming establishment shall allow individuals to set betting limits on their cashless wagering including, but not limited to, per bet limits, hourly limits, daily limits, weekly limits and monthly limits. An individual may lower limits and increase limits; provided, that, the player shall not increase betting limits more than once in a 24 hour period. Upon request by an individual, the gaming

establishment shall provide to that individual a statement of that individual?s cashless wagering activity for any given time period including total bets, wins and losses. Activity under this section shall be monitored by the board. Individuals on the list of excluded persons or list of self-excluded persons shall not be permitted to participate in a cashless wagering system.

Section 37. A liability to the commonwealth under this chapter shall constitute a debt to the commonwealth. Once a statement naming a licensee is recorded, registered or filed, any such debt shall constitute a lien on all commercial property owned by a gaming licensee in the commonwealth and shall have priority over an encumbrance recorded, registered or filed with respect to any site.

Section 38. (a) Prior to disbursement of cash or prizes in excess of $600, a licensee shall review information made available by the IV-D agency, as set forth in chapter 119A and by the department of revenue to ascertain whether the winner of the cash or prize owes past due child support to the commonwealth or to an individual to whom the IV-D agency is providing services, and to ascertain whether the winner of the cash or prize owes any past due tax liability to the commonwealth.

(b) If the winner of the cash or prize owes past due child support or a past due tax liability, the licensee shall notify the IV-D agency or the commonwealth, respectively, of the winner?s name, address and social security number. Subsequent to statutory and federal tax withholding, the licensee shall first disburse to the IV-D agency the full amount of the cash or prize or such portion of the cash or prize that satisfies the winner?s past due child support obligation.

(c) If funds remain available after the disbursement to the IV-D agency, or if no such obligation to the IV-D agency is owed, the licensee shall disburse to the department of revenue the full amount of the cash or prize or such portion of the cash or prize that satisfies the winner?s past due tax liability.

(d) The licensee shall disburse to the winner only that portion of the cash or prize, if any, remaining after the winner?s past due child support obligation and the winner?s past due tax liability have been satisfied.

Section 39. Gaming licensees shall, on a monthly basis, transmit to the department of transitional assistance and to the IV-D agency, as set forth in chapter 119A, a list of all persons who were awarded cash winnings, or a prize, valued in excess of $600.00 in the prior month. The information shall be provided in a format which is compatible with the automated data processing systems of said department and said agency, to ensure the immediate identification of persons who may be receiving public assistance benefits. The information provided shall include the name, address and social security number of the person who was awarded the cash or prize valued in excess of $600.00.

Section 40. Unclaimed cash and prizes shall be retained by the gaming licensee for the person entitled to the cash or prize for 1 year after a game in which the cash or prize was won. If no claim is made for the cash or prize within 1 year, the cash or equivalent cash value of the prize shall be deposited with the board.

Section 41. If the person entitled to cash or a prize is under the age of 21 years, said cash or prize shall be remitted to the board.

Section 42. A gaming establishment, including a business located within such establishment, shall not be a certified project within the meaning of section 3F of chapter 23A; shall not be designated an economic opportunity area within the meaning of section 3E of chapter 23A; shall not be eligible for tax increment financing as set forth in section 59 of chapter 40 or special tax assessments set forth in section 3E of chapter 23A; shall not be classified and taxed as recreational land under chapter 61B; and shall not be designated as a development district within the meaning of chapter 40Q.

Unless otherwise provided, a gaming establishment or a business located or to be located within such establishment shall not be eligible for the following credits or deductions listed in chapter 62 or chapter 63: the investment tax credit under section 31A of chapter 63, the employment credit under section 31C of chapter 63, the shuttle van credit under section 31E of chapter 63, the deduction for expenditures for industrial waste treatment or air pollution control under section 38D of chapter 63, the deduction for compensation paid to an eligible business facility?s employees domiciled in a section of substantial poverty under section 38F of chapter 63, the alternative energy sources deduction under section 38H of chapter 63, the research expense credit under section 38M of chapter 63, the economic opportunity area credit under subsection (g) of section 6 of chapter 62 and section 38N of chapter 63, the abandoned building deduction under paragraph (10) of subsection (a) of Part B of section 3 of chapter 62 and section 38O of chapter 63, the harbor maintenance tax credit under section 38P of chapter 63, the film tax credit under subsection (l) of section 6 of chapter 62 and section 38X of chapter 63, the environmental response action tax credit under subsection (j) of section 6 of chapter 62 and section 38Q of chapter 63, the historic rehabilitation tax credit under section 6J of chapter 62 and

section 38R of chapter 63 or the automatic sprinkler system depreciation deduction under section 38S of chapter 63.

Section 43. The board shall audit as often as the board determines necessary, but not less than annually, the accounts, programs, activities and functions of all licensees. To conduct the audit, the authorized officers and employees of the board shall have access to such accounts at reasonable times and the board may require the production of books, documents, vouchers and other records relating to a matter within the scope of such audit. The superior court shall have jurisdiction to enforce the production of records that the board requires to be produced under this section and the court shall order the production of all such records within the scope of any such audit. All such audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a licensee issued by the board, containing adverse or critical audit results, the board may require a response, in writing, to the audit results. The response shall be forwarded to the board within 15 days of notification by the board.

On or before April 1 of each year, the board shall submit a report to the clerks of the house of representatives and the senate who shall forward the report to the house and senate committees on ways and means which shall include, but not be limited to: (i) the number of audits performed under this section; (ii) a summary of findings under the audits; and (iii) the cost of each audit.

Section 44. Unless the board otherwise determines it to be in the best fiscal interests of the commonwealth, the board shall utilize the services of 1 or more independent testing

laboratories that are registered to perform the testing of gaming equipment and slot machines and may also utilize any additional services or applicable data from 1 or more independent testing laboratories.

The board shall develop standards to register independent testing laboratories to perform the testing of gaming equipment and slot machines. Each said independent testing laboratory shall, at a minimum, meet the requirements of sections 11 and 14, shall not be owned or controlled by, or have any interest in, a gaming licensee, a gaming vendor or slot machine manufacturer and shall provide such information as the board may require in order to qualify for registration.

Section 45. Live entertainment in an entertainment venue in the gaming establishment with more than 1,000 seats shall require approval by the board. A gaming establishment shall submit information regarding a planned performance for live entertainment in an entertainment venue in the gaming establishment with more than 1,000 seats to the board not less than 3 months prior to the performance. The board shall submit this information to the subcommittee on cultural facilities as established in subsection (b) of section 46 for a recommendation on whether to approve or deny the performance. The subcommittee may also make recommendations as to whether the performance should be approved under certain conditions, which may include, but not be limited to, a contract term requiring the live entertainment performer to perform another show in the commonwealth, not at a gaming establishment, within 6 months of performing at the gaming establishment. If the board deviates from the subcommittee?s recommendation, the board shall state its reasons for doing so in writing.

Section 46. (a) There shall be a gaming policy advisory committee consisting of 14 members: 1 of whom shall be the governor, or the governor's designee, who shall serve as chair; 1 of whom shall be the chair of the commission; 1 of whom shall be the chair of the board; 1 of whom shall be the senate president or the president's designee; 1 of whom shall be the speaker of the house of representatives or the speaker's designee; 1 of whom shall be the commissioner of public health or the commissioner?s designee? and 7 of whom shall be appointed by the governor, 3 of whom shall be representatives of gaming licensees, 1 of whom shall be a representative of a federally recognized Native American tribe in the commonwealth, 1 of whom shall be a representative of organized labor who shall be selected from a list of 3 names proposed by the president of the Massachusetts AFL-CIO and 3 of whom shall be appointed from the vicinity of each gaming establishment, as defined by host community and surrounding community, upon determination of the licensee and site location by the commission. The committee shall designate subcommittees to examine community mitigation, compulsive gambling and gaming impacts on cultural and tourism. Members of the committee shall serve for 2 year terms. The committee shall meet at least once annually for the purpose of discussing matters of gaming policy. The recommendations of the committee concerning gaming policy made under this section are advisory and shall not be binding on the commission and board.

(b) There shall be a subcommittee on cultural facilities under the gaming policy advisory committee consisting of 5 members: 1 of whom shall be a representative of the Massachusetts performing arts center coalition; 1 of whom shall be a representative from the Massachusetts cultural council; 1 of whom shall be a representative of the board; and 2 of whom shall be appointed by the governor, 1 of whom shall have professional experience in the gaming entertainment booking industry and 1 of whom shall be a representative of organized labor who

shall be selected from a list of 3 names proposed by the president of the Massachusetts AFL-CIO. The subcommittee shall develop recommendations for regulations to be developed by the board to address cultural mitigation including, but not limited to, the relationship between gaming entertainment venues and currently existing performing arts centers in the commonwealth and standards for granting waivers of the requirements in section 45.

(c) There shall be a subcommittee on community mitigation under the gaming policy advisory committee consisting of 7 members: 1 of whom shall be appointed from the host community in region 1; 1 of whom shall be appointed from the host community in region 2; 1 of whom shall be appointed from the host community in region 3; 1 of whom shall be a representative from the department of revenue's division of local services; 1 of whom shall be a representative of the board; 1 of whom shall be appointed by the governor and have professional experience in community mitigation related to gaming; and 1 of whom shall be a representative from the Massachusetts municipal association. The subcommittee shall develop regulations to be considered by the board to address issues of community mitigation as a result of the development of gaming establishments in the commonwealth, including, but not limited to: how funds may be expended from the Community Mitigation Fund, the impact of gaming establishments on the host community as well as surrounding communities including, but not limited to, the impact on local resources as a result of new housing construction and potential necessary changes to affordable housing laws, increased education costs and curriculum changes due to population changes in the region, development and maintenance of infrastructure related to increased population and utilization in the region and public safety impacts resulting from the facility and how to address that impact. The subcommittee shall receive input from local community mitigation advisory committees. The subcommittee shall review annually the expenditure of

funds from the Community Mitigation Fund and make recommendations to the board relative to appropriate and necessary use of community mitigation funds. The subcommittee shall submit updated regulations relating to community mitigation annually to the gaming policy advisory committee and the board. The board shall promulgate such regulations as advised by the subcommittee.

(d) There shall be a subcommittee on addiction services under the gaming policy advisory committee consisting of 5 members: 1 of whom shall be a representative from the department of public health?s bureau of substance abuse services; 1 of whom shall be a representative from the Massachusetts Council on Compulsive Gambling, Inc.; 1 of whom shall be a representative of the board; and 2 of whom shall be appointed by the governor with professional experience in the area of gambling addictions. The subcommittee shall develop recommendations for regulations to be developed by the board to address issues related to addiction services as a result of the development of gaming establishments in the commonwealth, including by not limited to, prevention and intervention strategies.

(e) There shall be a subcommittee on public safety under the gaming policy advisory committee consisting of 7 members: 1 of whom shall be a member of the board; 1 of whom shall be the secretary of the executive office of public safety or the secretary's designee; 1 of whom shall be the attorney general or the attorney general's designee; 1 of whom shall be a representative from the Massachusetts District Attorneys Association; 1 of whom shall be the colonel of the state police or the colonel's designee; 1 of whom shall be a representative from the Massachusetts Chiefs of Police Association; and 1 of whom shall be a representative of a public safety labor union. The subcommittee shall develop recommendations for regulations to be developed by the board to address public safety issues as a result of the development of gaming

establishments in the commonwealth, including but not limited to, how to mitigate the impact of gaming establishments on crimes committed in the commonwealth. The subcommittee shall also study the impact of gaming establishments on all aspects of public safety in the commonwealth.

(f) Each region, as defined in section 17, may establish a local community mitigation advisory committee, which shall include not fewer than 6 members: 1 of whom shall be appointed by each of the host and surrounding communities; 1 of whom shall be appointed by each regional planning agency to which at least 1 of the host or surrounding communities belongs; and 4 of whom shall be appointed by the board, of whom at least 1 shall represent a chamber of commerce in the region, 1 shall represent a regional economic development organization in the region, and 2 shall represent human service providers in the region. Each local committee shall annually elect a chair and such other officers as it deems necessary to carry out its duties.

Each local committee may provide information and develop recommendations for the subcommittee on community mitigation on any issues related to the gaming establishment located in its region including, but not limited to: issues of community mitigation; how funds may be expended from the community mitigation fund; and the impact of the gaming establishments on the host and surrounding communities. Additionally, each local committee may present information to the commission or board, consistent with the rules of the commission or board, on any issues related to the gaming establishment located in its region.

Section 47. As used in sections 48 to 56, inclusive, the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Compensation", any money, thing of value or economic benefit conferred on or received by any employee of the gaming industry in return for services rendered or to be rendered by the employee or another.

"Gaming official", a person who is employed, temporarily or permanently, by an entity licensed under this chapter, including, but not limited to, key gaming employees and other employees, agents, consultants and advisors.

"Gaming entity", a person or business that is licensed under this chapter.

"Official act", a decision, action or inaction within the official capacity of the gaming official as a gaming official.

"Official responsibility", the direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, and whether personal or through subordinates, to approve, disapprove or otherwise direct gaming-related action.

"Participate", engaging in gaming-related action personally and substantially as an official, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise.

Section 48. No person shall directly or indirectly, corruptly give, offer or promise anything of value to a gaming official, or offer or promise any such official to give anything of value to any other person or entity, with intent to:

(1) influence an official act or an act within the official responsibility of the gaming official; or

(2) influence the gaming official to commit or aid in committing, or collude in, or allow, any fraud or make opportunity for the commission of a fraud on the commonwealth, a state, county or municipal agency or any person or business entity doing business with a gaming entity; or

(3) induce a gaming official to do or omit to do any act in violation of the official?s lawful duty.

A violation of this section shall be punished by a fine of not more than $10,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

Section 49. (a) No person shall, other than as provided by law for the proper discharge of official duty, directly or indirectly, give, offer or promise anything of substantial value to a gaming official:

(i) for or because of an official act performed or to be performed by such a gaming official; or

(ii) to influence, or attempt to influence, an official action of a gaming entity.

A violation of this section shall be punished by a fine of not more than $10,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

(b) No present or former gaming official shall, other than as provided by law for the proper discharge of official duty, directly or indirectly, ask, demand, exact, solicit, seek, accept, receive or agree to receive anything of substantial value:

(i) for the gaming official, for or because of any official act or act within the gaming official?s official responsibility performed or to be performed by the gaming official; or

(ii) to influence, or attempt to influence, the gaming official in an official act taken.

A violation of this section shall be punished by a fine of not more than $10,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

(c) Nothing in this section shall be construed to prohibit the awarding of gratuities in compliance with an official gratuity policy established by the gaming establishment, the board or the commission.

Section 50. (a) Except as permitted by subsection (b), no board member shall participate as such a member in a particular matter in which to the member?s knowledge, the member?s immediate family or partner, a business organization in which the member is serving as officer, director, trustee, partner or employee or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

A violation of this section shall be punished by a fine of not more than $25,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

(b) A board member whose duties would otherwise require such member to participate in such a particular matter shall advise the commission of the nature and circumstances of the

particular matter and shall make a full disclosure of such financial interest, and the commission shall thereupon either:

(1) require that the member not participate in the particular matter; or

(2) make a written determination that the interest is not so substantial as to be deemed likely to affect the integrity of the board, in which case it shall not be a violation for the member to participate in the particular matter. Copies of such written determination shall be forwarded to the member and filed with the commission. Such copy shall be retained by the commission for a period of 6 years and shall be a public record.

Section 51. No commissioner or board member shall be eligible for a position under the supervision of the commission or board until the expiration of 30 days from the termination of the commissioner?s or member?s service as a commissioner or board member.

Section 52. (a) In addition to other remedies provided by law, a violation of sections 48 to 51, inclusive, which has substantially influenced the action taken by a gaming entity in a particular matter, shall be grounds for avoiding, rescinding or canceling the action on such terms as the interests of an innocent third person requires.

(b) In addition to the remedies set forth in subsection (a), the commission, upon a finding pursuant to an adjudicatory proceeding that a person has acted to the person?s economic advantage in violation of sections 48 to 51, inclusive, may issue an order: (1) requiring the violator to pay the board in the amount of the economic advantage or $500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general, the commission may order payment of additional

damages in an amount not exceeding twice the amount of the economic advantage or $500, whichever is greater.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission.

Section 53. The commission shall designate a gaming ombudsmen, who shall be available to advise gaming officials of the officials' responsibilities under this chapter. A gaming official shall be entitled to the opinion of the gaming ombudsmen upon any question arising under this chapter relating to the duties, responsibilities and interests of such official.

Section 54. All disclosures and certifications required by this chapter shall be made in writing and, unless otherwise specifically provided in this chapter, shall be kept open by the commission to inspection by the public.

Section 55. The board shall prepare, and update as necessary, summaries of sections 47 to 54, inclusive, for gaming officials which the board shall publish on its official website. Every gaming official shall, within 30 days of becoming such an official, and on an annual basis thereafter, be furnished with a summary of said sections prepared by the board, sign a written acknowledgment that the gaming official has been provided with such a summary and undergo training explaining the requirements of this chapter. The board shall establish procedures for implementing this section and ensuring compliance.

Section 56. No gaming establishment, or its agents or employees shall employ, contract with, or use any shill or barker to induce any person to enter a gaming establishment or play at any game or for any purpose.

A violation of this section shall be punishable by a fine of $5,000 or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

Section 57. (a) No gaming official shall, except in the normal course of the official's duties, wager in the gaming establishment in which such official is employed.

(b) No gaming official shall, except in the normal course of the official?s duties, wager in an establishment which is owned or operated by the same licensee who owns or operates the gaming establishment for which the official is employed.

Section 58. A gaming official, not including key gaming employees and employees holding major policy-making positions, who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, shall wait at least 30 days following the date that the gaming official either leaves or is terminated from employment with a gaming establishment before the gaming official may gamble in the gaming establishment in which the gaming official was formerly employed or in any other gaming establishment which is owned or operated by the same licensee.

Section 59. No key gaming employee or gaming control employee, or any other gaming official who serves in a supervisory position shall solicit or accept, any tip or gratuity from any player or patron in the gaming establishment where the employee is employed.

Section 60. The board shall report monthly to the governor, the attorney general, the senate and house committees on ways and means and the chairs of the joint committee on revenue the total gaming revenues, prize disbursements and other expenses for the preceding month and shall make an annual report to the same recipients which shall include a full and

complete statement of gaming revenues, prize disbursements and other expenses, including such recommendations as the board considers necessary or advisable. The board shall report immediately to the governor, the attorney general, the senate and house committees on ways and means and the chairs of the joint committee on revenue any matter which requires immediate changes in the laws of the commonwealth in order to prevent abuses or evasions of the laws, rules or regulations related to gaming or to rectify undesirable conditions in connection with the administration or operation of gaming in the commonwealth.

Section 61. The commission shall annually submit a complete and detailed report of the commission?s activities within 90 days after the end of the fiscal year to the clerk of the house of representatives, the clerk of the senate, the chairs of the joint committee on economic development and emerging technologies and the chairs of the house and senate committees on ways and means.

Section 62. There is hereby established and placed upon the books of the board a Gaming Licensing Fund which shall consist of all licensing fees collected from licensees and any proceeds from the investment of such fees. The board shall be the trustee of the fund and shall not allow the fund to carry a negative balance.

Section 63. (a) A licensee shall pay a daily tax of 25 per cent on gross gaming revenues; provided that, taxes imposed under this section shall be remitted to the board by a licensee the day following each day of wagering.

(b) The board shall remit the revenues received to the commonwealth on a daily basis and shall be deposited into the Gaming Revenue Fund, established in section 64.

Section 64. (a) There is hereby established and placed upon the books of the board a Gaming Revenue Fund which shall consist of all revenues collected from the tax on gross gaming revenue received from gaming licensees under section 63 and any proceeds from the investment of such revenues. The board shall be the trustee of the fund.

(b) A transfer under this section shall be made under a transfer schedule to be developed by the comptroller and the board for each item after consulting with the appropriate agency secretary, the secretary of administration and finance and the state treasurer. The schedule shall provide for transfers in increments considered appropriate to meet the cash flow needs of each fund and all transfers under the schedule shall be completed annually not later than June 30.

(c) The board shall transfer 10 per cent of collected revenues to the Gaming Mitigation Trust Fund, created in section 65 and remit the remaining 90 per cent of collected revenues to the comptroller. The comptroller may make all necessary transfers among funds to ensure that monies in the fund are transferred as follows:-

(i)one-third of the amount remitted to the General Fund, subject to appropriation, shall be used for debt reduction through a program of debt defeasance and accelerated debt payments; provided, that, this program shall be developed jointly by the state treasurer and the secretary of administration and finance and shall be implemented in compliance with state finance law; provided, further, that this program shall prioritize the reduction of risk in the commonwealth's debt portfolio; provided further, that the state secretary and state treasurer shall provide a written description of the program to the finance advisory board established in section 97 of chapter 6 for the board's review and comment before the program is implemented and shall file a copy of that description with the house and senate committees on ways and means and the

house and senate committees on bonding, capital expenditures and state assets when it is submitted to the finance advisory board;

(ii) one-third of the amount remitted to the State Lottery and Gaming Fund, created in section 35 of chapter 10; provided, that, the total transfer to the State Lottery and Gaming Fund shall not exceed $150,000,000 in any fiscal year; and provided, further, that any amount in excess of $150,000,000 shall be transferred to the Local Aid Stabilization Fund, created in section 2BBBB of chapter 29;

(iii) one third of the amount remitted to the Gaming Economic Development Fund, created in section 2CCCC of chapter 29.

Section 65. (a) There is hereby established and set up on the books of the board a fund to be known as the Gaming Mitigation Trust Fund. The Gaming Mitigation Trust Fund shall consist of monies transferred from the Gaming Revenue Fund and all other monies credited or transferred to the fund from any other fund or source and proceeds from the investment of such funds. The board shall be the trustee of the fund.

(b) The board shall administer the Gaming Mitigation Trust Fund and shall expend monies in the fund to address the impacts of expanded gaming in the commonwealth as follows:

(1) Thirty-five per cent of fund revenues in a fiscal year shall be expended for community mitigation including, but not limited to, the areas of local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including police, fire, and emergency services, in impacted communities, that may include host and surrounding communities;

(2) Thirty-five per cent of fund revenues in a fiscal year shall be expended for social mitigation including, but not limited to, problem gambling prevention, intervention and treatment services, substance abuse services and gaming-related research;

(3) Twenty per cent of fund revenues in a fiscal year shall be expended for cultural mitigation including, but not limited to, assistance to not-for-profit or municipally-owned performing arts centers; and

(4) Ten per cent of fund revenues in a fiscal year shall be expended for racetrack mitigation including, but not limited to, developing programs to improve the purses offered at live racing venues, the horse breeding industry, programs to promote the live horse racing industry and other existing programs that provide health, medical, food, substance abuse treatment and other social services for horse racing industry employees.

Section 66. All political contributions or contributions in kind made by an applicant for a gaming license to any municipal employee, as defined in section 1 of chapter 268A, of the host community of the applicant?s proposed gaming establishment shall be disclosed, by the applicant, to the board and the city or town clerk of the host community. Such disclosure shall be made by the applicant bi-annually, on or before July 15 for the period covering January 1 through June 30 of that year and on or before January 15 for the period covering July 1 through December 31 of the preceding year. The office of campaign and political finance shall promulgate regulations to provide for timely and expeditious public reporting, which shall include electronic means or public posting in a city or town hall and post office, by city and town clerks of the contribution disclosures they receive from applicants.

Section 67. (a) Any vendor who operates an ATM machine on the premise of a gaming establishment shall be prohibited from selling or sharing any information about patrons using the machine with any party.

(b) Licensees shall be prohibited from using information about patrons' usage of ATM machines including, but not limited to, the identity of the patron, the address of the patron, the amounts withdrawn from the ATM machine and the dates or times the machines are used, for marketing purposes.

SECTION 14. Section 62 of chapter 23K of the General Laws is hereby repealed.

SECTION 15. Section 1 of chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the definition of ?State authority,? and inserting in place thereof the following definition:-

"State authority" a body politic and corporate constituted as a public instrumentality of the commonwealth and established by an act of the General Court to serve an essential governmental function; provided, however that ?state authority? shall not include: (1) a state agency; (2) a city or town; (3) a body controlled by a city or town; or (4) a separate body politic where the governing body is elected, in whole or in part, by the general public or by representatives of member cities or towns.

SECTION 16. Chapter 29 of the General Laws is hereby amended by inserting after section 2AAAA the following 2 sections:

Section 2BBBB. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Local Aid Stabilization Fund. The Local Aid

Stabilization Fund shall consist of monies transferred from the Gaming Revenue Fund, established in section 64 of chapter 23K, to the fund, all other monies credited or transferred from any other fund or source and proceeds from the investment of such funds. Subject to appropriation, the fund shall be distributed to cities and towns as a supplement to other sources of local aid distributions, but shall not be subject to section 5C of chapter 29.

Section 2CCCC. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Gaming Economic Development Fund. The fund shall be credited with revenues transferred to it from the Gaming Revenue Fund, established in section 64 of chapter 23K. Amounts credited to the fund shall be expended, subject to appropriation, to support economic development and job growth in the commonwealth including, but not limited to: (1) workforce training, including transfers to the Workforce Competiveness Trust Fund; (2) tourism promotion; (3) summer jobs; (4) Massachusetts Marketing Partnership, (5) higher education scholarships; (6) regional economic development initiatives; (7) small business lending; (8) green jobs promotion; and (9) STEM pipeline initiatives.

SECTION 17. Section 38 of said chapter 29, as appearing in the 2008 Official Edition, is hereby amended by striking out in lines 115 to 116, the words ?State Lottery Fund, as established and defined in section thirty-five of chapter ten? and inserting in place thereof the following words:- State Lottery and Gaming Fund established in section 35 of chapter 10.

SECTION 18. Said section 38 of said chapter 29, as so appearing, is hereby further amended by striking out, in lines 127 to 128, the words ?the said State Lottery Fund? and inserting in place thereof the following words:- said State Lottery and Gaming Fund.

SECTION 19. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the word "connector", in line 211, the following words:- , the Massachusetts gaming commission, the Massachusetts gaming control board.

SECTION 20. Section 2 of chapter 32A of the General Laws, as so appearing, is hereby amended by inserting after the word "authority", in line 12, the following words:- , the Massachusetts gaming commission, the Massachusetts gaming control board.

SECTION 21. Section 94 of chapter 41 of the General Laws, as so appearing, is hereby amended by inserting after the word "and", in line 7, the first time it appears, the following word: illegal.

SECTION 22. Section 18C of said chapter 58, as so appearing, is hereby amended by inserting after the word ?Lottery?, in line 6, the following words:- and Gaming.

SECTION 23. Section 18D of chapter 58 of the General Laws is hereby repealed.

SECTION 24. Section 5A of chapter 62 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word ?commonwealth?, in line 24, the following words:- ,including gaming winnings acquired at or through a gaming establishment under chapter 23K.

SECTION 25. The seventh paragraph of section 2 of chapter 62B of the General Laws, as so appearing, is hereby amended by striking out the first 2 sentences and inserting in place thereof the following 2 sentences:-

Every person, including the United States, the commonwealth or any other state, or any political subdivision or instrumentality of the foregoing, making any payment of lottery or

gaming winnings, acquired at or through a gaming establishment under chapter 23K, which are subject to taxation under chapter 62 and which are subject to withholding under section 3402(q) of the Internal Revenue Code shall deduct and withhold from such payment an amount equal to 5 per cent of such payment, except that such withholding for purposes of this chapter shall apply to payments of winnings of $600 or greater notwithstanding any contrary provisions of the Internal Revenue Code; provided, however that the exception contained in subsection (q)(5) and (r) of the Internal Revenue Code shall not apply to winnings under this section. For purposes of this chapter and chapter 62C, such payment of winnings shall be treated as if it were wages paid by an employer to an employee.

SECTION 26. Said chapter 62B is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. Every employer required to deduct and withhold from an employee or payee a tax under section 2, or who would have been required under said section in the case of an employee to deduct and withhold a tax if the employee had not claimed any personal exemption or dependency exemptions, shall furnish to each such employee or payee in respect of the wages or other payments paid by such employer to such employee or payee during the calendar year, on or before January 31 of the succeeding year, or, if an employee?s employment is terminated before the close of such calendar year, within 30 days from the day on which the last payment of wages is made, a written statement in duplicate showing the name of the employer, the name of the employee or payee and the employee or payee?s social security account number, if any, the total amount of wages or other amounts subject to taxation under chapter 62 and the total amount deducted and withheld as tax. This statement may contain such other information as the

commissioner may prescribe. The commissioner may grant reasonable extensions of time, not exceeding 60 days, for the furnishing of the statement.

Every employer who fails to withhold or pay to the commissioner any sums required by this chapter to be withheld or paid shall be personally and individually liable for such sums to the commonwealth. The term ?employer? as used in this section and in section 11, shall include any person or entity required to withhold tax from any payee and shall include an officer or employee of a corporation, or a member or employee of a partnership or limited liability company, who as such officer, employee or member is under a duty to withhold and pay over taxes under this section and section 2. Any sum withheld under section 2 shall be considered to be held in trust for the commonwealth.

If an employer in violation of this chapter fails to withhold the tax under section 2, and thereafter the tax against which such tax may be credited, under section 9, is paid, the tax so required to be withheld shall not be collected from the employer; but this paragraph shall in no case relieve the employer from liability for any penalties or addition to the tax otherwise applicable in respect of such failure to withhold.

SECTION 27. The first paragraph of section 8 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The same basis of reporting shall be utilized for income that is subject to taxation or withholding under chapter 62 or 62B but is not subject to taxation or withholding under the Code.

SECTION 28. Subsection (f) of section 38 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

For the purposes of this subsection: (1) in the case of the licensing of intangible property, the income-producing activity shall be considered to be performed in the commonwealth to the extent that the intangible property is used in the commonwealth; (2) the corporation shall be considered to be taxable in the state of the purchaser if the tangible personal property is delivered or shipped to a purchaser in a foreign country; (3) sales of tangible personal property to the United States government or an agency or instrumentality of the United States for purposes of resale to a foreign government or an agency or instrumentality of a foreign government shall not be sales made in the commonwealth; (4) in the case of the sale, exchange or other disposition of a capital asset, as defined in paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business, including a deemed sale or exchange of such asset, ?sales? shall be measured by the gain from the transaction; (5) ?security? shall mean an interest or instrument commonly treated as a security as well as other instruments which are customarily sold in the open market or on a recognized exchange including, but not limited to, transferable shares of a beneficial interest in a corporation or other entity, bonds, debentures, notes and other evidences of indebtedness, accounts receivable and notes receivable, cash and cash equivalents including foreign currencies and repurchase and futures contracts; (6) in the case of a sale or deemed sale of a business, the term "sales" shall not include receipts from the sale of the business "good will" or similar intangible value, including, without limitation, "going concern value" and "workforce in place"; (7) to the extent authorized under the life sciences tax incentive program established by section 5 of chapter 23I, a certified life sciences company may be deemed a research and development

corporation for purposes of exemptions under chapters 64H and 64I; and (8) in the case of a business deriving receipts from operating a gaming establishment or otherwise deriving receipts from conducting a wagering business or activity, income-producing activity shall be considered to be performed in the commonwealth to the extent that the location of wagering transactions or activity that generated the receipts is in the commonwealth.

SECTION 29. Section 2 of chapter 70 of the General Laws, as so appearing, is hereby amended by inserting after the word "Lottery", in line 355, the following words:- and Gaming.

SECTION 29A. Section 2 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out, in line 99, the words "or dog".

SECTION 30. Said section 2 of said chapter 128 of the General Laws, as so appearing, is hereby further amended by striking out subsection (i).

SECTION 31. Section 1 of chapter 128A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "state racing commission" and inserting in place thereof the following words:- Massachusetts gaming commission established in chapter 23K.

SECTION 32. Section 1 of chapter 128C of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words "state racing commission" and inserting in place thereof the following words:- gaming commission established in chapter 23K.

SECTION 33. Section 1 of chapter 137 of the General Laws, as so appearing, is hereby amended by inserting after the word ?gaming?, in line 2, the following words:- , except for gaming conducted in gaming establishments under chapter 23K.

SECTION 34. Section 2 of said chapter 137, as so appearing, is hereby amended by inserting after the word "building", in line 1, the following words:- , except for an owner or operator of a gaming establishment licensed under chapter 23K.

SECTION 35. Section 3 of said chapter 137, as so appearing, is hereby amended by adding the following sentence:- Nothing in this section shall prohibit any activity authorized under chapter 23K.

SECTION 36. Section 18 of chapter 139 of the General Laws, as so appearing, is hereby amended by inserting after the word ?of?, in line 6, the word:- illegal.

SECTION 37. Section 26A of chapter 180 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 16, the following words:- or dog.

SECTION 38. The General Laws are hereby amended by inserting after chapter 267 the following chapter:-

Chapter 267A

Money Laundering

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Criminal activity", a criminal offense punishable under the laws of the commonwealth by imprisonment in a state prison or a criminal offense committed in another jurisdiction punishable under the laws of that jurisdiction as a felony.

"Financial institution", a: (1) bank as defined in section 1 of chapter 167; (2) national banking association, bank, savings and loan, savings bank, cooperative bank, building and loan or credit union organized under the laws of the United States; (3) banking association, bank, savings and loan, savings bank, cooperative bank, building and loan or credit union organized under the laws of any state; (4) agency, agent or branch of a foreign bank; (5) currency dealer or exchange; (6) person or business engaged primarily in the cashing of checks; (7) person or business regularly engaged in the issuing, selling or redeeming of traveler's checks, money orders or similar instruments; (8) broker or dealer in securities or commodities; (9) licensed transmitter of funds or other person or business regularly engaged in the transmission of funds to a foreign nation for others; (10) investment banker or investment company; (11) insurer; (12) dealer in precious metals, stones or jewels; (13) pawnbroker or scrap metal dealer; (14) telegraph or other communications company; (15) personal property or real estate broker; (16) dealer in vehicles including, but not limited to, automobiles, aircraft and vessels; (17) operator of a betting or gaming establishment; (18) travel agent; (19) thrift institution; (20) operator of a credit card system; or (21) loan or finance company.

"Monetary instrument", the currency and coin of the United States or any foreign country; any bank check, money order, stock, investment security, or negotiable instrument in bearer form or otherwise in such form that title passes upon delivery; gold, silver or platinum bullion or coins; diamonds, emeralds, rubies, or sapphires; any negotiable instrument including: bank checks, cashier's checks, traveler's checks, or monetary orders made payable to the order of a named party that have not been endorsed or which bear restrictive endorsements; poker chips, vouchers or other tokens exchangeable for cash by gaming entities; and credit cards, debit cards, gift cards, gift certificates or scrips.

"Transaction", a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution including, but not limited to, a deposit, withdrawal, bailment, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

Section 2. Whoever knowingly:

(1) transports or possesses a monetary instrument or other property that was derived from criminal activity with the intent to promote, carry on or facilitate criminal activity;

(2) engages in a transaction involving a monetary instrument or other property known to be derived from criminal activity:

(i) with the intent to promote, carry on or facilitate criminal activity; or

(ii) knowing that the transaction is designed in whole or in part either to: (A) conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity; or (B) avoid a transaction reporting requirement of this chapter, of the United States, or of any other state; or

(3) directs, organizes, finances, plans, manages, supervises or controls the transportation of, or transactions in, monetary instruments or other property known to be derived from criminal activity or which a reasonable person would believe to be derived from criminal activity;

shall be guilty of the crime of money laundering and shall be punished by imprisonment in the state prison for not more than 6 years or by a fine of not more than $250,000 or twice the

value of the property transacted, whichever is greater, or by both such imprisonment and fine; and for any subsequent offense shall be punished by imprisonment in the state prison for not less than 2 years, but not more than 8 years or by a fine of not more than $500,000 or 3 times the value of the property transacted, whichever is greater, or by both such imprisonment and fine.

Section 3. (a) A financial institution shall file with the attorney general a copy of any and all reports required by the Currency and Foreign Transactions Act, set forth in 31 U.S.C., sections 5311 through 5315, 31 C.F.R. 103.

(b) A financial institution, or any officer, employee, or agent of a financial institution that maintains and files a record or report under this section shall not be liable to its customer, to a state or local agency, or to any person for any loss or damage caused in whole or in part by the making, filing or governmental use of the record or report, or any information contained in the record or report. Nothing in this chapter shall be construed to give rise to a private cause of action for relief or damages. This subsection shall not preclude a financial institution, in its discretion, from instituting contact with, and then communicating with and disclosing customer financial records to appropriate federal, state or local law enforcement agencies if the financial institution has reason to suspect that the records or information demonstrate that the customer has violated this chapter.

(c) Any report, record or information obtained by the attorney general under this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66 and shall not be subject to disclosure, except to other state and federal law enforcement agencies.

(d) Any violation of this section, which is not a violation of section 2, shall be punished by a fine of $100 for each report not filed.

(e) The timely filing of complete and accurate reports required under subsection (a) with the appropriate federal agency shall constitute compliance with the requirements of subsection (a).

Section 4. All monetary instruments or other property, real, intellectual or personal, obtained directly as a result of a violation of section 2 of this chapter, shall be subject to forfeiture to the commonwealth. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said chapter 94C, the investigation and enforcement bureau of the gaming control board shall be considered a police department, entitled to a police department?s distribution of forfeiture proceedings.

SECTION 40. Section 1 of chapter 271 of the General Laws, as so appearing, is hereby amended by inserting after the word "gaming", in lines 3 and 4, the following words:- , except as permitted under chapter 23K.

SECTION 41. Section 2 of said chapter 271, as so appearing, is hereby amended by inserting after the words ?playing?, in line 4, the following words:- , except as permitted under chapter 23K.

SECTION 42. Section 3 of said chapter 271, as so appearing, is hereby amended by inserting after the words ?gaming?, in line 3, the following words:- , except as permitted under chapter 23K.

SECTION 43. Section 5 of said chapter 271, as so appearing, is hereby amended by inserting after the words ?thing,?, in line 7, the following words:- except as permitted under chapter 23K.

SECTION 44. The second paragraph of section 5A of said chapter 271, as so appearing, is hereby amended by adding the following sentence:- This section shall not apply to persons who manufacture, transport, sell, offer for sale, store, display, repair, recondition, possess or use any gambling device or parts for use in such a device for licensed gaming conducted under chapter 23K.

SECTION 45. Section 6 of said chapter 271, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "gambling or unlawful game" and inserting in place thereof the words:- illegal gaming.

SECTION 46. Section 7 of said chapter 271, as so appearing, is hereby amended by inserting after the word ?device?, in line 7, the first time it appears, the following words:- that is not taking place in a gaming establishment licensed under chapter 23K.

SECTION 47. Said chapter 271 is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:

Section 8. Whoever owns, occupies, or is in control of a house, shop or building and knowingly permits the establishing, managing or drawing of such lottery, or such disposal or attempt to dispose of property, or the sale of a lottery ticket or share of a ticket, or any other writing, certificate, bill, token or other device purporting or intended to entitle the holder, bearer or any other person to a prize or to a share of or interest in a prize to be drawn in a lottery, or in such disposal or property and whoever knowingly suffers money or other property to be raffled

for or won by throwing or using dice or by any other game of chance that is not being conducted in a licensed gaming establishment under chapter 23K, shall be punished by a fine of not more than $2000 or by imprisonment in a jail or house of correction for not more than 1 year.

SECTION 48. Section 14 of said chapter 271, as so appearing, is hereby further amended by inserting after the word "by", in line 3, the first time it appears, the following words:- illegal gaming, including games of.

SECTION 48A. Section 16A of said chapter 271, as so appearing, is hereby amended by inserting after the word "wagerers", in line 14, the following words: - or to persons who organize, supervise, manage, or finance persons for the purpose of gaming conducted under chapter 23K.

SECTION 49. Section 17 of said chapter 271, as so appearing, is hereby amended by adding the following sentence:- This section shall not apply to persons who organize, supervise, manage or finance persons for the purpose of licensed gaming conducted under chapter 23K.

SECTION 50. Section 19 of said chapter 271, as so appearing, is hereby amended by adding the following words:- ; provided, however, that this section shall not apply to advertising of licensed gaming conducted under chapter 23K.

SECTION 51. Section 20 of said chapter 271, as so appearing, is hereby amended by adding the following sentence:- Nothing in this section shall prohibit a gaming establishment licensed under chapter 23K from posting or exposing materials relevant to its gaming operations.

SECTION 52. Section 22 of said chapter 271, as so appearing, is hereby amended by adding the following words:- or any receipt, carriage or delivery by a gaming establishment licensed under chapter 23K.

SECTION 53. Section 23 of said chapter 271, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Chapter 276 relative to the disposal of gaming articles seized upon search warrants shall apply to all articles and property seized under this section; provided, however, that such disposal shall not apply to licensed gaming conducted under chapter 23K.

SECTION 54. Section 28 of said chapter 271, as so appearing, is hereby amended by inserting after the word ?of?, in line 3, the third time it appears, the following word:- illegal.

SECTION 55. Section 31 of said chapter 271, as so appearing, is hereby amended by striking out in lines 3 and 4 the words "thereto by section fourteen of chapter one hundred and eighty" and inserting in place thereof the following words:- to conduct such trials or gaming establishments licensed under chapter 23K.

SECTION 56. The General Laws are hereby amended by inserting after chapter 271 the following chapter:-

Chapter 271A

Enterprise Crime

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Criminal enterprise activity", the commission, attempt to commit or conspiracy to commit or the solicitation, coercion, aiding, abetting or intimidation of another to commit any of the following criminal activity under the laws of the commonwealth or equivalent crimes under the laws of any other jurisdiction: a violation of any criminal provision of chapter 23K; a felony offense under chapter 271; distributing, dispensing, manufacturing, or possessing with intent to distribute, dispense or manufacture a controlled substance in violation of chapter 94C; murder; rape; manslaughter, not including motor vehicle homicide; assault; assault and battery; assault and battery in order to collect a loan; assault with intent to rob or murder; poisoning; mayhem; robbery; extortion; stalking; criminal harassment; kidnapping; arson; burglary; malicious destruction of property; commission of a felony for hire; breaking and entering; child exploitation; assault and battery on a child; rape of a child; rape and abuse of a child; enticement of a child under 16; human trafficking; violation of constitutional rights under section 37 of chapter 265; usury; uttering; misuse or fraudulent use of credit cards under section 37C of chapter 266; identity fraud; misappropriation of funds; gross fraud; insurance fraud; unlawful prize fighting or boxing matches; counterfeiting; perjury; subornation of perjury; obstruction of justice; money laundering; witness intimidation; bribery; electronic eavesdropping; prostitution; receiving stolen property; larceny over $250; larceny by false pretenses or embezzlement; forgery; procurement fraud; false claims; tax evasion; filing false tax returns; or any conduct defined as a racketeering activity under Title 18, U.S.C. s. 1961(1)(A)(B) and (D).

"Enterprise", an entity including any individual, sole proprietorship, partnership, corporation, association, trust or other legal entity and any unchartered union or group of persons associated in fact although not a legally recognized entity.

"Gaming establishment", an establishment licensed under chapter 23K.

"Pattern of criminal enterprise activity", engaging in at least 3 incidents of criminal enterprise activity that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents; provided, however, that at least 1 of the incidents occurred after the effective date of this chapter, and the last incident occurred within 5 years of another incident of criminal enterprise activity.

"Unlawful debt", a debt (i) which was incurred or contracted in an illegal gambling activity or business or (ii) which is unenforceable under state or federal law in whole or part as to principal or interest because of the law relating to usury.

Section 2. Whoever knowingly: (1) through a pattern of criminal enterprise activity or through the collection of an unlawful debt acquires or maintains, directly or indirectly, an interest in or control of an enterprise which is engaged in, or the activities of which affect, licensed gaming under chapter 23K or ancillary industries which do business with a gaming establishment; (2) having received proceeds derived, directly or indirectly, from a pattern of criminal enterprise activity or through the collection of an unlawful debt, uses or invests, directly or indirectly, part of the proceeds including proceeds derived from the investment, in the acquisition of an interest in real property to be used in connection with licensed gaming, or in the establishment or operation of, an enterprise which is engaged in, or the activities of which affect, licensed gaming operations or ancillary industries which do business with a gaming establishment; (3) is employed by or associated with an enterprise to conduct or participate, directly or indirectly, in the conduct of the enterprise's affairs or activities which affect licensed gaming operations or ancillary industries which do business with a gaming establishment by engaging in a pattern of criminal enterprise activity or through the collection of an unlawful debt;

or (4) conspires or attempts to violate subsections (1), (2), or (3) of this section; shall be guilty of enterprise crime and shall be punished by imprisonment in the state prison for not more than 15 years or by a fine of not more than $25,000, or by both such imprisonment and fine.

Nothing in this chapter shall prohibit the purchase of securities on the open market for purposes of investment made without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, if the securities of the issuer held by the (i) purchaser; (ii) members of the purchaser?s immediate family; and (iii) the purchaser?s accomplices in any pattern of criminal activity or the collection of an unlawful debt after such purchase do not amount, in the aggregate, to 1 per cent of the outstanding securities of any 1 class and do not confer, either in law or in fact, the power to elect 1 or more directors of the issuer.

Section 3. All monetary proceeds or other property, real, intellectual or personal, obtained directly as a result of a violation of this chapter, shall be subject to seizure and forfeiture to the commonwealth. Forfeiture proceedings shall be conducted as provided in subsections (b) to (j), inclusive of section 47 of chapter 94C. For purposes of subsection (d) of said section 47 of said chapter 94C, the investigation and enforcement bureau of the gaming control board shall be considered a police department, entitled to a police department?s distribution of forfeiture proceedings.

SECTION 57. Section 39 of chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word ?in?, in line 7, the following word:- illegal.

SECTION 58. Section 99 of said chapter 272, as so appearing, is hereby amended by striking out, in lines 68 to 69, the words:- section seventeen of chapter two hundred and seventy one of.

SECTION 59. Said section 99 of said chapter 272, as so appearing, is hereby further amended by inserting after the word "perjury", in line 72, the following words:- , enterprise crime, money laundering.

SECTION 60. Section 13 of chapter 494 of the acts of 1978, as most recently amended by section 2 of chapter 114 of the acts of 1991, is hereby amended by striking out clause (c).

SECTION 61. Clause (d) of said section 13 of said chapter 494, as appearing in said section 2 of said chapter 114, is hereby amended by striking out, in line 21, the words "(b) or (c)" and inserting in place thereof the following words:- and (b).

SECTION 62. Said section 13 of said chapter 494, as most recently amended by said section 2 of said chapter 114, is hereby further amended by striking out subsection (f).

SECTION 63. Under section 2 of chapter 1194, 64 Stat. 1134, 15 U.S.C. 1171-1177, approved January 2, 1951, the Commonwealth, acting by and through duly elected and qualified members of the general court, does declare and proclaim that the Commonwealth shall be exempt from the provisions of chapter 1194, 64 Stat. 1134, 15 U.S.C. 1171 to 1178 for any gambling device authorized for use and transport under chapter 23K of the General Laws and any regulations promulgated under that chapter.

SECTION 64. All shipments of gambling devices into the commonwealth, including slot machines, the registering, recording and labeling of which has been duly had by the

manufacturer of dealer of such gambling device in accordance with sections 3 and 4 of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 USC ?? 1171-1177, shall be considered legal shipments of gambling devices into this commonwealth.

SECTION 65. In making initial appointments to the Massachusetts gaming commission established in section 2 of chapter 23K of the General Laws, the governor shall appoint 1 commissioner to serve for a term of 5 years, 1 commissioner to serve for a term of 6 years, and 1 commissioner to serve for a term of 7 years. The attorney general and treasurer shall each appoint 1 commissioner to serve for a term of 5 years.

SECTION 66. In making initial appointments to the Massachusetts gaming control board established in section 3 of chapter 23K of the General Laws, the governor shall appoint 1 member to serve for a term of 5 years, 1 member to serve for a term of 6 years and 1 member to serve for a term of 7 years.

SECTION 67. The chair of the Massachusetts gaming control board shall consider current employees of the state racing commission as eligible for employment with the board and shall, subject to all other requirements and conditions of employment under chapter 23K of the General Laws, give preference to such individuals when making employment decisions.

SECTION 68. A gaming licensee awarded a gaming license for a specific region under section 16 of chapter 23K of the General Laws shall show preference in hiring to any qualified persons permanently employed as of June 1, 2010 at a facility authorized to conduct simulcasting under chapter 128C of the General Laws that is in operation on June 1, 2010 within the region

for which the gaming license was granted if the facility authorized to conduct simulcasting terminates operation within 1 year of the commission awarding the gaming license, subject to all other requirements and conditions of employment under said chapter 23K; provided that said facility authorized to conduct simulcasting shall provide employment data on the number, names and addresses of employees in permanent employment with said facility as of June 1, 2010 to the board to assist the gaming licensee in meeting this obligation.

SECTION 69. (a) Notwithstanding any general or special law, rule or regulation to the contrary, a contract negotiated by the governor under this section may waive the requirement that a gaming license granted under section 17 of chapter 23K of the General Laws be renewed.

(b) Notwithstanding any general or special law, rule or regulation to the contrary, the governor may enter into a gaming contract with a federally recognized Native American tribe in the commonwealth.

(c) If the governor enters into a gaming contract, it shall include, but not be limited to, the following terms:

(i) the tribe shall be subject to all laws, statutes, and bylaws of the commonwealth, the host community and any other properly constituted legal body, including chapter 23K of the General Laws? provided, however, that a fair and comparable payment in lieu of taxes may be substituted for any tax or fee required by the commonwealth? and

(ii) if the tribe receives or has received a license to operate a gaming establishment under said chapter 23K, the governor shall support the tribe?s application to obtain lands in trust on the site of the gaming establishment.

(d) The contract may include, but shall not be limited to, the following terms:

(i) a grant of permanent exclusivity in the applicable region if the tribe receives a license to operate a gaming establishment under said chapter 23K; and

(ii) a waiver of the requirement that a gaming establishment license granted under section 17 of said chapter 23K be renewed.

(e) If the contract includes either term in subsection (d), the contract shall also include an agreement that permanent regional exclusivity or a waiver of the license renewal requirement constitutes significant value.

SECTION 70. (a) Upon receipt by the board of licensing fees from licensees, the board shall transfer monies from the Gaming Licensing Fund, established in section 62 of chapter 23K of the General Laws, as provided in this subsection. Between the effective date of this section and December 31, 2015, funds shall be transferred as follows:-

(1) $15,000,000 in the aggregate shall be transferred to the Gaming Mitigation Trust Fund established by section 65 of chapter 23K of the General Laws;

(2) $85,000,000 in the aggregate shall be remitted to the comptroller and the comptroller shall deposit into the Local Aid Stabilization Fund, established by section 2BBBB of chapter 29 of the General Laws;

(3) $20,000,000 to the Massachusetts gaming control board to be used for start-up and operational costs; and

(4) the remaining balance of the fund as of December 31, 2015 shall be remitted to the comptroller and the comptroller shall deposit that remaining balance into the Stabilization Fund established by section 2H of chapter 29 of the General Laws.

(b) Upon receipt by the Massachusetts gaming control board of license fees from licensees, interim transfers and payments shall be made on a pro rata basis from the Gaming Licensing Fund as provided in clauses (1) and (2) of subsection (a); provided, however, that no transfer or payment under said clauses (1) and (2) shall occur until the fund reimburses $20,000,000 to the Stabilization Fund as required by subsection (b) of section 71 of this act.

SECTION 71. (a) Within 30 days of the effective date of this act, the comptroller shall transfer $20,000,000, as a loan with no interest, from the Stabilization Fund established by section 2H of chapter 29 of the General Laws, to the Massachusetts gaming control board for the start-up and operational costs of implementing chapter 23K of the General Laws.

(b) Upon receipt by the Massachusetts gaming control board of sufficient license fees from licensees under said chapter 23K, the board shall remit $20,000,000 to the comptroller from the Gaming Licensing Fund established in section 62 of said chapter 23K to repay the Stabilization Fund established by said section 2H of said chapter 29.

SECTION 72. Not more than $42,500,000 shall be expended from the Local Aid Stabilization Fund, created in section 2BBBB of chapter 29 of the General Laws, in fiscal year 2012.,

SECTION 73. Section 69 is hereby repealed.

SECTION 74. Section 14 shall take effect on December 31, 2015.

SECTION 75. Section 73 shall take effect on December 31, 2011.