

SENATE NO. 217

AN ACT REVITALIZING LIVE RACING IN THE COMMONWEALTH

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

1 SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section 48, as
2 appearing in the 2004 Official Edition, and inserting in place thereof the following section:-

3 Section 48. The state lottery and gaming commission shall oversee and execute the duties of
4 chapter 128, chapter 128A and any other general or special law involving the state racing
5 commission.

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

7 SECTION 3. Section 23 of chapter 10 of the General Laws, as appearing in the 2004 official
8 edition, is amended in line 1 and line 2 by striking out the words “state lottery commission” and
9 inserting in place thereof the following words:- state lottery and gaming commission.

10 SECTION 4. Said Chapter 10 of the General Laws is hereby amended by inserting after section
11 24A, as so appearing, the following:-

12 Section 24B. Notwithstanding any general or special law to the contrary, the
13 commission is shall implement chapter 10A, chapter 128A, and chapter 128C, any special or
14 general law that pertains to chapter 10A, chapter 128A, and chapter 128C, and any special or
15 general law as it pertains to live and simulcast racing, to exercise all powers granted thereunder,
16 and to promulgate all rules and regulations necessary thereof.

17 When exercising its duties under chapter 10A, chapter 128A, and chapter 128C, the commission
18 shall comply with the following:

19 (a) Except as otherwise provided herein, meetings of the commission shall be
20 subject to sections 11A and 11A1/2 of chapter 30A. A quorum shall be the chairman and not
21 less than 2 other members of the commission. A public record of every vote shall be maintained
22 at the division of racing and gaming.

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

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

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

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

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

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

48 (1) the licensing of gaming establishments, including regulations relating to the types of
49 establishments, application process, background checks, license fees, bonding requirements, and
50 revocation and suspension of licenses;

51 (2) the licensing of gaming suppliers, including regulations relating to the application
52 process, background checks, license fees, bonding requirements, and revocations and
53 suspension of licenses;

54 (3) the licensing of parties in interest, including regulations relating to the application
55 process, background checks, license fees, bonding requirements, and revocation and suspension
56 of licenses;

57 (4) the issuance of one or more classes of work permits, including regulations relating to
58 the application process, background checks, fees, and revocation and suspension of work
59 permits;

60 (5) the licensing of gaming schools, if any such school is established in the
61 commonwealth, including regulations relating to the application process, background checks,
62 license fees, and revocation and suspension of licenses;

63 (6) the licensing of all officers and directors of any entity which holds or applies for a
64 license under this chapter, including regulations relating to application process, background
65 checks, licensee fees, and revocation and suspension of licenses; and regulations requiring that,
66 if in the judgment of the commission the public interest will be served by requiring any of the
67 individual stockholders, key executives, agents or other employees of any entity which holds or
68 applies for a license under this chapter to be licensed, such individuals apply for a license under
69 this paragraph;

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

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

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

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

76 (11) the method and standards of operation of licensed gaming establishments including,
77 but not limited to, games, the type and manner of gaming, wagering limitations, odds, and hours
78 of operation; provided, however, the commission shall not restrict the number of hours of

79 operation of any licensed gaming establishment to fewer hours than of any competing licensed
80 gaming establishment

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

83 (13) any limitations on mortgage security interests and agreements relating to the
84 property of licensed gaming establishments;

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

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

89 (16) the manner in which winnings, compensation from games, and gaming devices
90 must be compiled and reported by the commission, provided, further, electronic gaming devices
91 shall return as winnings at a minimum 85% of all sums wagered.

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

94 (18) the minimum procedures to be adopted by each licensed gaming establishment to
95 exercise effective supervisory and management control over its fiscal affairs, including the
96 requirement of an annual audit undertaken in accordance with generally accepted accounting
97 principles, and the requirement that quarterly reports be provided by licensed gaming
98 establishments to the commission no more than 30 days after the close of each quarter;

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

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

102 (21) the licensing and regulation of central computer system provider, which services
103 electronic gaming devices and on and off site auditing of said electronic gaming devices;
104 provided that, the commission shall ensure that the central computer system shall employ a
105 widely accepted gaming industry protocol to facilitate slot machine manufacturers' ability to
106 communicate with the statewide system; and provided further, that said central computer system
107 selected by the commission shall be prohibited from providing electronic gaming devices, or
108 any other form of player activated terminal for use in connection with said central computer
109 system.

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

112 (h) In emergencies, the commission may, without complying with sections 2
113 or 3 of chapter 30A of the General Laws, summarily adopt, amend, or repeal any regulation, if,
114 at the time, the commission makes a finding that such action is necessary for the preservation of
115 the public peace, health, safety, morals, good order, or general welfare, together with a
116 statement of the facts constituting the emergency; provided, however, all such emergency
117 actions shall not exceed 90 days.

118 (i) Each operating license shall be issued for an initial term of 5 years, and
119 may be renewed at the discretion of the commission for a term not to exceed 5 years;
120 provided further, that the commission shall set a renewal fee on the license of not less
121 than \$25,000,000.

122 (j) Any failure of a licensee to comply with this chapter, chapter 10A,
123 chapter 128A or chapter 128C or any regulation of the commission may result in the
124 suspension limitation, or revocation of the license, as determined by the commission..

125 The commission shall promulgate rules and regulations, which shall include but not
126 limited, the process by which a licensee's license can be revoked, the process by which a
127 licensee can appeal, the length of time of the suspension or limitation, and the scope of
128 limitations on the license of type for the suspension,

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

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

137 (m) No person or entity licensed as a licensed gaming operator, gaming
138 establishment or racing meeting licensee, under chapter 10A, chapter 128A or chapter
139 128C of the General Laws, shall be permitted to transfer a direct or indirect real interest,
140 personal interest, pecuniary interest, including, but limited to, substantial party in
141 interest and affiliates defined under section 2 of chapter 10A of the General Laws, in the
142 interests of the licensee's corporate governing structure, including those defined under
143 Chapter 108A, Chapter 109, Chapter 155, Chapter 156, Chapter 156A, Chapter 156B,
144 Chapter 156C and Chapter 156D of the General Laws and those entities established
145 under the rules and regulations of the Secretary of State, the licensee's establishment,
146 licensee's structure, licensee's real property, licensee's premise or licensee's facility, or
147 enter into an option contract, management contract, or other agreement or contract

148 providing for such transfer in the present or future, without the notification and approval
149 the commission, and the commission may require either the transferer or transferee or
150 both, as determined by the commission, to pay to the Commonwealth an amount
151 representing the Commonwealth's share of the increased value for said of said property
152 or contracts. The commission shall promulgate rules and regulations for the
153 determination of the payment which serves in the best interest of the Commonwealth as
154 a result of the transfer; provided that the commission may consider the actual increase or
155 decrease in the pecuniary value of said license, the real property, and the shares of
156 interest among the time it was initially purchased, the time of receiving a license and the
157 time of the transfer; provided further, that any payment collected by the commission, on
158 behalf of the Commonwealth, shall be deposited in the General Fund..

159 (n) No licensed operator, licensed person, licensed party, a licensee's
160 affiliate, a licensee's substantial party of interest, licensee's party of interest, as defined
161 under section 2 of Chapter 10A of the General Laws, shall transfer any license in whole
162 or in part issued by the Commonwealth, municipality, county, authority, district,
163 commission or any other subdivision of the Commonwealth, without the approval of the
164 commission and the commission may require a payment by the transferer or transferee
165 or both, as determined by the commission, to the commission, on behalf of the
166 Commonwealth, and said payment shall be deposited into the General Fund; provided,
167 that the commission shall consider as a factor in determining the amount of the payment
168 the difference in value of the licensee's property between the time of when the licensee
169 received the license and the time of or anticipated time of the transfer through the
170 average of three separate assessments made by the licensee, the commission and an

171 independent assessor chosen by the commission, and the cost of said assessment shall be
172 part of the payment of the transfer; and provided further, that the commission shall
173 consider as a factor in determining the amount of the payment the market value of the
174 license of when it was acquired and at the time of the transfer; provided further, that the
175 commission shall consider as a factor in determining the amount of the payment the
176 increased value of the property, land, establishment, management agent, entity or
177 business value as a result of possessing a gaming operator's license. In no event shall a
178 bona fide commercial financial institution licensed by the division of banks, which
179 becomes a substantial party of interest, as defined under section 2 of Chapter 10A of the
180 General Laws, with a licensee be deemed to be a transfer; provided further, that the
181 commission may reject such transfer if it deems it unsuitable. The commission may
182 place any condition or restriction on the transfer of a license or substantial interest or
183 party of interest, and in all instances it shall consider whether additional compensation is
184 owed to the Commonwealth.

185 (o) No person or entity licensed as a licensed gaming operator, gaming
186 establishment or racing meeting licensee, under chapter 10A, chapter 128A or chapter 128C of
187 the General Laws, shall be permitted to change its business governing structure, including those
188 defined under Chapter 108A, Chapter 109, Chapter 155, Chapter 156, Chapter 156A, Chapter
189 156B, Chapter 156C and Chapter 156D of the General Laws and those entities established under
190 the rules and regulations of the Secretary of State without the notification and approval of the
191 commission.

192 (p) The commission shall monitor the conduct of all licensees and other
193 persons having a material involvement, directly or indirectly, with a licensee for the

194 purpose of ensuring that licenses are not issued to, or held by, and there is no direct or
195 indirect material involvement with a licensee by unqualified, disqualified, or unsuitable
196 persons.

197 (q) No commission member or person employed by the commission shall
198 solicit or accept employment from a licensee, or represent any person or party other than the
199 commonwealth before or against the commission for a period of 3 years from the termination of
200 his office or employment with the commission.

201 (r) The commission may investigate fraud, deceit, misrepresentation or
202 violations by any licensee under this chapter, or the occurrence of any such activity
203 involving any licensee. If the commission has reasonable basis to believe that any
204 licensee has been or is engaged in criminal behavior or that criminal activity is occurring
205 within or involving any licensed gaming establishment, the commission shall report
206 same to the district attorney of the county within which the gaming establishment is
207 located and make available to said district attorney and attorney general all relevant
208 information on such activity. The commission shall direct through the division of racing
209 and gaming such state or municipal police officers to guard and protect the lives and
210 safety of the public and property at any such gaming establishment, and to perform any
211 such other duties which may be required by said commission in order to maintain fair
212 and honest gaming establishment. The said police officers so assigned shall, except in
213 the case of an emergency, while on duty at any such establishment be subject to the
214 operational authority of the commission; provided, however, that such assignment or
215 reassignment shall not in any way impair any rights to which any officer may be
216 entitled. The commission assess an annual fee to be paid by the licensees' for the costs

217 associated with the state police as it relates to this chapter and chapter 10A; provided
218 further, that said fee shall be paid by each licensee in equal portions. The commission
219 shall establish a fee schedule for the purposes of defraying the costs incurred by police
220 officers of the department of public safety for work associated under this chapter and
221 chapter 10A and shall direct the division of racing and gaming to collect said fee from
222 the licensees.

223 All assignment and reassignments to the commission, except as the commissioner of
224 public safety shall determine that an emergency exists or its threatened, shall be subject to the
225 approval of the commission. Nothing herein shall prevent licensees from applying to the state
226 police if they have jurisdiction in the area where gaming establishment is located, or to the
227 police department of a city or town wherein the gaming establishment is located, in order that
228 such police agency may furnish a police detail for safety or traffic purposes at any gaming
229 establishment authorized by this chapter. The total cost for any such police detail shall be a sum
230 equal to the salaries of the police officers comprising such detail, plus a sum to cover the
231 administrative expenses incurred by the department of each such police officer, which is to be
232 paid by the licensee.

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

237 (t) The commission shall establish an appeals process to address persons
238 aggrieved by a determination by the commission to issue, deny, modify, revoke, or

239 suspend any license or approval, or to issue an adverse order under the provisions of this
240 chapter.

241 (u) The commission shall establish rules and regulations regarding the use
242 and manner of how electronic gaming devices may accept wagers deposited by the
243 player, how they dispense funds deposited or credited to the player, what the maximum
244 amount of money that a electronic gaming device can receive from a player, what is the
245 expiration date on a ticket or voucher dispensed from an electronic gaming device, what
246 the manner of how a player receives his or her reimbursement from a from a ticket or
247 voucher dispensing electronic gaming device, and how machines that can dispense cash
248 in exchange for a ticket of voucher dispensed from an electronic gaming device.

249 (v) The commission shall require the licensee to provide annual updates
250 regarding the condition of the facility and the commission shall approve plans for all
251 capital projects in excess of \$500,000, and projects that would substantially change the
252 use of the property other than as a racetrack.

253 (w) The commission may, one-year after four licenses to the racing meeting
254 licensees have been granted in the Commonwealth under Chapter 10A of the General
255 Laws, make a determination on the viability of granting 1 additional gaming operator
256 license in either Hampden, or Hampshire County; provided however, that said license
257 shall be a granted only to a parimutuel racetrack in accordance with Chapter 128A of
258 General Laws, and is authorized to conduct simulcast racing pursuant to 128C of the
259 General Laws and is authorized to be a lottery reseller, pursuant to Chapter 10 of the
260 General Laws; provided, that tin making such determination, said commission shall take
261 into consideration the economic impact, environmental issues, public safety impact,

262 effect on traffic and infrastructure and other relevant costs, benefits and factors of
263 granting and additional license. The applicant for said license shall be required to fulfill
264 the requirements under this Chapter and Chapter 10A of the General Laws and the rules
265 and regulations set forth by the commission. No current or former licensed gaming
266 operator under Chapter 10A of the General Laws or racing meeting licensee under
267 Chapter 128A of the General Laws shall have any direct or indirect, real interest,
268 personal interest or pecuniary interest the applicant's license application. Nothing in this
269 section shall preclude any city or town in the commonwealth from prohibiting the use
270 and operation of electronic gaming devices in the community, from imposing local
271 controls or conditions on electronic gaming devices, from enacting or enforcing
272 applicable zoning laws or regulations, or from imposing any fee or tax otherwise
273 authorized, provided any inspection, tax, or fee is not inconsistent with this act, or the
274 laws of the United States.

275 SECTION 5. Said chapter 10 is hereby further amended by inserting after section 26, as so
276 appearing, the following section:-

277 Section 26a. The Treasurer shall appoint, subject to the approval of the commission, a
278 director for division of racing and gaming established under chapter 10A of the General Laws,
279 hereinafter called the executive director, who shall serve at the pleasure of the commission,
280 shall devote his entire time and attention to the duties of his office, and shall receive such salary
281 as the commission may determine. The executive director shall serve for a term of five years.
282 The executive director shall not serve more than two consecutive terms. He shall supervise and
283 administer the operation of licensed parimutuel wagering and licensed gaming establishments in

284 accordance with the provisions of the chapter 128A, chapter 128C, chapter 10A of the General
285 Laws, any special laws, and rules and regulations made thereunder.

286 The executive director shall, subject to the approval of the commission, appoint such
287 deputy directors and such other professional, technical and clerical assistants and employees as
288 may be necessary; provided, however, that such deputies, assistants and employees shall not be
289 subject to chapter 31 and section 9A of chapter 30.

290 The executive director shall confer regularly as necessary or desirable and not less than
291 once every month with the commission on the operation and administration of gaming, shall
292 make available for inspection by the commission, upon request, all books, records, files, and
293 other information and documents of the commission, shall advise the commission and
294 recommend such matters as he deems necessary and advisable to improve the operation and
295 administration of gaming.

296 The executive director shall, subject to the approval of the commission and the
297 applicable laws relating to public contracts, enter into contracts for the operation of his offer, or
298 any part thereof. No contract awarded or entered into by the executive director shall be
299 assigned by the holder thereof except with the specific approval of the commission.

300 The executive director shall certify monthly to the state treasurer and the commission a
301 full and complete statement of gaming revenues, disbursements and other expenses for the
302 preceding month.

303 SECTION 6. The General Laws, as appearing in the 2004 official edition, is hereby amended
304 by inserting after chapter 10 the following new chapter:-

305 Chapter 10A. Live Racing and Gaming

306 Section 1. (a) This act shall be known and may be cited as the "Live Racing
307 Revitalization Act."

308 (b) No applicant for a license or other affirmative approval within the scope of this
309 chapter has any property or other right to a license or to the granting of the approval sought.
310 Any license issued or other approval granted pursuant to this chapter is a fully revocable
311 privilege, and no holder acquires any vested right therein or thereunder. Except as otherwise
312 provided herein, no person other than a licensee hereunder shall have any right to or interest in
313 gaming revenue in the form of a percentage or contractual interest of any sums payable
314 hereunder

315 (c) Nothing in this chapter shall preclude any city or town in the commonwealth
316 from prohibiting gaming, from imposing any local controls or conditions upon gaming, from
317 inspecting premises to enforce applicable laws, or from imposing any fee or tax otherwise
318 authorized, provided any prohibition, control, condition, inspection, tax, or fee is not
319 inconsistent with this act, or the laws of the United States.

320 (d) In the event of any conflict between the provisions of this chapter and the provisions of
321 any other general or special law, or local ordinance, the provisions of this chapter, chapter 10,
322 chapter 128A and chapter 128C shall prevail.

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

325 "Affiliate," any person that a licensee or applicant directly or indirectly controls or in
326 which an applicant or licensee possesses an interest. For the purposes of this definition,
327 "controls" means either (i) directly or indirectly holding more than 10 percent of voting
328 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,

329 general partners, trustees, or members of an entity's governing body are representative of, or are
330 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,
331 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of
332 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general
333 partners, trustees, or members of an entity's governing body are representatives of, or are
334 directly or indirectly controlled by, the licensee or applicant.

335 "Applicant," a person who has applied for a gaming license, work permit, or approval of any act
336 or transaction pursuant to this chapter.

337 "Cheat" means to alter the selection of criteria which determines the results of a game or
338 the amount or frequency of payment in a game.

339 "Commission," the Massachusetts state lottery commission established pursuant to section 24
340 and section 24b of chapter 10 of the General Laws.

341 "Controlled game" or "controlled gaming," any game of chance, or skill, or both, played for
342 currency, check, credit, or any other thing of value, and including electronic gaming devices and
343 games classified as class II or class III gaming under the Indian Gaming Regulatory Act, 25
344 U.S.C. § 2701 et seq., but excluding:

- 345 (1) the game of bingo conducted pursuant to chapter 271 of the General Laws and any
346 charitable gaming, so-called, which is regulated by the state lottery commission;
- 347 (2) parimutuel wagering on horse and dog races, whether live or simulcast, authorized under
348 chapter 128A and chapter 128C of the General Laws;
- 349 (3) any lottery game conducted by the state lottery commission, in accordance with Section
350 24 of chapter 10 of the General Laws;

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

353 "Division," means the Division of Racing and Gaming established under section 3.

354 "Electronic Gaming Device" means any game of chance mechanical, electronic or
355 otherwise featuring coin drop and payout as well as printed tabulations or credits to a paper or
356 electronic account, whereby the software or hardware of the device predetermines the presence
357 or lack of a winning combination and payout, including microprocessor-controlled electronic
358 devices that allow a player to play games of chance, which may be affected by an element of
359 skill, activated by the insertion of a coin or currency or by the use of a credit and awards game
360 credits, cash, tokens, replays or a written statement of the player's accumulated credits, which
361 written statements are redeemable for cash; and including slot machines, video lottery terminals
362 and video facsimile machines of any type.

363 "Establishment," any building, room, place or other indoor or outdoor premises where
364 any controlled gaming occurs, including all public and non-public areas of any such
365 establishment.

366 "Executive Director" the executive director of the division of racing and gaming
367 established under section 24b of chapter 10 and section 3 of this chapter.

368 "Gaming," to deal, operate, carry on, conduct, maintain, or expose for play any
369 controlled gaming.

370 "Gaming equipment," any equipment, device, object or contrivance, or machine,
371 whether mechanical, electromechanical, or electronic, which is specifically designed or
372 manufactured for use in the operation of gaming.

373 "Gaming license" or "license," any license or work permit issued by the commission
374 under this chapter that authorizes the person named therein to engage or participate in controlled
375 gaming or to operate electronic gaming devices, including work permits and licenses issued to
376 gaming establishments, to gaming suppliers, to parties in interest, to gaming schools, and to
377 officers and directors of licensed persons or entities.

378 "Gaming operation," one or more controlled games that are operated, carried on,
379 conducted, maintained, offered or exposed for play.

380 "Gaming establishment," any establishment licensed to conduct a gaming operation in
381 the commonwealth under this chapter.

382 "Gaming school," any person or entity which offers courses for persons who have
383 obtained or who may seek to obtain a gaming work permit under this chapter.

384 "Gaming services" means providing services or goods to any licensed gaming
385 establishment directly in conjunction with the operation of gaming, including security services,
386 junket services, gaming schools or training activities, promotional services, printing or
387 manufacture of betting tickets and manufacture, distribution, maintenance, testing or repair of
388 electronic gaming devices, or any person who furnishes goods or services pursuant to which the
389 person receives payments based on earnings, profits or net receipts from gaming.

390 "Holding company," any corporation, firm, partnership, trust, or other entity that,
391 directly or indirectly, owns, has the power or right to control, or holds with power to vote, all or
392 any part of the partnership interests or outstanding voting securities of a corporation or any
393 other business entity that holds or applies for a gaming license. In addition, a holding company
394 indirectly has, holds, or owns any power or right mentioned herein if it does so through any
395 interest in a subsidiary or affiliate or successive subsidiaries or affiliates, however many of these

396 subsidiaries or affiliates may intervene between the holding company and the corporate
397 licensees or applicant.

398 "Intermediary company," any corporation, firm, partnership, trust, or other entity, other
399 than a natural person, that is both of the following:

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

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

403 "Licensed operator," any operating entity that conducts a controlled gaming operation
404 within a gaming establishment pursuant to a license or licenses issued under this chapter and
405 section 24b of chapter 10.

406 "Licensed premises," the premises upon which is located a gaming establishment
407 pursuant to a license issued to a licensed operator.

408 "Licensee," any person or party holding, or purporting to hold, a valid gaming license
409 under this chapter.

410 "Net gaming revenue," the total, prior to the deduction of any operating, capital or other
411 expenses whatsoever, of all gaming revenue retained by any gaming establishment licensed
412 under this chapter derived from the conduct of any controlled game.

413 "Operating entity," any person who conducts a gaming operation;

414 "Party in interest," any corporation, firm, partnership, trust, or other entity or person with
415 any direct or indirect pecuniary interest in a licensed gaming establishment, or a person who
416 owns any interest in the premises of a licensed gaming establishment, or land upon which such
417 premises is licensed, whether he leases the property directly or through an affiliate.

418 "Person" or "party," a natural person, corporation, partnership, limited partnership,
419 trustee, holding company, joint venture, association, or any business entity.

420 "Racing meeting licensee" the running horse racing meeting licensee in Suffolk County,
421 harness horse racing meeting licensee in Norfolk County, and dog racing meeting licensees in
422 Suffolk and Bristol Counties licensed by the State Racing Commission pursuant to chapter
423 128A of the General Laws, as amended, to conduct parimutuel racing during calendar year
424 2006, or their respective assigns; provided, however, that the two dog racing meeting licensees
425 in Bristol County shall be deemed one for all purposes of this act; and, further, excluding any
426 licensees of racing meetings held or conducted in connection with a state or county fair.

427 "Substantial party in interest," any person holding a greater than one percent (1%) direct
428 or indirect pecuniary interest, whether as owner, mortgagee or otherwise, in an operating entity,
429 premises, or any other licensee or applicant; but, excluding any shareholder holding less than a
430 five percent (5%) interest in a public company that is a substantial party in interest.

431 "Work permit," any permit issued by the commission authorizing the holder to be employed as
432 an employee in a licensed gaming establishment.

433 Section 3. (a) There shall be established within the state lottery and gaming commission, the
434 division of racing and gaming, and an office for the executive director to be designated by the
435 State Treasurer.

436 (b) The executive director of the division shall be appointed by the state and lottery and
437 gaming commission pursuant to section 26a of chapter 10. The executive director shall be
438 responsible for the oversight and operation of the division. The executive director shall employ
439 such professional, technical, and clerical assistants and employees as necessary, subject to
440 appropriation; provided, however, such assistants and employees shall not be subject to chapter

441 31 or Section 9(A) of chapter 20 of the General Laws. The executive director shall execute and
442 enforce the rules, regulations and directives of the commission and provide the necessary
443 administrative support.

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

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

449 (2) To require that the books and financial or other records or statements of any licensee be
450 kept in a manner that the commission or the bureau deems proper;

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

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

456 (5) To have access to, to inspect, to examine, to photocopy, and to audit all relevant and
457 material papers, books, and records of an applicant for, or person holding, a license for a
458 gaming establishment under this chapter, on such applicant's or licensee's premises or
459 elsewhere, as practicable, in the presence of the applicant or licensee or his or her agent, and
460 require verification of income, and all other matters affecting the enforcement of this chapter;

461 (6) To have access to and to inspect, to examine, to photocopy, and to audit all relevant and
462 material papers, books, and records of any affiliate of a licensed gaming establishment that the
463 executive director knows or reasonably suspects is involved in the financing, operation, or

464 management of any entity licensed pursuant to this chapter, either on the affiliate's premises or
465 elsewhere, as practicable, in the presence of the affiliate or any agent thereof; and,

466 (7) To refer any suspected criminal violation of this chapter to the appropriate office of the
467 district attorney and the Attorney General; provided, however, that nothing in this section shall
468 be deemed to limit the investigatory and prosecutorial powers of other state and local officials
469 and agencies;

470 (d) The executive director shall investigate the qualifications of each applicant under this
471 chapter and make a recommendation to the commission before any license is issued. The
472 executive director shall also continue to monitor the conduct of all licensees and other persons
473 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring
474 that licenses are not issued to, or held by, and there is no direct or indirect material involvement
475 with a licensee by unqualified, disqualified, or unsuitable persons, or persons whose operations
476 are conducted in unsuitable manner or in unsuitable or prohibited places, as provided in
477 commission regulations.

478 (e) The executive director may recommend to the commission the denial of any application,
479 the limitation, conditioning, restriction, transfer, suspension, or revocation of any license or
480 approval, or the imposition of any fine or penalty upon any licensee.

481 (f) The executive director shall maintain a file of applications for licenses under this
482 chapter, together with a record of all action taken by the commission on those applications.
483 Such applications shall be open to public inspection; provided however, that the executive
484 director shall prohibit access to information that is a trade secret, or puts the applicant for a
485 license at an unfair disadvantage with other applicants; provided further, that the executive
486 director shall consult with the division on public records on the appropriate distributing or

487 withholding of said information. The executive director may maintain any other files and
488 records as it deems appropriate.

489 (g) Each employee of the executive director and the executive director shall file with the
490 executive director and the state ethics commission a statement of financial interest as defined in
491 Chapter 268B of the General Laws. Such statement shall be under oath and shall be filed at the
492 time of employment and annually thereafter, as required by the state ethics commission.

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

496 (i) No person employed by the commission or the executive director or acting as an agent
497 or assignee for the commission or the executive director shall solicit or accept employment from
498 a licensee, or represent any person or party other than the commonwealth before or against the
499 commission for a period of 3 years from the termination of his office or employment with the
500 commission.

501 (j) The executive director may investigate, fraud, deceit, misrepresentation or violations of
502 this chapter by any person licensed hereunder or the occurrence of any such activity within or
503 involving any licensed gaming establishment. If the executive director has reasonable basis to
504 believe that any licensee has been or is engaged in criminal behavior or that criminal activity is
505 occurring within or involving any licensed gaming establishment, the executive director shall
506 report same to the district attorney of the county within which the licensed gaming
507 establishment is located and the attorney general. The executive director shall make available to
508 said district attorney, the attorney general, and to the commission all relevant information on
509 such activity.

510 (k) An action brought against a person pursuant to this chapter shall not preclude any other
511 criminal or civil proceeding as may be authorized by law. The executive director must report all
512 criminal action in violation of this chapter or any General Laws to the commission, the
513 appropriate office of the district attorney and to the attorney general, who may take legal action
514 to restrain violations of this chapter or enforce any provision thereof.

515 (l) The executive director shall make a continuous study and investigation of gaming
516 throughout the commonwealth in order to ascertain the adequacy and effectiveness of state
517 gaming law or regulations and may formulate recommendations for changes in such laws and
518 regulations. The executive director shall make a continuous study and investigation of the
519 operation and administration of similar laws in other states or countries, of any literature or
520 reports on the subject, of any federal laws which may affect the operation of gaming in the
521 commonwealth, all with a view to recommending or effecting changes that will tend to better
522 serve and implement the purposes of this chapter.

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

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

527 (o) The executive director must include all studies, reports, recommendation and other
528 collected information required under this chapter, any General Law, special law, or as required
529 by the commission to be included in the commission's annual report required under section 24b
530 of chapter 10.

531 Section 4. (a) Notwithstanding the provisions of chapter 137, chapter 271 or any other
532 general or special law to the contrary, each racing meeting licensee is eligible to be licensed,

533 subject to all terms and conditions imposed by the commission and subject to each racing
534 meeting licensee's eligibility to hold such license, as determined by the Commission, which shall
535 include the suitability of each racing meeting licensee to hold, maintain and control such a
536 license, to operate a gaming establishment; and apply to the commission for the right to be
537 awarded one of four licenses to operate up to 2,000 electronic gaming devices at said licensee's
538 premises only; provided further, that only one racing meeting licensee shall be allowed to hold
539 in whole or in part one license under this section. The commission shall determine how many
540 electronic gaming devices shall be allowed at each licensee's location, and the suitability of
541 each licensee to solicit, own, rent, lease, maintain, and operate electronic gaming devices.
542 The commission shall identify the person, persons, entity or entities in possession or ownership
543 or both of a racing meeting license issued under chapter 128A and chapter 128C. If there has
544 been a change, intent to change or option to purchase the ownership of the premises or racing
545 meeting license or both since November 1, 2006, then the applicant shall fully disclose the
546 information by filing it with the commission within 30 days of the passage of this act, unless
547 demanded sooner than 30 days by the commission.

548 In addition to paying the fee under subsection (c) of this section and any other provisions of this
549 chapter, the applicant must provide and the commission must consider the following in making
550 a determination of whether to issue a license under this section:

- 551 (1) The applicant must be a parimutuel licensee licensed under chapter 128A and also
552 licensed to conduct simulcast racing under chapter 128C,
- 553 (2) The applicant must be a licensed lottery reseller and must sell lottery products at its
554 establishment;

555 (3) The applicant must demonstrate that it has sufficient capital capacity to install the
556 electronic gaming devices in a suitable facility within a reasonable period of time after being
557 licensed and that the applicant's proposal for electronic gaming devices will provide maximum
558 amount of return to the Commonwealth at its facility,

559 (4) The applicant must supply a detailed breakdown of new job creation expected as a result
560 of receiving a license, which shall not included jobs created at kennels or the backstretch, so-
561 called,

562 (5) The applicant must demonstrate that it has an agreement with the host community for
563 mitigation caused by expanded gaming in addition to those set forth under this chapter,

564 (6) The applicant must have a certified and binding vote of the legislative authority and the
565 approval of the executive authority of the city or town where the applicant is located to have slot
566 machines at the racetrack and the certified voted cannot be prior to January 1, 2005,

567 (7) The applicant must demonstrate to the commission a plan by which the applicant shall
568 purchase, lease or finance electronic gaming devices from a electronic gaming device distributor
569 or manufacturer licensed by the commission, and utilize said devices in the most efficient
570 manner possible to provide the greatest revenue to the Commonwealth; and

571 (8) The applicant must meet the licensee bonding requirement as set by the commission.

572

573 (b) The commission shall collect, on behalf of the Commonwealth, from each licensee a
574 sum equal to 52.5 percent of net gaming revenues from electronic gaming devices; provided,
575 further, that this percentage shall not be increased, nor decreased for 10 years after the initial
576 issuance of the license to the applicant; provided, further, that from said sums the commission
577 shall first pay to the Treasurer, on behalf of the local aid fund, a sum equal to the diminishment,

578 if any, in said fund attributable to this Chapter, as certified by the Treasurer, and secretary of
579 administration and finance, and the chairs of the house and senate ways and means committees.
580 Of the funds collected by the commission under this paragraph, on behalf of the Commonwealth
581 one-third shall be deposited in the General Fund, one-third shall be deposited in the
582 Commonwealth Stabilization Fund, and one-third shall be utilized for local aid.
583 The commission shall collect from each licensee a sum equal to 7 percent of net gaming
584 revenues from electronic gaming devices; which the commission shall then deposit in the purse
585 account pool established under subsection (l) of this section.
586 The commission shall collect from each licensee a sum equal to 5 percent of net gaming
587 revenues from electronic gaming devices, which the commission shall deposit in the live racing
588 promotional fund established under subsection (k) of this section.
589 The commission shall collect from each licensee a sum equal to 2 percent of net gaming
590 revenues from electronic gaming devices, which the commission shall then deposit in the
591 community mitigation fund established under subsection (i) of this section.
592 The commission shall collect a sum equal to 0.5 percent of net gaming revenues from electronic
593 gaming devices, which the commission shall pay toward compulsive gambling organizations, as
594 determined by the department of public health; provided further, that said compulsive gambling
595 organization, or organizations shall utilize said monies for the prevention, intervention and
596 treatment of compulsive gambling in the Commonwealth; provided further that, not less than 20
597 percent of the funds received under this paragraph shall be utilized for the purpose of
598 identification, prevention, intervention, and treatment of compulsive gambling in minority and
599 immigrant communities; provided further, that the commission shall not pay more than
600 \$6,000,000 annually to compulsive gambling organizations or organizations, as determined by

601 the department of public health, and the remainder of said amount shall be collected by the
602 commission, on behalf of the Commonwealth, and 50 percent of said overage amount shall be
603 deposited in the General Fund and the other 50 percent of the overage shall be deposited in the
604 Commonwealth Stabilization Fund.

605 The remaining sums shall be retained by each licensee as said commission shall determine;
606 provided, further, that each such licensee shall in addition pay all taxes otherwise due and
607 payable; and provided, that said sums retained by each licensee shall be subject to fees set by
608 the commission, or by this chapter and taxation by any other General Law; and provided further,
609 that the commission shall collect from the running horse meeting licensee located in Suffolk
610 County a sum of not less than \$300,000 by March 31 of each year and the commission shall pay
611 said amount to The Eighth Pole, Inc. by April 1 of said year.

612 (c) In addition to all other fees payable hereunder, the commission shall require each racing
613 licensee that meets the requirement of the commission and the chapter and is authorized by the
614 commission under subsection (a) of this section to operate a gaming establishment, to pay an
615 initial one time fee of \$50,000,000;

616 (d) No person or party shall operate a gaming establishment without having obtained all
617 necessary operating licenses from the commission. There shall be a single licensed operator for
618 each gaming establishment and each racing meeting licensee. No licensee shall operate, invest or
619 own, in whole or in part, another licensee's license or establishment. If a licensee does have
620 more than one license, or operates, invests or owns, in whole or in part, another license, said
621 licensee shall within 30 days divest the license or interest subject to the approval of the
622 commission, and shall pay a fine of up to \$5,000 per day; provided further that persons or
623 entities that violate this section shall be required to surrender to the commission any licenses

624 issued to the licensee under this chapter, chapter 24, chapter 128A and chapter 128C; provided
625 further, that the persons or entities shall be prohibited in the future from being able to apply and
626 receive licenses under said chapters. Failure for a licensee to comply with this section shall
627 result in a fine of \$5,000 per day.

628 The licensing standards must be met at all times by each officer, director, partner, and
629 trustee of the operating entity, by each substantial party in interest of the operating entity or of
630 the premises on which such establishment is located, and by such other party in interest of the
631 operating entity, the premises, or any holding company or intermediary company of the
632 operating entity or the premises as the commission may require. In no event shall the
633 commission permit a person previously convicted of a felony under state or federal law, or any
634 comparable conviction of a felony of a law in another country or who has not satisfied the
635 standards for financial capability, to be a substantial party in interest of the gaming operator, the
636 gaming establishment, or of the premises, or to hold any direct or indirect interests in such
637 gaming operator, gaming establishment or premises.

638 (e) A person may apply to be a licensed operator by filing an application with the
639 commission. Each application shall disclose the identity of each party in interest, each holding
640 company and intermediary company, and each affiliate of the operating entity. The application
641 shall disclose, in the case of the privately held corporation, the names and addresses of all
642 directors, officers, and stockholders; in the case of a publicly traded corporation, the names and
643 addresses of all directors, officers, and persons holding at least five percent of the total capital
644 stock issued and outstanding; in the case of a limited liability company, the names and
645 addresses of all members of the management committee and all persons holding at least 5
646 percent of the membership interests; in the case of a partnership, the names and addresses of all

647 partners, both general and limited; and in the case of a trust, the names and addresses of all
648 trustees and beneficiaries.

649 (f) Each operating entity shall identify, in its application, the facilities and structures that
650 will be constructed on the premises containing the establishment where it proposes to conduct
651 its gaming operations. The application shall contain such information regarding the physical
652 location and condition of the premises and the potential impact of the proposed gaming
653 operations upon adjacent properties and the municipality and region within which the premises
654 are located, as the commission may require. The application shall disclose the identity of all
655 parties in interest regarding the premises and to be on the premises; and except as otherwise
656 permitted herein, no person other than a gaming establishment licensee hereunder shall have
657 any right to or interest in any gaming revenue derived from electronic gaming devices in the
658 form of a percentage of such sums or require more than fair market value for rent, leases or
659 services. The application shall identify proposed infrastructure improvements, economic
660 development and job creation opportunities to the municipality and the region wither the
661 premises are located, as the commission may require.

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

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

670 (i) The community mitigation fund shall be used to provide mitigation resources for those
671 communities with a licensed parimutuel racetrack or a licensed gaming establishment and
672 communities that are contiguous with such licensed parimutuel racetracks, or licensed gaming
673 establishments. Of the amount collected each year by the commission for the purposes of
674 mitigation, pursuant to subsections (b) and subsection (j) of this section, the city of Taunton
675 shall receive not less than 5 percent, the town of Raynham shall receive not less than 5 percent,
676 the town of Plainville shall receive not less than 5 percent from said fund, the city of Revere
677 shall receive not less than 25 percent, the city of Boston shall receive not less than 25 percent
678 from said fund, and the remainder shall be deposited into said fund and be distributed by the
679 commission to address direct increases in the cost of municipal and state public services caused
680 by each licensed operator, including, but not limited to, improving access roads adjacent or
681 contiguous to the facilities, improving traffic flow, and congestion in the host communities and
682 contiguous communities, and law enforcement costs experienced by such communities;
683 provided that, contiguous communities shall mean those whose borders abut by land, or bridge,
684 a community where a licensed parimutuel racetrack, or licensed gaming establishment is
685 located; provided further, that said commission, in distributing such funds, shall give priority to
686 communities with more than 1 licensed pari-mutuel racetrack, or licensed gaming establishment
687 and communities contiguous to said communities. Any and all unspent funds shall remain in the
688 account to be appropriated by the commission for future mitigation claims.

689 (j) The commission is authorized and directed to establish through the division the live
690 racing promotion fund for each parimutuel racing meeting licensee which are also licensed
691 gaming operators under this chapter. The purpose of said each fund is to promote, sustain and
692 improve live racing in the Commonwealth. The money deposited into said account shall be

693 collected annually by the commission under subsection (a) of this section. The commission
694 shall establish rules and regulations under what conditions, the method and time, the application
695 and review process, and the criteria by which said funds may be distributed to the licensee in the
696 form of reimbursements for costs born by the licensee which is directly associated to the
697 improvement of the live racing industry at the licensee's facility. As part of the consideration
698 for reimbursement, the commission shall consider, but is not limited to, the following: capital
699 improvements to the racetrack, capital improvements to the backstretch area which shall include
700 suitable housing, toilet facilities and the barns, capital improvements to the spectator area for
701 the racetrack, capital improvements to the kennels, promoting and advertising the live racing
702 product and only the live racing product, promoting and encouraging horse breeding in the
703 Commonwealth, promoting and encouraging better treatment and welfare of horses and dogs,
704 providing for health and human services to backstretch workers, so-called, and jockeys,
705 providing additional purses beyond those required under Chapter 128A, Chapter 128C, and this
706 Chapter of the General Laws or any other special law, and holding races specifically for
707 Massachusetts breed horses. The commission shall on an annual basis review the progress of
708 the live racing product of each licensee' facility and may withhold distribution of funds if the
709 live racing product does not demonstrate an improvement; provided that, the commission shall
710 considered, but is not limited, as the improvement in the progress of live racing: the number of
711 live racing days actually conducted, the wagers made of live races, and the wagers made on
712 simulcast of the live races out of the Commonwealth. The commission may provide for
713 reimbursement to the licensee in circumstances where there is no demonstrable improvement in
714 the live racing if the commission determines that the degradation of the live racing product was
715 the result of the weather conditions, race track conditions, strikes, work stoppages, sickness or

716 quarantine not within the control of the licensee. Should any licensee be unable, for any
717 reason, to conduct parimutuel live racing under Chapter 128A of the General Laws and is also
718 unable to conduct simulcast under Chapter 128C of the General Laws then the commission, on
719 behalf of the Commonwealth, shall deposit the remainder of the funds in the licensee's account
720 in the General Fund; in addition, all moneys required to be distribution to this fund from
721 subsection (a) of this section shall instead be collected by the commission on behalf of the
722 Commonwealth. Should a licensee become licensed or regain a license to conduct parimutuel
723 live racing under chapter 128A and meet the requirements under chapter 10 and chapter 10A, of
724 the General Laws and the commission's rule and regulations and is licensed to simulcast racing
725 under chapter 128C, then the commission shall reestablish said account in accordance to this
726 section, but the licensee is not entitled or shall receive any monies collected on behalf of the
727 Commonwealth during the period of time the licensee was prohibited from conducting live
728 racing. No monies from this fund can be used to, promote, advertise, purchase, transport,
729 replace, maintain or dispose of any electronic gaming devices or equipment, simulcast devices
730 or equipment as defined under this chapter and chapter 128C.

731 (k) The commission is authorized and directed through the division to establish the live
732 racing purse pool account to be used to supplement the purses of parimutuel racing meeting
733 licensees which are also licensed gaming operators under this chapter. The commission shall
734 establish rules and regulations for the collection, application and distribution of said funds in the
735 live racing purse pool account. Of the funds collected by the commission each year under
736 subsection (a) of this section for said account, not less than 35% shall be deposited in the purse
737 account for the running horse racing meeting licensee in Suffolk County, not less than 15%
738 shall be deposited in the purse account for the harness horse racing meeting licensee in Norfolk

739 County, not less than 5% shall be deposited in the purse account for the greyhound racing
740 meeting licensee in Suffolk County, and not less than 5% shall be deposited in the greyhound
741 racing meeting licensee in Bristol County and the remainder shall be deposited into the purse
742 account pool and the commission shall determine what the additional amount, if any, is needed
743 to ensure that the racing meeting licensee's live racing product is competitive with racetracks
744 with a similar type and to ensure that there are sufficient purse funds to have Massachusetts
745 breed horses racing at racetracks within Commonwealth. As part of the determination for
746 additional purse funds to be deposited into each racing meeting licensees' purse account from
747 said account, the commission shall consider the average purse per race of the twenty 20 running
748 horse racetracks in the United States from the previous year multiplied by the number of races
749 completed from the previous year in compliance with chapter 128A of the General Laws, the
750 commission may consider the average purse per race of the 10 harness horse racetracks in the
751 United States from the previous year multiplied by the number of races completed from the
752 previous year in compliance with chapter 128A of the General Laws, the commission may
753 consider the average purse per race of the 10 greyhound racetracks in the United States from
754 the previous year multiplied by the number of races completed from the previous year in
755 compliance with chapter 128A of the General Laws, the commission shall conduct a
756 comparison of racetracks of the same species and types of racing to those Commonwealth's
757 racing meeting licensee.

758 The commission shall pay 2 percent of the running horse racing meeting licensee purses
759 provided under the live racing purse pool account to the Massachusetts Thoroughbred Breeders'
760 Association, Inc. The running horse racing meeting licensee in Suffolk County and the harness
761 horse racing meeting licensee in Norfolk County shall be required to dedicated not less than 6

762 percent of the purses distributed under this section towards racing and purses specifically for
763 Massachusetts breed horses. Unspent money from the live racing purse account pool shall be
764 retained in said account and may be only be spent by the commission in compliance with this
765 section.

766 Should any licensee unable to conduct parimutuel live racing under Chapter 128A of the
767 General Laws for any reason, then the commission shall discontinue depositing purse monies
768 from the live racing purse pool account into said licensee's purse account after the day live
769 racing ends; provided, that the division is authorized and directed to recover any unspent purse
770 funds from said licensee and deposit it into live purse pool account as unspent funds; and
771 provided further, that any remaining distributions to said licensee not yet made shall be
772 transferred to the unspent portion of the account. Should a licensee become licensed or regain a
773 license to conduct parimutuel live racing and meet the requirements under Chapter 10 and 10A
774 of the General Laws and the commission's rule and regulations, then the commission is
775 authorized to continue distributions form this section into the licensee's purse account in
776 accordance to this section, but the licensee is not entitled or shall receive any purse monies
777 during the period of time the licensee was prohibited from conducting live racing.

778 The commission on an annual basis shall collect and maintain information of purse distribution
779 of all running horse racetracks, harness horse racetracks and greyhound racetracks within
780 United States, and said information must include, but is not limited to, the annual purse
781 distribution, daily purse distribution, purse distribution per race, the number of races run,
782 number of racing performances, number of calendar days of racing, and the average number of
783 races per racing performance and per calendar day.

784 (l) Each licensee must have a contract with each racetrack's respective running horse,
785 harness horse or greyhound association or equivalent live racing animal representation by
786 December 31 of each year. Failure of a licensee to not have a contract with its appropriate
787 association to provide for live racing shall result in the commission suspending all gaming and
788 non-gaming activities at the licensee's establishment until a contract is reached. If an agreement
789 between the parties is not reach within a time period as determined by the commission then the
790 commission shall revoke all of the licensee's license pursuant to this chapter.

791 Section 5. The commission may make an assessment against the licensees for the purpose
792 of reimbursing the Commonwealth the cost of the division's operation, administration and
793 regulation. Said assessment shall be certified annually by the commission as sufficient to
794 reimburse the commonwealth for funds appropriated for the operation of the division, including
795 amounts sufficient to cover the cost of fringe benefits as established by the secretary of
796 administration and finance pursuant to section 6B of chapter 29 of the General Laws. Said
797 assessment shall be made proportionately against each licensee on the basis of the amount of net
798 gaming revenue retained by each licensed operator from the previous fiscal year. If the
799 commission fails to expend in any fiscal year the total amount assessed under this paragraph,
800 any amount unexpended shall be credited against the assessment to be made in the following
801 year and the assessment in such following year shall be reduced by such unexpended amount. If
802 the commission finds that it is unable to meet its operating budget during a fiscal year and if it
803 determines that it requires additional funding is needed, then the commission must make a
804 request to the Governor, the State Treasurer, the House and Senate Committees on Ways and
805 Means, and the Joint Committee on Consumer Protection and Professional Licensure, and said
806 request must include a explanation for the request of addition funding.

807 The commission may establish rules and regulations to assess and collect fees pertaining to
808 individual regulatory, licensing or investigative matters that can be assessed against a licensee;
809 provided, that any fees assessed and collected regarding an application or investigation of a
810 license shall be placed in the gaming investigation account under section 8 of this chapter.

811 Section 6. (a) The commission shall cause to be made and kept a record of all proceedings at
812 all meetings of the commission. These records shall be maintained by the division and the
813 division shall make said records available to the public for inspection as allowed by law.

814 (b) Notwithstanding any other general or special law to the contrary all files, records,
815 reports, and other information in the possession of any state or local governmental agency
816 including tax filings and related information that are relevant to an investigation by the
817 executive director conducted pursuant to this chapter shall be made available by such agency to
818 the commission as requested. Any tax or financial information received from a governmental
819 agency shall be used solely for effectuating the purposes of this chapter. To the extent that
820 these files, records, reports, or information are confidential or otherwise privileged from
821 disclosure under any law, they shall not lose that confidential or privileged status for having
822 been disclosed to the commission; provided further, that the commission shall consult with the
823 division of public records regarding the handling of said information.

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

827 Section 7. (a) No official, member, employee, or agent of the commission and the division,
828 having obtained access to confidential records or information in the performance of duties
829 pursuant to this chapter, unless otherwise provided by law, shall knowingly disclose or furnish

830 the records or information, or any part thereof, to any person who is not authorized by law to
831 receive it. Violation of this provision shall be punishable by a fine of not more than \$10,000 or
832 by imprisonment in the house of corrections for not more than 1 year, or by both such fine and
833 imprisonment.

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

836 (c) Any person included on the list of persons to be excluded or ejected from a licensed
837 gaming establishment pursuant to regulations promulgated pursuant to this chapter who
838 knowingly enters or remains on the premises of a licensed gaming establishment shall be
839 punished by imprisonment in the house of corrections for not more than 1 year, or by a fine of
840 not more than \$10,000, or both.

841 (d) Any person under the age of 21 years who plays, places wagers at, or collects winnings
842 from, whether personally or through an agent, any controlled game, or who is employed as an
843 employee in a licensed gaming establishment shall be punished by imprisonment in the house of
844 correction for not more than 1 year, or by a fine of not more than \$1,000, or by both such
845 imprisonment and fine. Any licensee, or other person, who knowingly allows a person under
846 the age of 21 to play, place wagers at or collect winnings, whether personally or through an
847 agent, shall be punished by imprisonment in the house of correction for a term of not more than
848 1 year or pay a fine of not more than \$10,000, or by both. A subsequent violation of this section
849 shall subject the licensee to imprisonment in the house of correction for not more than 2 years or
850 pay a fine of not more than \$25,000, or by both.

851 (e) Any person who willfully fails to report, pay, or truthfully account for and pay over any
852 fee, penalty, fine, or interest thereon, imposed by this chapter or any regulation thereunder, or

853 willfully attempts in any manner to evade or defeat any fee, penalty, fine, or interest thereon, or
854 payment thereof shall be punished by imprisonment in state prison for not more than 5 years or
855 by imprisonment in the house of correction for not more than 2 1/2 years, or by a fine of not
856 more than \$10,000 plus the unpaid fee, penalty, fine, or interest plus interest, or by both.

857 (f) Any person who willfully resists, prevents, impedes, interferes with, or makes any false,
858 fictitious or fraudulent statement, or representation to the commission or to the division of
859 racing and gaming or to their agents or employees in the performance of duties pursuant to this
860 chapter, shall be punished by imprisonment in the house of corrections for not more than 2
861 years, or by a fine of not more than \$5,000, or by both.

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

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

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

870 (3) To manufacture or distribute within the territorial boundaries of the commonwealth any
871 gaming equipment to be used in connection with controlled gaming; shall be punished by
872 imprisonment in the house of corrections for not more than 2 1/2 years, or by a fine of not more
873 than \$10,000, or by both imprisonment and fine.

874 (h) Any person who knowingly permits any controlled game to be conducted, operated,
875 dealt, or carried on in any house or building or other premises that he or she owns or leases, in

876 whole or in part, if that activity is undertaken by a person who is not licensed as required by this
877 chapter shall be punished by imprisonment in state prison in the house of corrections for not
878 more than 2 1/2 years, or by a fine of not more than \$10,000, or by both.

879 (i) Any former commissioner or commission or division employee who, within 3 years after
880 his employment has ceased, solicits or accepts employment with or provides consultant services
881 to any licensee or at any licensed gaming establishment shall be punished by a fine of not more
882 than \$5,000 or by imprisonment for not more than 2 1/2 years in the house of correction or by
883 both. Any licensee who knowingly employs a former commissioner or commission or division
884 employee in violation of this subsection shall be subject to immediate revocation of his or her
885 license.

886 (j) A personal shall be punishable by imprisonment in the house of corrections for not more
887 than 2 years or by a fine of not more than \$5,000 per violation, or by both, if the person:

888 (1) alters or misrepresents the outcome of a game or other event on which wagers have been
889 made after the outcome is determined but before it is revealed to the players;

890 (2) knowingly entices or induces another to go to any place where gaming is being
891 conducted or operated in violation of the provisions of this chapter, with the intent that the other
892 person play or participate in that gaming;

893 (3) manipulates, with the intent to cheat, any component of a gaming device in a manner
894 contrary to the designed and normal operational purpose for the component including, but not
895 limited to, varying the pull of the handle of a slot machine, with knowledge that the
896 manipulation affects or reasonably may tend to affect the outcome of the game or with
897 knowledge of any event that affects the outcome of the game;

898 (4) has on his person or in his possession on or off the premises of any licensed gaming
899 establishment any key or device known to have been designed for the purpose of and suitable
900 for opening, entering or affecting the operation of any gaming or equipment, or for removing
901 money or other contents therefrom, except where such person is a duly authorized employee of
902 a licensee acting in furtherance of his employment within a licensed gaming establishment.

903 (k) A violation of this chapter, the penalty for which is not specifically fixed in this section,
904 shall be punishable by imprisonment in the house of corrections for not more than 2 years, or by
905 fine of not more \$5,000, or by both.

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

912 Section 8. Every licensed gaming establishment shall, upon receipt of criminal or civil process
913 compelling testimony or production of documents in connection with any civil or criminal
914 investigation, immediately disclose such information to the commission.

915 (b) All licensees shall have a duty to inform the commission of any action which they
916 reasonably believe would constitute a violation of this chapter, and shall assist the commission
917 and any federal or state law enforcement agency in the investigation and prosecution of such
918 violation. The commission shall hold a hearing under chapter 30A on any licensees' failure to
919 comply with this paragraph, and may take appropriate actions including suspension or

920 revocation of the license. No person who so informs the commission shall be discriminated
921 against by an applicant or licensee because of the supplying of such information.

922 Section 9. Whenever a licensed gaming establishment refuses payment of alleged winnings to a
923 patron, the gaming establishment and the patron are unable to resolve the dispute to the
924 satisfaction of the patron and the dispute involves:

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

926 or

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

929 The executive director shall conduct whatever investigation it deems necessary and shall
930 determine, in its sole discretion and without need for a hearing, whether payment should be
931 made. In the event the executive director determines that payment should be made, all costs of
932 the investigation shall be borne by the gaming establishment. Failure of the establishment to
933 notify the executive director or inform the patron as provided herein shall subject the
934 establishment to disciplinary action.

935 Any party aggrieved by the determination of the executive director may file a petition for
936 reconsideration with the commission setting forth the basis of the request for reconsideration.

937 Any hearing for reconsideration shall be conducted pursuant to regulations adopted by the
938 commission.

939 Section 10. Every licensed gaming establishment shall keep conspicuously posted on his
940 premises a notice containing the name and numbers of the council on compulsive gambling and
941 a statement of its availability to offer assistance. The commission may require the licensee to
942 provide this information in one or more languages.

943 Section 11. Any person or entity who knowingly transmits or receives wagers of any type by
944 any telecommunication device, including telephone, cellular phone, Internet, or local area
945 network, which shall mean to include wireless local networks, or any other similar device or
946 equipment, or knowingly installs or maintain said device or equipment for the transmission or
947 receipt of wagering information shall be punished by imprisonment in the house of correction
948 for not more than 2 years or pay a fine of not more than \$25,000 per violation or by both;
949 provided, however, that this section shall not apply to the use of a local area network as a means
950 to place wagers on a licensed gaming establishment, or use of said devices or equipment by the
951 commission in its duties in regulating, enforcing and auditing a licensed gaming operator, or use
952 of said devices or equipment for the purpose of a licensed gaming operator advertising itself.

953 Section 12. The commission's financial activities shall be subject to audit by the State Auditor
954 who shall have access to all books and records of the commission. Further, the commission
955 shall annually, on or before January first, provide the State Auditor with all annual independent
956 audits required of all licensees.

957 The State Auditor may at anytime, at his or her discretion, audit the financial activities and any
958 other activities of any gaming licensee licensed under this chapter; provided further, that the
959 State Auditor shall have access to a gaming licensee's establishment equivalent to those
960 provided to the commission under this chapter. The gaming licensee shall reimburse the
961 Commonwealth for any audit conducted by the State Auditor.

962 SECTION 7. Section 1 of chapter 128A of the General Laws, as appearing in the 2004 Official
963 Edition, is hereby amended by striking out the definition of "Commission" and inserting in
964 place thereof the following definition:-

965 “Commission,” the state lottery and gaming commission, established under section 23 of
966 chapter 10 of the General Laws.

967 SECTION 8. Section 1 of chapter 128C of the General Laws, as so appearing, is hereby
968 amended by striking out the definition “Commission,” and inserting in place thereof the
969 following definition:-

970 “Commission,” the state lottery and gaming commission, established under section 23 of
971 chapter 10 of the General Laws.

972 SECTION 9. Section 283 of chapter 94 of the General Laws, as appearing in the 2004 Official
973 Edition, is hereby amended by inserting after the word “standards”, in line 8, the following
974 words:-or is a licensed and regulated under chapter 10A.

975 SECTION 10. Section 17B of chapter 271 of the General Laws, as appearing in the 2004
976 edition, is amended by inserting after section 17B the following section:-

977 Section 17C. Whoever uses an local area network or the Internet or both, or being the occupant
978 in control of premises where a local area network or Internet service or both is located, or a
979 subscriber for an local area network service or Internet service, knowingly permits another to
980 use the local area network service or Internet service so located or for which he subscribes, as
981 the case may be, for the purpose of accepting wagers or bets, or buying or selling of pools, or
982 for placing all or any portion of a wager with another, upon the result of a trial or contest of
983 skill, speed, or endurance of man, beast, bird, or machine, or upon the result of an athletic game
984 or contest, or upon contests of skill or chance between the wagers, or upon the lottery called the
985 numbers game, or for the purpose of reporting the same to a headquarters or booking office, or
986 for the purpose of collecting a fee for providing the devices for contests of skill or chance
987 between wagers, or who under a name other than his own or otherwise falsely or fictitiously

988 procures local area network service or Internet service for himself or another for such purposes,
989 shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1
990 year; provided, however, that this section shall not apply to use of local area networks or other
991 similar devices of equipment authorized under the provisions of chapter 10A.

992 SECTION 11. Said chapter 271 is hereby further amended by inserting after section 22B, as so
993 appearing, the following section:-

994 Section 22C. Nothing in this chapter shall authorize the prosecution, arrest or conviction of any
995 person for promoting or playing, or for allowing to be conducted, promoted or played, the
996 games authorized and licensed under chapter 10 and 10A; provided, said game are conducted
997 under a license issued by the Massachusetts state lottery commission, under the provisions of
998 chapter 10 and 10A.

999 SECTION 12. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby
1000 amended by striking out the words “, and until December 31, 2008”, inserted by section 1 of
1001 chapter 54 of the acts of 2006, and inserting in place thereof the following words:- , and until
1002 December 31, 2009.

1003 SECTION 13. The last paragraph of said section 12A of said chapter 494 is hereby amended by
1004 striking out the words “December 31, 2008”, inserted by section 2 of said chapter 54, and
1005 inserting in place thereof the following words:- December 31, 2009.

1006 SECTION 14. The introductory paragraph of section 13 of said chapter 494 is hereby amended
1007 by striking out the words “, and until December 31, 2008”, inserted by section 3 of said chapter
1008 54, and inserting in place thereof the following words:- , and until December 31, 2009.

1009 SECTION 15. Section 15 of said chapter 494 is hereby amended by striking out the words “,
1010 and until December 31, 2008”, inserted by section 4 of said chapter 54, and inserting in place
1011 thereof the following words:- , and until December 31, 2009.

1012 SECTION 16. The first paragraph of section 9 of chapter 277 of the acts of 1986 is hereby
1013 amended by striking out the words “, and until December 31, 2008”, inserted by section 5 of
1014 said chapter 54, and inserting in place thereof the following words:- , and until December 31,
1015 2009.

1016 SECTION 17. The first sentence of the first paragraph of section 3 of chapter 114 of the acts of
1017 1991 is hereby amended by striking out the words “, and until December 31, 2008”, inserted by
1018 section 6 of said chapter 54, and inserting in place thereof the following words:- , and until
1019 December 31, 2009.

1020 SECTION 18. The last paragraph of said section 3 of said chapter 114 is hereby amended by
1021 striking out the words “December 31, 2008”, inserted by section 7 of said chapter 54, and
1022 inserting in place thereof the following words:- December 31, 2009.

1023 SECTION 19. The first paragraph of section 4 of said chapter 114 is hereby amended by
1024 striking out the words “, and until December 31, 2008”, inserted by section 8 of said chapter 54,
1025 and inserting in place thereof the following words:- , and until December 31, 2009.

1026 SECTION 20. The last paragraph of said section 4 of said chapter 114 is hereby amended by
1027 striking out the words “December 31, 2008”, inserted by section 9 of said chapter 54, and
1028 inserting in place thereof the following words:- December 31, 2009.

1029 SECTION 21. The first paragraph of section 5 of said chapter 114 is hereby amended by
1030 striking out the words “, and until December 31, 2008”, inserted by section 10 of said chapter
1031 54, and inserting in place thereof the following words:- , and until December 31, 2009.

1032 SECTION 22. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out
1033 the words “December 31, 2008”, inserted by section 11 of said chapter 54, and inserting in place
1034 thereof the following words:- December 31, 2009.

1035 SECTION 23. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out
1036 the words “December 31, 2008”, inserted by section 12 of said chapter 54, and inserting in place
1037 thereof the following words:-December 31, 2009.

1038 SECTION 24. Notwithstanding the provisions of any general or special law or rule or regulation
1039 to the contrary, including the provisions of chapter 150E of the General Laws, all employees,
1040 equipment, finances, data, and records of the Massachusetts state racing commission shall be
1041 transferred to the Massachusetts division of gaming racing and shall be transferred with no
1042 impairment of employment rights held immediately before the transfer date, without
1043 interruption of service, without impairment of seniority, retirement or other rights of employees
1044 and without reduction in compensation or salary grade. All transferred employees shall continue
1045 their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be
1046 considered employees for the purposes of said chapter 150E. Any collective bargaining
1047 agreement in effect immediately before the transfer date shall continue in effect and the terms
1048 and conditions of employment therein shall continue as if the employees had not been so
1049 transferred, until a new successor agreement is reached with the Massachusetts state lottery
1050 commission. Within 90 days of said transfer the Massachusetts Labor Relations Commission
1051 shall conduct an election with said transferred employees selecting from the existing collective
1052 bargaining representatives, the winner of said election shall be the exclusive bargaining
1053 representative of all Massachusetts state lottery commission employees. All new employees of
1054 the Massachusetts state lottery commission shall be placed in said bargaining unit.

1055 SECTION 25. The transfer of powers from the state racing commission to the Massachusetts
1056 state lottery commission shall occur one year after the passage of this act. Members of the
1057 Massachusetts gaming control commission members shall be appointed within 30 days of this
1058 act. The Massachusetts gaming control commission and the state racing commission shall enter
1059 into a memorandum of understanding to transition of the functions, duties and responsibilities to
1060 the state racing commission to the Massachusetts state lottery and gaming commission within 1
1061 year.