

# HOUSE . . . . . No. 366

By Mr. Koczera of New Bedford, petition of Robert M. Koczera and others relative to establishing casinos in Massachusetts. Economic Development and Emerging Technologies.

## The Commonwealth of Massachusetts

PETITION OF:

Robert M. Koczera  
Douglas W. Petersen

Kathi-Anne Reinstein  
Michael R. Knapik

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING CASINOS IN MASSACHUSETTS.

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

1 The General Laws are hereby further amended by inserting  
2 after chapter 128C the following chapter:

3 **Chapter 128D.**  
4 **Establishing Casinos in Massachusetts.**

5 Section 1. General Provisions.

6 (a) This chapter shall be known and may be cited as “Casinos  
7 in Massachusetts Act”.

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

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

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

19 Section 2. Definitions.

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

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

37 (b) “Applicant”, means any person who on his own behalf or on  
38 behalf of another has applied for permission to engage in any act  
39 or activity which is regulated by the provisions of this act or regu-  
40 lations promulgated thereunder.

41 (c) “Application”, means a written request for permission to  
42 engage in any act or activity which is regulated under the provi-  
43 sions of this act.

44 (d) “Bidder”, means an individual, corporation, partnership,  
45 organization or association of two or more persons, or other legal  
46 entity, that proposes to apply for a state gaming license and has  
47 been found suitable by the Commission.

48 (e) “Bureau”, means the state gaming control bureau as estab-  
49 lished by this act”

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

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

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

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

57 (j) “Competitive bidding process”, means a process whereby  
58 the commission seeks potential bidders who desire to obtain a  
59 state gaming license, the winner which shall be chosen by compet-  
60 itive standards which are determined and established by the com-  
61 mission.

62 (k) “Controlled game” or “controlled gaming”, any game of  
63 chance played for currency, check, credit, or any other thing of  
64 value that is not prohibited and made unlawful by chapter two  
65 hundred and seventy-one of the General Laws, or any other  
66 general or special laws, or by local ordinance except:

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

69 (2) Parimutuel wagering on horse and dog races, whether live  
70 or simulcast, regulated by the state racing commission.

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

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

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

89 (m) “Establishment”, means any building, room, place or other  
90 indoor or outdoor premises where any controlled gaming occurs,  
91 including all public and non-public areas of any such establish-  
92 ment;

93 (n) “Executive Director”, the executive director of the state  
94 gaming control bureau;

95 (o) “Game” and “gambling game”, means any game approved  
96 by the commission and played with cards, dice, equipment or any  
97 mechanical, electromechanical or electronic device or machine,  
98 including slot machine as defined by this act, for money, property,  
99 checks, credit or any representative of value, but does not include  
100 games played with cards in private homes or residences in which  
101 no person makes money for operating the game, except as a  
102 player, or games defined within chapter ten or chapter two-hun-  
103 dred seventy-one of the General Laws.

104 (p) “Gaming”, “gambling”, and “gaming operations”, means to  
105 deal, operate, carry on, conduct, maintain or expose for play any  
106 game as defined in this section.

107 (q) “Gaming device”, means any equipment or mechanical,  
108 electromechanical or electronic contrivance, component or  
109 machine used remotely or directly in connection with gaming or  
110 any game which affects the result of a wager by determining “Win  
111 or loss”.

112 (r) “Gaming employee”, means any person employed in a prop-  
113 erly licensed gaming facility including, without limitation,  
114 boxmen; dealers or croupiers; floormen; machine mechanics;  
115 security employees; count room personnel; cage personnel; slot  
116 machine and slot booth personnel; collection personnel; surveil-  
117 lance personnel; and data processing personnel; or any other  
118 person whose employment duties predominantly involves the  
119 maintenance or operation of gaming activity or equipment and  
120 assets associated therewith or who, in the judgment of the com-  
121 mission, is so regularly required to work in a restricted area that  
122 licensure as a gaming employee is appropriate.

123 (s) “Gaming establishment”, means any establishment licensed  
124 to conduct gaming operations in the commonwealth under this  
125 chapter.

126 (t) “Gaming license” or “license”, means any license or work  
127 permit issued by the commission under this chapter that autho-  
128 rizes the person named therein to engage or participate in con-  
129 trolled gaming, including, work permits and licenses issued to  
130 gaming establishments, to gaming suppliers, to parties in interest,  
131 to gaming schools, and to officers and directors of licensed per-  
132 sons or entities;

133 (u) “Gaming establishment”, any establishment licensed to con-  
134 duct gaming operations in the commonwealth under this chapter;

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

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

169 (x) “Intermediary company”, means any corporation, firm part-  
170 nership trust or other form of business organization other than a  
171 natural person that is both of the following: (1) a holding com-  
172 pany with respect to a corporation or limited partnership that  
173 holds or applies for a gaming license and (2) a subsidiary with  
174 respect to a holding company.

175 (y) “Land-based licensed gaming facility” means any licensed  
176 gaming facility that is principally located on land.

177 (z) “License” means a “gaming license” or a manufacturer’s or  
178 distributor’s license.

179 (aa) “License fees” means any money required by law to be  
180 paid to obtain or renew a gaming license manufacturer’s or dis-  
181 tributor’s license.

182 (bb) “Licensed gaming facility” means any facility wherein all  
183 gaming is sanctioned and regulated by the Commission and fully  
184 taxed by the commonwealth.

185 (cc) “Licensee” means any person to whom a valid gaming  
186 license manufacturer’s or distributor’s license has been issued.

187 (dd) “Manufacturer” means a person who: (1) manufactures,  
188 assembles, programs or makes modifications to a gaming device  
189 or cashless wagering system; or (2) designs, controls the design or  
190 assembly or maintains a copyright over the design of a mecha-  
191 nism, electronic circuit or computer program which cannot be rea-  
192 sonably demonstrated to have any application other than in a  
193 gaming device or in a cashless wagering system, for use or play in  
194 this state or for distribution outside of this state.

195 (ee) “Manufacturer’s, seller’s or distributor’s license”, means a  
196 license issued pursuant to this act.

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

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

206 (hh) “Request for proposals” means a written document issued  
207 by the commission to potential bidders which invites bidders to  
208 submit proposals outlining their qualifications and desire to obtain  
209 a gaming license from the commission.

210 (ii) “Skimming”, means the intentional excluding of or the  
211 taking of any monies, chips, or any other items in an attempt to  
212 exclude any monies, chips, or any other items or their value from  
213 the deposit, counting, collection, or computation of gross revenues

214 from gaming operations or activities, net gaming proceeds, or  
215 amounts due the commonwealth pursuant to this act.

216 (jj) “Slot machine”, means any mechanical, electrical or other  
217 device, contrivance or machine, including any so-called video  
218 wagering terminal, video lottery terminal or video poker machine,  
219 which, upon insertion of a coin, token or similar object, or upon  
220 payment of any consideration, is available to play or operate, the  
221 play or operation of which, whether by reason of the skill of the  
222 operator in playing a gambling game which is presented for play  
223 by the machine or application of the element of chance, or both,  
224 may deliver or entitle the person playing or operating the machine  
225 to receive cash, premiums, merchandise, tokens or any thing of  
226 value, whether the payoff is made automatically from the machine  
227 or in any other manner.

228 (kk) “Southeastern Massachusetts”, means the counties of  
229 Bristol and Plymouth.

230 (ll) “Substantial party in interest”, means any person holding a  
231 greater than five percent direct or indirect pecuniary interest,  
232 whether as owner, mortgagor or otherwise, in an operating entity,  
233 premises, or any other licensee or applicant.

234 (mm) “Wampanoag Tribe of Gay Head (Aquinnah)”, means the  
235 Massachusetts-recognized Tribe that was party to the settlement of  
236 Gay Head Indian land claims as referenced in chapter 277 of the  
237 acts of 1985.

238 (nn) “Water-based licensed gaming facility”, means any  
239 licensed gaming facility that is principally located on the water.

240 (oo) “Western Massachusetts”, means the counties of Hampden,  
241 Hampshire, Franklin and Berkshire.

242 (pp) “Work permit”, means any card, certificate, or permit  
243 issued by the commission authorizing the holder to be employed  
244 in a licensed gaming facility.

245 Section 3. Gaming Control Commission: Composition, powers  
246 & duties.

247 (a) There shall be established a Massachusetts gaming control  
248 commission consisting of five members. Each member shall be a  
249 citizen of the United States and a resident of the commonwealth.  
250 No person holding any elective office in state, county, or local  
251 government; nor any officer or official of any political party, nor  
252 any person who was formerly a licensee or an unlicensed

253 employee of a gaming licensee within the five years prior to any  
254 appointment shall be eligible for appointment to the commission.  
255 The commission shall be composed of the most qualified persons  
256 available; but no person actively engaged or having a direct pecu-  
257 niary interest in gaming activities shall be a member of the com-  
258 mission. Not more than three members of the commission shall be  
259 of the same major political affiliation. The governor shall appoint  
260 three members of the commission and designate one member to  
261 serve as chairman of the commission. The attorney general of the  
262 commonwealth shall appoint one member of the commission. The  
263 auditor of the commonwealth shall appoint one member of the  
264 commission.

265 (b) The term of office of each member of the commission shall  
266 be five years except that, of the members initially appointed, one  
267 shall be appointed by the governor for a term of two years, one  
268 shall be appointed by the attorney general for a term of three  
269 years, one shall be appointed by the governor for a term of four  
270 years, one shall be appointed by the auditor for a term of five years,  
271 and one shall be appointed by the governor for a term of five  
272 years. After the initial term the term of office for each member of  
273 the commission is five years, provided that no member serve more  
274 than two consecutive terms of five years. Any vacancies shall be  
275 filled by the original appointing authority within sixty days of the  
276 occurrence of such vacancy. Any appointee shall continue in  
277 office beyond the expiration date of his term until the appointment  
278 of a successor but in no event longer than six months. Any com-  
279 missioner may be removed by the governor for just cause, and  
280 shall be removed immediately upon conviction of any felony.

281 (c) The commission members shall devote that time to the busi-  
282 ness of the commission as may be necessary to the discharge of  
283 their duties. The members of the commission shall be compen-  
284 sated for work performed for the commission at fifty thousand  
285 dollars per annum, with the chairman receiving ten thousand dol-  
286 lars per annum in addition to his compensation. Commission  
287 members shall be reimbursed for traveling and other expenses  
288 necessarily incurred in the performance of official duties. Before  
289 entering upon the duties of his or her office each member shall  
290 swear that he or she is not pecuniary interested in any business or  
291 organization holding a gaming license under this act, or doing

292 business with any gaming service industry, as defined by this act  
293 and shall submit to the governor, attorney general and state  
294 auditor, a statement of financial interest required by chapter two-  
295 hundred sixty-eight B of the General Laws listing all assets and  
296 liabilities, property and business interests, and sources of income  
297 of said commissioner and his spouse. Such statement shall be  
298 under oath and shall be filed at the time of employment and annu-  
299 ally thereafter. No commission member shall have any interest,  
300 direct or indirect, in any applicant or in any person licensed by or  
301 registered with the commission during his term of office. Regular  
302 and special meetings of the commission may be held, at the dis-  
303 cretion of the commission, at such times and places as it may  
304 deem convenient.

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

308 (e) The commission shall establish and maintain a general place  
309 of business. The commission may hold meetings at any place  
310 within the state when the interests of the public may be better  
311 served. Except as otherwise provided for herein, meetings of the  
312 commission shall be subject to the provisions of section eleven A  
313 and eleven A and one-half of chapter thirty of the General Laws.  
314 A majority of the membership of the commission is a quorum of  
315 the commission. A public record of every vote shall be maintained  
316 at the commission's general office. The commission may maintain  
317 any other files and records as it deems appropriate.

318 (f) The commission shall have general responsibility for the  
319 implementation of this act, as hereinafter provided, including, the  
320 right to hear and decide promptly and in reasonable order all  
321 license, registration, certificate, and permit applications and  
322 causes affecting the granting, suspension, revocation, or renewal  
323 thereof; to conduct all hearings pertaining to civil violations of  
324 this act or regulations promulgated hereunder; the method and  
325 form of application which any applicant for a gaming license or  
326 for a manufacturer's, sellers or distributor's license must follow  
327 and complete before consideration of his application by the com-  
328 mission; the information to be furnished by any applicant or  
329 licensee concerning his antecedents, habits, character, associates,  
330 criminal history or record, business activities and financial affairs,

331 past or present; the information to be furnished by a licensee  
332 relating to his gaming employees; the fingerprinting of an appli-  
333 cant or licensee or employee of a licensee or other methods of  
334 identification; the manner and procedure of all hearings conducted  
335 by the State Gaming Control Bureau, as defined by this act, or  
336 commission or any hearing examiner of the bureau or commis-  
337 sion, including special rules of evidence applicable thereto and  
338 notices thereof; the issuance and revocation of work permits for  
339 employment of persons in licensed gambling facilities; the manner  
340 in which winnings, compensation from games and gaming  
341 devices, and gross revenue must be computed and reported by the  
342 licensee; the minimum procedures for adoption by each licensee  
343 to exercise effective control over its internal fiscal affairs; the  
344 payment by any applicant of all or any part of the fees and cost of  
345 investigation of such applicant as may be determined by the  
346 bureau or the commission; governing the manufacture, sale and  
347 distribution of gambling devices and equipment; licensee bonding  
348 requirements; monitoring of licensee requirements; investigations  
349 both civil and criminal; the method and operation of gambling  
350 operations including the type and manner of gambling, record  
351 keeping, accounting, audit requirements and safeguarding of  
352 assets; the testing and inspection of gambling equipment; the  
353 licensing of corporations, limited partnerships, holding companies  
354 and intermediary companies; the limitations of security contracts  
355 and agreements; the sale of securities of affiliated companies;  
356 emergency proceedings; setting forth those persons to be excluded  
357 or ejected from gambling establishments including the type of  
358 conduct prohibited thereat; to collect all license and registration  
359 fees, taxes and penalties imposed by this act and the regulation  
360 issued pursuant thereto; to be present through its inspectors and  
361 agents at all times during the operation of any licensed gaming  
362 facility for the purpose of certifying the revenue thereof and  
363 receiving complaints from the public; and to review and rule upon  
364 any complaint by a licensed gaming facility licensee regarding  
365 any investigative procedures of the bureau which are unneces-  
366 sarily disruptive of licensed gaming facility operations; and a code  
367 of conduct for employees of the bureau. The need to inspect and  
368 or investigate a licensed gaming facility shall be presumed at all  
369 times. The commission shall adopt an official seal and alter same  
370 at pleasure.

371 (g) The commission shall conduct hearings in accordance with  
372 the provisions of chapter thirty A. The commission may, by a  
373 majority vote, issue subpoenas for the attendance of witnesses or  
374 the production of any records, books, memoranda, documents, or  
375 other papers, or things, at or prior to any hearing as is necessary to  
376 enable the commission to effectually discharge its duties, and may  
377 administer oaths or affirmations as necessary in connection there-  
378 with. The commission may petition a superior court for an order  
379 requiring compliance with a subpoena. The commission and the  
380 bureau shall have the authority to propound written interrogatories  
381 and may administer oaths, issue subpoenas, propound written  
382 interrogatories, require testimony under oath, report same, and  
383 fashion recommended decisions upon the recommendation of said  
384 commission.

385 (h) The commission may require any person to apply for a  
386 license as provided in this act and approve or disapprove, transac-  
387 tions, events, and processes as provided in this act. The commis-  
388 sion may grant or deny any application for a license or approval;  
389 may limit, condition, restrict, suspend, or revoke any license or  
390 approval for any cause deemed reasonable by the commission,  
391 consistent with this act or any general or special. The commission  
392 may also impose a civil fine of not more than fifteen thousand  
393 dollars upon any person licensed, registered or otherwise  
394 approved under this act, for any violation of this act or of any  
395 general or special law related to gambling. The commission may,  
396 as further provided in regulations approve or disapprove transac-  
397 tions, events, and processes as provided in this act, take actions  
398 reasonably designed to ensure that no unsuitable persons are asso-  
399 ciated with controlled gambling activities. The commission may  
400 expend for legal, investigative, clerical and other assistance such  
401 as may be appropriated therefor. Investigators employed by the  
402 commission shall have access to all records maintained by the all  
403 licensees and registrants hereunder, whether maintained at the  
404 licensed gambling establishment or other location as may be perti-  
405 nent to the investigatory powers of the commission.

406 (i) The commission shall assure, to the extent required by this  
407 act, that licenses, approvals, certificates, or permits shall not be  
408 issued to nor held by, nor shall there be any material involvement,  
409 directly or indirectly, with the licensed gaming facility operation

410 or the ownership thereof by, unqualified or disqualified persons or  
411 persons whose operations are conducted in a manner not con-  
412 forming with the provisions of this act. In enforcing the provisions  
413 of this act, the commission shall have the power and authority to  
414 deny any application; limit or restrict any license, registration,  
415 certificate, permit or approval; suspend or revoke any license, reg-  
416 istration, certificate, permit or approval; and, impose a penalty on  
417 any person licensed, registered, or previously approved for any  
418 cause deemed reasonable by the commission pursuant to rules and  
419 regulations promulgated thereby.

420 (j) No commission member or person employed by the commis-  
421 sion shall represent any person or party other than the common-  
422 wealth before or against the commission for a period of two years  
423 from the termination of his office or employment with the com-  
424 mission.

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

428 (l) The commission shall have the power to acquire, lease, use,  
429 hold and mortgage real, personal or mixed property or any  
430 interest, easements or rights therein, as may be necessary or  
431 appropriate to carry out the provisions of this act; to enter into  
432 agreements or other transactions with the commonwealth or any  
433 political subdivision or public instrumentalities thereof, the  
434 United States government or any federal, state or other govern-  
435 mental agency; to formulate plans for the projects involving the  
436 acquisition and operation of facilities pursuant to the provisions of  
437 this act, and to construct or reconstruct, expand, remodel, to fix  
438 and revise from time to time, and to charge and collect rates, fees,  
439 rentals and other charges for the use of any building, structure,  
440 other property or portion thereof under its control; and to acquire  
441 in the name of the commission by purchase or otherwise.

442 (m) The commission may investigate, civilly or criminally,  
443 fraud, deceit, misrepresentation or violations of law by any person  
444 licensed or registered under this act, or the occurrence of any such  
445 activity within or involving any licensed gambling establishment  
446 or gambling operation. If the commission has reasonable basis to  
447 believe that any person licensed or registered under this act is  
448 engaged in criminal behavior or that criminal activity is occurring

449 within or involving any licensed gaming facility or licensed gam-  
450 bling operation said commission shall report same to the attorney  
451 general of the commonwealth and the district attorney of the  
452 county within which the gaming facility is located and make  
453 available to the attorney general and said district attorney all rele-  
454 vant information on such activity. The commission, as it deems  
455 appropriate, may ask the attorney general and/or said district  
456 attorney to restrain a violation of this act or enforce any provision  
457 thereof. An action brought against a person pursuant to this act  
458 does not preclude any other criminal or civil proceeding as may  
459 be authorized by law.

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

469 Section 4. State Gaming Control Bureau: Composition, powers  
470 & duties.

471 (a) There shall be established a state gaming control bureau.  
472 The bureau may acquire such furnishings, equipment, supplies,  
473 stationery, books, motor vehicles and other things as it may deem  
474 necessary or desirable in carrying out its functions; incur such  
475 other expenses, within the limit of money available to it, as it may  
476 deem necessary. The bureau shall furnish to the commission such  
477 administrative and clerical services and such furnishings, equip-  
478 ment, supplies, stationery, books, motor vehicles and all other  
479 things as the commission may deem necessary or desirable in car-  
480 rying out its functions. Except as otherwise provided in this act,  
481 all costs of administration incurred by the bureau must be paid out  
482 on claims from the state general fund in the same manner as other  
483 claims against the state are paid.

484 (b) The position of executive director of the state gaming con-  
485 trol bureau is hereby created. The secretary of administration and  
486 finance shall appoint the executive director for a term of five  
487 years. The executive director shall not serve more than two con-

488 secutive terms. The executive director may be removed by the  
489 governor for cause. The executive director shall be responsible for  
490 the conduct of the commission's administrative matters. The exec-  
491 utive director shall be the executive secretary of the commission  
492 and shall carry out and execute the duties as specified by law and  
493 the commission. The executive director shall employ such profes-  
494 sional, technical, and clerical assistants and employees as neces-  
495 sary, subject to appropriation; provided, however, that such  
496 assistants and employees shall not be subject to chapter thirty-one  
497 or section nine A of chapter thirty of the General Laws. The exec-  
498 utive director shall devote his entire time and attention to the busi-  
499 ness of his office and shall not pursue any other business or  
500 occupation or hold any other office of profit.

501 (c) The bureau shall, within the limits of legislative appropria-  
502 tions or authorizations, employ and fix the salaries of or contract  
503 for the services of such professional, technical and operational  
504 personnel and consultants as the execution of its duties and the  
505 operation of the bureau and commission may require. The bureau  
506 and the commission shall, by suitable regulations, establish a  
507 comprehensive plan governing employment, job classifications  
508 and performance standards, and retention or discharge of  
509 employees to assure that termination or other adverse action is not  
510 taken against such employees except for cause. The bureau may  
511 employ the services of such persons as it considers necessary for  
512 the purposes of consultation or investigation.

513 (d) Each employee of the bureau shall file with the state ethics  
514 commission a statement of financial interest as defined in chapter  
515 two-hundred sixty-eight B of the General Laws listing all assets  
516 and liabilities, property and business interests, and sources of  
517 income of said employee and his spouse. Such statement shall be  
518 under oath and shall be filed at the time of employment and annu-  
519 ally thereafter.

520 (e) No employee of the bureau shall be permitted to gamble in  
521 any establishment licensed by the Commission except in the  
522 course of his duties. Each employee or agent of the bureau shall  
523 devote his entire time and attention to his duties and shall not  
524 pursue any other business or occupation or other gainful employ-  
525 ment; provided, however, that secretarial and clerical personnel  
526 may engage in such other gainful employment as shall not inter-

527 fere with their duties to the commission or bureau, unless other-  
528 wise directed; and provided further, however, that other employee  
529 and agents of the bureau may engage in such other gainful  
530 employment as shall not interfere or be in conflict with their  
531 duties to the bureau, upon approval by the commission and the  
532 director of the bureau.

533 (f) No person employed by the bureau shall represent any  
534 person or party other than the commonwealth before or against the  
535 bureau or the commission for a period of one year from the termi-  
536 nation of his office or employment with the bureau.

537 (g) Before the beginning of each legislative year, the bureau  
538 shall submit to the house and senate committees on ways and  
539 means and the joint committee on government regulations a report  
540 defining, for the preceding twelve month period, the gross rev-  
541 enue, net revenue, and average depreciation of each licensee; the  
542 number of persons employed by each licensee, and related payroll  
543 information; and the assessed valuation of each Massachusetts  
544 licensed gaming facility as listed on the assessment rolls.

545 (h) Employees of the bureau and their agents may inspect and  
546 examine all premises wherein gaming is conducted or gambling  
547 devices or equipment are manufactured, sold or distributed;  
548 inspect all equipment and supplies in, upon or about such  
549 premises; summarily seize and remove from such premises and  
550 impound any equipment, supplies, documents or records for the  
551 purpose of examination and inspection; demand access to and  
552 inspect, examine, photocopy and audit all papers, books and  
553 records of any applicant or licensee, on his premises, or elsewhere  
554 as practicable, and in the presence of the applicant or licensee, or  
555 his agent, respecting the gross income produced by any gaming  
556 business, and require verification of income, and all other matters  
557 affecting the enforcement of the policy or any of the provisions of  
558 this act; demand access to and inspect, examine, photocopy and  
559 audit all papers, books and records of any affiliate of a licensee  
560 whom the bureau or commission knows or reasonably suspects is  
561 involved in the financing, operation or management of the  
562 licensee. Licensees must retain all books, papers, and records nec-  
563 essary for audits for three years after the date of the surrender or  
564 revocation of his gaming license.

565 (i) The bureau may place expert accountants, technicians, and  
566 any other persons, as it may deem necessary, in the office, gam-  
567 bling area, or other place of business of any person licensed or  
568 registered under this act for the purpose of determining compli-  
569 ance with the rules and regulations adopted pursuant to this act.

570 (j) The bureau may investigate, for purposes of prosecutions  
571 any suspected criminal violation of this act; provided, however,  
572 that nothing in this section shall be deemed to limit the investiga-  
573 tory and prosecutorial powers of other state and local officials and  
574 agencies, including district attorneys and police departments.

575 (k) The bureau may recommend to the commission the denial  
576 of any application, the limitation, conditioning, restriction, sus-  
577 pension, or revocation of any license, permit, registration or  
578 approval, or the imposition of any fine upon any person licensed  
579 or approved by the commission.

580 (l) The executive director of the bureau and employees of the  
581 bureau so designated by the director shall have and exercise  
582 throughout the commonwealth, subject to the rules and regulations  
583 as the director, with the approval of the commission, may from  
584 time to time adopt, all the authority of police officers and consta-  
585 bles, except the service of civil process, to effectuate the purposes  
586 of this act.

587 (m) No official, member, employee, or agent of the commission  
588 or bureau, having obtained access to confidential records or infor-  
589 mation in the performance of duties pursuant to this act, unless  
590 otherwise provided by law, shall knowingly disclose or furnish the  
591 records or information, or any part thereof, to any person who is  
592 not authorized by law to receive it. Violation of this provision  
593 shall be punishable by a fine of not more than ten thousand dollars  
594 or by imprisonment in a house of correction for not more than one  
595 year, or by both such fine or imprisonment.

596 (n) The bureau shall make a continuous study and investigation  
597 of gaming throughout the commonwealth in order to ascertain  
598 defects in state gaming law, or in rules and regulations issued  
599 thereunder; to formulate recommendations for changes in said law  
600 and the rules and recommendations promulgated thereunder. The  
601 bureau shall make a continuous study and investigation of the  
602 operation and administration of similar laws in other states or  
603 countries; of any literature or reports on the subject which from

604 time to time may be published or available to licensed gaming  
605 facilities; of any federal laws which may affect the operation of  
606 gaming in the commonwealth; and of the reaction of citizens of  
607 the commonwealth to existing and potential features of gaming  
608 with a view to recommending or effecting changes that will tend  
609 to better serve and implement the purposes of state gaming law.  
610 The bureau shall make a continuous study of state gaming policy,  
611 including gaming, as defined by this act; the state lottery, as  
612 defined by chapter ten; and pari-mutual racing, as defined by  
613 chapter one-hundred twenty-eight; and the impact of said policy  
614 on the Commonwealth.

615 (o) The executive director of the bureau shall petition the com-  
616 mission to initiate proceedings or actions appropriate to enforce  
617 statutory and regulatory requirements mandated of license-  
618 holders, and the commission shall grant or deny such petitions  
619 expeditiously.

620 Section 5. Records of Commission and Bureau Proceedings.

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

624 (b) Notwithstanding any other general or special law to the con-  
625 trary all files, records, reports, and other information in possession  
626 of any state or local governmental agency including tax filings  
627 and related information that are relevant to an investigation by the  
628 bureau conducted pursuant to this act shall be made available to  
629 the bureau as requested. However, any tax or financial informa-  
630 tion received from a governmental agency shall be used solely for  
631 effectuating the purposes of this act. To the extent that these files,  
632 records, reports, or information are confidential or otherwise priv-  
633 ileged from disclosure under any law they shall not lose that con-  
634 fidential or privileged status for having been disclosed to the  
635 bureau.

636 (c) No statement, and no publication of any document,  
637 described in this section shall impose liability for defamation or  
638 constitute a ground for recovery in any civil action. If any docu-  
639 ment or communication described above contains any information  
640 that is privileged or exempt from public disclosure that privilege  
641 or exemption is not waived or lost because the document or com-  
642 munication is disclosed to the bureau or the commission or any of  
643 their agents or employees.

644 (d) The attorney general, every district attorney, and every state  
645 and local law enforcement agency shall notify the bureau of any  
646 investigation or prosecution of any person if it appears that a vio-  
647 lation of any law related to gambling had occurred.

648 Section 6. Finding of suitability. License approval.

649 (a) The commission and the bureau shall investigate the qualifi-  
650 cations of each applicant under this act before any license is  
651 issued or any registration, finding of suitability or approval of acts  
652 or transactions for which commission approval is required or per-  
653 mission is granted, and shall continue to monitor the conduct of  
654 all licensees and registrants and other persons having a material  
655 involvement, directly or indirectly with a licensed gaming facility  
656 or holding company to ensure that licenses are not issued or held  
657 by, nor is there any material involvement directly or indirectly  
658 with a licensed gaming facility or holding company by unquali-  
659 fied, disqualified or unsuitable persons, or persons whose opera-  
660 tions are conducted in an unsuitable manner or in unsuitable or  
661 prohibited places or locations, as provided in commission regula-  
662 tions. All expenses associated with the licensing of any applicant  
663 shall be borne by the applicant. Pursuant to its regulations, the  
664 commission shall require each applicant for a gambling license to  
665 deposit with the commission, together with the application  
666 therefor, an application fee. Such fee shall constitute the antici-  
667 pated costs and charges incurred in the investigation and pro-  
668 cessing of the application, and any additional sums as are required  
669 by the commission to pay final costs and charges.

670 (b) The commission and the bureau may require a finding of  
671 suitability or the licensing of any person who owns any interest in  
672 the premises of a licensed establishment; owns any interest in real  
673 property used by a licensed establishment whether he leases the  
674 property directly to the licensee or through an intermediary;  
675 repairs, rebuilds or modifies any gaming device; manufactures or  
676 distributes chips or gaming tokens for use in this state.

677 (c) The commission and the bureau may require a finding of  
678 suitability or the licensing of any person who furnishes services or  
679 property to a state gaming licensee under any arrangement pur-  
680 suant to which the person receives payments based on earnings,  
681 profits or receipts from gaming.

682 d) No person shall operate a gaming establishment without  
683 having obtained all necessary operating licenses from the commis-  
684 sion. There shall be a single licensed operator for each gaming  
685 establishment. The licensing standards must be met at all times by  
686 each officer, director, partner, and trustee of the operating entity,  
687 by each substantial party in interest of the operating entity or of  
688 the premises on which such establishment is located, and by such  
689 other party in interest of the operating entity, the premises, or any  
690 holding company or intermediary company of the operating entity  
691 or the premises as the commission may require. In no event shall  
692 the commission permit person or entity previously convicted of a  
693 felony to be a party in interest of the operating entity or of the  
694 premises or of any holding or intermediary company of the oper-  
695 ating entity or the premises. A separate license shall be required  
696 for any person described above, unless the commission specifi-  
697 cally determines otherwise.

698 (1) The commission is authorized to approve one licensed oper-  
699 ator from all persons seeking to be a licensed operator in Western  
700 Massachusetts, such operator to hold a full gaming license for all  
701 approved controlled games and electronic gaming licenses for all  
702 approved controlled games and electronic gaming devices to be  
703 conducted in a licensed gaming facility; and

704 (2) The commission is authorized to approve one licensed oper-  
705 ator from all persons seeking to be a licensed operator in South-  
706 eastern Massachusetts, such operator to hold a full gaming license  
707 for all approved controlled games and electronic gaming devices  
708 to be conducted in a licensed gaming facility. Each license  
709 approved by the Commission pursuant to sections six (d)(1) and  
710 (2) of this act shall be awarded as the result of a competitive bid-  
711 ding process to be designed and established by said commission in  
712 which the successful applicant shall bid not less than \$100 mil-  
713 lion. The license approved by the commission pursuant to section  
714 six (d)(2) shall be awarded to the Wampanoag Tribe of Gay Head  
715 (Aquinnah), providing said Tribe agrees to match the highest bid  
716 proposal acceptable to the commission under the competitive bid-  
717 ding process, or, if not accepted by said Tribe, awarded as the  
718 result of a competitive bidding process to be designed and estab-  
719 lished by said commission. The Governor shall not concur in a  
720 determination that a gaming establishment on newly acquired

721 lands would be in the best interest of an Indian tribe, pursuant to  
722 25 U.S.C. S 2719 (b)(1)(A), unless the House and Senate each  
723 have authorized, by majority vote, the Governor to so concur. The  
724 Governor shall not transfer or concur in the transfer of any real  
725 property located in the commonwealth into a trust for the benefit  
726 of an Indian tribe, pursuant to 25 U.S.C. S 2719, without the  
727 approval, by vote, of the House and Senate. The commission  
728 shall have all powers necessary to undertake the commonwealth's  
729 responsibilities and rights under the terms of any compact entered  
730 into between the Commonwealth of Massachusetts and any feder-  
731 ally recognized tribe under the provisions of IRGA.

732 (e) No application for any gaming license established under  
733 this act shall be granted without a majority vote at local refer-  
734 endum of the host community in accordance with the procedures  
735 established under the general laws.

736 (f) A person may apply to be a licensed operator by filing an  
737 application with the commission, in the form and with such  
738 accompanying application fees as the commission may establish.  
739 Information on the application will be used as the basis for a thor-  
740 ough background investigation which the bureau shall conduct  
741 with respect to each applicant. Each application shall disclose the  
742 identity of each party in interest, each holding company and inter-  
743 mediary company, and each affiliate of the operating entity. The  
744 application shall disclose, in the case of a privately held corpora-  
745 tion, the names and addresses of all directors, officers, and stock-  
746 holders; in the case of a publicly traded corporation, the names  
747 and addresses of all directors, officers, and persons holding at  
748 least one percent of the total capital stock issued and outstanding;  
749 in the case of a partnership, the names and addresses of all part-  
750 ners, both general and limited; and in the case of a trust, the  
751 names and addresses of all trustees and beneficiaries.

752 (g) Each operating entity shall identify, in its application, the  
753 premises containing the establishment where it proposes to con-  
754 duct its gaming operations. The application shall contain such  
755 information regarding the physical location and condition of the  
756 premises and the potential impact of the proposed gaming opera-  
757 tions upon adjacent properties and the municipality and region  
758 within which the premises are located, as the commission may  
759 require. The application shall disclose the identity of all parties in

760 interest regarding the premises; and provided, further, except as  
761 otherwise permitted herein, no person other than a licensee here-  
762 under shall have any right to or interest in net gaming revenue or  
763 adjusted net gaming revenue in the form of a percentage of any  
764 sums payable hereunder.

765 (h) No licensed operator shall obtain any gaming equipment  
766 from a person who does not hold a license. No licensed operator  
767 shall enter into any agreement for the receipt of goods or services,  
768 of any form and in any amount, from a person who does not hold  
769 a license, when a license is required for such agreement under this  
770 act or under regulations promulgated by the commission or  
771 bureau.

772 (i) No licensed operator shall employ any person in a gaming  
773 establishment who does not hold a work permit, when a work  
774 permit is required for such position under regulations promulgated  
775 by the commission or bureau.

776 (j) Licensed operators shall provide all full time employees and  
777 part time employees working a minimum of twenty hours a week  
778 with health insurance coverage.

779 (k) Any person who the commission determines is qualified to  
780 receive a license or be found suitable under the provisions of this  
781 act, may be issued a state gaming license or found suitable, as  
782 appropriate. The burden of proving his qualification to receive any  
783 license or be found suitable is on the applicant. A license to  
784 operate a gaming establishment must not be granted unless the  
785 applicant has satisfied the commission that he or she has adequate  
786 business probity, competence and experience, in gaming; and the  
787 proposed financing of the entire operation is adequate for the  
788 nature of the proposed operation; and, from a suitable source. All  
789 applications to receive a license or be found suitable constitutes a  
790 request for a determination of the applicant's general character,  
791 integrity, and ability to participate or engage in, or be associated  
792 with gaming, as appropriate. The commission may limit the  
793 license or place such conditions thereon as it may deem necessary  
794 in the public interest. The commission may, if it considers neces-  
795 sary, issue a probationary license. No state gaming license may be  
796 assigned either in whole or in part. The commission may limit or  
797 place such conditions as it may deem necessary in the public  
798 interest upon any registration, finding of suitability or approval

799 for which application has been made. A licensee may be granted a  
800 temporary gaming license to operate a gaming facility during the  
801 construction phase of any licensed gaming facility, provided that  
802 no more than one temporary license be awarded for any licensed  
803 gaming facility, and provided further that no temporary license  
804 remain in force for a period in excess of twenty-four months.

805 (l) Any state license in force may be renewed by the commis-  
806 sion for the next succeeding license period upon proper applica-  
807 tion for renewal and payment of state license fees and taxes as  
808 required by law and the regulations of the commission. If any  
809 licensee or other person fails to renew his license the commission  
810 may order the immediate closure of all his gaming activity until  
811 the license is renewed by the payment of the necessary fees, taxes,  
812 interest and any penalties.

813 (m) If satisfied that an applicant is eligible to receive a state  
814 gaming, manufacturing, selling, or distributing license, and upon  
815 tender of all license fees and taxes as required by law and regula-  
816 tion of the commission; and a bond executed by the applicant as  
817 principal, and by a corporation qualified under the laws of the  
818 commonwealth as surety, payable to the commonwealth, and con-  
819 ditioned upon the payment of license fees and taxes and the  
820 faithful performance of all requirements imposed by law or regu-  
821 lation or the conditions of the license, the commission shall issue  
822 and deliver to the applicant a license entitling him to engage in the  
823 gaming, manufacturing, selling, or distributing operation for  
824 which he is licensed, together with an enumeration of the specific  
825 terms and conditions of the license.

826 (n) A license issued pursuant to the provisions of this act must  
827 be posted by the licensee and kept posted at all times in a conspic-  
828 uous place in the area where gaming is conducted in the establish-  
829 ment for which the license is issued until it is replaced by a  
830 succeeding license.

831 (o) If the commission is not satisfied that an applicant is quali-  
832 fied to be licensed under this act, the commission may cause to be  
833 made such investigation into and conduct such hearings con-  
834 cerning the qualifications of the applicant in accordance with its  
835 regulations as it may deem necessary.

836 (p) The commission has full and absolute power and authority  
837 to deny any application for any cause it deems reasonable. If an

838 application is denied, the commission shall prepare and file its  
839 written decision upon which its order denying the application is  
840 based.

841 (q) A person who has had his application for a license denied or  
842 who has been found unsuitable by the commission shall not retain  
843 his interest in a corporation, partnership, limited partnership, lim-  
844 ited-liability company or joint venture beyond that period pre-  
845 scribed by the commission; and shall not accept more for his  
846 interest in a corporation, partnership, limited partnership, limited-  
847 liability company or joint venture than he paid for it or the market  
848 value on the date of the denial of the license or the finding of  
849 unsuitability.

850 (r) The voluntary surrender of a license by a licensee does not  
851 become effective until accepted in the manner provided in the reg-  
852 ulations of the commission. The surrender of a license does not  
853 relieve the former licensee of any penalties, fines, fees, taxes or  
854 interest due.

855 (s) The bureau shall promptly and in reasonable order investi-  
856 gate all applications, enforce the provisions of this act and any  
857 regulations promulgated hereunder. The bureau shall provide the  
858 commission with all information necessary for all actions  
859 requested of it under this act and for all proceedings involving  
860 enforcement of the provisions of this act or any regulations pro-  
861 mulgated hereunder.

862 (t) The bureau shall investigate the qualifications of each appli-  
863 cant before any license, certificate, or permit is issued pursuant to  
864 the provisions of this act; investigate the circumstances sur-  
865 rounding any act or transaction for which commission approval is  
866 required; investigate violations of this act and regulations promul-  
867 gated hereunder; initiate, prosecute and defend such proceedings  
868 before the commission, or appeals therefrom, as the bureau may  
869 deem appropriate; provide assistance upon request by the commis-  
870 sion in the consideration and promulgation of rules and regula-  
871 tions; conduct continuing reviews of licensed gaming facility  
872 operations through on-site observation and other reasonable  
873 means to assure compliance with this act and regulations promul-  
874 gated hereunder; conduct audits of licensed gaming facility opera-  
875 tions at such times, under such circumstances, and to such extent  
876 as the director shall determine, including reviews of accounting,

877 administrative and financial records and management control sys-  
878 tems, procedures and records utilized by a licensed gaming  
879 facility licensee; and be entitled to request information, materials  
880 and any other data from any licensee or registrant, or applicant for  
881 a license or registration under this act.

882 (u) Each licensee or registrant, or applicant for a license or reg-  
883 istration under this act shall cooperate with the commission and  
884 the bureau in the performance of their duties.

885 (v) The bureau and its employees and agents, upon approval of  
886 the director, shall have the authority, without notice and without  
887 warrant to inspect and examine all premises wherein gaming is  
888 conducted; or gaming devices or equipment are manufactured,  
889 sold, distributed, or serviced, or wherein any records of such  
890 activities are prepared or maintained; to inspect all equipment and  
891 supplies in, about, upon or around such premises; to seize sum-  
892 marily and remove from such premises and impound any such  
893 equipment or supplies for the purposes of examination and inspec-  
894 tion; to inspect, examine and audit all books, records, and docu-  
895 ments pertaining to a gaming licensee's operation; to seize,  
896 impound or assume physical control of any book, record, ledger,  
897 game, device, cash box and its contents, counting room or its  
898 equipment, or licensed gaming facility operations; and to inspect  
899 the person, and personal effects present in a licensed gaming  
900 facility licensed under this act, of any holder of a license or regis-  
901 tration issued pursuant to this act while that person is present in a  
902 licensed gaming facility.

903 (w) Every licensed gaming facility must, upon receipt of crim-  
904 inal or civil process compelling testimony or production of docu-  
905 ments in connection any criminal investigation, immediately  
906 disclose such information to the bureau.

907 Section 7. Right to Hearing.

908 Any person aggrieved by a determination by the commission to  
909 issue, deny, modify, revoke or suspend any license or approval, or  
910 to issue an order, under the provisions of this act, may request an  
911 adjudicatory hearing before the commission under the provisions  
912 of chapter thirty A of the General Laws. Any such determination  
913 shall contain a notice of this right to request a hearing and may  
914 specify a time limit, not to exceed twenty-one days, within which  
915 said person shall request said hearing. If no such request is timely

916 made, the determination shall be deemed assented to. If a timely  
917 request is received, the commission shall within a reasonable time  
918 act upon a request in accordance with the provisions of said  
919 chapter thirty A.

920 A person aggrieved by a final decision in an adjudicatory  
921 hearing held under the provisions of this section may obtain judi-  
922 cial review thereof pursuant to the provisions of chapter thirty A.

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

924 (a) Except as otherwise provided in this act or in chapter ten or  
925 in section seven A of chapter two hundred seventy-one of the  
926 General Laws, it is unlawful for any person to deal, operate, carry  
927 on, conduct, maintain or expose for play in the commonwealth of  
928 Massachusetts any gambling game, gaming device, or slot  
929 machine as defined by this act; to receive, directly or indirectly,  
930 any compensation or reward or any percentage or share of the  
931 money or property played, for keeping, running or carrying on any  
932 gambling game, gaming device, or slot machine; to permit any  
933 gambling game, gaming device, or slot machine to be conducted,  
934 operated, dealt or carried on in any house or building or other  
935 premises owned by him, in whole or in part; to lend, let, lease or  
936 otherwise deliver or furnish any equipment of any gambling  
937 game, including any slot machine, for any interest, percentage or  
938 share of the money or property played, under guise of any agree-  
939 ment whatever; to lend, let, lease or otherwise deliver or furnish,  
940 except by a bona fide sale or capital lease, any slot machine under  
941 guise of any agreement whereby any consideration is paid or is  
942 payable for the right to possess or use that slot machine, whether  
943 the consideration is measured by a percentage of the revenue  
944 derived from the machine or by a fixed fee or otherwise; to fur-  
945 nish services or property, real or personal, on the basis of a con-  
946 tract, lease or license, pursuant to which that person receives  
947 payments based on earnings or profits from any gambling game,  
948 including any slot machine, without having first procured a state  
949 gaming license from the commission.

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

956 (c) Any person under the age of twenty-one years who plays,  
957 places wagers at, or collects winnings from, whether personally or  
958 through an agent, any controlled game, or who is employed as an  
959 employee in a licensed gaming establishment shall be punished by  
960 imprisonment in the house of correction for not more than one  
961 year, or by a fine of not more than one thousand dollars, or by  
962 both such imprisonment and fine any licensee, or other person,  
963 who knowingly allows a person under the age of twenty-one to  
964 play, place wagers at or collect winnings, whether personally or  
965 through an agent, shall be punished by imprisonment in the house  
966 of correction for a term of not more than one year or pay a fine of  
967 not more than ten thousand dollars, or by both such imprisonment  
968 and fine. A subsequent violation of this section shall subject the  
969 licensee to imprisonment in the house of correction for not more  
970 than two years or pay a fine of not more than twenty-five thou-  
971 sand dollars or by both such imprisonment and fine. In any prose-  
972 cution or other proceeding for the violation of this subsection, it  
973 shall not be a defense for the licensee or his agent to plead that he  
974 believed the person to be twenty-one years of age or older.

975 (d) Any person who willfully fails to report, pay, or truthfully  
976 account for and pay over any license registration fee, penalty, fine,  
977 or interest thereon imposed by this act, or willfully attempts in  
978 any manner to evade or defeat the license fee, penalty, fine, or  
979 interest thereon or payment thereof shall be punished by a fine to  
980 be determined by the commission.

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

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

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

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

998 (2) to receive, directly or indirectly, any compensation or  
999 reward or any percentage or share of the revenue, for keeping,  
1000 running, or carrying on any controlled game, or owning the real  
1001 property or location in which any controlled game occurs;

1002 (3) to manufacture or distribute within the territorial bound-  
1003 aries of the commonwealth any gaming equipment to be used in  
1004 connection with controlled gaming shall be punished by imprison-  
1005 ment in the state prison for not more than five years, or by impris-  
1006 onment in a house of correction for not more than two and  
1007 one-half years, or by a fine of not more than ten thousand dollars,  
1008 or by both such imprisonment and fine.

1009 (h) Any person who knowingly permits any controlled game to  
1010 be conducted, operated, dealt, or carried on in any house or  
1011 building or other premises that he or she owns or leases, in whole  
1012 or in part, if that activity is undertaken by a person who is not  
1013 licensed as required by state law shall be punished by imprison-  
1014 ment in a state prison for not more than five years, or by impris-  
1015 onment in a house of correction for not more than one year, or by  
1016 a fine of not less than ten thousand dollars, or by both such  
1017 imprisonment and fine.

1018 (i) Any former commission member who, within three years  
1019 after his employment on said commission has ceased, solicits or  
1020 accepts employment with or provides consultant services to any  
1021 licensee or at any licensed gaming facility shall be deemed to  
1022 have violated chapter two hundred sixty-eight B of the General  
1023 Laws. Any licensed gaming facility which employs a former com-  
1024 mission member in violation of this subsection shall be punishable  
1025 by a fine to be determined by the commission.

1026 (j) It is unlawful for any person:

1027 (1) to alter or misrepresent the outcome of a game or other  
1028 event on which wagers have been made after the outcome is deter-  
1029 mined but before it is revealed to the players;

1030 (2) knowingly to entice or induce another to go to any place  
1031 where gaming is being conducted or operated in violation of the  
1032 provisions of this chapter, with the intent that the other person  
1033 play or participate in that gaming;

1034 (3) to manipulate, with the intent to cheat, any component of  
1035 a gaming device in a manner contrary to the designed and normal  
1036 operational purpose for the component, including but not limited  
1037 to, varying the pull of the handle of a slot machine, with knowl-  
1038 edge that the manipulation affects or reasonably may tend to  
1039 affect the outcome of the game or with knowledge of any event  
1040 that affects the outcome of the game. As used in this section,  
1041 “cheat” means to alter the selection of criteria which determine:  
1042 (a) the results of a game; or (b) the amount or frequency of pay-  
1043 ment in a game.

1044 (4) to have on his person or in his possession on or off the  
1045 premises of any licensed gaming establishment any key or device  
1046 known to have been designed for the purpose of and suitable for  
1047 opening, entering or affecting the operation of any gaming or  
1048 equipment, or for removing money or other contents there from,  
1049 except where such person is a duly authorized employee of a  
1050 licensee acting in furtherance of his employment within a licensed  
1051 gaming establishment.

1052 A violation of this section shall be punishable by imprisonment  
1053 in a house of correction for not more than two years or by a fine  
1054 of not more than one thousand dollars, or by both such imprison-  
1055 ment and fine.

1056 (k) Any individual who commits, attempts, or conspires to  
1057 commit skimming, as defined by this act, for a total value of less  
1058 than one thousand dollars against a gaming licensee or upon the  
1059 premises of a licensed gaming facility shall be punished by  
1060 imprisonment in a house of correction for not more than five years  
1061 and by a fine of not more than five thousand dollars, or by impris-  
1062 onment in a house of correction for not more than ten years and  
1063 by a fine of not more than ten thousand dollars if the total value is  
1064 more than one thousand dollars.

1065 (l) In addition to any other penalty imposed under this section,  
1066 a violation of this section by a licensed gaming establishment  
1067 shall subject to forfeiture to the commonwealth any or all of the  
1068 gaming equipment related to the violation. A district attorney may  
1069 petition the superior court in the name of the commonwealth in  
1070 the nature of a proceeding in rem to order forfeiture of any such  
1071 gaming equipment subject to forfeiture under the provisions of  
1072 this paragraph. Such petition shall be filed in the court having

1073 jurisdiction over said gaming equipment or having final jurisdic-  
1074 tion over any related criminal proceedings brought under any pro-  
1075 vision of this chapter. In all such suits where the property is  
1076 claimed by any person, other than the commonwealth, the com-  
1077 monwealth shall have the burden of proving to the court the exis-  
1078 tence of probable cause to institute the action, and any such  
1079 claimant shall then have the burden of proving that the gaming  
1080 equipment is not forfeitable. The court shall order the common-  
1081 wealth to give notice by certified or registered mail to the owner  
1082 of said gaming equipment and to such other persons as appear to  
1083 have an interest therein, and the court shall promptly, but not less  
1084 than two weeks after notice, hold a hearing on the petition. Upon  
1085 the motion of the owner of said gaming equipment the court may  
1086 continue the hearing on the petition pending the outcome of any  
1087 criminal trial related to the violation of this chapter. At such  
1088 hearing the court shall hear evidence and make conclusions of  
1089 law, and shall thereupon issue a final order, from which the parties  
1090 shall have a right of appeal. In all such suits where a final order  
1091 results in a forfeiture, said final order shall provide for disposition  
1092 of said gaming equipment, by the commonwealth in any manner  
1093 not prohibited by law, including official use by an authorized law  
1094 enforcement or in other public agency, or sale at public auction or  
1095 by competitive bidding. The proceeds of any such sale shall be  
1096 used to pay the reasonable expenses of the forfeiture proceedings,  
1097 seizure, storage, maintenance of custody, advertising, and notice,  
1098 and the balance thereof shall be deposited in the gaming regula-  
1099 tory account established by this chapter.

1100 Section 9. Revenues; License Fees; Penalties.

1101 (a) Each gaming establishment shall pay to the commission a  
1102 sum equal to 25% of net revenues, post payout and pre-expenses,  
1103 from all table games, slot machines or video gaming devices.

1104 (b) There is hereby established a gaming investigative account.  
1105 Any and all expenses associated with the licensing of any appli-  
1106 cant and monitoring of any licensee shall be borne by the appli-  
1107 cant or licensee. Pursuant to its regulations, the commission shall  
1108 require each applicant to deposit with the commission, together  
1109 with the application therefor, an application fee which shall be  
1110 deposited in the gaming investigative account. Such fee shall con-  
1111 stitute the anticipated costs and charges incurred in the investiga-

1112 tion and processing of the application, and any additional sums as  
1113 required by the commission and the bureau to pay final costs and  
1114 charges. Expenses may be advanced from the gaming investiga-  
1115 tive account by the commission to the bureau. Any money  
1116 received from an applicant in excess of the costs and charges  
1117 incurred in the investigation or the processing of the application  
1118 shall be refunded pursuant to regulations adopted by the commis-  
1119 sion. At the conclusion of the investigation the bureau shall pro-  
1120 vide the applicant a written accounting of the costs and charges so  
1121 incurred.

1122 (c) Two-thirds all fees, revenue, and penalties collected pur-  
1123 suant to this act, with the exception of those revenues collected as  
1124 stated in section 9 (a) of this act, shall be deposited in the general  
1125 fund. Funds deposited in the general fund, pursuant to this act,  
1126 shall, subject to appropriation, be expended for the support of the  
1127 commission and the bureau in carrying out their duties and  
1128 responsibilities under this act. One-third of all fees, revenue, and  
1129 penalties collected pursuant to this act, with the exception of those  
1130 revenues collected as stated in section nine (a) of this act, shall go  
1131 directly to cities and towns in the form of local aid toward general  
1132 operations using the lottery formula.

1133 (d) All revenue received from any game or gaming device  
1134 which is leased for operation on the premises of the licensee-  
1135 owner to a person other than the owner thereof, or located in an  
1136 area or space on the premises which is leased by the licensee-  
1137 owner to any such person, must be attributed to the owner for the  
1138 purposes of this section and be counted as part of the gross rev-  
1139 enue of the owner. The lessee is liable to the owner for his pro-  
1140 portionate share of the license fees.

1141 (e) In addition to any other tax or fee imposed by this act, there  
1142 is also hereby imposed an annual fee of 5 million dollars for  
1143 gaming license holders, and an annual license fee of \$1,000 upon  
1144 every slot machine maintained for use or in use in any licensed  
1145 gaming facility in the commonwealth.

1146 (f) All gaming license fees and penalties imposed by the provi-  
1147 sions of this act must be paid to the state treasurer, two-thirds to  
1148 be deposited into the general fund and the remaining third directly  
1149 to a special account to be distributed to the cities and towns of the  
1150 Commonwealth. Fees shall be paid annually on or before June

1151 twentieth. Penalties imposed under this act shall be paid within  
1152 thirty days of the final determination of the commission of the  
1153 violation.

1154 (g) There is hereby imposed upon each slot machine operated  
1155 in this state an annual excise tax of five hundred dollars. If a slot  
1156 machine is replaced by another, the replacement is not considered  
1157 a different slot machine for the purpose of imposing this tax. The  
1158 commission shall collect the tax annually on or before June twen-  
1159 tieth, as a condition precedent to the issuance of a state gaming  
1160 license to operate any slot machine for the ensuing fiscal year  
1161 beginning July first, from a licensee whose operation is contin-  
1162 uing; collect the tax in advance from a licensee who begins opera-  
1163 tion or puts additional slot machines into play during the fiscal  
1164 year prorated monthly after July thirty-first; include the proceeds  
1165 of the tax in its reports of state gaming taxes collected. The com-  
1166 mission shall pay over not less than one half of the tax as col-  
1167 lected to the treasurer of the municipality within which the  
1168 gaming facility is located to be deposited to the general fund of  
1169 said municipality. Not more than one half of the tax as collected  
1170 shall go to communities surrounding the host community for the  
1171 purposes of traffic and public safety concerns resulting from the  
1172 operation of the gaming facility as prescribed according to the  
1173 commission.

1174 (h) If the growth in lottery receipts is less than the average of  
1175 the prior five years, the difference in revenues will be provided to  
1176 the lottery from the fees, revenue and penalties collected pursuant  
1177 to this act, for the purpose of local aid to the municipalities in the  
1178 Commonwealth, provided the lottery payout percentages do not  
1179 change and the number of games remains the same or greater.

1180 Section 10. Reporting Violations of Act.

1181 All licensees, all registrants, all persons required to be qualified  
1182 under this act, and all persons employed by a gaming service  
1183 industry licensed pursuant to this act, shall have a duty to inform  
1184 the commission or bureau of any action which they believe would  
1185 constitute a violation of this act. No person who so informs the  
1186 commission or the bureau shall be discriminated against by an  
1187 applicant licensee or registrant because of the supplying of such  
1188 information.

1189 Section 11. Licensing of Gaming Service Industries.

1190 (a) All gaming service industries as defined in this act offering  
1191 goods or services which directly relate to gaming activities or  
1192 indirectly relate to gaming operations shall be licensed in accor-  
1193 dance with rules of the commission and prior to conducting any  
1194 business whatsoever with a gaming applicant or licensee, its  
1195 employees or agents, and in the case of a school prior to enroll-  
1196 ment of any students or offering of any courses to the public  
1197 whether for compensation or not. Gaming service industries that  
1198 directly relate to gaming activities shall include gaming and  
1199 wagering equipment manufacturers, suppliers and repairers,  
1200 schools teaching gaming and either playing or dealing techniques,  
1201 and gaming security services. Gaming service industries that indi-  
1202 rectly relate to gaming operations shall include junket enterprises;  
1203 suppliers of alcoholic beverages, food and nonalcoholic bever-  
1204 ages; garbage handlers; vending machine providers; linen sup-  
1205 pliers; maintenance companies; shopkeepers located within the  
1206 approved hotels; limousine services and construction companies  
1207 contracting with gaming applicants or licensees or their  
1208 employees or agents.

1209 (b) Each gaming service industry, as well as its owners, man-  
1210 agement and supervisory personnel and other principal employees  
1211 must qualify under standards promulgated by the commission.

1212 (c) The commission may exempt any person or field of com-  
1213 merce from the licensing requirements of this subsection if the  
1214 person or field of commerce demonstrates that it is regulated by a  
1215 public agency or that it will provide goods or services in insub-  
1216 stantial or insignificant amounts or quantities, or provides profes-  
1217 sional services such as accountants, auditors, attorneys, or broker  
1218 dealers, and that licensing is not deemed necessary in order to  
1219 protect the public interest or to accomplish the policies established  
1220 by this act. Upon granting an exemption or at any time thereafter,  
1221 the commission may limit or place such restrictions thereupon as  
1222 it may deem necessary in the public interest, and shall require the  
1223 exempted person to cooperate with the commission and the bureau  
1224 and, upon request, to provide information in the same manner as  
1225 required of a gaming service industry licensed pursuant to this  
1226 section.

1227 (d) Licensure pursuant to this section of any gaming service  
1228 industry may be denied to any applicant disqualified in accor-  
1229 dance with the criteria contained in section six of this act.

1230 Section 12. Problem Gambling Education and Treatment.

1231 The department of public health is hereby authorized and  
1232 directed to conduct a comprehensive study to measure the preva-  
1233 lence of compulsive, obsessive behaviors in Massachusetts; to  
1234 measure the prevalence of problem gambling in Massachusetts; to  
1235 measure the prevalence of underage problem gambling in Massa-  
1236 chusetts; and, to measure the social cost of problem gambling in  
1237 Massachusetts; and to develop appropriate treatment modalities  
1238 and public education strategies that address the findings of said  
1239 study.

1240 Section 13. Disclosure requirements.

1241 Every licensed gaming establishment shall disclose clearly and  
1242 conspicuously on each electronic gaming device the numerical  
1243 odds of winning or if the odds cannot be calculated, the manner  
1244 by which a person may be notified of all previous winnings on  
1245 each electronic gaming device, and the number of previous  
1246 winners.

1247 Section 14. Recovery of Gaming Debts by Patrons.

1248 (a) Whenever a licensee refuses payment of alleged winnings to  
1249 a patron, the licensee and the patron are unable to resolve the dis-  
1250 pute to the satisfaction of the patron and the dispute involves:

1251 1) at least five hundred dollars, the licensee shall immediately  
1252 notify the bureau;

1253 2) less than five hundred dollars, the licensee shall inform the  
1254 patron of his right to request that the bureau conduct an investiga-  
1255 tion.

1256 The bureau shall conduct whatever investigation it deems nec-  
1257 essary and shall determine, in its sole discretion and without need  
1258 for a hearing whether payment should be done. In the event the  
1259 bureau determines that payment should be made, all costs of the  
1260 investigation shall be borne by the licensee. Failure of the licensee  
1261 to notify the bureau or inform the patron as provided herein shall  
1262 subject the licensee to disciplinary action.

1263 (b) Any party aggrieved by the determination of the bureau  
1264 may file a petition for reconsideration with the commission setting  
1265 forth the basis of the request for reconsideration. Any hearing for

1266 reconsideration shall be conducted pursuant to regulations  
1267 adopted by the commission.  
1268 Section 15. Severability  
1269 The invalidity of any section, sections or subsections or parts of  
1270 this act shall not affect the validity of the remainder of this act.