

HOUSE No. 4195

By Mr. Flynn of Bridgewater, petition of David L. Flynn and others for legislation to establish a pari-mutuel enhancement program for the Commonwealth. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

PETITION OF:

David L. Flynn	Garrett J. Bradley
Marc R. Pacheco	Thomas P. Kennedy
James H. Fagan	Demetrius J. Atsalis
Kathi-Anne Reinstein	Robert K. Coughlin
Stephen R. Canessa	Brian P. Wallace
Anne M. Gobi	Paul J. Donato
Christine E. Canavan	Geraldine Creedon
Stephen P. LeDuc	Paul Kujawski
John J. Binienda	Joyce A. Spiliotis
Walter F. Timilty	Harold P. Naughton, Jr.
Bruce J. Ayers	Philip Travis
John P. Fresolo	David M. Nangle
Thomas A. Golden, Jr.	

In the Year Two Thousand and Five.

AN ACT ESTABLISHING THE MASSACHUSETTS PARI-MUTUEL ENHANCEMENT ACT.

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

1 The General Laws are hereby amended by inserting after
2 Chapter 128C the following new section:—

3 **Chapter 128D.**
4 **The Massachusetts Pari-mutuel Enhancement Act.**

5 Section 1. General Provisions.
6 (a) This chapter shall be known and may be cited as the
7 “Massachusetts Pari-mutuel Enhancement Act.”

8 (b) No applicant for a gaming license, or a manufacturer's or
9 distributors license or other affirmative commission approval has
10 any right to a license or the granting of the approval sought. Any
11 license issued or other commission approval granted pursuant to
12 the provisions of this act is a revocable privilege, and no holder
13 acquires any vested right therein or thereunder.

14 (c) Nothing in this chapter shall preclude any city or town in
15 the commonwealth from prohibiting gaming.

16 (d) In the event of any conflict between the provisions of this
17 chapter and any other provisions of the General Laws, the provi-
18 sions of this chapter shall prevail.

19 Section 2. Definitions.

20 The following words as used in this chapter shall, unless the
21 context clearly requires otherwise, have the following meanings:

22 (a) "Adjusted net gaming revenues," means the total of all net
23 gaming revenues, less the total of all sums paid out as winnings to
24 patrons as required under regulations promulgated by the commis-
25 sion and less all sums set aside as provided by this Act. In the case
26 of slot machines, adjusted net gaming revenues shall not exceed
27 fifteen percent of gross gaming revenues.

28 (b) "Affiliate", means any person which a licensee or applicant
29 directly or indirectly controls or in which an applicant or licensee
30 possesses an interest. For the purposes of this section "controls"
31 means either (i) directly or indirectly holding more than ten per-
32 cent of voting membership rights or voting stock or partnership
33 interests, or (ii) that a majority of the directors, general partners,
34 trustees, or members of an entity's governing body or representa-
35 tives of, or are directly or indirectly controlled by, the licensee or
36 applicant. For the purposes of this subsection, "possesses an
37 interest in" means either (i) directly or indirectly holding more
38 than five percent of voting membership rights or voting stock, or
39 (ii) that at least twenty-five percent of the directors, general part-
40 ners, trustees, or members of an entity's governing body or repre-
41 sentatives of, or are directly or indirectly controlled by, the
42 licensee or applicant;

43 (c) "Applicant", means any person who on his own behalf or on
44 behalf of another has applied for permission to engage in any act
45 or activity which is regulated by the provisions of this act or regu-
46 lations promulgated thereunder;

47 (d) “Application”, means a written request for permission to
48 engage in any act or activity which is regulated under the provi-
49 sions of this act.

50 (e) “Chairman”, means the chairman of the state gaming com-
51 mission.

52 (f) “Commission”, means the Massachusetts state gaming com-
53 mission;

54 (g) “Commissioner”, means a member of the state gaming com-
55 mission.

56 (h) “Committee”, means the state gaming policy committee.

57 (i) “Controlled game” or “controlled gaming”, any game of
58 chance played for currency, check, credit, or any other thing of
59 value that is not prohibited and made unlawful by chapter two
60 hundred and seventy-one of the General Laws, or any other
61 general or special laws, or by local ordinance except:

62 (1) The game of bingo conducted pursuant to section seven A
63 of chapter two hundred and seventy-one and 961 C.M.R. 3.00.

64 (2) Pari-mutuel wagering on horse and dog races, whether live
65 or simulcast, regulated by the state racing commission.

66 (3) Any lottery game conducted by the state lottery commis-
67 sion, in accordance with section twenty-four of chapter 10 of the
68 General Laws.

69 (4) Games played with cards in private homes or residences in
70 which no person makes money for operating the game, except as a
71 player.

72 (j) “Electronic Gaming Device”, means any mechanical, elec-
73 trical or other device, contrivance or machine, including any so-
74 called video wagering terminal, video lottery terminal or video
75 poker machine, which, upon insertion of a coin, token or similar
76 object, or upon payment of any consideration, is available to play
77 or operate, the plan or operation of which, whether by reason of
78 the skill of the operator in playing a gambling game which is pre-
79 sented for play by the machine or application of the element of
80 chance, or both, may deliver or entitle the person playing or oper-
81 ating the machine to receive cash, premiums, merchandise, tokens
82 or any thing of value, whether the payoff is made automatically
83 from the machine or in any other manner.

84 (k) “Establishment”, means any building, room, place or other
85 indoor or outdoor premises where any controlled gaming occurs,

86 including all public and non-public areas of any such establish-
87 ment;

88 (1) “Game” and “gambling game”, means any game approved
89 by the commission and played with equipment or any mechanical,
90 electromechanical or electronic device or machine, including slot
91 machine as defined by this act, for money, property, checks, credit
92 or any representative of value, but does not include games played
93 with cards in private homes or residences in which no person
94 makes money for operating the game, except as a player, or games
95 defined within chapter ten or chapter two hundred seventy-one of
96 the General Laws of the commonwealth,

97 (m) “Gaming”, “gambling”, and “gaming operations”, means to
98 operate, carry on, conduct, maintain or expose for play any game
99 as defined in this section.

100 (n) “Gaming device”, means any equipment or mechanical,
101 electromechanical or electronic contrivance, component or
102 machine, including slot machine as defined in this section, used
103 remotely or directly in connection with gaming or any game
104 which affects the result of a wager by determining win or loss.

105 (p) “Gaming employee”, means any person employed in a prop-
106 erly licensed gaming facility including, without limitation,
107 boxmen; floormen; machine mechanics; security employees;
108 count room personnel; cage personnel; slot machine and slot
109 booth personnel; collection personnel; surveillance personnel; and
110 data processing personnel; or any other person whose employment
111 duties predominantly involves the maintenance or operation of
112 gaming activity or equipment and assets associated therewith or
113 who, in the judgment of the commission, is so regularly required
114 to work in a restricted area that licensure as a gaming employee is
115 appropriate.

116 (r) “Gaming establishment”, means any establishment licensed
117 to conduct gaming operations in the commonwealth under this
118 chapter.

119 (s) “Gaming license” or “license”, means any license or work
120 permit issued by the commission under this chapter that autho-
121 rizes the person named therein to engage or participate in con-
122 trolled gaming, including, work permits and licenses issued to
123 gaming establishments, to gaming suppliers, to parties in interest,
124 to gaming schools, and to officers and directors of licensed per-
125 sons or entities;

126 (t) “Gaming establishment”, any establishment licensed to con-
127 duct gaming operations in the commonwealth under this chapter;

128 (u) “Gaming service industry”, means any form of enterprise
129 which provides more than one hundred thousand dollars per
130 annum in goods or services regarding the realty, construction,
131 maintenance, or business of a proposed or existing gaming facility
132 on a regular or continuing basis which directly relate to gaming
133 activities or indirectly relate to gaming operations including,
134 without limitation, junket enterprises; security businesses; manu-
135 facturers, suppliers, distributors and servicers of gaming devices
136 or equipment; waste disposal companies; maintenance companies;
137 schools teaching gaming and either playing or dealing techniques;
138 suppliers of alcoholic beverages, food and nonalcoholic bever-
139 ages; vending machine providers; linen suppliers; shopkeepers
140 located within the approved hotels; limousine services; and con-
141 struction companies contracting with gaming applicants or
142 licensees or their employees or agents, or any other enterprise
143 which purchases more than fifty thousand dollars per annum in
144 goods or services from or which does more than fifty thousand
145 dollars worth of business per annum with licensed gaming facili-
146 ties provided that professional services such as accountants, audi-
147 tors, attorneys, and broker dealers, or other professions which are
148 regulated by a public agency, are exempt from the provisions of
149 this subsection.

150 (v) “Holding company”, means any corporation, firm, partner-
151 ship, trust, or other form of business organization not a natural
152 person that, directly or indirectly, owns, has the power or right to
153 control, or holds with power to vote, all or any part of the limited
154 partnership interests or outstanding voting securities of a corpora-
155 tion or any other business entity that holds or applies for a state
156 gambling license. In addition, a holding company indirectly has,
157 holds, or owns any power, right, or security mentioned herein if it
158 does so through any interest in a subsidiary or successive sub-
159 sidiaries, however many of these subsidiaries may intervene
160 between the holding company and the corporate licensee or appli-
161 cant.

162 (w) “Intermediary company” means any corporation, firm, part-
163 nership, trust, or other form of business organization other than
164 natural person that is both of the following: (1) a holding com-

165 pany with respect to a corporation or limited partnership that
166 holds or applies for a gaming license, and (2) a subsidiary with
167 respect to a holding company.

168 (x) “Land-based licensed gaming facility” means any licensed
169 gaming facility that is principally located on land.

170 (aa) “License”, means a gaming license, or a manufacturer’s or
171 distributor’s license.

172 (bb) “License fees”, means any money required by law to be
173 paid to obtain or renew a gaming license, manufacturer’s or dis-
174 tributor's license.

175 (cc) “Licensed gaming facility”, means any facility wherein all
176 gaming is sanctioned and regulated by the Commission and fully
177 taxed by the commonwealth.

178 (dd) “Licensee”, means any person to whom a valid gaming
179 license, manufacturer’s or distributor’s license has been issued.

180 (ee) “Manufacturer”, means a person who: (1) manufactures,
181 assembles, programs or makes modifications to a gaming device
182 or cashless wagering system; or (2) designs, controls the design or
183 assembly or maintains a copyright over the design of a mecha-
184 nism, electronic circuit or computer program which cannot be rea-
185 sonably demonstrated to have any application other than in a
186 gaming device or in a cashless wagering system, for use or play in
187 this state or for distribution outside of this state.

188 (ff) “Manufacturer’s, seller’s or distributor’s license”, means a
189 license issued pursuant to this act.

190 (gg) “Net gaming revenue”, means the total, prior to the deduc-
191 tion of any operating, capital or other expenses whatsoever, of all
192 gaming revenue derived from slot machines and retained by any
193 gaming establishment licensed under this chapter derived from the
194 conduct of any controlled game;

195 (jj) “Party in interest”, means any corporation, firm, partner-
196 ship, trust, or other entity or person with any direct or indirect
197 pecuniary interest in a licensed gaming establishment, or a person
198 who owns any interest in the premises of a licensed gaming estab-
199 lishment, or land upon which such premises is licensed, whether
200 he leases the property directly or through an affiliate.

201 (kk) “Person” or “party”, means a natural person, corporation,
202 partnership, limited partnership, trustee, holding company, joint
203 venture, association, or any business entity.

204 (mm) “Skimming”, means the intentional excluding of or the
205 taking of any monies, chips, or any other items in an attempt to
206 exclude any monies, chips, or any other items or their value from
207 the deposit, counting, collection, or computation of gross revenues
208 from gaming operations or activities, net gaming proceeds, or
209 amounts due the commonwealth pursuant to this act.

210 (nn) “Slot machine”, means any mechanical, electrical or other
211 device, contrivance or machine, including any so-called video
212 wagering, terminal, video lottery terminal or video poker
213 machine, which, upon insertion of a coin, token or similar object,
214 or upon payment of any consideration, is available to play or
215 operate, the play or operation of which, whether by reason of the
216 skill of the operator in playing a gambling game which is pre-
217 sented for play by the machine or application of the element of
218 chance, or both, may deliver or entitle the person playing or oper-
219 ating the machine to receive cash, premiums, merchandise, tokens
220 or any thing of value, whether the payoff is made automatically
221 from the machine or in any other manner.

222 (rr) “Work permit”, means any card, certificate, or permit
223 issued by the commission authorizing the holder to be employed
224 in a licensed gaming facility.

225 Section 3. Gaming Control Commission: Composition, powers
226 & duties.

227 (a) There shall be established a Massachusetts gaming control
228 commission consisting of five members. Each member shall be a
229 citizen of the United States and a resident of the commonwealth.
230 No person holding any elective office in state, county, or local
231 government; nor any officer or official of any political party, nor
232 any person who was formerly a licensee or an unlicensed
233 employee of a gaming licensee within the five years prior to any
234 appointment shall be eligible for appointment to the commission.
235 The commission shall be composed of the most qualified persons
236 available; but no person actively engaged or having a direct pecu-
237 niary interest in gaming activities shall be a member of the com-
238 mission. Not more than three members of the commission shall be
239 of the same major political affiliation. The governor shall appoint
240 three members of the commission and designate one member to
241 serve as chairman of the commission. The attorney general of the
242 commonwealth shall appoint one member of the commission. The

243 auditor of the commonwealth shall appoint one member of the
244 commission.

245 (b) The term of office of each member of the commission shall
246 be five years except that, of the members initially appointed, one
247 shall be appointed by the governor for a term of two years, one
248 shall be appointed by the attorney general for a term of three
249 years, one shall be appointed by the governor for a term of four
250 years, one shall be appointed by the auditor for a term of five
251 years, and one shall be appointed by the governor for a term of
252 five years. After the initial term, the term of office for each
253 member of the commission is five years, provided that no member
254 serve more than two consecutive terms of five year periods. Any
255 vacancies shall be filled by the original appointing authority
256 within sixty days of the occurrence of such vacancy. Any
257 appointee shall continue in office beyond the expiration date of
258 his term until the appointment of a successor but in no event
259 longer than six months. Any commissioner may be removed by
260 the governor for just cause, and shall be removed immediately
261 upon conviction of any felony. Any person so suspended and later
262 acquitted of any such felony shall be reinstated to the commission
263 upon such acquittal, with full back pay.

264 (c) The commission members shall devote that time to the busi-
265 ness of the commission as may be necessary to the discharge of
266 their duties. The members of the commission shall be compen-
267 sated for work performed for the commission at fifty thousand
268 dollars per annum, with the chairman receiving ten thousand dol-
269 lars per annum in addition to his compensation. Commission
270 members shall be reimbursed for traveling and other expenses
271 necessarily incurred in the performance of official duties. Before
272 entering upon the duties of his or her office each member shall
273 swear that he or she is not pecuniary interested in any business or
274 organization holding a gaming license under this act, or doing
275 business with any gaming service industry, as defined by this act
276 and shall submit to the governor, attorney general and state
277 auditor, a statement of financial interest required by chapter two
278 hundred sixty-eight B of the General Laws listing all assets and
279 liabilities, property and business interests, and sources of income
280 of said commissioner and his spouse. Such statement shall be
281 under oath and shall be filed at the time of employment and annu-

282 ally thereafter. No commission member shall have any interest,
283 direct or indirect, in any applicant or in any person licensed by or
284 registered with the commission during his term of office. Regular
285 and special meetings of the commission may be held, at the dis-
286 cretion of the commission, at such times and places as it may
287 deem convenient but at least one regular meeting may be held
288 each month on or after the fifteenth day of the month.

289 (d) The commission shall make an annual report of its activities
290 to the general court by March thirty-one, for the prior calendar
291 year.

292 (e) The commission shall establish and maintain its general
293 place of business in Boston, Massachusetts. The commission may
294 hold meetings at any place within the state when the interests of
295 the public may be better served. Except as otherwise provided for
296 herein, meetings of the commission shall be subject to the provi-
297 sions of section eleven A and eleven A and one-half of chapter
298 thirty of the General Laws. A majority of the membership of the
299 commission is a quorum of the commission. A public record of
300 every vote shall be maintained at the commission's general office.
301 The commission may maintain any other files and records as it
302 deems appropriate.

303 (f) The commission shall have general responsibility for the
304 implementation of this act, as hereinafter provided, including, the
305 right to hear and decide promptly and in reasonable order all
306 license, registration, certificate, and permit applications and
307 causes affecting the granting, suspension, revocation or renewal
308 thereof; to conduct all hearings pertaining to civil violations of
309 this act or regulations promulgated hereunder; to promulgate and
310 implement, pursuant to sections two and three of chapter thirty A
311 of the General Laws, rules and regulations for the implementation
312 of this act, including the method and form of application which
313 any applicant for a gaming license or for a manufacturer's, seller's
314 or distributor's license must follow and complete before consider-
315 ation of his application by the commission; the information to be
316 furnished by any applicant or licensee concerning his antecedents,
317 habits, character, associates, criminal history or record, business
318 activities and financial affairs, past or present; the information to
319 be furnished by a licensee relating to his gaming employees; the
320 fingerprinting of an applicant or licensee or employee of a

321 licensee or other methods of identification; the manner and proce-
322 dure of all hearings conducted by commission, including special
323 rules of evidence applicable thereto and notices thereof; the
324 issuance and revocation of work permits for employment of per-
325 sons in licensed gambling facilities; the manner in which win-
326 nings, compensation from games and gaming devices, and gross
327 revenue must be computed and reported by the licensee; the min-
328 imum procedures for adoption by each licensee to exercise effec-
329 tive control over its internal fiscal affairs; the payment by any
330 applicant of all or any part of the fees and cost of investigation of
331 such applicant as may be determined the commission; governing
332 the manufacture, sale and distribution of gambling devices and
333 equipment; licensee bonding requirements; monitoring of licensee
334 requirements; investigations both civil and criminal; the method
335 and operation of gambling operations including the type and
336 manner of gambling, record keeping, accounting, audit require-
337 ments and safeguarding of assets; the testing and inspection of
338 gambling equipment; the licensing of corporations, limited part-
339 nerships, holding companies and intermediary companies; the lim-
340 itations of security contracts and agreements; the sale of securities
341 of affiliated companies; emergency proceedings; setting forth
342 those persons to be excluded or ejected from gambling establish-
343 ments including the type of conduct prohibited thereat; to collect
344 all license and registration fees, taxes, and penalties imposed by
345 this act and the regulations issued pursuant hereto; to be present
346 through its inspectors and agents at all times during the operation
347 of any licensed gaming facility for the purpose of certifying the
348 revenue thereof and receiving complaints from the public; and to
349 review and rule upon any complaint by a licensed gaming facility
350 licensee regarding any investigative procedures of the bureau
351 which are unnecessarily disruptive of licensed gaming facility
352 operations. The need to inspect and or investigate a licensed
353 gaming facility shall be presumed at all times. The commission
354 shall adopt an official seal and alter same at pleasure.

355 (g) The commission shall conduct hearings in accordance with
356 the provisions of chapter thirty A. The commission may, by a
357 majority vote, issue subpoenas for the attendance of witnesses or
358 the production of any records, books, memoranda, documents, or
359 other papers, or things, at or prior to any hearing as is necessary to

360 enable the commission to effectually discharge its duties, and may
361 administer oaths or affirmations as necessary in connection there-
362 with. The commission may petition a superior court for an order
363 requiring compliance with a subpoena. The commission shall have
364 the authority to propound written interrogatories and may appoint
365 hearing examiners, to whom may be delegated the power and
366 authority to administer oaths, issue subpoenas, propound written
367 interrogatories, require testimony under oath, report same, and
368 fashion recommended decisions upon the recommendation of said
369 commission.

370 (h) The commission may require any person to apply for a
371 license as provided in this act and approve or disapprove, transac-
372 tions, events, and processes as provided in this act. The commis-
373 sion may grant or deny any application for a license or approval
374 may limit, condition, restrict, suspend, or revoke any license or
375 approval for any cause deemed reasonable by the commission,
376 consistent with this act or any general or special law. The commis-
377 sion may also impose a civil fine of not more than five thousand
378 dollars upon any person licensed, registered or otherwise
379 approved under this act, for any violation of this act or of any
380 general or special law related to gambling. The commission may,
381 as further provided in regulations approve or disapprove transac-
382 tions, events, and processes as provided in this act, take actions
383 reasonably designed to ensure that no unsuitable persons are asso-
384 ciated with controlled gambling activities. The commission may
385 expend for legal, investigative, clerical and other assistance such
386 as may be appropriated therefor. Investigators employed by the
387 commission shall have access to all records maintained by all the
388 licensees and registrants hereunder, whether maintained at the
389 licensed gambling establishment or other location as may be perti-
390 nent to the investigative powers of the commission.

391 (i) The commission shall assure, to the extent required by this
392 act, that licenses, approvals, certificates, or permits shall not be
393 issued to nor held by, nor shall there be any material involvement,
394 directly or indirectly, with the licensed gaming facility operation
395 or the ownership thereof by, unqualified or disqualified persons or
396 persons whose operations are conducted in a manner not con-
397 forming with the provisions of this act. In enforcing the provisions
398 of this act, the commission shall have the power and authority to

399 deny any application; limit or restrict any license, registration,
400 certificate, permit or approval; suspend or revoke any license, reg-
401 istration, certificate, permit or approval; and, impose a penalty on
402 any person licensed, registered, or previously approved for any
403 cause deemed reasonable by the commission pursuant to rules and
404 regulations promulgated thereby.

405 (j) No commission member or person employed by the commis-
406 sion shall represent any person or party other than the common-
407 wealth before or against the commission for a period of two years
408 from the termination of his office or employment with the com-
409 mission.

410 (k) The commission shall initiate proceedings or actions appro-
411 priate to enforce statutory and regulatory requirements mandated
412 of license-holders.

413 (l) The commission may refuse to reveal, in any court or
414 administrative proceeding except a proceeding brought by the
415 commonwealth of Massachusetts or the United States government
416 the identity of an informant, or the information obtained from the
417 informant, or both the identity and the information.

418 (m) The commission shall have the power to acquire, lease, use,
419 hold and mortgage real, personal or mixed property or any
420 interest, easements or rights therein, as may be necessary or
421 appropriate to carry out the provisions of this act; to enter into
422 agreements or other transactions with the commonwealth or any
423 political subdivision or public instrumentalities thereof, the
424 United States government or any federal, state or other govern-
425 mental agency; to formulate plans for the projects involving the
426 acquisition and operation of facilities pursuant to the provisions of
427 this act, and to construct or reconstruct, expand, remodel, to fix
428 and revise from time to time, and to charge and collect rates, fees,
429 rentals and other charges for the use of any building, structure,
430 other property or portion thereof under its control; and to acquire
431 in the name of the commission by purchase or otherwise, in such
432 terms and conditions and in such manner as it may deem proper,
433 or except with respect to the state, by exercise of the power of
434 eminent domain, pursuant to the provisions of chapter seventy-
435 nine of the General Laws, any land and other property and any
436 and all rights, title and interest in such land and other property,
437 and any fee simple absolute in, easements upon or the benefit of

438 restrictions upon abutting property, and to preserve and protect
439 any project.

440 (n) The commission may investigate, civilly or criminally,
441 fraud, deceit, misrepresentation or violations of law by any person
442 licensed or registered under this act, or the occurrence of any such
443 activity within or involving any licensed gambling establishment
444 or gambling operation. If the commission has reasonable basis to
445 believe that any person licensed or registered under this act is
446 engaged in criminal behavior or that criminal activity is occurring
447 within or involving any licensed gaming facility or licensed gam-
448 bling operation said commission shall report same to the attorney
449 general of the commonwealth and the district attorney of the
450 county within which the gaming facility is located and make
451 available to the attorney general and said district attorney all rele-
452 vant information on such activity. The commission, as it deems
453 appropriate, may ask the attorney general and/or said district
454 attorney to restrain a violation of this act or enforce any provision
455 thereof. An action brought against a person pursuant to this act
456 does not preclude any other criminal or civil proceeding as may
457 be authorized by law.

458 (o) No person shall transfer a direct or indirect pecuniary
459 interest in a licensed operating entity or premises, or enter into an
460 option contract or other agreement providing for such transfer in
461 the future, without having notified the commission. No person
462 shall transfer a greater than five percent direct or indirect pecu-
463 niary interest in a licensed operating entity or premises without
464 the issuance by the commission to the transferee of an operating
465 license or an affirmative statement that the transferee has met the
466 operating license standards, as the commission may require.

467 (p) Before the beginning of each legislative year, the commis-
468 sion shall submit to the house and senate committees on ways and
469 means and the joint committee on government regulations a report
470 defining, for the preceding twelve month period, the gross rev-
471 enue, net revenue, and average depreciation of each licensee; the
472 number of persons employed by each licensee, and related payroll
473 information; and the assessed valuation of each Massachusetts
474 licensed gaming facility as listed on the assessment rolls.

475 Section 5. Records of Commission Proceedings.

476 (a) The commission shall cause to be made and kept a record of
477 all proceedings at regular and special meetings of the commission.
478 These records shall be open to public inspection.

479 (b) Notwithstanding any other general or special law to the con-
480 trary all files, records, reports, and other information in possession
481 of any state or local governmental agency including tax filings
482 and related information that are relevant to an investigation by the
483 commission conducted pursuant to this act shall be made available
484 to the commission as requested. However, any tax or financial
485 information received from a governmental agency shall be used
486 solely for effectuating the purposes of this act. To the extent that
487 these files, records, reports, or information are confidential or oth-
488 erwise privileged from disclosure under any law they shall not
489 lose that confidential or privileged status for having been dis-
490 closed to the commission.

491 (c) No statement, and no publication of any document,
492 described in this section shall impose liability for defamation or
493 constitute a ground for recovery in any civil action. If any docu-
494 ment or communication described above contains any information
495 that is privileged or exempt from public disclosure that privilege
496 or exemption is not waived or lost because the document or com-
497 munication is disclosed to the commission or any of their agents
498 or employees.

499 (d) The attorney general, every district attorney, and every state
500 and local law enforcement agency shall notify the commission of
501 any investigation or prosecution of any person if it appears that a
502 violation of any law related to gambling had occurred.

503 Section 6. Finding of suitability. License approval.

504 (a) The commission shall investigate the qualifications of each
505 applicant under this act before any license is issued or any regis-
506 tration, finding of suitability or approval of acts or transactions for
507 which commission approval is required or permission is granted,
508 and shall continue to monitor the conduct of all licensees and reg-
509 istrants and other persons having a material involvement, directly
510 or indirectly with a licensed gaming facility or holding company
511 to ensure that licenses are not issued or held by, nor is there any
512 material involvement directly or indirectly with a licensed gaming

513 facility or holding company by unqualified, disqualified or unsuit-
514 able persons, or persons whose operations are conducted in an
515 unsuitable manner or in unsuitable or prohibited places or loca-
516 tions, as provided in commission regulations. All expenses associ-
517 ated with the licensing of any applicant shall be borne by the
518 applicant. Pursuant to its regulations, the commission shall require
519 each applicant for a gambling license to deposit with the commis-
520 sion, together with the application therefor, an application fee.
521 Such fee shall constitute the anticipated costs and charges
522 incurred in the investigation and processing of the application,
523 and any additional sums as are required by the commission to pay
524 final costs and charges.

525 (b) The commission may require a finding of suitability or the
526 licensing of any person who owns any interest in the premises of a
527 licensed establishment; owns any interest in real property used by
528 a licensed establishment whether he leases the property directly to
529 the licensee or through an intermediary; repairs, rebuilds or modi-
530 fies any gaming device; manufactures or distributes chips or
531 gaming tokens for use in this state.

532 (c) The commission may require a finding of suitability or the
533 licensing of any person who furnishes services or property to a
534 state gaming licensee under any arrangement pursuant to which
535 the person receives payments based on earnings, profits or
536 receipts from gaming.

537 (d) No person shall operate a gaming establishment without
538 having obtained all necessary operating licenses from the commis-
539 sion. There shall be a single licensed operator for each gaming
540 establishment. The licensing standards must be met at all times by
541 each officer, director, partner, and trustee of the operating entity,
542 by each substantial party in interest of the operating entity or of
543 the premises on which such establishment is located, and by such
544 other party in interest of the operating entity, the premises, or any
545 holding company or intermediary company of the operating entity
546 or the premises as the commission may require. In no event shall
547 the commission permit a person or entity previously convicted of
548 a felony to be a party in interest of the operating entity or of the
549 premises or of any holding or intermediary company of the oper-
550 ating entity or the premises. A separate license shall be required
551 for any person described above, unless the commission specifi-

552 cally determines otherwise. The commission may grant not more
553 than four licensed operator licenses to be issued to the following:

554 (1) Persons licensed to conduct running horse racing meetings
555 in Suffolk and Norfolk County, as of January 1, 2000, or their
556 respective assigns and/or successors in interest, not including run-
557 ning horse racing meetings held in connection with a state or
558 county fair, who run a full schedule of live races as defined in
559 section two of chapter one hundred and twenty-eight C, shall be
560 authorized to operate up to one thousand five hundred electronic
561 gaming devices or slot machines to be operated only on the
562 premises of said licensee, as approved by the commission.

563 (2) Persons licensed to conduct greyhound dog racing meetings
564 in Suffolk and Bristol County, as of January 1, 2000, or their
565 respective assigns and/or successors in interest, not including
566 greyhound dog racing meetings held in connection with a state or
567 county fair, who run a full schedule of live races as defined in
568 section two of chapter one hundred twenty-eight C, shall be
569 authorized to each operate one thousand five hundred electronic,
570 gaming devices or slot machines to be operated only, respectively,
571 on the premises of a greyhound dog racing meeting licensee in
572 Suffolk and Bristol Counties, as approved by the commission;
573 provided, however, that where two or more greyhound dog racing
574 meeting licensees in Bristol County use the same track during a
575 calendar year, said Bristol County licensees, for purposes of
576 seeking a licensed operator license, shall be considered one appli-
577 cant.

578 (e) A person may apply to be a licensed operator by filing an
579 application with the commission, in the form and with such
580 accompanying application fees as the commission may establish.
581 Information on the application will be used as the basis for a thor-
582 ough background investigation which the bureau shall conduct
583 with respect to each applicant. Each application shall disclose the
584 identity of each party in interest, each holding company and inter-
585 mediary company, and each affiliate of the operating entity. The
586 application shall disclose, in the case of a privately held corpora-
587 tion, the names and addresses of all directors, officers, and stock-
588 holders; in the case of a publicly traded corporation, the names
589 and addresses of all directors, officers, and persons holding at

590 least one percent of the total capital stock issued and outstanding;
591 in the case of a partnership, the names and addresses of all part-
592 ners, both general and limited; and in the case of a trust, the
593 names and addresses of all trustees and beneficiaries.

594 (f) Each operating entity shall identify, in its application, the
595 premises containing the establishment where it proposes to con-
596 duct its gaming operations. The application shall contain such
597 information regarding the physical location and condition of the
598 premises and the potential impact of the proposed gaming opera-
599 tions upon adjacent properties and the municipality and region
600 within which the premises are located, as the commission may
601 require. The application shall disclose the identity of all parties in
602 interest regarding the premises; and provided, further, except as
603 otherwise permitted herein, no person other than a licensee here-
604 under shall have any right to or interest in net gaming revenue or
605 adjusted net gaming revenue in the form of a percentage of any
606 sums payable hereunder.

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

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

617 (i) Any person who the commission determines is qualified to
618 receive a license or be found suitable under the provisions of this
619 act, may be issued a state gaming license or found suitable, as
620 appropriate. The burden of proving his qualification to receive any
621 license or be found suitable is on the applicant. A license to
622 operate a gaming establishment must not be granted unless the
623 applicant has satisfied the commission that he or she has adequate
624 business probity, competence and experience, in gaming; and the
625 proposed financing of the entire operation is adequate for the
626 nature of the proposed operation; and, from a suitable source.

627 An application to receive a license or be found suitable consti-
628 tutes a request for a determination of the applicant's general char-

629 acter, integrity, and ability to participate or engage in, or be asso-
630 ciated with gaming, as appropriate. The commission may limit the
631 license or place such conditions thereon as it may deem necessary
632 in the public interest. The commission may, if it considers neces-
633 sary, issue a probationary license. No state gaming license may be
634 assigned either in whole or in part. The commission may limit or
635 place such conditions as it may deem necessary in the public
636 interest upon any registration, finding of suitability or approval
637 for which application has been made

638 (j) Any state license in force may be renewed by the commis-
639 sion for the next succeeding license period upon proper applica-
640 tion for renewal and payment of state license fees and taxes as
641 required by law and the regulations of the commission. If any
642 licensee or other person fails to renew his license the commission
643 may order the immediate closure of all his gaming activity until
644 the license is renewed by the payment of the necessary fees, taxes,
645 interest and any penalties.

646 (k) If satisfied that an applicant is eligible to receive a state
647 gaming, manufacturing, selling, or distributing license, and upon
648 tender of all license fees and taxes as required by law and regula-
649 tion of the commission; and a bond executed by the applicant as
650 principal, and by a corporation qualified under the laws of the
651 commonwealth as surety, payable to the commonwealth, and con-
652 ditioned upon the payment of license fees and taxes and the
653 faithful performance of all requirements imposed by law or regu-
654 lation or the conditions of the license, the commission shall issue
655 and deliver to the applicant a license entitling him to engage in the
656 gaming, manufacturing, selling, or distributing operation for
657 which he is licensed, together with an enumeration of the specific
658 terms and conditions of the license.

659 (1) A license issued pursuant to the provisions of this act must
660 be posted by the licensee and kept posted at all times in a conspic-
661 uous place in the area where gaming is conducted in the establish-
662 ment for which the license is issued until it is replaced by a
663 succeeding license.

664 (m) If the commission is not satisfied that an applicant is quali-
665 fied to be licensed under this act, the commission may cause to be
666 made such investigation into and conduct such hearings con-

667 cerning the qualifications of the applicant in accordance with its
668 regulations as it may deem necessary.

669 (n) The commission has full and absolute power and authority
670 to deny any application for any cause it deems reasonable. If an
671 application is denied, the commission shall prepare and file its
672 written decision upon which its order denying the application is
673 based.

674 (o) A person who has had his application for a license denied or
675 who has been found unsuitable by the commission shall not retain
676 his interest in a corporation, partnership, limited partnership, lim-
677 ited-liability company or joint venture beyond that period pre-
678 scribed by the commission; and shall not accept more for his
679 interest in a corporation, partnership, limited partnership, limited-
680 liability company or joint venture than he paid for it or the market
681 value on the date of the denial of the license or the finding of
682 unsuitability.

683 (p) The voluntary surrender of a license by a licensee does not
684 become effective until accepted in the manner provided in the reg-
685 ulations of the commission. The surrender of a license does not
686 relieve the former licensee of any penalties, fines, fees, taxes or
687 interest due.

688 (q) Each licensee or registrant, or applicant for a license or reg-
689 istration under this act shall cooperate with the commission in the
690 performance of their duties.

691 (r) Every licensed gaming facility must, upon receipt of crim-
692 inal or civil process compelling testimony or production of docu-
693 ments in connection any criminal investigation, immediately
694 disclose such information to the bureau.

695 Section 7. Right to Hearing.

696 Any person aggrieved by a determination by the commission to
697 issue, deny, modify, revoke or suspend any license or approval, or
698 to issue an order, under the provisions of this act, may request an
699 adjudicatory hearing before the commission under the provisions
700 of chapter thirty A of the General Laws. Any such determination
701 shall contain a notice of this right to request a hearing and may
702 specify a time limit, not to exceed twenty-one days, within which
703 said person shall request said hearing. If no such request is timely
704 made, the determination shall be deemed assented to. If a timely

705 request is received, the commission shall within a reasonable time
706 act upon a request in accordance with the provisions of said
707 chapter thirty A. A person aggrieved by a final decision in an
708 adjudicatory hearing held under the provisions of this section may
709 obtain judicial review thereof pursuant to the provisions of
710 chapter thirty A.

711 Section 8. Criminal Acts and Penalties; Age Restrictions.

712 (a) Except as otherwise provided in this act or in chapter ten or
713 in section seven A of chapter two hundred seventy-one of the
714 General Laws, it is unlawful for any person to deal, operate, carry
715 on, conduct, maintain or expose for play in the commonwealth of
716 Massachusetts any gambling game, gaming device, or slot
717 machine as defined by this act; to receive, directly or indirectly,
718 any compensation or reward or any percentage or share of the
719 money or property played, for keeping, running or carrying on any
720 gambling game, gaming device, or slot machine; to permit any
721 gambling game, gaming device, or slot machine to be conducted,
722 operated, dealt or carried on in any house or building or other
723 premises owned by him, in whole or in part; to lend, let, lease or
724 otherwise deliver or furnish any equipment of any gambling
725 game, including any slot machine, for any interest, percentage or
726 share of the money or property played, under guise of any agree-
727 ment whatever; to lend, let, lease or otherwise deliver or furnish,
728 except by a bona fide sale or capital lease, any slot machine under
729 guise of any agreement whereby any consideration is paid or is
730 payable for the right to possess or use that slot machine, whether
731 the consideration is measured by a percentage of the revenue
732 derived from the machine or by a fixed fee or otherwise; to fur-
733 nish services or property, real or personal, on the basis of a con-
734 tract, lease or license, pursuant to which that person receives
735 payments based on earnings or profits from any gambling game,
736 including any slot machine, without having first procured a state
737 gaming license from the commission.

738 (b) Any person included on the list of persons to be excluded or
739 ejected from a gambling establishment pursuant to regulations
740 promulgated pursuant to this act who knowingly enters or remains
741 on the premises of a licensed gambling establishment shall be
742 punished by a fine to be determined by the commission, in addi-
743 tion to any other penalties prescribed by law.

744 (c) Any person under the age of twenty-one years who plays,
745 places wagers at, or collects winnings from, whether personally or
746 through an agent, any controlled game, or who is employed as an
747 employee in a licensed gaming establishment shall be punished by
748 imprisonment in the house of correction for not more than one
749 year, or by a fine of not more than one thousand dollars, or by
750 both such imprisonment and fine. Any licensee, or other person,
751 who knowingly allows a person under the age of twenty-one to
752 play, place wagers at or collect winnings, whether personally or
753 through an agent, shall be punished by imprisonment in the house
754 of correction for a term of not more than one year or pay a fine of
755 not more than ten thousand dollars, or by both such imprisonment
756 and fine. A subsequent violation of this section shall subject the
757 licensee to imprisonment in the house of correction for not more
758 than two years or pay a fine of not more than twenty-five thou-
759 sand dollars or by both such imprisonment and fine. In any prose-
760 cution or other proceeding for the violation of this subsection, it
761 shall not be a defense for the licensee or his agent to plead that he
762 believed the person to be twenty-one years of age or older.

763 (d) Any person who willfully fails to report, pay, or truthfully
764 account for and pay over any license registration fee, penalty, fine,
765 or interest thereon imposed by this act, or willfully attempts in
766 any manner to evade or defeat the license fee, penalty, fine, or
767 interest thereon or payment thereof shall be punished by a fine to
768 be determined by the commission.

769 (e) Any person who willfully resists, prevents, impedes, or
770 interferes with the commission or the bureau or any of their agents
771 or employees in the performance of duties pursuant to this act
772 shall be punished by a fine to be determined by the commission,
773 in addition to any other penalties prescribed by law.

774 (f) Any person who willfully violates, attempts to violate, or
775 conspires to violate any provision of a regulation adopted pur-
776 suant to, this chapter shall be punished by a fine to be determined
777 by the commission, in addition to any other penalties prescribed
778 by law.

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

783 (1) to deal, operate, carry on, conduct, maintain, or expose for
784 play in this state any controlled game or gaming equipment used
785 in connection with any controlled game;

786 (2) to receive, directly or indirectly, any compensation or
787 reward or any percentage or share of the revenue, for keeping,
788 running, or carrying on any controlled game, or owning the real
789 property or location in which any controlled game occurs;

790 (3) to manufacture or distribute within the territorial boundaries
791 of the commonwealth any gaming equipment to be used in con-
792 nection with controlled gaming shall be punished by imprison-
793 ment in the state prison for not more than five years, or by
794 imprisonment in a house of correction for not more than two and
795 one-half years, or by a fine of not more than ten thousand dollars,
796 or by both such imprisonment and fine.

797 (h) Any person who knowingly permits any controlled game to
798 be conducted, operated, dealt, or carried on in any house or
799 building or other premises that he or she owns or leases, in whole
800 or in part, if that activity is undertaken by a person who is not
801 licensed as required by state law shall be punished by imprison-
802 ment in a state prison for not more than five years, or by impris-
803 onment in a house of correction for not more than one year, or by
804 a fine of not less than ten thousand dollars, or by both such
805 imprisonment and fine.

806 (i) Any former commission member who, within three years
807 after his employment on said commission has ceased, solicits or
808 accepts employment with or provides consultant services to any
809 licensee or at any licensed gaming facility shall be deemed to
810 have violated chapter two hundred sixty-eight B of the General
811 Laws. Any licensed gaming facility which employs a former com-
812 mission member in violation of this subsection shall be punishable
813 by a fine to be determined by the commission.

814 (j) It is unlawful for any person:

815 (1) to alter or misrepresent the outcome of a game or other
816 event on which wagers have been made after the outcome is deter-
817 mined but before it is revealed to the players;

818 (2) knowingly to entice or induce another to go to any place
819 where gaming is being conducted or operated in violation of the
820 provisions of this chapter, with the intent that the other person
821 play or participate in that gaming;

822 (3) to manipulate, with the intent to cheat, any component of a
823 gaming device in a manner contrary to the designed and normal
824 operational purpose for the component, including but not limited
825 to, varying the pull of the handle of a slot machine, with knowl-
826 edge that the manipulation affects or reasonably may tend to
827 affect the outcome of the game or with knowledge of any event
828 that affects the outcome of the game;

829 As used in this section, “cheat” means to alter the selection of
830 criteria which determine: (a) the results of a game; or (b) the
831 amount or frequency of payment in a game.

832 (4) to have on his person or in his possession on or off the
833 premises of any licensed gaming establishment any key or device
834 known to have been designed for the purpose of and suitable for
835 opening, entering or affecting the operation of any gaming or
836 equipment, or for removing money or other contents therefrom,
837 except where such person is a duly authorized employee of a
838 licensee acting in furtherance of his employment within a licensed
839 gaming establishment. A violation of this section shall be punish-
840 able by imprisonment in a house of correction for not more than
841 two years or by a fine of not more than one thousand dollars, or
842 by both such imprisonment and fine.

843 (k) Any individual who commits, attempts, or conspires to
844 commit skimming, as defined by this act, for a total value of less
845 than one thousand dollars against a gaming licensee or upon the
846 premises of a licensed gaming facility shall be punished by
847 imprisonment in a house of correction for not more than five years
848 and by a fine of not more than five thousand dollars, or by impris-
849 onment in a house of correction for not more than ten years and
850 by a fine of not more than ten thousand dollars if the total value is
851 more than one thousand dollars.

852 (1) In addition to any other penalty imposed under this section,
853 a violation of this section by a licensed gaming establishment
854 shall subject to forfeiture to the commonwealth any or all of the
855 gaming equipment related to the violation. A district attorney may
856 petition the superior court in the name of the commonwealth in
857 the nature of a proceeding in to order forfeiture of any such
858 gaming equipment subject to forfeiture under the provisions of
859 this paragraph. Such petition shall be filed in the court having
860 jurisdiction over said gaming equipment or having final jurisdic-

861 tion over any related criminal proceedings brought under any pro-
862 vision of this chapter. In all such suits where the property is
863 claimed by any person, other than the commonwealth, the com-
864 monwealth shall have the burden of proving to the court the exis-
865 tence of probable cause to institute the action, and any such
866 claimant shall then have the burden of proving that the gaming
867 equipment is not forfeitable. The court shall order the common-
868 wealth to give notice by certified or registered mail to the owner
869 of said gaming equipment and to such other persons as appear to
870 have an interest therein, and the court shall promptly, but not less
871 than two weeks after notice, hold a hearing on the petition. Upon
872 the motion of the owner of said gaming equipment the court may
873 continue the hearing on the petition pending the outcome of any
874 criminal trial related to the violation of this chapter. At such
875 hearing the court shall hear evidence and make conclusions of
876 law, and shall thereupon issue a final order, from which the parties
877 shall have a right of appeal. In all such suits where a final order
878 results in a forfeiture, said final order shall provide for disposition
879 of said gaming equipment, by the commonwealth in any manner
880 not prohibited by law, including official use by an authorized law
881 enforcement or in other public agency, or sale at public auction or
882 by competitive bidding. The proceeds of any such sale shall be
883 used to pay the reasonable expenses of the forfeiture proceedings,
884 seizure, storage, maintenance of custody, advertising, and notice,
885 and the balance thereof shall be deposited in the gaming regula-
886 tory account established by this chapter.

887 Section 9. Revenues; License Fees; Penalties.

888 (a) There is hereby established a gaming investigative account.
889 Any and all expenses associated with the licensing of any appli-
890 cant and monitoring of any licensee shall be borne by the appli-
891 cant or licensee. Pursuant to its regulations, the commission shall
892 require each applicant to deposit with the commission, together
893 with the application therefor, an application fee which shall be
894 deposited in the gaming investigative account. Such fee shall con-
895 stitute the anticipated costs and charges incurred in the investiga-
896 tion and processing of the application, and any additional sums as
897 are required by the commission and the bureau to pay final costs
898 and charges. Any money received from an applicant in excess of
899 the costs and charges incurred in the investigation or the pro-

900 censing of the application shall be refunded pursuant to regula-
901 tions adopted by the commission.

902 (b) All fees, revenue, and penalties collected pursuant to this
903 act, with the exception of those revenues collected as stated in
904 section nine (a) or section twelve (g) or section 12(f) of this act,
905 shall be deposited in the general fund. Funds deposited in the
906 general fund, pursuant to this act, shall, subject to appropriation,
907 be expended for the support of the commission and the bureau in
908 carrying out their duties and responsibilities under this act.

909 (c) All revenue received from any game or gaming device
910 which is leased for operation on the premises of the licensee-
911 owner to a person other than the owner thereof, or located in an
912 area or space on the premises which is leased by the licensee-
913 owner to any such person, must be attributed to the owner for the
914 purposes of this section and be counted as part of the gross rev-
915 enue of the owner. The lessee is liable to the owner for his propor-
916 tionate share of the license fees.

917 (d) In addition to any other tax or fee imposed by this act, there
918 is also hereby imposed an annual license fee of one hundred thou-
919 sand dollars for gaming license holders, and an annual license fee
920 of five hundred dollars upon every slot machine maintained for
921 use or in use in any licensed gaming facility in the common-
922 wealth.

923 (e) All gaming license fees and penalties imposed by the provi-
924 sions of this act must be paid to the state treasurer to be deposited
925 into the general fund. Fees shall be paid annually on or before
926 June twentieth. Penalties imposed under this act shall be paid
927 within thirty days of the final determination of the commission of
928 the violation.

929 (f) There is hereby imposed upon each slot machine operated in
930 this state an annual excise tax of two hundred and fifty dollars. If
931 a slot machine is replaced by another, the replacement is not con-
932 sidered a different slot machine for the purpose of imposing this
933 tax. The commission shall collect the tax annually on or before
934 June twentieth, as a condition precedent to the issuance of a state
935 gaming license to operate any slot machine for the ensuing fiscal
936 year beginning July first, from a licensee whose operation is con-
937 tinuing; collect the tax in advance from a licensee who begins

938 operation or puts additional slot machines into play during the
939 fiscal year, prorated monthly after July thirty-first; include the
940 proceeds of the tax in its reports of state gaming taxes collected.
941 The commission shall pay over the tax as collected to the treasurer
942 of the municipality within which the gaming facility is located to
943 be deposited to the general fund of said municipality.

944 Section 10. Reporting Violations of Act.

945 All licensees, all registrants, all persons required to be qualified
946 under this act, and all persons employed by a gaming service
947 industry licensed pursuant to this act, shall have a duty to inform
948 the commission or bureau of any action which they believe would
949 constitute a violation of this act. No person who so informs the
950 commission or the bureau shall be discriminated against by an
951 applicant, licensee or registrant because of the supplying of such
952 information.

953 Section 11. Licensing of Gaming Service Industries.

954 (a) All gaming service industries as defined in this act offering
955 goods or services which directly relate to gaming activities or
956 indirectly relate to gaming operations shall be licensed in accor-
957 dance with rules of the commission and prior to conducting any
958 business whatsoever with a gaming applicant or licensee, its
959 employees or agents, and in the case of a school, prior to enroll-
960 ment of any students or offering of any courses to the public
961 whether for compensation or not. Gaming service industries that
962 directly relate to gaming activities shall include gaming and
963 wagering equipment manufacturers, suppliers and repairers,
964 schools teaching gaming and either playing or dealing techniques,
965 and gaming security services. Gaming service industries that indi-
966 rectly relate to gaming operations shall include junket enterprises;
967 suppliers of alcoholic beverages, food and nonalcoholic bever-
968 ages; garbage handlers; vending machine providers; linen sup-
969 pliers; maintenance companies; shopkeepers located within the
970 approved hotels; limousine services and construction companies
971 contracting with gaming applicants or licensees or their
972 employees or agents.

973 (b) Each gaming service industry, as well as its owners, man-
974 agement and supervisory personnel and other principal employees
975 must qualify under standards promulgated by the commission.

976 (c) The commission may exempt any person or field of com-
977 merce from the licensing requirements of this subsection if the
978 person or field of commerce demonstrates that it is regulated by a
979 public agency or that it will provide goods or services in insub-
980 stantial or insignificant amounts or quantities, or provides profes-
981 sional services such as accountants, auditors, attorneys, or broker
982 dealers, and that licensing is not deemed necessary in order to
983 protect the public interest or to accomplish the policies established
984 by this act. Upon granting an exemption or at any time thereafter,
985 the commission may limit or place such restrictions thereupon as
986 it may deem necessary in the public interest, and shall require the
987 exempted person to cooperate with the commission and the bureau
988 and, upon request, to provide information in the same manner as
989 required of a gaming service industry licensed pursuant to this
990 section.

991 (d) Licensure pursuant to this section of any gaming service
992 industry may be denied to any applicant disqualified in accor-
993 dance with the criteria contained in section six of this act.

994 Section 12. Gaming Revenue Payable to Commission.

995 (a) Each licensed operator within the commonwealth also
996 licensed as a live running horse racing meeting licensee within the
997 commonwealth shall pay to the commission, as the commission
998 shall direct, from the adjusted net gaming revenues: a percentage
999 on behalf of the commonwealth; a percentage on behalf of the
1000 horse owners at the running horse racing meeting licensee for
1001 purses in accordance with the rules and established customs of
1002 conducting running horse racing meetings at that licensee's racing
1003 facility; and a percentage on behalf of the breeders association at
1004 the licensee's facility for the purposes of promoting the breeding
1005 of running horses in the commonwealth pursuant to law; provided
1006 that if the adjusted net gaming revenues exceed, in any calendar
1007 year, thirty-five million dollars each such licensed operator shall
1008 pay from the amount above that thirty-five million dollars, on
1009 behalf of the commonwealth a sum on behalf of the horse owners
1010 at the racing meeting licensee for said purses.

1011 (b) Each licensed operator within the commonwealth also
1012 licensed as a greyhound dog racing meeting licensee within the
1013 commonwealth shall pay to the commission, as the commission
1014 shall direct, from the adjusted net gaming revenues: a sum on

1015 behalf of the commonwealth; a percentage on behalf of the dog
1016 owners at the greyhound dog racing meeting licensee for purses in
1017 accordance with the rules and established customs of conducting
1018 greyhound dog racing meetings at that licensee's racing facility;
1019 provided that if the adjusted net gaming revenues exceed, in any
1020 calendar year, thirty-five million dollars each such licensed oper-
1021 ator shall pay from that amount above that thirty-five million dol-
1022 lars, on behalf of the commonwealth a sum and on behalf of the
1023 dog owners at the racing meeting licensee for said purses.

1024 (c) Notwithstanding the foregoing, if adjusted net gaming rev-
1025 enues of any licensed operator under section twelve (a) and (b)
1026 exceed, in any calendar year, fifty million dollars, such licensed
1027 operator(s) shall pay to the commission, on behalf of the common-
1028 wealth, as the commission shall direct, from the adjusted net
1029 gaming revenue above said amount, a percentage on behalf of the
1030 commonwealth.

1031 (d) Provided, however, that each licensed operator shall receive
1032 as and offset from any amount due under sections twelve (a), (b),
1033 (c), or (d) any amount assessed by the commission to cover the
1034 licensed operator's pro rata share of the regulatory costs of the
1035 commission. Such regulatory costs shall not include any license or
1036 application fee assessed by the commission.

1037 (f) Revenue generated by each licensed operator including, a
1038 licensed running horse racing facility, a licensed harness horse
1039 racing facility, a licensed greyhound dog racing facility, shall be
1040 placed into a separate account, to be known as the "revenue
1041 gaming account". Twenty-five percent (25%) of said revenue
1042 shall, subject to appropriation, be dedicated to the Department of
1043 Education for the purpose of supporting the public school system
1044 in the Commonwealth. The remaining revenue shall be returned to
1045 the General Fund.

1046 (g) There is hereby established a debt service account. Each
1047 licensed operator within the commonwealth operating a licensed
1048 running horse racing facility, a licensed harness horse racing
1049 facility, a licensed greyhound dog racing facility, or a licensed
1050 gaming facility as designated in section six (d)(1), (2), (3), (4),
1051 and (5) shall pay, on behalf of the commonwealth, a percentage of
1052 their adjusted net gaming revenue, said percentage which shall be

1053 deposited in the debt service account. Said account shall be used
1054 to fund payments toward the debt service of the commonwealth.

1055 Section 13. Problem Gambling Education and Treatment.

1056 The department of public health is hereby authorized and
1057 directed to conduct a comprehensive study to measure the preva-
1058 lence of compulsive, obsessive behaviors in Massachusetts; to
1059 measure the prevalence of problem gambling in Massachusetts; to
1060 measure the prevalence of underage problem gambling in Massa-
1061 chusetts; and, to measure the social cost of problem gambling in
1062 Massachusetts; and to develop appropriate treatment modalities
1063 and public education strategies that address the findings of said
1064 study.

1065 Section 14. Disclosure requirements.

1066 Every licensed gaming establishment shall disclose clearly and
1067 conspicuously on each electronic gaming device the numerical
1068 odds of winning or if the odds cannot be calculated, the manner
1069 by which a person may be notified of all previous winnings on
1070 each electronic gaming device, and the number of previous win-
1071 ners.

1072 Section 15. Recovery of Gaming Debts by Patrons.

1073 (a) Whenever a licensee refuses payment of alleged winnings to
1074 a patron, the licensee and the patron are unable to resolve the dis-
1075 pute to the satisfaction of the patron and the dispute involves,

1076 1) at least five hundred dollars, the licensee shall immediately
1077 notify the commission; or

1078 2) less than five hundred dollars, the licensee shall inform the
1079 patron of his right to request that the commission conduct an
1080 investigation. The bureau shall conduct whatever investigation it
1081 deems necessary and shall determine, in its sole discretion and
1082 without need for a hearing, whether payment should be clone. In
1083 the event the commission determines that payment should be
1084 made, all costs of the investigation shall be borne by the licensee.
1085 Failure of the licensee to notify the bureau or inform the patron as
1086 provided herein shall subject the licensee to disciplinary action.

1087 (b) Any party aggrieved by the determination of the commis-
1088 sion may file a petition for reconsideration with the commission
1089 setting forth the basis of the request for reconsideration. Any
1090 hearing for reconsideration shall be conducted pursuant to regula-
1091 tions adopted by the commission.

1092 Section 16. Off-Track Betting.

1093 In the event that an off-track betting system is sanctioned by
1094 the commonwealth each licensed gaming facility shall, on reason-
1095 able terms and conditions, make available within said facility
1096 space for an off-track betting facility to be jointly leased and oper-
1097 ated by all persons licensed under section three of chapter one
1098 hundred and twenty-eight A, other than licensees conducting
1099 horse or dog racing in connection with a state or county fair, to be
1100 operated in accordance with the rules and regulations applicable
1101 to the enabling legislation of that off-track betting system.

1102 Section 17. Severability.

1103 The invalidity of any section, sections or subsections or parts of
1104 this act shall not affect the validity of the remainder of this act.