

**HOUSE . . . . . No. 357**

By Mr. Flynn of Bridgewater, petition of David L. Flynn and James H. Fagan relative to further regulating horse and greyhound racing and associated gaming. Economic Development and Emerging Technologies.

**The Commonwealth of Massachusetts**

In the Year Two Thousand and Seven.

**AN ACT FURTHER REGULATING HORSE AND GREYHOUND RACING AND ASSOCIATED GAMING.**

1 *Whereas*, The deferred operation of this act would tend to  
2 defeat its purpose, which is to forthwith to further regulate horse  
3 and greyhound racing and associated gaming, therefore it is  
4 hereby declared to be an emergency law, necessary for the imme-  
5 diate preservation of the public convenience.

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

1 SECTION 1. Chapter 6 of the General Laws is hereby amended  
2 by striking out section 48, as appearing in the 2004 Official Edi-  
3 tion, and inserting in place thereof the following section:—  
4 Section 48. The state lottery and gaming commission shall  
5 oversee and execute the duties of chapter 128, chapter 128A and  
6 any other general or special law involving the state racing com-  
7 mission.

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

1 SECTION 3. Section 23 of chapter 10 of the General Laws, as  
2 so appearing, is hereby amended by striking out, in lines 1 and 2,  
3 the words “state lottery commission” and inserting in place  
4 thereof the following words:— state lottery and gaming commis-  
5 sion.

1 SECTION 4. Said chapter 10 of the General Laws is hereby  
2 amended by inserting after section 24A, as so appearing, the  
3 following section:—

4 Section 24B. Notwithstanding any general or special law to the  
5 contrary, the commission is shall implement chapter 10A,  
6 chapter 128A, and chapter 128C, any special or general law that  
7 pertains to chapter 10A, chapter 128A, and chapter 128C, and any  
8 special or general law as it pertains to live and simulcast racing, to  
9 exercise all powers granted thereunder, and to promulgate all rules  
10 and regulations necessary thereof.

11 When exercising its duties under chapter 10A, chapter 128A,  
12 and chapter 128C, the commission shall comply with the  
13 following:

14 (a) Except as otherwise provided herein, meetings of the com-  
15 mission shall be subject to sections 11A and 11A½ of  
16 chapter 30A. A quorum shall be the chairman and not less than 2  
17 other members of the commission. A public record of every vote  
18 shall be maintained at the division of racing and gaming.

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

29 (c) The commission may require any person to apply for a  
30 license as provided in this chapter and approve or disapprove any  
31 such application or other transactions, events, and processes as  
32 provided in this chapter. Any application to receive any license  
33 under this chapter shall constitute a request for a determination of  
34 the applicant' general character, integrity, and ability to participate  
35 or engage in, or be associated with, gaming.

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

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

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

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

53 (1) the licensing of gaming establishments, including regula-  
54 tions relating to the types of establishments, application process,  
55 background checks, license fees, bonding requirements, and revo-  
56 cation and suspension of licenses;

57 (2) the licensing of gaming suppliers, including regulations  
58 relating to the application process, background checks, license  
59 fees, bonding requirements, and revocations and suspension of  
60 licenses;

61 (3) the licensing of parties in interest, including regulations  
62 relating to the application process, background checks, license  
63 fees, bonding requirements, and revocation and suspension of  
64 licenses;

65 (4) the issuance of one or more classes of work permits,  
66 including regulations relating to the application process, back-  
67 ground checks, fees, and revocation and suspension of work per-  
68 mits;

69 (5) the licensing of gaming schools, if any such school is estab-  
70 lished in the commonwealth, including regulations relating to the  
71 application process, background checks, license fees, and revoca-  
72 tion and suspension of licenses;

73 (6) the licensing of all officers and directors of any entity which  
74 holds or applies for a license under this chapter, including regula-  
75 tions relating to application process, background checks, licensee  
76 fees, and revocation and suspension of licenses; and regulations  
77 requiring that, if in the judgment of the commission the public  
78 interest will be served by requiring any of the individual stock-

79 holders, key executives, agents or other employees of any entity  
80 which holds or applies for a license under this chapter to be  
81 licensed, such individuals apply for a license under this para-  
82 graph;

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

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

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

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

90 (11) the method and standards of operation of licensed gaming  
91 establishments including, but not limited to, games, the type and  
92 manner of gaming, wagering limitations, odds, and hours of oper-  
93 ation; provided, however, the commission shall not restrict the  
94 number of hours of operation of any licensed gaming establish-  
95 ment to fewer hours than of any competing licensed gaming  
96 establishment

97 (12) the manufacturing, distribution, sale, testing, servicing,  
98 and inspection of gaming equipment, including requirements for  
99 the identification and licensing of same;

100 (13) any limitations on mortgage security interests and agree-  
101 ments relating to the property of licensed gaming establishments;

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

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

107 (16) the manner in which winnings, compensation from games,  
108 and gaming devices must be compiled and reported by the com-  
109 mission, provided, further, electronic gaming devices shall return  
110 as winnings at a minimum 85% of all sums wagered.

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

113 (18) the minimum procedures to be adopted by each licensed  
114 gaming establishment to exercise effective supervisory and man-  
115 agement control over its fiscal affairs, including the requirement  
116 of an annual audit undertaken in accordance with generally  
117 accepted accounting principles, and the requirement that quarterly

118 reports be provided by licensed gaming establishments to the  
119 commission no more than 30 days after the close of each quarter;

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

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

124 (21) the licensing and regulation of central computer system  
125 provider, which services electronic gaming devices and on and off  
126 site auditing of said electronic gaming devices; provided that, the  
127 commission shall ensure that the central computer system shall  
128 employ a widely accepted gaming industry protocol to facilitate  
129 slot machine manufacturers' ability to communicate with the  
130 statewide system; and provided further, that said central computer  
131 system selected by the commission shall be prohibited from pro-  
132 viding electronic gaming devices, or any other form of player  
133 activated terminal for use in connection with said central com-  
134 puter system.

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

138 (h) In emergencies, the commission may, without complying  
139 with sections 2 or 3 of chapter 30A, summarily adopt, amend, or  
140 repeal any regulation, if, at the time, the commission makes a  
141 finding that such action is necessary for the preservation of the  
142 public peace, health, safety, morals, good order, or general wel-  
143 fare, together with a statement of the facts constituting the  
144 emergency; provided, however, all such emergency actions shall  
145 not exceed 90 days.

146 (i) Each operating license shall be issued for an initial term of 5  
147 years, and may be renewed at the discretion of the commission for  
148 a term not to exceed 5 years; provided further, that the commis-  
149 sion shall set a renewal fee on the license of not less than  
150 \$25,000,000.

151 (j) Any failure of a licensee to comply with this chapter,  
152 chapter 10A, chapter 128A or chapter 128C or any regulation of  
153 the commission may result in the suspension limitation, or revoca-  
154 tion of the license, as determined by the commission. The com-  
155 mission shall promulgate rules and regulations, which shall  
156 include but not limited, the process by which a licensee's license

157 can be revoked, the process by which a licensee can appeal, the  
158 length of time of the suspension or limitation, and the scope of  
159 limitations on the license of type for the suspension,

160 (k) A gaming establishment license issued pursuant to this  
161 chapter must be posted by the licensee and kept posted at all times  
162 in a conspicuous place in the area where gaming is conducted in  
163 the establishment for which the license is issued until it is  
164 replaced by a succeeding license.

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

170 (m) No person or entity licensed as a licensed gaming operator,  
171 gaming establishment or racing meeting licensee, under  
172 chapter 10A, chapter 128A or chapter 128C, shall be permitted to  
173 transfer a direct or indirect real interest, personal interest, pecu-  
174 niary interest, including, but limited to, substantial party in  
175 interest and affiliates defined under section 2 of chapter 10A, in  
176 the interests of the licensee's corporate governing structure,  
177 including those defined under chapter 108A, chapter 109,  
178 chapter 155, chapter 156, chapter 156A, chapter 156B,  
179 chapter 156C and chapter 156D and those entities established  
180 under the rules and regulations of the Secretary of State, the  
181 licensee's establishment, licensee's structure, licensee's real prop-  
182 erty, licensee's premise or licensee's facility, or enter into an  
183 option contract, management contract, or other agreement or con-  
184 tract providing for such transfer in the present or future, without  
185 the notification and approval the commission, and the commission  
186 may require either the transferer or transferee or both, as deter-  
187 mined by the commission, to pay to the Commonwealth an  
188 amount representing the Commonwealth's share of the increased  
189 value for said of said property or contracts. The commission shall  
190 promulgate rules and regulations for the determination of the pay-  
191 ment which serves in the best interest of the Commonwealth as a  
192 result of the transfer; provided that the commission may consider  
193 the actual increase or decrease in the pecuniary value of said  
194 license, the real property, and the shares of interest among the  
195 time it was initially purchased, the time of receiving a license and

196 the time of the transfer; provided further, that any payment col-  
197 lected by the commission, on behalf of the Commonwealth, shall  
198 be deposited in the General Fund..

199 (n) No licensed operator, licensed person, licensed party, a  
200 licensee's affiliate, a licensee's substantial party of interest,  
201 licensee's party of interest, as defined under section 2 of  
202 chapter 10A, shall transfer any license in whole or in part issued  
203 by the commonwealth ,municipality, county, authority, district,  
204 commission or any other subdivision of the commonwealth,  
205 without the approval of the commission and the commission may  
206 require a payment by the transferer or transferee or both, as deter-  
207 mined by the commission, to the commission, on behalf of the  
208 Commonwealth, and said payment shall be deposited into the  
209 General Fund; provided, that the commission shall consider as a  
210 factor in determining the amount of the payment the difference in  
211 value of the licensee's property between the time of when the  
212 licensee received the license and the time of or anticipated time of  
213 the transfer through the average of three separate assessments  
214 made by the licensee, the commission and an independent  
215 assessor chosen by the commission, and the cost of said assess-  
216 ment shall be part of the payment of the transfer; and provided  
217 further, that the commission shall consider as a factor in deter-  
218 mining the amount of the payment the market value of the license  
219 of when it was acquired and at the time of the transfer; provided  
220 further, that the commission shall consider as a factor in deter-  
221 mining the amount of the payment the increased value of the prop-  
222 erty, land, establishment, management agent, entity or business  
223 value as a result of possessing a gaming operator's license. In no  
224 event shall a bona fide commercial financial institution licensed  
225 by the division of banks, which becomes a substantial party of  
226 interest, as defined under section 2 of chapter 10A, with a licensee  
227 be deemed to be a transfer; provided further, that the commission  
228 may reject such transfer if it deems it unsuitable. The commission  
229 may place any condition or restriction on the transfer of a license  
230 or substantial interest or party of interest, and in all instances it  
231 shall consider whether additional compensation is owed to the  
232 Commonwealth.

233 (o) No person or entity licensed as a licensed gaming operator,  
234 gaming establishment or racing meeting licensee, under

235 chapter 10A, chapter 128A or chapter 128C, shall be permitted to  
236 change its business governing structure, including those defined  
237 under chapter 108A, chapter 109, chapter 155, chapter 156,  
238 chapter 156A, chapter 156B, chapter 156C and chapter 156D and  
239 those entities established under the rules and regulations of the  
240 Secretary of State without the notification and approval of the  
241 commission.

242 (p) The commission shall monitor the conduct of all licensees  
243 and other persons having a material involvement, directly or indi-  
244 rectly, with a licensee for the purpose of ensuring that licenses are  
245 not issued to, or held by, and there is no direct or indirect material  
246 involvement with a licensee by unqualified, disqualified, or  
247 unsuitable persons.

248 (q) No commission member or person employed by the com-  
249 mission shall solicit or accept employment from a licensee, or rep-  
250 resent any person or party other than the commonwealth before or  
251 against the commission for a period of 3 years from the termina-  
252 tion of his office or employment with the commission.

253 (r) The commission may investigate fraud, deceit, misrepresen-  
254 tation or violations by any licensee under this chapter, or the  
255 occurrence of any such activity involving any licensee. If the  
256 commission has reasonable basis to believe that any licensee has  
257 been or is engaged in criminal behavior or that criminal activity is  
258 occurring within or involving any licensed gaming establishment,  
259 the commission shall report same to the district attorney of the  
260 county within which the gaming establishment is located and  
261 make available to said district attorney and attorney general all  
262 relevant information on such activity. The commission shall direct  
263 through the division of racing and gaming such police officers to  
264 guard and protect the lives and safety of the public and property at  
265 any such gaming establishment, and to perform any such other  
266 duties which may be required by said commission in order to  
267 maintain fair and honest gaming establishment. The police offi-  
268 cers so assigned shall, except in the case of an emergency, while  
269 on duty at any such establishment be subject to the operational  
270 authority of the commission; provided, however, that such assign-  
271 ment or reassignment shall not in any way impair any rights to  
272 which any officer may be entitled. The commission assess an  
273 annual fee to be paid by the licensees for the costs associated with

274 the state police as it relates to this chapter and chapter 10A; pro-  
275 vided further, that said fee shall be paid by each licensee in equal  
276 portions. The commission shall establish a fee schedule for the  
277 purposes of defraying the costs incurred by police officers of the  
278 department of public safety for work associated under this chapter  
279 and chapter 10A and shall direct the division of racing and  
280 gaming to collect said fee from the licensees.

281 All assignment and reassignments to the commission, except as  
282 the commissioner of public safety shall determine that an emer-  
283 gency exists or its threatened, shall be subject to the approval of  
284 the commission. Nothing herein shall prevent licensees from  
285 applying to the state police if they have jurisdiction in the area  
286 where gaming establishment is located, or to the police depart-  
287 ment of a city or town wherein the gaming establishment is  
288 located, in order that such police agency may furnish a police  
289 detail for safety or traffic purposes at any gaming establishment  
290 authorized by this chapter. The total cost for any such police detail  
291 shall be a sum equal to the salaries of the police officers com-  
292 prising such detail, plus a sum to cover the administrative  
293 expenses incurred by the department of each such police officer,  
294 which is to be paid by the licensee.

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

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

304 (u) The commission shall establish rules and regulations  
305 regarding the use and manner of how electronic gaming devices  
306 may accept wagers deposited by the player, how they dispense  
307 funds deposited or credited to the player, what the maximum  
308 amount of money that a electronic gaming device can receive  
309 from a player, what is the expiration date on a ticket or voucher  
310 dispensed from an electronic gaming device, what the manner of  
311 how a player receives his or her reimbursement from a from a  
312 ticket or voucher dispensing electronic gaming device, and how

313 machines that can dispense cash in exchange for a ticket of  
314 voucher dispensed from an electronic gaming device.

315 (v) The commission shall require the licensee to provide annual  
316 updates regarding the condition of the facility and the commission  
317 shall approve plans for all capital projects in excess of \$500,000,  
318 and projects that would substantially change the use of the prop-  
319 erty other than as a racetrack.

320 (w) The commission may, one-year after four licenses to the  
321 racing meeting licensees have been granted in the commonwealth  
322 under chapter 10A, make a determination whether to solicit appli-  
323 cations and grant 1 additional gaming operator license in Ham-  
324 pden County; provided however, that said license shall be a  
325 granted only to a parimutuel racetrack in accordance with  
326 chapter 128A , and is authorized to conduct simulcast racing pur-  
327 suant to 128C and is authorized to be a lottery reseller, pursuant to  
328 chapter 10; provided, that in making such determination, said  
329 commission shall take into consideration the economic impact,  
330 environmental issues, public safety impact, effect on traffic and  
331 infrastructure and other relevant costs, benefits and factors of  
332 granting an additional license. . The applicant for said license  
333 shall be required to fulfill the requirements under this chapter and  
334 chapter 10A and the rules and regulations set forth by the com-  
335 mission. No current or former licensed gaming operator under  
336 chapter 10A or racing meeting licensee under chapter 128A shall  
337 have any direct or indirect, real interest, personal interest or pecu-  
338 niary interest the applicant's license application. Nothing in this  
339 section shall preclude any city, town, or county government in the  
340 commonwealth from prohibiting the use and operation of elec-  
341 tronic gaming devices in said city, town or county, from imposing  
342 local controls or conditions on electronic gaming devices, from  
343 enacting or enforcing applicable zoning laws or regulations, or  
344 from imposing any fee or tax otherwise authorized, provided that  
345 any, inspection, tax, or fee is not inconsistent with this act, or the  
346 laws of the United States.

347 (x) The commission shall promulgate rules and regulations in  
348 accordance with chapter 10A for the purposes of purchasing,  
349 leasing, maintaining, operating, inspecting, auditing, electronic  
350 gaming devices, and the distribution of prize monies, and col-  
351 lecting the monies from the electronic gaming devices at the

352 licensed gaming operations pursuant to said chapter 10A; pro-  
353 vided that, the commission shall be authorized to enter into any  
354 necessary contracts, leases or agreements with a licensee or third  
355 party in order to execute this provision; provided further, that the  
356 commission shall collect said monies in accordance to  
357 subsection (b) of section 4 of said chapter 10A.

1 SECTION 5. Said chapter 10 is hereby further amended by  
2 inserting after section 26, as so appearing, the following  
3 section:—

4 Section 26a. The state treasurer shall appoint, subject to the  
5 approval of the commission, a director for division of racing and  
6 gaming established under chapter 10A, hereinafter called the  
7 executive director, who shall serve at the pleasure of the commis-  
8 sion, shall devote his entire time and attention to the duties of his  
9 office, and shall receive such salary as the commission may deter-  
10 mine. The executive director shall serve for a term of five years.  
11 The executive director shall not serve more than two consecutive  
12 terms. He shall supervise and administer the operation of licensed  
13 parimutuel wagering and licensed gaming establishments in accor-  
14 dance with the provisions of the chapter 128A, chapter 128C,  
15 chapter 10A, any special laws, and rules and regulations made  
16 thereunder.

17 The executive director shall, subject to the approval of the com-  
18 mission, appoint such deputy directors and such other profes-  
19 sional, technical and clerical assistants and employees as may be  
20 necessary; provided, however, that such deputies, assistants and  
21 employees shall not be subject to chapter 31 and section 9A of  
22 chapter 30.

23 The executive director shall confer regularly as necessary or  
24 desirable and not less than once every month with the commission  
25 on the operation and administration of gaming, shall make avail-  
26 able for inspection by the commission, upon request, all books,  
27 records, files, and other information and documents of the com-  
28 mission, shall advise the commission and recommend such mat-  
29 ters as he deems necessary and advisable to improve the operation  
30 and administration of gaming.

31 The executive director shall, subject to the approval of the com-  
32 mission and the applicable laws relating to public contracts, enter

33 into contracts for the operation of his offer, or any part thereof. No  
34 contract awarded or entered into by the executive director shall be  
35 assigned by the holder thereof except with the specific approval of  
36 the commission.

37 The executive director shall certify monthly to the state trea-  
38 surer and the commission a full and complete statement of gaming  
39 revenues, disbursements and other expenses for the preceding  
40 month.

1 SECTION 6. The General Laws are hereby amended by  
2 inserting after chapter 10 the following chapter:—

3 **CHAPTER 10A.**  
4 **LIVE RACING AND GAMING.**

5 Section 1. (a) This act shall be known and may be cited as the  
6 “Live Racing Revitalization Act.”

7 (b) No applicant for a license or other affirmative approval  
8 within the scope of this chapter has any property or other right to  
9 a license or to the granting of the approval sought. Any license  
10 issued or other approval granted pursuant to this chapter is a fully  
11 revocable privilege, and no holder acquires any vested right  
12 therein or thereunder. Except as otherwise provided herein, no  
13 person other than a licensee hereunder shall have any right to or  
14 interest in gaming revenue in the form of a percentage or contrac-  
15 tual interest of any sums payable hereunder

16 (c) Nothing in this chapter shall preclude any city or town in  
17 the commonwealth from prohibiting gaming, from imposing any  
18 local controls or conditions upon gaming, from inspecting  
19 premises to enforce applicable laws, or from imposing any fee or  
20 tax otherwise authorized, provided any, inspection, tax, or fee is  
21 not inconsistent with this chapter, or the laws of the United States.

22 (d) In the event of any conflict between the provisions of this  
23 chapter and the provisions of any other general or special law, or  
24 local ordinance, the provisions of this chapter shall prevail.

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

28 (a) “Affiliate,” any person that a licensee or applicant directly  
29 or indirectly controls or in which an applicant or licensee pos-  
30 sesses an interest. For the purposes of this definition, “controls”  
31 means either (i) directly or indirectly holding more than 10 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 are representa-  
35 tive of, or are directly or indirectly controlled by, the licensee or  
36 applicant. For the purposes of this definition, “possesses an  
37 interest in” means either (i) directly or indirectly holding more  
38 than 5 percent of voting membership rights or voting stock, or  
39 (ii) that at least 25 percent of the directors, general partners,  
40 trustees, or members of an entity’s governing body are representa-  
41 tives of, or are directly or indirectly controlled by, the licensee or  
42 applicant.

43 (b) “Applicant,” a person who has applied for a gaming license,  
44 work permit, or approval of any act or transaction pursuant to this  
45 chapter.

46 (c) “Commission,” the Massachusetts state lottery commission  
47 established pursuant to section 24 and section 24b of chapter 10.

48 (d) “Controlled game” or “controlled gaming,” gaming licensed  
49 under chapter 10A, including electronic gaming devices

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

53 (2) parimutuel wagering on horse and dog races, whether live  
54 or simulcast, authorized under chapter 128A and chapter 128C;

55 (3) any lottery game conducted by the state lottery commission,  
56 in accordance with Section 24 of chapter 10;

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

60 • “Division,” means the Division of Racing and Gaming  
61 established under section 3.

62 (f) “Electronic Gaming Device” means any game of chance  
63 mechanical, electronic or otherwise featuring coin drop and  
64 payout as well as printed tabulations or credits to a paper or elec-  
65 tronic account, whereby the software or hardware of the device  
66 predetermines the presence or lack of a winning combination and

67 payout, including microprocessor-controlled electronic devices  
68 that allow a player to play games of chance, which may be  
69 affected by an element of skill, activated by the insertion of a coin  
70 or currency or by the use of a credit and awards game credits,  
71 cash, tokens, replays or a written statement of the player's accu-  
72 mulated credits, which written statements are redeemable for cash;  
73 and including slot machines, video lottery terminals and video  
74 facsimile machines of any type.

75 (g) "Establishment," any building, room, place or other indoor  
76 or outdoor premises where any controlled gaming occurs,  
77 including all public and non-public areas of any such establish-  
78 ment.

79 (h) "Executive Director" the executive director of the division  
80 of racing and gaming established under section 24b of chapter 10  
81 and section 3 of this chapter.

82 (i) "Gaming," to deal, operate, carry on, conduct, maintain, or  
83 expose for play any controlled gaming.

84 (j) "Gaming equipment," any equipment, device, object or con-  
85 trivance, or machine, whether mechanical, electromechanical, or  
86 electronic, which is specifically designed or manufactured for use  
87 in the operation of gaming.

88 (k) "Gaming license" or "license," any license or work permit  
89 issued by the commission under this chapter that authorizes the  
90 person named therein to engage or participate in controlled  
91 gaming or to operate electronic gaming devices, including work  
92 permits and licenses issued to gaming establishments, to gaming  
93 suppliers, to parties in interest, to gaming schools, and to officers  
94 and directors of licensed persons or entities.

95 (l) "Gaming operation," one or more controlled games that are  
96 operated, carried on, conducted, maintained, offered or exposed  
97 for play.

98 (m) "Gaming establishment," any establishment licensed to  
99 conduct a gaming operation in the commonwealth under this  
100 chapter.

101 (n) "Gaming school," any person or entity which offers courses  
102 for persons who have obtained or who may seek to obtain a  
103 gaming work permit under this chapter.

104 (o) "Gaming services" means providing services or goods to  
105 any licensed gaming establishment directly in conjunction with

106 the operation of gaming, including security services, junket serv-  
107 ices, gaming schools or training activities, promotional services,  
108 printing or manufacture of betting tickets and manufacture, distri-  
109 bution, maintenance, testing or repair of electronic gaming  
110 devices, or any person who furnishes goods or services pursuant  
111 to which the person receives payments based on earnings, profits  
112 or net receipts from gaming.

113 (p) “Holding company,” any corporation, firm, partnership,  
114 trust, or other entity that, directly or indirectly, owns, has the  
115 power or right to control, or holds with power to vote, all or any  
116 part of the partnership interests or outstanding voting securities of  
117 a corporation or any other business entity that holds or applies for  
118 a gaming license. In addition, a holding company indirectly has,  
119 holds, or owns any power or right mentioned herein if it does so  
120 through any interest in a subsidiary or affiliate or successive sub-  
121 sidiaries or affiliates, however many of these subsidiaries or affili-  
122 ates may intervene between the holding company and the  
123 corporate licensees or applicant.

124 (q) “Intermediary company,” any corporation, firm, partnership,  
125 trust, or other entity, other than a natural person, that is both of the  
126 following:

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

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

131 (r) “Licensed operator,” any operating entity that conducts a  
132 controlled gaming operation within a gaming establishment pur-  
133 suant to a license or licenses issued under this chapter and  
134 section 24b of chapter 10.

135 (s) “Licensed premises,” the premises upon which is located a  
136 gaming establishment pursuant to a license issued to a licensed  
137 operator.

138 (t) “Licensee,” any person or party holding, or purporting to  
139 hold, a valid gaming license under this chapter.

140 (u) “Net gaming revenue,” the total, prior to the deduction of  
141 any operating, capital or other expenses whatsoever, of all gaming  
142 revenue retained by any gaming establishment licensed under this  
143 chapter derived from the conduct of any controlled game.

144 (v) “Operating entity,” any person who conducts a gaming  
145 operation;

146 (w) “Party in interest,” any corporation, firm, partnership, trust,  
147 or other entity or person with any direct or indirect pecuniary  
148 interest in a licensed gaming establishment, or a person who owns  
149 any interest in the premises of a licensed gaming establishment, or  
150 land upon which such premises is licensed, whether he leases the  
151 property directly or through an affiliate.

152 (x) “Person” or “party,” a natural person, corporation, partner-  
153 ship, limited partnership, trustee, holding company, joint venture,  
154 association, or any business entity.

155 (y) “Racing meeting licensee” the running horse racing meeting  
156 licensee in Suffolk County, harness horse racing meeting licensee  
157 in Norfolk County, and dog racing meeting licensees in Suffolk  
158 and Bristol Counties licensed by the State Racing Commission  
159 pursuant to chapter 128A, as amended, to conduct parimutuel  
160 racing during calendar year 2005, or their respective assigns; pro-  
161 vided, however, that the two dog racing meeting licensees in  
162 Bristol County shall be deemed one for all purposes of this act;  
163 and, further, excluding any licensees of racing meetings held or  
164 conducted in connection with a state or county fair.

165 (z) “Substantial party in interest,” any person holding a greater  
166 than one percent (1%) direct or indirect pecuniary interest,  
167 whether as owner, mortgagee or otherwise, in an operating entity,  
168 premises, or any other licensee or applicant; but, excluding any  
169 shareholder holding less than a five percent (5%) interest in a  
170 public company that is a substantial party in interest.

171 (aa) “Work permit,” any permit issued by the commission  
172 authorizing the holder to be employed as an employee in a  
173 licensed gaming establishment.

174 Section 3. (a) There shall be within the state lottery and gaming  
175 commission, the division of racing and gaming, and an office for  
176 the executive director to be designated by the state treasurer.

177 (b) The executive director of the division shall be appointed by  
178 the state and lottery and gaming commission pursuant to  
179 section 26a of chapter 10. The executive director shall be respon-  
180 sible for the oversight and operation of the division. The executive  
181 director shall employ such professional, technical, and clerical  
182 assistants and employees as necessary, subject to appropriation;  
183 provided, however, such assistants and employees shall not be  
184 subject to chapter 31 or section 9(A) of chapter 20. The executive

185 director shall execute and enforce the rules, regulations and direc-  
186 tives of the commission and provide the necessary administrative  
187 support.

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

190 (1) To visit, to investigate, and to place accountants, to techni-  
191 cians, and any other personnel, without prior notice or approval of  
192 any party as it may deem necessary, in the office, gaming area, or  
193 other place of business of any licensee under this chapter;

194 (2) To require that the books and financial or other records or  
195 statements of any licensee be kept in a manner that the commis-  
196 sion or the bureau deems proper;

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

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

204 (5) To have access to, to inspect, to examine, to photocopy, and  
205 to audit all relevant and material papers, books, and records of an  
206 applicant for, or person holding, a license for a gaming establish-  
207 ment under this chapter, on such applicant's or licensee's premises  
208 or elsewhere, as practicable, in the presence of the applicant or  
209 licensee or his or her agent, and require verification of income,  
210 and all other matters affecting the enforcement of this chapter;

211 (6) To have access to and to inspect, to examine, to photocopy,  
212 and to audit all relevant and material papers, books, and records of  
213 any affiliate of a licensed gaming establishment that the executive  
214 director knows or reasonably suspects is involved in the financing,  
215 operation, or management of any entity licensed pursuant to this  
216 chapter, either on the affiliate's premises or elsewhere, as practi-  
217 cable, in the presence of the affiliate or any agent thereof; and,

218 (7) To refer any suspected criminal violation of this chapter to  
219 the appropriate office of the district attorney and the attorney  
220 general; provided, however, that nothing in this section shall be  
221 deemed to limit the investigatory and prosecutorial powers of  
222 other state and local officials and agencies;

223 (d) The executive director shall investigate the qualifications of  
224 each applicant under this chapter and make a recommendation to  
225 the commission before any license is issued. The executive  
226 director shall also continue to monitor the conduct of all licensees  
227 and other persons having a material involvement, directly or indi-  
228 rectly, with a licensee for the purpose of ensuring that licenses are  
229 not issued to, or held by, and there is no direct or indirect material  
230 involvement with a licensee by unqualified, disqualified, or  
231 unsuitable persons, or persons whose operations are conducted in  
232 unsuitable manner or in unsuitable or prohibited places, as pro-  
233 vided in commission regulations.

234 (e) The executive director may recommend to the commission  
235 the denial of any application, the limitation, conditioning, restric-  
236 tion, transfer, suspension, or revocation of any license or  
237 approval, or the imposition of any fine or penalty upon any  
238 licensee.

239 (f) The executive director shall maintain a file of applications  
240 for licenses under this chapter, together with a record of all action  
241 taken by the commission on those applications. Such applications  
242 shall be open to public inspection; provided however, that the  
243 executive director shall prohibit access to information that is a  
244 trade secret, or puts the applicant for a license at an unfair disad-  
245 vantage with other applicants; provided further, that the executive  
246 director shall consult with the division on public records on the  
247 appropriate distributing or withholding of said information. The  
248 executive director may maintain any other files and records as it  
249 deems appropriate.

250 (g) Each employee of the executive director and the executive  
251 director shall file with the executive director and the state ethics  
252 commission a statement of financial interest as defined in  
253 chapter 268B. Such statement shall be under oath and shall be  
254 filed at the time of employment and annually thereafter, as  
255 required by the state ethics commission.

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

260 (i) No commission member or person employed by the commis-  
261 sion or the executive director or acting as an agent or assignee for

262 the commission or the executive director shall solicit or accept  
263 employment from a licensee, or represent any person or party  
264 other than the commonwealth before or against the commission for  
265 a period of three years from the termination of his office or  
266 employment with the commission.

267 (j) The executive director may investigate, fraud, deceit, mis-  
268 representation or violations of this chapter by any person licensed  
269 hereunder or the occurrence of any such activity within or  
270 involving any licensed gaming establishment. If the executive  
271 director has reasonable basis to believe that any licensee has been  
272 or is engaged in criminal behavior or that criminal activity is  
273 occurring within or involving any licensed gaming establishment,  
274 the executive director shall report same to the district attorney of  
275 the county within which the licensed gaming establishment is  
276 located and the Attorney General. The executive director shall  
277 make available to said district attorney, the Attorney General, and  
278 to the commission all relevant information on such activity.

279 (k) An action brought against a person pursuant to this chapter  
280 shall not preclude any other criminal or civil proceeding as may  
281 be authorized by law. The executive director must report all crim-  
282 inal action in violation of this chapter or any General Laws to the  
283 appropriate office of the district attorney and to the attorney  
284 general, who may take legal action to restrain violations of this  
285 chapter or enforce any provision thereof

286 (l) The executive director shall make a continuous study and  
287 investigation of gaming throughout the commonwealth in order to  
288 ascertain the adequacy and effectiveness of state gaming law or  
289 regulations and may formulate recommendations for changes in  
290 such laws and regulations. The executive director shall make a  
291 continuous study and investigation of the operation and adminis-  
292 tration of similar laws in other states or countries, of any literature  
293 or reports on the subject, of any federal laws which may affect the  
294 operation of gaming in the commonwealth, all with a view to rec-  
295 ommending or effecting changes that will tend to better serve an  
296 implement the purposes of this chapter.

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

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

302 (o) The executive director must include all studies, reports, rec-  
303 ommendation and other collected information required under this  
304 chapter, any General Law, special law, or as required by the com-  
305 mission to be included in the commission's annual report required  
306 under section 24b of chapter 10.

307 Section 4.(a) Notwithstanding chapter 137 , chapter 271 , or  
308 any other general or special law to the contrary, each racing  
309 meeting licensee is eligible to be licensed, subject to all terms and  
310 conditions imposed by the commission and subject to each racing  
311 meeting licensees eligibility to hold such license, as determined  
312 by the Commission, which shall include the suitability of each  
313 racing meeting licensee to hold, maintain and control such a  
314 license, to operate electronic gaming devices; and apply to the  
315 commission for the right to be awarded one of four licenses to  
316 operate up to 2,000 electronic gaming devices at said licensee's  
317 premises only; provided further, that only one racing meeting  
318 licensee shall be allowed to hold in whole or in part one license  
319 under this section. The commission shall determine how many  
320 electronic gaming devices shall be allowed at each licensee's loca-  
321 tion, and the suitability of each licensee to operate electronic  
322 gaming devices. The devices and revenues received from their  
323 operation shall remain the property of the commonwealth, subject  
324 to subsection (b); provided further, that said commission shall  
325 promulgate rules and regulations to direct the division of racing  
326 and gaming to maintain said electronic gaming devices, or enter  
327 into agreements with third parties to maintain said electronic  
328 gaming devices.

329 The commission shall identify the person, persons, entity or  
330 entities in possession or ownership or both of a racing meeting  
331 license issued under chapter 128A and chapter 128C. If there has  
332 been a change, intent to change or option to purchase the owner-  
333 ship of the premises or racing meeting license or both since  
334 November 1, 2005, then the applicant shall fully disclose the  
335 information by filing it with the commission within 30 days of the  
336 passage of this act, unless demanded sooner than 30 days by the  
337 commission..

338 In addition to paying the fee under subsection (c) of this section  
339 and any other provisions of this chapter, the applicant must pro-  
340 vide and the commission must consider the following in making a  
341 determination of whether to issue a license under this section:

- 342 • The applicant must be a parimutuel licensee licensed under  
343 chapter 128A and also licensed to conducted simulcast  
344 racing under chapter 128C,
  - 345 • The applicant must be a licensed lottery reseller and must  
346 sell lottery products at its establishment;
  - 347 • The applicant must demonstrate that it has sufficient capital  
348 capacity to install the electronic gaming devices in a suit-  
349 able facility within a reasonable period of time after being  
350 licensed and that the applicant's proposal for electronic  
351 gaming devices will provide maximum amount of return to  
352 the Commonwealth at its facility,
  - 353 • The applicant must supply a detailed breakdown of new job  
354 creation expected as a result of receiving a license, which  
355 shall not included jobs created at kennels or the back-  
356 stretch, so-called,
  - 357 • The applicant must demonstrate that it has an agreement  
358 with the host community for mitigation caused by  
359 expanded gaming in addition to those set forth under this  
360 chapter,
  - 361 • The applicant must have a certified and binding vote of the  
362 legislative authority and the approval of the executive  
363 authority of the city or town where the applicant is located  
364 to have slot machines at the racetrack and the certified  
365 voted cannot be prior to January 1, 2005,
  - 366 • The applicant must demonstrate to the commission a plan  
367 by which the applicant shall utilize said devices in the most  
368 efficient manner possible to provide the greatest revenue to  
369 the Commonwealth; and
  - 370 • The applicant must meet the licensee bonding requirement  
371 as set by the commission.
- 372 (b) The commission shall collect, on behalf of the common-  
373 wealth, a sum equal to 60 percent of net gaming revenues from  
374 electronic gaming devices; provided, further, that this percentage  
375 shall not be increased, nor decreased for 10 years after the initial  
376 issuance of the license to the applicant; provided, further, that  
377 from said sums the commission shall first pay to the Treasurer, on  
378 behalf of the local aid fund, a sum equal to the diminishment, if  
379 any, in said fund attributable to this chapter, as certified by the  
380 Treasurer and the secretary of administration and finance, with

381 notice to the chairs of the house and senate ways and means com-  
382 mittees. Of the remaining funds collected by the commission  
383 under this paragraph on behalf of the commonwealth, one-quarter  
384 shall be deposited in the General Fund, one-quarter shall be  
385 deposited in the Commonwealth Stabilization Fund, one-quarter  
386 shall be deposited in the Local Aid Fund and one-quarter shall be  
387 deposited in the Education Fund. The commission shall collect a  
388 sum equal to 7 percent of net gaming revenues from electronic  
389 gaming devices; which the commission shall then deposit in the  
390 purse account pool established under subsection (l) of this section.

391 The commission shall collect a sum equal to 5 percent of net  
392 gaming revenues from electronic gaming devices, which the com-  
393 mission shall deposit in the live racing promotional fund estab-  
394 lished under subsection (k) of this section.

395 The commission shall collect a sum equal to 2 percent of net  
396 gaming revenues from electronic gaming devices, which the com-  
397 mission shall then deposit in the community mitigation fund  
398 established under subsection (i) of this section.

399 The commission shall collect a sum equal to 0.5 percent of net  
400 gaming revenues from electronic gaming devices, which the com-  
401 mission shall pay toward compulsive gambling organizations, as  
402 determined by the department of public health; provided further,  
403 that said compulsive gambling organization, or organizations shall  
404 utilize said monies for the prevention, intervention and treatment  
405 of compulsive gambling in the Commonwealth; provided further  
406 that, not less than 20% of the funds received under this paragraph  
407 shall be utilized for the purpose of identification, prevention,  
408 intervention, and treatment of compulsive gambling in minority  
409 and immigrant communities; provided further, that the commis-  
410 sion shall not pay more than \$6,000,000 annually to compulsive  
411 gambling organizations or organizations, as determined by the  
412 department of public health, and the remainder of said amount  
413 shall be collected by the commission, on behalf of the Common-  
414 wealth, and 50% of said overage amount shall be deposited in the  
415 General Fund and the other 50% of the overage shall be deposited  
416 in the Commonwealth stabilization fund.

417 The remaining sums collected by the commission from the net  
418 gaming revenue from the electronic gaming devices shall be dis-  
419 tributed to each licensee; provided, further, that each such licensee

420 shall in addition pay all taxes otherwise due and payable; and pro-  
421 vided further, that said sums retained by each licensee shall be  
422 subject to fees set by the commission, or by this chapter and taxa-  
423 tion by any other General Law.

424 (c) In addition to all other fees payable hereunder, the commis-  
425 sion shall require each racing licensee that meets the requirement  
426 of the commission and the chapter and is authorized by the com-  
427 mission under subsection (a) of this section to operate a gaming  
428 establishment, to pay an initial one time fee of \$25,000,000;

429 (d) No person or party shall operate a gaming establishment  
430 without having obtained all necessary operating licenses from the  
431 commission. There shall be a single licensed operator for each  
432 gaming establishment and each racing meeting licensee. No  
433 license shall operate, invest or own, in whole or in part, another  
434 licensee's license or establishment. If a licensee does have more  
435 than one license, or operates, invests or owns, in whole or in part,  
436 another license, said licensee shall within 30 days divest the  
437 license or interest subject to the approval of the commission, and  
438 shall pay a fine of up to \$5,000; provided further that persons or  
439 entities that violate this section shall be required to surrender to  
440 the commission any licenses issued to the licensee under this  
441 chapter, chapter 24, chapter 128A and chapter 128C; provided fur-  
442 ther, that the persons or entities shall be prohibited in the future  
443 from being able to apply and receive licenses under said chapters.  
444 Failure for a licensee to comply with this section shall result in a  
445 fine of \$5,000 per day.

446 The licensing standards must be met at all times by each  
447 officer, director, partner, and trustee of the operating entity, by  
448 each substantial party in interest of the operating entity or of the  
449 premises on which such establishment is located, and by such  
450 other party in interest of the operating entity, the premises, or any  
451 holding company or intermediary company of the operating entity  
452 or the premises as the commission may require. In no event shall  
453 the commission permit a person previously convicted of a felony  
454 under state or federal law, or any comparable conviction of a  
455 felony of a law in another country or who has not satisfied the  
456 standards for financial capability, to be a substantial party in  
457 interest of the gaming operator, the gaming establishment, or of  
458 the premises, or to hold any direct or indirect interests in such  
459 gaming operator, gaming establishment or premises.

460 (e) A person may apply to be a licensed operator by filing an  
461 application with the commission. Each application shall disclose  
462 the identity of each party in interest, each holding company and  
463 intermediary company, and each affiliate of the operating entity.  
464 The application shall disclose, in the case of the privately held  
465 corporation, the names and addresses of all directors, officers, and  
466 stockholders; in the case of a publicly traded corporation, the  
467 names and addresses of all directors, officers, and persons holding  
468 at least five percent of the total capital stock issued and out-  
469 standing; in the case of a limited liability company, the names and  
470 addresses of all members of the management committee and all  
471 persons holding at least 5 percent of the membership interests; in  
472 the case of a partnership, the names and addresses of all partners,  
473 both general and limited; and in the case of a trust, the names and  
474 addresses of all trustees and beneficiaries.

475 (f) Each operating entity shall identify, in its application, the  
476 facilities and structures that will be constructed on the premises  
477 containing the establishment where it proposes to conduct its  
478 gaming operations. The application shall contain such information  
479 regarding the physical location and condition of the premises and  
480 the potential impact of the proposed gaming operations upon adja-  
481 cent properties and the municipality and region within which the  
482 premises are located, as the commission may require. The applica-  
483 tion shall disclose the identity of all parties in interest regarding  
484 the premises and to be on the premises; and except as otherwise  
485 permitted herein, no person other than a gaming establishment  
486 licensee hereunder shall have any right to or interest in any  
487 gaming revenue derived from electronic gaming devices in the  
488 form of a percentage of such sums or require more than fair  
489 market value for rent, leases or services. The application shall  
490 identify proposed infrastructure improvements, economic devel-  
491 opment and job creation opportunities to the municipality and the  
492 region wither the premises are located, as the commission may  
493 require.

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

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

504 (i) The community mitigation fund shall be used to provide  
505 mitigation resources for those communities with a licensed  
506 parimutuel racetrack or a licensed gaming establishment and com-  
507 munities that are contiguous with such licensed parimutuel race-  
508 tracks, or licensed gaming establishments. Of the amount  
509 collected each year by the commission for the purposes of mitiga-  
510 tion, pursuant to subsections (b) and subsection (j) of this section,  
511 the city of Taunton shall receive not less than 5%, the town of  
512 Raynham shall receive not less than 5%, the town of Plainville  
513 shall receive not less than 5% from said fund, the city of Revere  
514 shall receive not less than 25%, the city of Boston shall receive  
515 not less than 25% from said fund, and the remainder shall be  
516 deposited into said fund and be distributed by the commission to  
517 address direct increases in the cost of municipal and state public  
518 services caused by each licensed operator, including, but not lim-  
519 ited to, improving access roads adjacent or contiguous to the facil-  
520 ities, improving traffic flow, and congestion in the host  
521 communities and contiguous communities, and law enforcement  
522 costs experienced by such communities; provided that, contiguous  
523 communities shall mean those whose borders abut by land, or  
524 bridge, a community where a licensed parimutuel racetrack, or  
525 licensed gaming establishment is located; provided further, that  
526 said commission, in distributing such funds, shall give priority to  
527 communities with more than 1 licensed pari-mutuel racetrack, or  
528 licensed gaming establishment and communities contiguous to  
529 said communities. Any and all unspent funds shall remain in the  
530 account to be appropriated by the commission for future mitiga-  
531 tion claims.

532 (j) The commission is authorized and directed to establish  
533 through the division the live racing promotion fund for each  
534 parimutuel racing meeting licensee which are also licensed  
535 gaming operators under this chapter. The purpose of said each  
536 fund is to promote, sustain and improve live racing in the Com-  
537 monwealth. The money deposited into said account shall be col-  
538 lected annually by the commission under subsection (a) of this

539 section. The commission shall establish rules and regulations  
540 under what conditions, the method and time, the application and  
541 review process, and the criteria by which said funds may be dis-  
542 tributed to the licensee in the form of reimbursements for costs  
543 born by the licensee which is directly associated to the improve-  
544 ment of the live racing industry at the licensee's facility. As part of  
545 the consideration for reimbursement, the commission shall con-  
546 sider, but is not limited to, the following: capital improvements to  
547 the racetrack, capital improvements to the backstretch area which  
548 shall include suitable housing, toilet facilities and the barns, cap-  
549 ital improvements to the spectator area for the racetrack, capital  
550 improvements to the kennels, promoting and advertising the live  
551 racing product and only the live racing product, promoting and  
552 encouraging horse breeding in the Commonwealth, promoting and  
553 encouraging better treatment and welfare of horses and dogs, pro-  
554 viding for health and human services to backstretch workers, so-  
555 called, and jockeys, providing additional purses beyond those  
556 required under chapter 128A, chapter 128C, and this chapter or  
557 any other special law, and holding races specifically for Massa-  
558 chusetts breed horses. The commission shall on an annual basis  
559 review the progress of the live racing product of each licensee's  
560 facility and may withhold distribution of funds if the live racing  
561 product does not demonstrate an improvement; provided that, the  
562 commission shall considered, but is not limited, as the improve-  
563 ment in the progress of live racing: the number of live racing days  
564 actually conducted, the wagers made of live races, and the wagers  
565 made on simulcast of the live races out of the Commonwealth.  
566 The commission may provide for reimbursement to the licensee in  
567 circumstances where there is no demonstrable improvement in the  
568 live racing if the commission determines that the degradation of  
569 the live racing product was the result of the weather conditions,  
570 race track conditions, strikes, work stoppages, sickness or quaran-  
571 tine not within the control of the licensee. Should any licensee be  
572 unable, for any reason, to conduct parimutuel live racing under  
573 chapter 128A and is also unable to conduct simulcast under  
574 chapter 128C then the commission, on behalf of the common-  
575 wealth, shall deposit the remainder of the funds in the licensee's  
576 account in the General Fund; in addition, all moneys required to  
577 be distribution to this fund from subsection (a) of this section

578 shall instead be collected by the commission on behalf of the  
579 Commonwealth. Should a licensee become licensed or regain a  
580 license to conduct parimutuel live racing under chapter 128A and  
581 meet the requirements under chapter 10 and chapter 10A, and the  
582 commission's rule and regulations and is licensed to simulcast  
583 racing under chapter 128C, then the commission shall reestablish  
584 said account in accordance to this section, but the licensee is not  
585 entitled or shall receive any monies collected on behalf of the  
586 Commonwealth during the period of time the licensee was prohib-  
587 ited from conducting live racing. No monies from this fund can be  
588 used to, promote, advertise, purchase, transport, replace, maintain  
589 or dispose of any electronic gaming devices or equipment, simul-  
590 cast devices or equipment as defined under chapter 128C.

591 (k) The commission is authorized and directed through the divi-  
592 sion to establish the live racing purse pool account to be used to  
593 supplement the purses of parimutuel racing meeting licensees  
594 which are also licensed gaming operators under this chapter. The  
595 commission shall establish rules and regulations for the collection,  
596 application and distribution of said funds in the live racing purse  
597 pool account. Of the funds collected by the commission each year  
598 under subsection (a) of this section for said account, not less than  
599 35% shall be deposited in the purse account for the running horse  
600 racing meeting licensee in Suffolk County, not less than 15% shall  
601 be deposited in the purse account for the harness horse racing  
602 meeting licensee in Norfolk County, not less than 5% shall be  
603 deposited in the purse account for the greyhound racing meeting  
604 licensee in Suffolk County, and not less than 5% shall be  
605 deposited in the greyhound racing meeting licensee in Bristol  
606 County and the remainder shall be deposited into the purse  
607 account pool and the commission shall determine what the addi-  
608 tional amount, if any, is needed to ensure that the racing meeting  
609 licensee's live racing product is competitive with racetracks with a  
610 similar type and to ensure that there are sufficient purse funds to  
611 have Massachusetts breed horses racing at racetracks within Com-  
612 monwealth. As part of the determination for additional purse  
613 funds to be deposited into each racing meeting licensees purse  
614 account from said account, the commission shall consider the  
615 average purse per race of the twenty 20 running horse racetracks  
616 in the United States from the previous year multiplied by the

617 number of races completed from the previous year in compliance  
618 with chapter 128A, the commission may consider the average  
619 purse per race of the 10 harness horse racetracks in the United  
620 States from the previous year multiplied by the number of races  
621 completed from the previous year in compliance with  
622 chapter 128A, the commission may consider the average purse per  
623 race of the 10 greyhound racetracks in the United States from the  
624 previous year multiplied by the number of races completed from  
625 the previous year in compliance with chapter 128A, the commis-  
626 sion shall conduct a comparison of racetracks of the same species  
627 and types of racing to those Commonwealth's racing meeting  
628 licensee.

629 The commission shall pay 2 percent of the running horse racing  
630 meeting licensee purses provided under the live racing purse pool  
631 account to the Massachusetts Thoroughbred Breeders' Associa-  
632 tion, Inc. The running horse racing meeting licensee in Suffolk  
633 County and the harness horse racing meeting licensee in Norfolk  
634 County shall be required to dedicate not less than 6 percent of the  
635 purses distributed under this section towards racing and purses  
636 specifically for Massachusetts breed horses. Unspent money from  
637 the live racing purse account pool shall be retained in said account  
638 and may be only be spent by the commission in compliance with  
639 this section.

640 Should any licensee unable to conduct parimutuel live racing  
641 under chapter 128A for any reason, then the commission shall dis-  
642 continue depositing purse monies from the live racing purse pool  
643 account into said licensee's purse account after the day live racing  
644 ends; provided, that the division is authorized and directed to  
645 recover any unspent purse funds from said licensee and deposit it  
646 into live purse pool account as unspent funds; and provided fur-  
647 ther, that any remaining distributions to said licensee not yet made  
648 shall be transferred to the unspent portion of the account. Should a  
649 licensee become licensed or regain a license to conduct parimutuel  
650 live racing and meet the requirements under chapter 10 and 10A  
651 and the commission's rule and regulations, then the commission is  
652 authorized to continue distributions form this section into the  
653 licensee's purse account in accordance to this section, but the  
654 licensee is not entitled or shall receive any purse monies during  
655 the period of time the licensee was prohibited from conducting  
656 live racing.

657 The commission on an annual basis shall collect and maintain  
658 information of purse distribution of all running horse racetracks,  
659 harness horse racetracks and greyhound racetracks within United  
660 States, and said information must include, but is not limited to, the  
661 annual purse distribution, daily purse distribution, purse distribu-  
662 tion per race, the number of races run, number of racing perfor-  
663 mances, number of calendar days of racing, and the average  
664 number of races per racing performance and per calendar day.

665 Section 5. The commission may make an assessment against the  
666 licensees for the purpose of reimbursing the Commonwealth the  
667 cost of the division's operation, administration and regulation.  
668 Said assessment shall be certified annually by the commission as  
669 sufficient to reimburse the commonwealth for funds appropriated  
670 for the operation of the division, including amounts sufficient to  
671 cover the cost of fringe benefits as established by the secretary of  
672 administration and finance pursuant to section 6B of chapter 29.  
673 Said assessment shall be made proportionately against each  
674 licensee on the basis of the amount of net gaming revenue  
675 retained by each licensed operator from the previous fiscal year. If  
676 the commission fails to expend in any fiscal year the total amount  
677 assessed under this paragraph, any amount unexpended shall be  
678 credited against the assessment to be made in the following year  
679 and the assessment in such following year shall be reduced by  
680 such unexpended amount. If the commission finds that it is unable  
681 to meet its operating budget during a fiscal year and if it deter-  
682 mines that it requires additional funding is needed, then the com-  
683 mission must make a request to the Governor, the State Treasurer,  
684 the House and Senate Committees on Ways and Means, and the  
685 Joint Committee on Consumer Protection and Professional Licen-  
686 sure, and said request must include a explanation for the request  
687 of addition funding.

688 The commission may establish rules and regulations to assess  
689 and collect fees pertaining to individual regulatory, licensing or  
690 investigative matters that can be assessed against a licensee; pro-  
691 vided, that any fees assessed and collected regarding an applica-  
692 tion or investigation of a license shall be placed in the gaming  
693 investigation account under section 8 of this chapter.

694 Section 6.(a) The commission shall cause to be made and kept a  
695 record of all proceedings at all meetings of the commission. These

696 records shall be maintained by the division and the division shall  
697 make said records available to the public for inspection as allowed  
698 by law.

699 (b) Notwithstanding any other general or special law to the con-  
700 trary all files, records, reports, and other information in the pos-  
701 session of any state or local governmental agency including tax  
702 filings and related information that are relevant to an investigation  
703 by the executive director conducted pursuant to this chapter shall  
704 be made available by such agency to the commission as requested.  
705 Any tax or financial information received from a governmental  
706 agency shall be used solely for effectuating the purposes of this  
707 chapter. To the extent that these files, records, reports, or informa-  
708 tion are confidential or otherwise privileged from disclosure under  
709 any law, they shall not lose that confidential or privileged status  
710 for having been disclosed to the commission; provided further,  
711 that the commission shall consult with the division of public  
712 records regarding the handling of said information.

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

717 Section 7.(a) No official, member, employee, or agent of the  
718 commission and the division, having obtained access to confiden-  
719 tial records or information in the performance of duties pursuant  
720 to this chapter, unless otherwise provided by law, shall knowingly  
721 disclose or furnish the records or information, or any part thereof,  
722 to any person who is not authorized by law to receive it. Violation  
723 of this provision shall be punishable by a fine of not more than  
724 \$10,000 or by imprisonment in the house of corrections for not  
725 more than 1 year, or by both such fine and imprisonment.

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

729 (c) Any person included on the list of persons to be excluded or  
730 ejected from a licensed gaming establishment pursuant to regula-  
731 tions promulgated pursuant to this chapter who knowingly enters  
732 or remains on the premises of a licensed gaming establishment  
733 shall be punished by imprisonment in the house of corrections for  
734 not more than 1 year, or by a fine of not more than \$10,000, or  
735 both.

736 (d) Any person under the age of 21 years who plays, places  
737 wagers at, or collects winnings from, whether personally or  
738 through an agent, any controlled game, or who is employed as an  
739 employee in a licensed gaming establishment shall be punished by  
740 imprisonment in the house of correction for not more than 1 year,  
741 or by a fine of not more than \$1,000, or by both such imprison-  
742 ment and fine. Any licensee, or other person, who knowingly  
743 allows a person under the age of twenty-one to play, place wagers  
744 at or collect winnings, whether personally or through an agent,  
745 shall be punished by imprisonment in the house of correction for a  
746 term of not more than 1 year or pay a fine of not more than  
747 \$10,000, or by both. A subsequent violation of this section shall  
748 subject the licensee to imprisonment in the house of correction for  
749 not more than 2 years or pay a fine of not more than \$25,000, or  
750 by both.

751 (e) Any person who willfully fails to report, pay, or truthfully  
752 account for and pay over any fee, penalty, fine, or interest thereon,  
753 imposed by this chapter or any regulation thereunder, or willfully  
754 attempts in any manner to evade or defeat any fee, penalty, fine,  
755 or interest thereon, or payment thereof shall be punished by  
756 imprisonment in state prison for not more than 5 years or by  
757 imprisonment in the house of correction for not more than 2½  
758 years, or by a fine of not more than \$10,000 plus the unpaid fee,  
759 penalty, fine, or interest plus interest, or by both.

760 (f) Any person who willfully resists, prevents, impedes, inter-  
761 feres with, or makes any false, fictitious or fraudulent statement,  
762 or representation to the commission or to the division of racing  
763 and gaming or to their agents or employees in the performance of  
764 duties pursuant to this chapter, shall be punished by imprisonment  
765 in the house of corrections for not more than 2 years, or by a fine  
766 of not more than \$5,000, or by both.

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

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

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

778 (3) To manufacture or distribute within the territorial bound-  
779 aries of the commonwealth any gaming equipment to be used in  
780 connection with controlled gaming; shall be punished by impris-  
781 onment in the house of corrections for not more than 2½ years, or  
782 by a fine of not more than \$10,000, or by both.

783 (h) Any person who knowingly permits any controlled game to  
784 be conducted, operated, dealt, or carried on in any house or  
785 building or other premises that he or she owns or leases, in whole  
786 or in part, if that activity is undertaken by a person who is not  
787 licensed as required by this chapter shall be punished by imprison-  
788 ment in state prison in the house of corrections for not more than  
789 2½ years, or by a fine of not more than \$10,000, or by both.

790 (i) Any former commissioner or commission or division  
791 employee who, within three years after his state employment has  
792 ceased, solicits or accepts employment with or provides consul-  
793 tant services to any licensee or at any licensed gaming establish-  
794 ment shall be punished by a fine of not more than \$5,000 or by  
795 imprisonment for not more than 2½ years in the house of correc-  
796 tion or by both. Any licensee who knowingly employs a former  
797 commissioner or commission or division employee in violation of  
798 this subsection shall be subject to immediate revocation of his or  
799 her license.

800 (j) It is unlawful for any person:

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

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

808 (3) to manipulate, with the intent to cheat, any component of a  
809 gaming device in a manner contrary to the designed and normal  
810 operational purpose for the component including, but not limited  
811 to, varying the pull of the handle of a slot machine, with knowl-  
812 edge that the manipulation affects or reasonably may tend to

813 affect the outcome of the game or with knowledge of any event  
814 that affects the outcome of the game;

815 As used in this section, “cheat” means to alter the selection of  
816 criteria which determine:

817 (a) the results of a game; or

818 (b) the amount or frequency of payment in a game.

819 (4) to have on his person or in his possession on or off the  
820 premises of any licensed gaming establishment any key or device  
821 known to have been designed for the purpose of and suitable for  
822 opening, entering or affecting the operation of any gaming or  
823 equipment, or for removing money or other contents therefrom,  
824 except where such person is a duly authorized employee of a  
825 licensee acting in furtherance of his employment within a licensed  
826 gaming establishment.

827 A violation of this section shall be punishable by imprisonment  
828 in the house of corrections for not more than 2 years or by a fine  
829 of not more than \$5,000, or by both.

830 (k) A violation of this chapter, the penalty for which is not  
831 specifically fixed in this section, shall be punishable by imprison-  
832 ment in the house of corrections for not more than 2 years, or by  
833 fine of not more \$5,000, or by both.

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

843 Section 8.(a) Every licensed gaming establishment shall, upon  
844 receipt of criminal or civil process compelling testimony or pro-  
845 duction of documents in connection with any civil or criminal  
846 investigation, immediately disclose such information to the com-  
847 mission.

848 (b) All licensees shall have a duty to inform the commission of  
849 any action which they reasonably believe would constitute a vio-  
850 lation of this chapter, and shall assist the commission and any fed-  
851 eral or state law enforcement agency in the investigation and

852 prosecution of such violation. The commission shall hold a  
853 hearing under chapter 30A on any licensee's failure to comply  
854 with this paragraph, and may take appropriate actions including  
855 suspension or revocation of the license. No person who so informs  
856 the commission shall be discriminated against by an applicant or  
857 licensee because of the supplying of such information.

858 Section 9. Whenever a licensed gaming establishment refuses  
859 payment of alleged winnings to a patron, the gaming establish-  
860 ment and the patron are unable to resolve the dispute to the satis-  
861 faction of the patron and the dispute involves:

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

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

867 The executive director shall conduct whatever investigation it  
868 deems necessary and shall determine, in its sole discretion and  
869 without need for a hearing, whether payment should be made. In  
870 the event the executive director determines that payment should  
871 be made, all costs of the investigation shall be borne by the  
872 gaming establishment. Failure of the establishment to notify the  
873 executive director or inform the patron as provided herein shall  
874 subject the establishment to disciplinary action.

875 Any party aggrieved by the determination of the executive  
876 director may file a petition for reconsideration with the commis-  
877 sion setting forth the basis of the request for reconsideration. Any  
878 hearing for reconsideration shall be conducted pursuant to regula-  
879 tions adopted by the commission.

880 Section 10. Every licensed gaming establishment shall keep  
881 conspicuously posted on his premises a notice containing the  
882 name and numbers of the council on compulsive gambling and a  
883 statement of its availability to offer assistance.

884 Section 11.

885 Any person or entity who knowingly transmits or receives  
886 wagers of any type by any telecommunication device, including  
887 telephone, cellular phone, Internet, or local area network, which  
888 shall mean to include wireless local networks, or any other similar  
889 device or equipment, or knowingly installs or maintain said device  
890 or equipment for the transmission or receipt of wagering informa-

891 tion shall be punished by imprisonment in the house of correction  
892 for not more than 2 years or pay a fine of not more than \$25,000  
893 or by both; provided, however, that this section shall not apply to  
894 the use of a local area network as a means to place wagers on a  
895 licensed gaming establishment, or use of said devices or equip-  
896 ment by the commission in its duties in regulating, enforcing and  
897 auditing a licensed gaming operator, or use of said devices or  
898 equipment for the purpose of a licensed gaming operator adver-  
899 tising itself.

900 Section 12. The commission's financial activities shall be sub-  
901 ject to audit by the State Auditor who shall have access to all  
902 books and records of the commission. Further, the commission  
903 shall annually, on or before January first, provide the State  
904 Auditor with all annual independent audits required of all  
905 licensees.

906 The State Auditor may at anytime, at his or her discretion, audit  
907 the financial activities and any other activities of any gaming  
908 licensee licensed under this chapter; provided further, that the  
910 State Auditor shall have access to a gaming licensee's establish-  
911 ment equivalent to those provided to the commission under this  
912 chapter. The gaming licensee must reimburse the Commonwealth  
913 for any audit conducted by the State Auditor.

1 SECTION 7. Section 1 of chapter 128A of the General Laws,  
2 as appearing in the 2004 Official Edition, is hereby amended by  
3 striking out the definition of "Commission" and inserting in place  
4 thereof the following definition:—  
5 "Commission," the state lottery and gaming commission, estab-  
6 lished under section 23 of chapter 10.

1 SECTION 8. Section 1 of chapter 128C of the General Laws, as  
2 so appearing, is hereby amended by striking out the definition  
3 "Commission," and inserting in place thereof the following defini-  
4 tion:—  
5 "Commission," the state lottery and gaming commission, estab-  
6 lished under section 23 of chapter 10.

1 SECTION 9. Section 283 of chapter 94 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by

3 inserting after the word “standards”, in line 8, the following  
4 words:— or is a licensed and regulated under chapter 10A.

1 SECTION 10. Section 17B of chapter 271 of the General Laws,  
2 as appearing in the 2004 edition, is amended by inserting after  
3 section 17B the following section:—

4 Section 17C. Whoever uses an local area network or the  
5 Internet or both, or being the occupant in control of premises  
6 where a local area network or Internet service or both is located,  
7 or a subscriber for an local area network service or Internet  
8 service, knowingly permits another to use the local area network  
9 service or Internet service so located or for which he subscribes,  
10 as the case may be, for the purpose of accepting wagers or bets, or  
11 buying or selling of pools, or for placing all or any portion of a  
12 wager with another, upon the result of a trial or contest of skill,  
13 speed, or endurance of man, beast, bird, or machine, or upon the  
14 result of an athletic game or contest, or upon contests of skill or  
15 chance between the wagers, or upon the lottery called the numbers  
16 game, or for the purpose of reporting the same to a headquarters  
17 or booking office, or for the purpose of collecting a fee for pro-  
18 viding the devices for contests of skill or chance between wagers,  
19 or who under a name other than his own or otherwise falsely or  
20 fictitiously procures local area network service or Internet service  
21 for himself or another for such purposes, shall be punished by a  
22 fine of not more than \$2,000 or by imprisonment for not more  
23 than 1 year; provided, however, that this section shall not apply to  
24 use of local area networks or other similar devices of equipment  
25 authorized under the provisions of chapter 10A.

1 SECTION 11. Said chapter 271, , is hereby further amended by  
2 inserting after section 22B, as so appearing, the following  
3 section:—

4 Section 22C. Nothing in this chapter shall authorize the prose-  
5 cution, arrest or conviction of any person for promoting or  
6 playing, or for allowing to be conducted, promoted or played, the  
7 games authorized and licensed under chapter 10 and 10A; pro-  
8 vided, said game are conducted under a license issued by the  
9 Massachusetts state lottery commission, under the provisions of  
10 chapter 10 and 10A.

1 SECTION 12. The first paragraph of section 12A of  
2 chapter 494 of the acts of 1978 is hereby amended by striking out  
3 the words “2001 to 2005, inclusive”, inserted by section 29 of  
4 chapter 139 of the acts of 2001, and inserting in place thereof the  
5 following words:— 2005 to 2007, inclusive.

1 SECTION 13. The last paragraph of said section 12A of said  
2 chapter 494 is hereby amended by striking out the words  
3 “December 31, 2005”, inserted by section 30 of said chapter 139  
4 and inserting in place thereof the following words:— December  
5 31, 2007.

1 SECTION 14. Section 13 of said chapter 494 is hereby  
2 amended by striking out the words “2001 to 2005, inclusive”,  
3 inserted by section 31 of said chapter 139 and inserting in place  
4 thereof the following words:— 2005 to 2007, inclusive.

1 SECTION 15. Section 15 of said chapter 494 is hereby  
2 amended by striking out the words “2001 to 2005, inclusive”,  
3 inserted by section 32 of said chapter 139 and inserting in place  
4 thereof the following words:— 2005 to 2007, inclusive.

1 SECTION 16. Section 9 of chapter 277 of the acts of 1986 is  
2 hereby amended by striking out the words “2001 to 2005, inclu-  
3 sive”, inserted by section 33 of said chapter 139 and inserting in  
4 place thereof the following words:— 2005 to 2007, inclusive.

1 SECTION 17. The first sentence of the first paragraph of  
2 section 3 of chapter 114 of the acts of 1991 is hereby amended by  
3 striking out the words “2001 to 2005, inclusive”, inserted by  
4 section 34 of said chapter 139 and inserting in place thereof the  
5 following words:— 2005 to 2007, inclusive.

1 SECTION 18. The last paragraph of said section 3 of said  
2 chapter 114 is hereby amended by striking out the words  
3 “December 31, 2005”, inserted by section 35 of said chapter 139  
4 and inserting in place thereof the following words:— December  
5 31, 2007.

1 SECTION 19. The first paragraph of section 4 of said  
2 chapter 114 is hereby amended by striking out the words:— “2001  
3 to 2005, inclusive”, inserted by section 36 of said chapter 139 and  
4 inserting in place thereof the following words:— 2005 to 2007,  
5 inclusive.

1 SECTION 20. The last paragraph of said section 4 of said  
2 chapter 114 is hereby amended by striking out the words  
3 “December 31, 2005”, inserted by section 36 of said chapter 139  
4 and inserting in place thereof the following words:— December  
5 31, 2007.

1 SECTION 21. The first paragraph of section 5 of said  
2 chapter 114 is hereby amended by striking out the words “2001 to  
3 2005, inclusive”, inserted by section 38 of said chapter 139 and  
4 inserting in place thereof the following words:— 2005 to 2007,  
5 inclusive.

1 SECTION 22. Section 13 of chapter 101 of the acts of 1992 is  
2 hereby amended by striking out the words “December 31, 2005”,  
3 inserted by section 39 of said chapter 139 and inserting in place  
4 thereof the following words:— December 31, 2007.

1 SECTION 23. Section 45 of said chapter 139 is hereby  
2 amended by striking out the words “ December 31, 2005” and  
3 inserting in place thereof the following words:— December 31,  
4 2007.

1 SECTION 24. Notwithstanding any general or special law or  
2 rule or regulation to the contrary, including chapter 150 E of the  
3 General Laws, all employees, equipment, finances, data, and  
4 records of the Massachusetts state racing commission shall be  
5 transferred to the Massachusetts division of gaming racing and  
6 shall be transferred with no impairment of employment rights held  
7 immediately before the transfer date, without interruption of  
8 service, without impairment of seniority, retirement or other rights  
9 of employees and without reduction in compensation or salary  
10 grade. All transferred employees shall continue their right to col-  
11 lectively bargain pursuant to chapter 150E of the General Laws,

12 and shall be considered employees for the purposes of said  
13 chapter 150E. Any collective bargaining agreement in effect  
14 immediately before the transfer date shall continue in effect and  
15 the terms and conditions of employment therein shall continue as  
16 if the employees had not been so transferred, until a new suc-  
17 cessor agreement is reached with the Massachusetts state lottery  
18 and gaming commission. Within 90 days of said transfer the  
19 Massachusetts Labor Relations Commission shall conduct an elec-  
20 tion with said transferred employees selecting from the existing  
21 collective bargaining representatives, the winner of said election  
22 shall be the exclusive bargaining representative of all Massachu-  
23 setts state lottery and gaming commission employees. All new  
24 employees of the Massachusetts state lottery and gaming commis-  
25 sion shall be placed in said bargaining unit.

1 SECTION 25. The transfer of powers from the state racing  
2 commission to the Massachusetts state lottery and gaming com-  
3 mission under this act shall occur 1 year after the passage of this  
4 act. Members of the Massachusetts gaming control commission  
5 members shall be appointed within 30 days of the effective date of  
6 this act. The Massachusetts gaming control commission and the  
7 state racing commission shall enter into a memorandum of under-  
8 standing to transition of the functions, duties and responsibilities  
9 to the state racing commission to the Massachusetts state lottery  
10 and gaming commission within 1 year after the effective date of  
11 this act.