

**HOUSE . . . . . No. 371**

By Miss Reinstein of Revere, petition of Kathi-Anne Reinstein and others relative to the establishment of the Massachusetts gaming control act. Economic Development and Emerging Technologies.

**The Commonwealth of Massachusetts**

PETITION OF:

Kathi-Anne Reinstein  
Bradford Hill  
Brian P. Wallace  
Robert S. Hargraves  
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Geraldine Creedon

John P. Fresolo  
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Robert A. DeLeo  
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Bradley H. Jones, Jr.

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING THE MASSACHUSETTS GAMING CONTROL ACT.

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

1 SECTION 1. The General Laws are hereby amended by  
2 inserting after Chapter 128C the following chapter:—

3 **CHAPTER 128D.**  
4 **THE MASSACHUSETTS GAMING CONTROL ACT.**

5 Section 1. General Provisions.

6 (a) This chapter shall be known and may be cited as the  
7 “Massachusetts Gaming Control Act.”

8 (b) No applicant for a license or other affirmative approval  
9 within the scope of this chapter has any property or other right to  
10 a license or to the granting of the approval sought. Any license  
11 issued or other approval granted pursuant to this chapter is a fully  
12 revocable privilege, and no holder acquires any vested right  
13 therein or thereunder.

14 (c) Nothing in this chapter shall preclude any city or town in  
15 the Commonwealth from prohibiting gaming, from imposing any

16 local controls or conditions upon gaming, from inspecting  
17 premises to enforce applicable laws, or from imposing any fee or  
18 tax otherwise authorized, provided any prohibition, control, condi-  
19 tion, inspection, tax, or fee is not inconsistent with this act, or the  
20 laws of the United States.

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

24 Section 2. Definitions.

25 The following words as used in this chapter shall, unless the  
26 context clearly requires otherwise, have the following mean-  
27 ings:—

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 ten per-  
32 cent (10%) of voting membership rights or voting stock or part-  
33 nership interests, or (ii) that a majority of the directors, general  
34 partners, trustees, or members of an entity’s governing body are  
35 representative of, or are directly or indirectly controlled by, the  
36 licensee or applicant. For the purposes of this definition, “pos-  
37 sesses an interest in” means either (i) directly or indirectly holding  
38 more than (5%) of voting membership rights or voting stock,  
39 or (ii) that at least twenty-five percent (25%) of the directors,  
40 general partners, trustees, or members of an entity’s governing  
41 body are representatives of, or are directly or indirectly controlled  
42 by, the licensee or 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) “Bureau,” the state gaming control bureau established by  
47 this act;

48 (d) “Commission,” the Massachusetts gaming control commis-  
49 sion;

50 (e) “Controlled game,” or “controlled gaming,” any game of  
51 chance, or skill, or both, played for currency, check, credit, or any  
52 other thing of value, and including electronic gaming devices and  
53 games classified as class II or class III gaming under the Indian

54 Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., but  
55 excluding:—

56 (1) The game of bingo conducted pursuant to chapter two hun-  
57 dred and seventy-one;

58 (2) Parimutuel wagering on horse and dog races, whether live  
59 or simulcast, authorized under G.L. c. 128A and G.L. c. 128C;

60 (3) Any lottery game conducted by the state lottery commis-  
61 sion, in accordance with G.L. c. 10, § 24.

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

65 (f) “Electronic Gaming Device,” means any game of chance  
66 mechanical, electronic or otherwise featuring coin drop and  
67 payout as well as printed tabulations, whereby the software of the  
68 device predetermines the presence or lack of a winning combina-  
69 tion and payout; also microprocessor-controlled electronic devices  
70 that allow a player to play games of chance, which may be  
71 affected by an element of skill, activated by the insertion of a coin  
72 or currency or by the use of a credit and awards game credits,  
73 cash, tokens, replays or a written statement of the player’s accu-  
74 mulated credits, which written statements are redeemable for cash;  
75 and including slot machines, video lottery terminals and video  
76 facsimile machines of any type;

77 (g) “Establishment,” any building, room, place or other indoor  
78 or outdoor premises where any controlled gaming occurs,  
79 including all public and non-public areas of any such establish-  
80 ment;

81 (h) “Executive Director,” the executive director of the bureau;

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, and to officers and directors of  
94 licensed persons or entities;

95 (l) “Gaming operation,” one or more controlled game that is  
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 services” means providing services or goods to  
102 any licensed gaming establishment directly in conjunction with  
103 the operation of gaming, including security services, training  
104 activities, promotional services, printing or manufacture of betting  
105 tickets and manufacture, distribution, maintenance, testing or  
106 repair of electronic gaming devices, or any person who furnishes  
107 goods or services pursuant to which the person receives payments  
108 based on earnings, profits or net receipts from gaming;

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

120 (p) “Intermediary company,” any corporation, firm, partnership,  
121 trust, or other entity, other than a natural person, that is both of the  
122 following:—

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

124 (2) A holding company with respect to a corporation or limited  
125 partnership or other entity that holds or applies for gaming  
126 license;

127 (q) “Licensed operator,” any operating entity that conducts a  
128 controlled gaming operation within a gaming establishment pur-  
129 suant to a license or licenses issued under this Act.

130 (r) “Licensed premises,” the premises upon which is located a  
131 gaming establishment pursuant to a license issued to a licensed  
132 operator;

133 (s) “Licensee,” any person or party holding, or purporting to  
134 hold, a valid gaming license under this chapter;

135 (t) “Net gaming revenue,” the total, prior to the deduction of  
136 any operating, capital or other expenses whatsoever, of all gaming  
137 revenue retained by any gaming establishment licensed under this  
138 chapter derived from the conduct of any controlled game;

139 (u) “Operating entity,” any person who conducts a gaming  
140 operation;

141 (v) “Party in interest,” any corporation, firm, partnership, trust,  
142 or other entity or person with any direct or indirect pecuniary  
143 interest in a licensed gaming establishment, or a person who owns  
144 any interest in the premises of a licensed gaming establishment, or  
145 land upon which such premises is licensed, whether he leases the  
146 property directly or through an affiliate;

147 (w) “Person” or “party,” a natural person, corporation, partner-  
148 ship, limited partnership, trustee, holding company, joint venture,  
149 association, or any business entity;

150 (x) “Racing meeting licensee,” the running horse racing  
151 meeting licensee in Suffolk County, harness horse racing meeting  
152 licensee in Norfolk County, and dog racing meeting licensees in  
153 Suffolk and Bristol Counties licensed by the State Racing Com-  
154 mission pursuant to G.L. c. 128A, as amended, to conduct  
155 parimutuel racing during calendar year 2005, or their respective  
156 assigns; provided, however, that the two dog racing meeting  
157 licensees in Bristol County shall be deemed one for all purposes  
158 of this act; and, further, excluding any licensees of racing meet-  
159 ings held or conducted in connection with a state or county fair.

160 (y) “Substantial party in interest,” any person holding a greater  
161 than one percent (1%) direct or indirect pecuniary interest,  
162 whether as owner, mortgagee or otherwise, in an operating entity,  
163 premises, or any other licensee or applicant;

164 (z) “Work permit,” any permit issued by the commission  
165 authorizing

166 the holder to be employed as an employee in a licensed gaming  
167 establishment.

168 Section 3. Gaming Control Commission; Composition, Powers  
169 & Duties.

170 (a) There shall be established a Massachusetts gaming  
171 control commission consisting of five members. Each member  
172 shall be a citizen of the United States and a resident of the Com-  
173 monwealth. No officer or official of any political party, nor any  
174 person who was formerly a licensee or an unlicensed employee of  
175 a gaming licensee within the five years prior to any appointment  
176 shall be eligible for appointment to the commission. No person  
177 actively engaging or having a direct pecuniary interest in gaming  
178 activities shall be a member of the Commission. Not more than  
179 three members of the Commission shall be of the same major  
180 political party affiliation. The governor shall appoint two mem-  
181 bers of the Commission and designate one member to serve as  
182 chairman of the Commission. The attorney general of the Com-  
183 monwealth shall appoint one member of the Commission. The  
184 auditor of the Commonwealth shall appoint one member of the  
185 Commission. The Secretary of State shall appoint one member of  
186 the Commission.

187 (b) The term of office of each member of the Commission shall  
188 be five years except that, of the members initially appointed,  
189 one shall be appointed by the governor for a term of five years,  
190 one shall be appointed by the attorney general for a term of four  
191 years, one shall be appointed by the governor for a term of three  
192 years, one shall be appointed by the auditor for a term of two  
193 years, and one shall be appointed by the Secretary of State for a  
194 term of one year. After the initial term the term of office for each  
195 member of the Commission is five years, provided that no  
196 member shall serve more than two consecutive terms of five year  
197 periods. Any vacancies shall be filled by the original appointing  
198 authority within sixty days of the occurrence of such vacancy.  
199 Any appointee shall continue in office beyond the expiration date  
200 of his term until the appointment of a successor but in no event  
201 longer than six months. Any Commissioner may be removed by  
202 his appointing authority for just cause, and shall be suspended,  
203 without pay, upon indictment for any felony. Any person so sus-  
204 pended shall be removed upon conviction. Any person so sus-  
205 pended and later acquitted of any such felony shall be reinstated  
206 to the commission upon such acquittal, with full back pay.

207 (c) The commission members shall devote that time and atten-  
208 tion to the business of the commission as is necessary to discharge  
209 their duties; provided, however, the chairman shall devote his or  
210 her full time during normal business hours to the business of the  
211 commission. The members of the commission shall be compen-  
212 sated for work performed for the commission at ninety thousand  
213 dollars per annum, with the chairman receiving ten thousand dol-  
214 lars per annum in additional compensation. Commission members  
215 shall be reimbursed for travel and other expenses necessarily  
216 incurred in the performance of official duties. Before entering  
217 upon the duties of the office each member shall swear that he is  
218 not pecuniarily interested in, or doing business with, any person  
219 holding a gaming license and shall submit to his appointing  
220 authority and to the state ethics commission a statement of finan-  
221 cial interest required by Chapter two hundred sixty-eight B of the  
222 General Laws.

223 (d) Except as otherwise provided herein, meetings of the com-  
224 mission shall be subject to the provisions of Section eleven A and  
225 eleven A and one-half of Chapter thirty A of the General Laws. A  
226 majority of the membership of the commission shall constitute a  
227 quorum of the commission. A public record of every vote shall be  
228 maintained at the commission's general office.

229 (e) The commission shall conduct hearings in accordance with  
230 the provisions of Chapter thirty A, provided, however, that clause  
231 three of Section eleven of Chapter thirty A shall not apply. The  
232 commission may issue subpoenas for the attendance of witnesses  
233 or the production of any records, books, memoranda, documents,  
234 or other papers, or things, at or prior to any hearing as is neces-  
235 sary to enable the commission to discharge its duties, and may  
236 administer oaths or affirmations as necessary in connection there-  
237 with.

238 The commission may petition the superior court for an order  
239 requiring compliance with any subpoena at issue.

240 (f) The commission may retain legal, investigative, clerical and  
241 other assistance as may be necessary.

242 (g) The commission may require any person to apply for a  
243 license as provided in this chapter and approve or disapprove any  
244 such application or other transactions, events, and processes as  
245 provided in this chapter. Any application to receive any license

246 under this chapter shall constitute a request for a determination of  
247 the applicant's general character, integrity, and ability to partici-  
248 pate or engage in, or be associated with, gaming.

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

251 (i) The commission may grant or deny any application for a  
252 license or approval; may limit, condition, restrict, suspend, or  
253 revoke any license or approval for any cause deemed reasonable  
254 by commission, consistent with this chapter or any general or  
255 special law. The commission may, in its discretion, issue a proba-  
256 tionary gaming license. No gaming license may be assigned either  
257 in whole or in part.

258 (j) As provided in commission regulations, the commission  
259 may impose a fine or penalty or interest on such fine or penalty,  
260 upon any gaming licensee, for violation of this chapter. The com-  
261 mission may approve or disapprove transactions, and events as  
262 provided in this chapter, take actions reasonably designed to  
263 ensure that no unsuitable persons are associated with controlled  
264 gaming, and take actions reasonably designed to ensure that  
265 gaming activities take place only in suitable premises. (k) The  
266 commission shall, pursuant to Sections two and three of chapter  
267 thirty A of the General Laws, promulgate regulations necessary to  
268 carry out the powers and the provisions of this chapter, and specif-  
269 ically shall promulgate regulations as to the following matters:—

270 (1) the licensing of gaming establishments, including regula-  
271 tions relating to the types of establishments, application process,  
272 background checks, license fees, bonding requirements, and revo-  
273 cation and suspension of licenses;

274 (2) the licensing of gaming suppliers, including regulations  
275 relating to the application process, background checks, license  
276 fees, bonding requirements, and revocations and suspension of  
277 licenses;

278 (3) the licensing of parties in interest, including regulations  
279 relating to the application process, background checks, license  
280 fees, bonding requirements, and revocation and suspension of  
281 licenses;

282 (4) the issuance of one or more classes of work permits,  
283 including regulations relating to the application process, back-

284 ground checks, fees, and revocation and suspension of work per-  
285 mits;

286 (5) the licensing of all officers and directors of any entity which  
287 holds or applies for a license under this chapter, including regula-  
288 tions relating to application process, background checks, licensee  
289 fees, and revocation and suspension of licenses; and regulations  
290 requiring that, if in the judgment of the commission the public  
291 interest will be served by requiring any of the individual stock-  
292 holders, key executives, agents or other employees of any entity  
293 which holds or applies for a license under this chapter to be  
294 licensed, such individuals apply for a license under this para-  
295 graph;

296 (6) the monitoring of licensees to ensure compliance with this  
297 chapter and the regulations promulgated thereunder;

298 (7) the presentation and/or display of all licenses and work per-  
299 mits;

300 (8) the registration of non-gaming suppliers;

301 (9) the method for collecting any fines, fees, penalties and  
302 interest imposed by the commission;

303 (10) the method and standards of operation of licensed gaming  
304 establishments including, but not limited to, games, the type and  
305 manner of gaming, wagering limitations, odds, and hours of oper-  
306 ation; provided, however, the commission shall not restrict the  
307 number of hours of operation of any licensed gaming establishment  
308 to fewer hours than of any competing gaming facilities with con-  
309 trolled gaming;

310 (11) the manufacturing, distribution, sale, testing, servicing,  
311 and inspection of gaming equipment, including requirements for  
312 the identification and licensing of same;

313 (12) any limitations on mortgage security interests and agree-  
314 ments relating to the property of licensed gaming establishments;

315 (13) any limitations on transfers of interests in licenses;

316 (14) advertising by licensed gaming establishments; provided,  
317 however, licensees shall have the right to conduct reasonable  
318 advertising consistent with that of competing gaming facilities;

319 (15) the manner in which winnings, compensation from games,  
320 and gaming devices must be compiled and reported by licensees,  
321 provided, further, electronic gaming devices shall return as win-  
322 nings a minimum of eighty-five percent of all sums wagered.

323 (16) standards for protection of the health, safety, and security  
324 of the public at licensed gaming establishments;

325 (17) the minimum procedures to be adopted by each licensed  
326 gaming establishment to exercise effective supervisory and man-  
327 agement control over its fiscal affairs, including the requirement  
328 of an annual audit undertaken in accordance with generally  
329 accepted accounting principles, and the requirement that quarterly  
330 reports be provided by licensed gaming establishments to the  
331 commission no more than 30 days after the close of each quarter;

332 (18) the persons to be excluded or ejected from licensed  
333 gaming establishments, including the type of conduct prohibited;  
334 and

335 (19) the distribution of funds for the treatment of compulsive  
336 behavior.

337 (l) In emergencies, the commission may, without complying  
338 with Sections two or three of Chapter thirty A of the General  
339 Laws, summarily adopt, amend, or repeal any regulation, if, at the  
340 time, the commission makes a finding that such action is neces-  
341 sary for the preservation of the public peace, health, safety,  
342 morals, good order, or general welfare, together with a statement  
343 of the facts constituting the emergency; provided, however, all  
344 such emergency actions shall expire after ninety days.

345 (m) Each operating license shall be issued for an initial term of  
346 one year, and may be renewed at the discretion of the commission  
347 for a term not to exceed five years.

348 (n) Any failure of a licensee to comply with this chapter or any  
349 regulation of the commission or the bureau may, at the discretion  
350 of the commission, result in the immediate suspension or revoca-  
351 tion of the license.

352 (o) A gaming establishment license issued pursuant to this  
353 chapter must be posted by the licensee and kept posted at all times  
354 in a conspicuous place in the area where gaming is conducted in  
355 the establishment for which the license is issued until it is  
356 replaced by a succeeding license.

357 (p) Any person who has had his application for a license  
358 denied or revoked, or is otherwise not in compliance with any  
359 requirements hereunder, shall not retain his interest in the  
360 premises or any entity seeking or holding a license under this  
361 chapter beyond that period prescribed by the commission; and

362 shall not accept more for his interest than he paid for it or the  
363 market value on the date of the denial or revocation of the license  
364 or occurrence of non-compliance (not including the prospective  
365 value of said license), whatever is higher.

366 (q) The voluntary surrender of a license by a licensee does not  
367 become effective until accepted in a manner to be provided in the  
368 regulations of the commission. The surrender of a license does not  
369 relieve the former licensee of any fees, penalties, fines, taxes or  
370 interest due.

371 (r) No person shall transfer a direct or indirect pecuniary  
372 interest in a licensed operating entity or premises, or enter into an  
373 option contract or other agreement providing for such transfer in  
374 the future, without having notified the commission. No person  
375 shall transfer a greater than five percent (5%) direct or indirect  
376 pecuniary interest in a licensed operating entity or premises  
377 without the issuance by the commission to the transferee of an  
378 operating license or an affirmative statement that the transferee  
379 has met the operating license standards, as the commission may  
380 require.

381 (s) The commission shall monitor the conduct of all licensees  
382 and other persons having a material involvement, directly or indi-  
383 rectly, with a licensee for the purpose of ensuring that licenses are  
384 not issued to, or held by, and there is no direct or indirect material  
385 involvement with a licensee by unqualified, disqualified, or  
386 unsuitable persons.

387 (t) No commission member or person employed by the commis-  
388 sion shall solicit or accept employment from a licensee, or repre-  
389 sent any person or party other than the Commonwealth before or  
390 against the commission for a period of three years from the termi-  
391 nation of his office or employment with the commission.

392 (u) The commission may investigate fraud, deceit, misrepresen-  
393 tation or violations by any licensee under this chapter, or the  
394 occurrence of any such activity involving any licensee. If the  
395 commission has reasonable basis to believe that any licensee has  
396 been or is engaged in criminal behavior or that criminal activity is  
397 occurring within or involving any licensed gaming establishment,  
398 the commission shall report same to the district attorney of the  
399 county within which the gaming establishment is located and  
400 make available to said district attorney all relevant information on

401 such activity. The commission shall apply to the department of  
402 public safety for the assignment of a complement of police offi-  
403 cers to the commission on a regular basis and said department  
404 shall assign such complement to the commission. The commission  
405 shall assign such police officers to guard and protect the lives and  
406 safety of the public and property at any such gaming establish-  
407 ment, and to perform any such other duties which may be required  
408 by said commission in order to maintain fair and honest gaming  
409 establishment. The police officers so assigned shall, except in the  
410 case of an emergency, while on duty at any such establishment be  
411 subject to the operational authority of the commission; provided,  
412 however, that such assignment or reassignment shall not in any  
413 way impair any rights to which any officer may be entitled. The  
414 commission shall from funds available pay to the department of  
415 public safety the cost of the salaries of the police officers so  
416 assigned from funds appropriated to the commission. All assign-  
417 ment and reassignments to the commission, except as the commis-  
418 sioner of public safety shall determine that an emergency exists or  
419 its threatened, shall be subject to the approval of the gaming con-  
420 trol commission. Nothing herein shall prevent licensees from  
421 applying to the state police if they have jurisdiction in the area  
422 where gaming establishment is located, or to the police depart-  
423 ment of a city or town wherein the gaming establishment is  
424 located, in order that such police agency may furnish a police  
425 detail for safety or traffic purposes at any gaming establishment  
426 authorized by this chapter. The total cost for any such police detail  
427 shall be a sum equal to the salaries of the police officers com-  
428 prising such detail, plus a sum to cover the administrative  
429 expenses incurred by the department of each such police officer.

430 (v) The commission, as it deems appropriate, may ask a district  
431 attorney to file a civil lawsuit to restrain a violation of this chapter  
432 or enforce any provision thereof. An action brought against a  
433 person pursuant to this chapter does not preclude any other crim-  
434 inal or civil proceeding as may be authorized by law.

435 (w) Any person aggrieved by a determination by the commis-  
436 sion to issue, deny, modify, revoke or suspend any license or  
437 approval, or to issue any order under the provisions of this  
438 chapter, may request an adjudicatory hearing before the commis-  
439 sion under the provisions of Chapter thirty A. Any such determi-

440 nation shall contain a notice of this right to request a hearing and  
441 may specify a time limit, not to exceed twenty-one days, within  
442 which said person shall request said hearing. If no such request is  
443 timely made, the determination shall be deemed assented to. If a  
444 timely request is received, the commission shall within a reason-  
445 able time act upon a request in accordance with the provisions of  
446 Chapter thirty A. A person aggrieved by a final decision in an  
447 adjudicatory hearing held under the provisions of this section may  
448 obtain judicial review thereof pursuant to the provisions of  
449 Chapter thirty A.

450 Section 4. State Gaming Control Bureau; Composition, Powers  
451 & Duties.

452 (a) There shall be established a state gaming control bureau  
453 within the executive office of administration and finance.

454 (b) The secretary of administration and finance shall appoint  
455 the executive director of the bureau for a term of five years. The  
456 executive director shall not serve more than two consecutive  
457 terms. The executive director shall employ such professional,  
458 technical, and clerical assistants and employees as necessary, sub-  
459 ject to appropriation; provided, however, such assistants and  
460 employees shall not be subject to G.L. c. 31 or G.L. c. 30, § 9(A).  
461 The department of public safety and division of state police shall  
462 assign to the Division such full and adequate numbers of investi-  
463 gators as the executive director shall reasonably require to carry  
464 out the purposes of this chapter.

465 (c) The powers and duties of the bureau shall include, but not  
466 be limited to, the following:—

467 (1) To visit, investigate, and place accountants, technicians, and  
468 any other personnel, without prior notice or approval of any party  
469 as it may deem necessary, in the office, gaming area, or other  
470 place of business of any licensee under this chapter;

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

474 (3) To visit, inspect, and examine without prior notice or  
475 approval of any party, all premises where gaming equipment is  
476 manufactured, sold or distributed;

477 (4) To inspect and test without prior notice or approval of any  
478 party, all equipment and supplies in any licensed gaming

479 establishment or in any premises where gaming equipment is  
480 manufactured, sold or distributed;

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

488 (6) To have access to and inspect, examine, photocopy, and  
489 audit all relevant and material papers, books, and records of any  
490 affiliate of a licensed gaming establishment that the bureau knows  
491 or reasonably suspects is involved in the financing, operation, or  
492 management of any entity licensed pursuant to this chapter, either  
493 on the affiliate's premises or elsewhere, as practicable, in the pres-  
494 ence of the affiliate or any agent thereof; and,

495 (7) To refer any suspected criminal violation of this chapter;  
496 provided, however, that nothing in this section shall be deemed to  
497 limit the investigatory and prosecutorial powers of other state and  
498 local officials and agencies;

499 (d) The bureau shall investigate the qualifications of each appli-  
500 cant under this chapter and make a recommendation to the com-  
501 mission before any license is issued. The bureau shall also  
502 continue to monitor the conduct of all licensees and other persons  
503 having a material involvement, directly or indirectly, with a  
504 licensee for the purpose of ensuring that licenses are not issued to,  
505 or held by, and there is no direct or indirect material involvement  
506 with a licensee by unqualified, disqualified, or unsuitable persons,  
507 or persons whose operations are conducted in unsuitable manner  
508 or in unsuitable or prohibited places, as provided in commission  
509 or bureau regulations.

510 (e) The bureau may recommend to the commission the denial of  
511 any application, the limitation, conditioning, restriction, suspen-  
512 sion, or revocation of any license or approval, or the imposition of  
513 any fine or penalty upon any licensee.

514 (f) The bureau shall maintain a file of applications for licenses  
515 under this chapter, together with a record of all action taken by the  
516 commission on those applications. Such applications shall be open

517 to public inspection. The bureau may maintain any other files and  
518 records as it deems appropriate.

519 (g) Each employee of the bureau shall file with the executive  
520 director and the state ethics commission a statement of financial  
521 interest as defined in Chapter two-hundred sixty-eight B. Such  
522 statement shall be under oath and shall be filed at the time of  
523 employment and annually thereafter, as required by the state ethics  
524 commission.

525 (h) No employee of the bureau shall be permitted to place a  
526 wager in any establishment licensed by the commission except in  
527 the course of his duties.

528 (i) No person employed by the bureau shall solicit or accept  
529 employment from a licensee, or represent any person or party  
530 other than the Commonwealth before or against the bureau or the  
531 commission, for a period of three years from the termination of  
532 his office or employment with the bureau.

533 (j) The bureau may investigate, fraud, deceit, misrepresentation  
534 or violations of this chapter by any person licensed hereunder or  
535 the occurrence of any such activity within or involving any  
536 licensed gaming establishment. If the bureau has reasonable basis  
537 to believe that any licensee has been or is engaged in criminal  
538 behavior or that criminal activity is occurring within or involving  
539 any licensed gaming establishment, the bureau shall report same  
540 to the district attorney of the county within which the licensed  
541 gaming establishment is located and make available to said dis-  
542 trict attorney all relevant information on such activity.

543 (k) The bureau, as it deems appropriate, may ask said district  
544 attorney to file a civil lawsuit to restrain a violation of this chapter  
545 or enforce any provision thereof. An action brought against a  
546 person pursuant to this chapter shall not preclude any other crim-  
547 inal or civil proceeding as may be authorized by law.

548 (l) The bureau shall make a continuous study and investigation  
549 of gaming throughout the Commonwealth in order to ascertain  
550 the adequacy and effectiveness of state gaming law or regulations  
551 and may formulate recommendations for changes in such laws and  
552 regulations. The bureau shall make a continuous study and inves-  
553 tigation of the operation and administration of similar laws in  
554 other states or countries, of any literature or reports on the subject,  
555 of any federal laws which may affect the operation of gaming in

556 the Commonwealth, all with a view to recommending or effecting  
557 changes that will tend to better serve an implement the purposes  
558 of this chapter.

559 (m) The executive director of the bureau may recommend that  
560 the commission initiate proceedings or actions appropriate to  
561 enforce this chapter and the regulations promulgated thereunder.

562 Section 5. Licensing of Licensed operators; payment of Com-  
563 missions.

564 (a) Notwithstanding the provisions of G.L. c. 137, G.L. c. 271,  
565 or any other general or special law to the contrary, each racing  
566 meeting licensee is eligible to be licensed, subject to all terms and  
567 conditions imposed by the Commission, to operate a gaming  
568 establishment; and shall have the right to operate one thousand  
569 five hundred (1,500) electronic gaming devices, at a racing  
570 meeting licensee's premises only; and, provided, further, that each  
571 of said licensees shall have the right to operate an equal number  
572 of electronic gaming devices. Said licensees shall pay weekly to  
573 the Commission, on behalf of the Commonwealth, a sum equal to  
574 fifty-one (51%) percent of net gaming revenues; and from which  
575 the Commission shall then allocate percentages (i) to be paid to  
576 the city or town in which each establishment is located, with each  
577 such city or town receiving a minimum of two percent (2%) of  
578 said revenues; (ii) to be paid to cities or towns contiguous to the  
579 municipalities hosting said establishments, except any city or  
580 town within which another such establishment is locate said rev-  
581 enues; and (iii) to the purse accounts at each of the respective  
582 licensees' race tracks; and, provided, further, that the balance of  
583 said sum after payment of the allocations, shall be paid to the  
584 Treasurer and Receiver General on behalf of the local aid fund.  
585 The remaining sums shall be retained by each licensee as its com-  
586 missions and, provided, further, that each such licensee shall in  
587 addition pay all taxes otherwise due and payable.

588 (b) No person shall operate a gaming establishment without  
589 having obtained all necessary operating licenses from the commis-  
590 sion. There shall be a single licensed operator for each gaming  
591 establishment. The licensing standards must be met at all times by  
592 each officer, director, partner, and trustee of the operating entity,  
593 by each substantial party in interest of the operating entity or of  
594 the premises on which such establishment is located, and by such

595 other party in interest of the operating entity, the premises, or any  
596 holding company or intermediary company of the operating entity  
597 or the premises as the commission may require.

598 (c) A person may apply to be a licensed operator by filing an  
599 application with the commission, the form and any accompanying  
600 application fees as the commission may establish. Information on  
601 the application will be used as the basis for a thorough back-  
602 ground investigation which the bureau shall conduct with respect  
603 to each applicant. Each application shall disclose the identity of  
604 each party in interest, each holding company and intermediary  
605 company, and each affiliate of the operating entity. The applica-  
606 tion shall disclose, in the case of the privately held corporation,  
607 the names and addresses of all directors, officers, and stock-  
608 holders; in the case of a publicly traded corporation, the names  
609 and addresses of all directors, officers, and persons holding at  
610 least five percent of the total capital stock issued and outstanding;  
611 in the case of a limited liability company, the names and addresses  
612 of all members of the management committee and all persons  
613 holding at least five percent of the membership interests; in the  
614 case of a partnership, the names and addresses of all partners, both  
615 general and limited; and in the case of a trust, the names and  
616 addresses of all trustees and beneficiaries.

617 (d) Each operating entity shall identify, in its application, the  
618 premises containing the establishment where it proposes to con-  
619 duct its gaming operations. The application shall contain such  
620 information regarding the physical location and condition of the  
621 premises and the potential impact of the proposed gaming opera-  
622 tions upon adjacent properties and the municipality and region  
623 within which the premises are located, as the commission may  
624 require. The application shall disclose the identity of all parties in  
625 interest regarding the premises; and except as otherwise permitted  
626 herein, no person other than a gaming establishment licensee here-  
627 under shall have any right to or interest in any gaming revenue  
628 derived from electronic gaming devices in the form of a per-  
629 centage of such sums or require more than fair market value for  
630 rent, leases or services.

631 (e) No licensed operator shall obtain any gaming equipment  
632 from a person who does not hold a license. No licensed operator  
633 shall enter into any agreement for the receipt of goods or services,

634 of any form and in any amount, from a person who does not hold  
635 a license, when a license is required for such agreement under this  
636 act or under regulations promulgated by the commission or  
637 bureau.

638 (f) No licensed operator shall employ any person in a gaming  
639 establishment who does not hold a work permit, when a work  
640 permit is required for such position under regulations promulgated  
641 by the commission or bureau.

642 Section 6. Records of Commission and Bureau Proceedings.

643 (a) The commission shall cause to be made and kept a record of  
644 all proceedings at all meetings of the commission. These records  
645 shall be open to public inspection.

646 (b) Notwithstanding any other general or special law to the con-  
647 trary all files, records, reports, and other information in the pos-  
648 session of any state or local governmental agency including tax  
649 filings and related information that are relevant to an investigation  
650 by the bureau conducted pursuant to this chapter shall be made  
651 available by such agency to the commission or bureau as  
652 requested. However, any tax or financial information received  
653 from a governmental agency shall be used solely for effectuating  
654 the purposes of this chapter. To the extent that these files, records,  
655 reports, or information are confidential or otherwise privileged  
656 from disclosure under any law, they shall not lose that confidential  
657 or privileged status for having been disclosed to the commission  
658 or bureau.

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

663 Section 7. Criminal Acts and Penalties; Age Restrictions.

664 (a) No official, member, employee, or agent of the commission  
665 or bureau, having obtained access to confidential records or infor-  
666 mation in the performance of duties pursuant to this chapter,  
667 unless otherwise provided by law, shall knowingly disclose or fur-  
668 nish the records or information, or any part thereof, to any person  
669 who is not authorized by law to receive it. Violation of this provi-  
670 sion shall be punishable by a fine of not more than ten thousand  
671 dollars or by imprisonment in the house of correction for not more  
672 than one year, or by both such fine and imprisonment.

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

676 (c) Any person included on the list of persons to be excluded or  
677 ejected from a licensed gaming establishment pursuant to regula-  
678 tions promulgated pursuant to this chapter who knowingly enters  
679 or remains on the premises of a licensed gaming establishment  
680 shall be punished by imprisonment in the house of correction for  
681 not more than one year, or by a fine of not more than ten thousand  
682 dollars, or by both such imprisonment and fine.

683 (d) Any person under the age of twenty-one years who plays,  
684 places wagers at, or collects winnings from, whether personally or  
685 through an agent, any controlled game, or who is employed as an  
686 employee in a licensed gaming establishment shall be punished by  
687 imprisonment in the house of correction for not more than one  
688 year, or by a fine of not more than one thousand dollars, or by  
689 both such imprisonment and fine. Any licensee, or other person,  
690 who knowingly allows a person under the age of twenty-one to  
691 play, place wagers at or collect winnings, whether personally or  
692 through an agent, shall be punished by imprisonment in the house  
693 of correction for a term of not more than one year or pay a fine of  
694 not more than ten thousand dollars, or by both such imprisonment  
695 and fine. A subsequent violation of this section shall subject the  
696 licensee to imprisonment in the house of correction for not more  
697 than two years or pay a fine of not more than twenty-five thou-  
698 sand dollars or by both such imprisonment and fine.

699 (e) Any person who willfully fails to report, pay, or truthfully  
700 account for and pay over any fee, penalty, fine, or interest thereon,  
701 imposed by this chapter or any regulation thereunder, or willfully  
702 attempts in any manner to evade or defeat any fee, penalty, fine,  
703 or interest thereon, or payment thereof shall be punished by  
704 imprisonment in state prison for not more than five years or by  
705 imprisonment in the house of correction for not more than two  
706 and one-half years, or by a fine of not more than ten thousand dol-  
707 lars, or by both such imprisonment and fine.

708 (f) Any person who willfully resists, prevents, impedes, inter-  
709 feres with, or makes any false, fictitious or fraudulent statement,  
710 or representation to the commission or the bureau of any of their  
711 agents or employees in the performance of duties pursuant to this

712 chapter, shall be punished by imprisonment in the house of correc-  
713 tion for not more than two years, or by a fine not more than five  
714 thousand dollars, or by both such imprisonment and fine.

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

719 (1) To deal, operate, carry on, conduct, maintain, or expose for-  
720 play in this state any controlled game or gaming equipment used  
721 in connection with any controlled game;

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

726 (3) To manufacture or distribute within the territorial bound-  
727 aries of the Commonwealth any gaming equipment to be used in  
728 connection with controlled gaming; shall be punished by impris-  
729 onment in the house of correction for not more than two and one-  
730 half years, or by a fine of not more than ten thousand dollars, or  
731 by both such imprisonment and fine.

732 (h) Any person who knowingly permits any controlled game to  
733 be conducted, operated, dealt, or carried on in any house or  
734 building or other premises that he or she owns or leases, in whole  
735 or in part, if that activity is undertaken by a person who is not  
736 licensed as required by this chapter shall be punished by imprison-  
737 ment in state prison in the house of correction for not more than  
738 two and one-half years, or by a fine of not more than ten thousand  
739 dollars, or by both such imprisonment and fine.

740 (i) Any former commissioner or commission or bureau  
741 employee who, within three years after his state employment has  
742 ceased, solicits or accepts employment with or provides consul-  
743 tant services to any licensee or at any licensed gaming establish-  
744 ment shall be punished by a fine of not more than five thousand  
745 dollars or by imprisonment for not more than two and one-half  
746 years in the house of correction or by both such fine and imprison-  
747 ment. Any licensee who knowingly employs a former commis-  
748 sioner or commission or bureau employee in violation of this  
749 subsection shall be subject to immediate revocation of his or her  
750 license.

751 (j) It is unlawful for any person:—  
752 (1) to alter or misrepresent the outcome of a game or other  
753 event on which wagers have been made after the outcome is deter-  
754 mined but before it is revealed to the players;  
755 (2) knowingly to entice or induce another to go to any place  
756 where gaming is being conducted or operated in violation of the  
757 provisions of this chapter, with the intent that the other person  
758 play or participate in that gaming;  
759 (3) to manipulate, with the intent to cheat, any component of a  
760 gaming device in a manner contrary to the designed and normal  
761 operational purpose for the component including, but not limited  
762 to, varying the pull of the handle of a slot machine, with knowl-  
763 edge that the manipulation affects or reasonably may tend to  
764 affect the outcome of the game or with knowledge of any event-  
765 that affects the outcome of the game; As used in this section,  
766 “cheat” means to alter the selection of criteria which determine:—  
767 (a) the results of a game; or  
768 (b) the amount or frequency of payment in a game.  
769 (4) to have on his person or in his possession on or off the  
770 premises of any licensed gaming establishment any key or device  
771 known to have been designed for the purpose of and suitable for  
772 opening, entering or affecting the operation of any gaming or  
773 equipment, or for removing money or other contents therefrom,  
774 except where such person is a duly authorized employee of a  
775 licensee acting in furtherance of his employment within a licensed  
776 gaming establishment. A violation of this section shall be punish-  
777 able by imprisonment in the house of correction for not more than  
778 two years or by a fine of not more than four thousand dollars, or  
779 by both such imprisonment and fine.  
780 (k) A violation of this chapter, the penalty for which is not  
781 specifically fixed in this section, shall be punishable by imprison-  
782 ment in the house of correction for not more than two years, or by  
783 fine of not more than five thousand dollars, or by both such  
784 imprisonment and fine.  
785 (l) The conviction of a licensee for violation of, an attempt to  
786 violate, or conspiracy to violate any provision of this chapter or  
787 any regulation thereunder may result in the immediate revocation  
788 of all licenses issued to the violator under this chapter; and, in  
789 addition, the court, upon application of the bureau or of the

790 commission, may order that no new or additional license under  
791 this chapter be issued to the violator, or be issued to any person  
792 who owned the room or premises in which the violation occurred,  
793 for one year after the date of revocation.

794 Section 8. Revenues.

795 (a) There is hereby established a gaming investigative account.  
796 Any and all reasonable expenses associated with the licensing of  
797 any applicant shall be borne by the applicant or licensee. Pursuant  
798 to its regulations, the commission shall require each applicant to  
799 deposit with the commission, together with the application, an  
800 application fee which shall be deposited in the gaming investiga-  
801 tive account. Such fee shall constitute the anticipated costs and  
802 charges incurred in the investigation and processing of the appli-  
803 cation, and any additional sums as are required by the commission  
804 and the bureau to pay final costs and charges. Expenses may be  
805 advanced from the gaming investigative account by the commis-  
806 sion to the bureau. Any money received from an applicant in  
807 excess of the costs and charges incurred in the investigation or the  
808 processing of the application shall be refunded pursuant to regula-  
809 tions adopted by the commission. At the conclusion of the investi-  
810 gation, the bureau shall provide the applicant a written accounting  
811 of the costs and charges so incurred.

812 Section 9. Disclosure requirements.

813 (a) Every licensed gaming establishment shall, upon receipt of  
814 criminal or civil process compelling testimony or production of  
815 documents in connection with any civil or criminal investigation,  
816 immediately disclose such information to the bureau.

817 (b) All licensees shall have a duty to inform the commission  
818 and bureau of any action which they reasonably believe would  
819 constitute a violation of this chapter, and shall assist the commis-  
820 sion and bureau and any federal or state law enforcement agency  
821 in the investigation and prosecution of such violation. The com-  
822 mission shall hold a hearing under Chapter 30A on any licensees'  
823 failure to comply with this paragraph, and may take appropriate  
824 actions including suspension or revocation of the license. No  
825 person who so informs the commission or the bureau shall be dis-  
826 criminated against by an applicant or licensee because of the sup-  
827 plying of such information.

828 Section 10. Compulsive Gambler Set Aside.

829 One-half of one percent of the net gaming revenues of each  
830 licensed gaming establishment paid to the Commonwealth shall be  
831 deposited in the general fund, and subject to appropriation, shall  
832 be used for the treatment of compulsive and problem gamblers.

833 Section 11. Recovery of Gaming Debts by Patrons. Whenever a  
834 licensed gaming establishment refuses payment of alleged win-  
835 nings to a patron, the gaming establishment and the patron are  
836 unable to resolve the dispute to the satisfaction of the patron and  
837 the dispute involves:—

838 (a) \$500 or more, the gaming establishment shall immediately  
839 notify the bureau; or

840 (b) less than \$500, the gaming establishment shall inform the  
841 patron of his right to request that the bureau conduct an investiga-  
842 tion. The bureau shall conduct whatever investigation it deems  
843 necessary and shall determine, in its sole discretion and without  
844 need for a hearing, whether payment should be made. In the event  
845 the bureau determines that payment should be made, all costs of  
846 the investigation shall be borne by the gaming establishment.  
847 Failure of the establishment to notify the bureau or inform the  
848 patron as provided herein shall subject the establishment to disci-  
849 plinary action.

850 Any party aggrieved by the determination of the bureau may  
851 file a petition for reconsideration with the commission setting  
852 forth the basis of the request for reconsideration. Any hearing for  
853 reconsideration shall be conducted pursuant to regulations  
854 adopted by the commission.

1 SECTION 2. This act shall take effect upon its passage.