

SENATE No. 2039

The Commonwealth of Massachusetts

PRESENTED BY:

Morrissey, Michael (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act revitalizing live racing in the Commonwealth.

PETITION OF:

NAME:

Morrissey, Michael (SEN)

DISTRICT/ADDRESS:

Norfolk and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00217 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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
2 48, as appearing in the 2004 Official Edition, and inserting in place thereof the following
3 section:- Section 48. The state lottery and gaming commission shall oversee and execute the
4 duties of chapter 128, chapter 128A and any other general or special law involving the state
5 racing 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
8 official edition, is amended in line 1 and line 2 by striking out the words “state lottery
9 commission” and inserting in place thereof the following words:- state lottery and gaming
10 commission.

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

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

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

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

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

31 (c) The commission may require any person to apply for a license as provided in this
32 chapter and approve or disapprove any such application or other transactions, events, and
33 processes as provided in this chapter. Any application to receive any license under this chapter

34 shall constitute a request for a determination of the applicant's general character, integrity, and
35 ability to participate or engage in, or be associated with, gaming.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

77 (11) the method and standards of operation of licensed gaming establishments including,
78 but not limited to, games, the type and manner of gaming, wagering limitations, odds, and hours
79 of operation; provided, however, the commission shall not restrict the number of hours of
80 operation of any licensed gaming establishment to fewer hours than of any competing licensed
81 gaming establishment

82 (12) the manufacturing, distribution, sale, testing, servicing, and inspection of gaming
83 equipment, including requirements for the identification and licensing of same. The commission
84 may contract with an independent testing laboratory to conduct any necessary testing under this
85 section. The independent testing laboratory must have a national reputation which is
86 demonstrably competent and qualified to scientifically test and evaluate slot machines for
87 compliance with this chapter and to otherwise perform the functions assigned to it in this chapter.
88 An independent testing laboratory shall not be owned or controlled by a licensee. The use of an
89 independent testing laboratory for any purpose related to the conduct of slot machine gaming by
90 a licensee under this chapter shall be made from a list of one or more laboratories approved by
91 the commission.

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

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

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

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

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

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

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

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

111 (21) the licensing and regulation of central computer system provider, which services
112 electronic gaming devices and on and off site auditing of said electronic gaming devices;
113 provided that, the commission shall ensure that the central computer system shall employ a

114 widely accepted gaming industry protocol to facilitate slot machine manufacturers' ability to
115 communicate with the statewide system; and provided further, that said central computer system
116 selected by the commission shall be prohibited from providing electronic gaming devices, or any
117 other form of player activated terminal for use in connection with said central computer system.

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

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

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

129 (j) Any failure of a licensee to comply with this chapter, chapter 10A, chapter 128A
130 or chapter 128C or any regulation of the commission may result in the suspension limitation, or
131 revocation of the license, as determined by the commission.. The commission shall promulgate
132 rules and regulations, which shall include but not limited, the process by which a licensee's
133 license can be revoked, the process by which a licensee can appeal, the length of time of the
134 suspension or limitation, and the scope of limitations on the license of type for the suspension,

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

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

142 (m) No person or entity licensed as a licensed gaming operator, gaming establishment
143 or racing meeting licensee, under chapter 10A, chapter 128A or chapter 128C of the General
144 Laws, shall be permitted to transfer a direct or indirect real interest, personal interest, pecuniary
145 interest, including, but limited to, substantial party in interest and affiliates defined under section
146 2 of chapter 10A of the General Laws, in the interests of the licensee's corporate governing
147 structure, including those defined under Chapter 108A, Chapter 109, Chapter 155, Chapter 156,
148 Chapter 156A, Chapter 156B, Chapter 156C and Chapter 156D of the General Laws and those
149 entities established under the rules and regulations of the Secretary of State, the licensee's
150 establishment, licensee's structure, licensee's real property, licensee's premise or licensee's
151 facility, or enter into an option contract, management contract, or other agreement or contract
152 providing for such transfer in the present or future, without the notification and approval the
153 commission, and the commission may require either the transferer or transferee or both, as
154 determined by the commission, to pay to the Commonwealth an amount representing the
155 Commonwealth's share of the increased value for said of said property or contracts. The
156 commission shall promulgate rules and regulations for the determination of the payment which

157 serves in the best interest of the Commonwealth as a result of the transfer; provided that the
158 commission may consider the actual increase or decrease in the pecuniary value of said license,
159 the real property, and the shares of interest among the time it was initially purchased, the time of
160 receiving a license and the time of the transfer; provided further, that any payment collected by
161 the commission, on behalf of the Commonwealth, shall be deposited in the General Fund..

162 (n) No licensed operator, licensed person, licensed party, a licensee's affiliate, a
163 licensee's substantial party of interest, licensee's party of interest, as defined under section 2 of
164 Chapter 10A of the General Laws, shall transfer any license in whole or in part issued by the
165 Commonwealth, municipality, county, authority, district, commission or any other subdivision of
166 the Commonwealth, without the approval of the commission and the commission may require a
167 payment by the transferer or transferee or both, as determined by the commission, to the
168 commission, on behalf of the Commonwealth, and said payment shall be deposited into the
169 General Fund; provided, that the commission shall consider as a factor in determining the
170 amount of the payment the difference in value of the licensee's property between the time of
171 when the licensee received the license and the time of or anticipated time of the transfer through
172 the average of three separate assessments made by the licensee, the commission and an
173 independent assessor chosen by the commission, and the cost of said assessment shall be part of
174 the payment of the transfer; and provided further, that the commission shall consider as a factor
175 in determining the amount of the payment the market value of the license of when it was
176 acquired and at the time of the transfer; provided further, that the commission shall consider as a
177 factor in determining the amount of the payment the increased value of the property, land,
178 establishment, management agent, entity or business value as a result of possessing a gaming
179 operator's license. In no event shall a bona fide commercial financial institution licensed by the

180 division of banks, which becomes a substantial party of interest, as defined under section 2 of
181 Chapter 10A of the General Laws, with a licensee be deemed to be a transfer; provided further,
182 that the commission may reject such transfer if it deems it unsuitable. The commission may
183 place any condition or restriction on the transfer of a license or substantial interest or party of
184 interest, and in all instances it shall consider whether additional compensation is owed to the
185 Commonwealth.

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

193 (p) The commission shall monitor the conduct of all licensees and other persons
194 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring
195 that licenses are not issued to, or held by, and there is no direct or indirect material involvement
196 with a licensee by unqualified, disqualified, or unsuitable persons.

197 (q) No commission member or person employed by the commission shall solicit or
198 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 violations by
202 any licensee under this chapter, or the occurrence of any such activity involving any licensee. If
203 the commission has reasonable basis to believe that any licensee has been or is engaged in
204 criminal behavior or that criminal activity is occurring within or involving any licensed gaming
205 establishment, the commission shall report same to the district attorney of the county within
206 which the gaming establishment is located and make available to said district attorney and
207 attorney general all relevant information on such activity. The commission shall direct through
208 the division of racing and gaming such state or municipal police officers to guard and protect the
209 lives and safety of the public and property at any such gaming establishment, and to perform any
210 such other duties which may be required by said commission in order to maintain fair and honest
211 gaming establishment. The said police officers so assigned shall, except in the case of an
212 emergency, while on duty at any such establishment be subject to the operational authority of the
213 commission; provided, however, that such assignment or reassignment shall not in any way
214 impair any rights to which any officer may be entitled. The commission assess an annual fee to
215 be paid by the licensees' for the costs associated with the state police as it relates to this chapter
216 and chapter 10A; provided further, that said fee shall be paid by each licensee in equal
217 portions. The commission shall establish a fee schedule for the purposes of defraying the costs
218 incurred by police officers of the department of public safety for work associated under this
219 chapter and chapter 10A and shall direct the division of racing and gaming to collect said fee
220 from the licensees.

221 All assignment and reassignments to the commission, except as the commissioner of
222 public safety shall determine that an emergency exists or its threatened, shall be subject to the
223 approval of the commission. Nothing herein shall prevent licensees from applying to the state

224 police if they have jurisdiction in the area where gaming establishment is located, or to the police
225 department of a city or town wherein the gaming establishment is located, in order that such
226 police agency may furnish a police detail for safety or traffic purposes at any gaming
227 establishment authorized by this chapter. The total cost for any such police detail shall be a sum
228 equal to the salaries of the police officers comprising such detail, plus a sum to cover the
229 administrative expenses incurred by the department of each such police officer, which is to be
230 paid by the licensee.

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

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

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

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

250 (w) The commission may, one-year after four licenses to the racing meeting licensees
251 have been granted in the Commonwealth under Chapter 10A of the General Laws, make a
252 determination on the viability of granting 1 additional gaming operator license in either
253 Hampden, or Hampshire County; provided however, that said license shall be a granted only to a
254 parimutuel racetrack in accordance with Chapter 128A of General Laws, and is authorized to
255 conduct simulcast racing pursuant to 128C of the General Laws and is authorized to be a lottery
256 reseller, pursuant to Chapter 10 of the General Laws; provided, that in making such
257 determination, said commission shall take into consideration the economic impact,
258 environmental issues, public safety impact, effect on traffic and infrastructure and other relevant
259 costs, benefits and factors of granting and additional license. The applicant for said license shall
260 be required to fulfill the requirements under this Chapter and Chapter 10A of the General Laws
261 and the rules and regulations set forth by the commission. No current or former licensed gaming
262 operator under Chapter 10A of the General Laws or racing meeting licensee under Chapter 128A
263 of the General Laws shall have any direct or indirect, real interest, personal interest or pecuniary
264 interest the applicant's license application. Nothing in this section shall preclude any city or
265 town in the commonwealth from prohibiting the use and operation of electronic gaming devices
266 in the community, from imposing local controls or conditions on electronic gaming devices,
267 from enacting or enforcing applicable zoning laws or regulations, or from imposing any fee or

268 tax otherwise authorized, provided any inspection, tax, or fee is not inconsistent with this act, or
269 the laws of the United States.

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

272 Section 26a. The Treasurer shall appoint, subject to the approval of the commission, a
273 director for division of racing and gaming established under chapter 10A of the General Laws,
274 hereinafter called the executive director, who shall serve at the pleasure of the commission, shall
275 devote his entire time and attention to the duties of his office, and shall receive such salary as the
276 commission may determine. The executive director shall serve for a term of five years. The
277 executive director shall not serve more than two consecutive terms. He shall supervise and
278 administer the operation of licensed parimutuel wagering and licensed gaming establishments in
279 accordance with the provisions of the chapter 128A, chapter 128C, chapter 10A of the General
280 Laws, any special laws, and rules and regulations made thereunder.

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

285 The executive director shall confer regularly as necessary or desirable and not less than
286 once every month with the commission on the operation and administration of gaming, shall
287 make available for inspection by the commission, upon request, all books, records, files, and
288 other information and documents of the commission, shall advise the commission and

289 recommend such matters as he deems necessary and advisable to improve the operation and
290 administration of gaming.

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

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

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

300 Chapter 10A. Live Racing and Gaming

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

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

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

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

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

319 "Affiliate," any person that a licensee or applicant directly or indirectly controls or in
320 which an applicant or licensee possesses an interest. For the purposes of this definition,
321 "controls" means either (i) directly or indirectly holding more than 10 percent of voting
322 membership rights or voting stock or partnership interests, or (ii) that a majority of the directors,
323 general partners, trustees, or members of an entity's governing body are representative of, or are
324 directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition,
325 "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of
326 voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general
327 partners, trustees, or members of an entity's governing body are representatives of, or are directly
328 or indirectly controlled by, the licensee or applicant.

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

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

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

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

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

341 (2) parimutuel wagering on horse and dog races, whether live or simulcast,
342 authorized under chapter 128A and chapter 128C of the General Laws;

343 (3) any lottery game conducted by the state lottery commission, in accordance with
344 Section 24 of chapter 10 of the General Laws;

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

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

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

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

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

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

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

367 "Gaming license" or "license," any license or work permit issued by the commission
368 under this chapter that authorizes the person named therein to engage or participate in controlled

369 gaming or to operate electronic gaming devices, including work permits and licenses issued to
370 gaming establishments, to gaming suppliers, to parties in interest, to gaming schools, and to
371 officers and directors of licensed persons or entities.

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

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

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

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

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

390 or affiliates may intervene between the holding company and the corporate licensees or
391 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

430 (b) The executive director of the division shall be appointed by the state and lottery
431 and gaming commission pursuant to section 26a of chapter 10. The executive director shall be
432 responsible for the oversight and operation of the division. The executive director shall employ
433 such professional, technical, and clerical assistants and employees as necessary, subject to
434 appropriation; provided, however, such assistants and employees shall not be subject to chapter
435 31 or Section 9(A) of chapter 20 of the General Laws. The executive director shall execute and
436 enforce the rules, regulations and directives of the commission and provide the necessary
437 administrative support.

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

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

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

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

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

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

455 (6) To have access to and to inspect, to examine, to photocopy, and to audit all
456 relevant and material papers, books, and records of any affiliate of a licensed gaming
457 establishment that the executive director knows or reasonably suspects is involved in the
458 financing, operation, or management of any entity licensed pursuant to this chapter, either on the
459 affiliate's premises or elsewhere, as practicable, in the presence of the affiliate or any agent
460 thereof; and,

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

465 (d) The executive director shall investigate the qualifications of each applicant under
466 this chapter and make a recommendation to the commission before any license is issued. The
467 executive director shall also continue to monitor the conduct of all licensees and other persons

468 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring
469 that licenses are not issued to, or held by, and there is no direct or indirect material involvement
470 with a licensee by unqualified, disqualified, or unsuitable persons, or persons whose operations
471 are conducted in unsuitable manner or in unsuitable or prohibited places, as provided in
472 commission regulations.

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

476 (f) The executive director shall maintain a file of applications for licenses under this
477 chapter, together with a record of all action taken by the commission on those applications. Such
478 applications shall be open to public inspection; provided however, that the executive director
479 shall prohibit access to information that is a trade secret, or puts the applicant for a license at an
480 unfair disadvantage with other applicants; provided further, that the executive director shall
481 consult with the division on public records on the appropriate distributing or withholding of said
482 information. The executive director may maintain any other files and records as it deems
483 appropriate.

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

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

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

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

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

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

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

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

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

526 Section 4. (a) Notwithstanding the provisions of chapter 137, chapter 271 or any
527 other general or special law to the contrary, each racing meeting licensee is eligible to be
528 licensed, subject to all terms and conditions imposed by the commission and subject to each
529 racing meeting licensees eligibility to hold such license, as determined by the Commission,
530 which shall include the suitability of each racing meeting licensee to hold, maintain and control

531 such a license, to operate a gaming establishment; and apply to the commission for the right to be
532 awarded one of four licenses to operate up to 2,000 electronic gaming devices at said licensee's
533 premises only; provided further, that only one racing meeting licensee shall be allowed to hold in
534 whole or in part one license under this section. The commission shall determine how many
535 electronic gaming devices shall be allowed at each licensee's location, and the suitability of each
536 licensee to solicit, own, rent, lease, maintain, and operate electronic gaming devices.

537 The commission shall identify the person, persons, entity or entities in possession or
538 ownership or both of a racing meeting license issued under chapter 128A and chapter 128C. If
539 there has been a change, intent to change or option to purchase the ownership of the premises or
540 racing meeting license or both since November 1, 2006, then the applicant shall fully disclose the
541 information by filing it with the commission within 30 days of the passage of this act, unless
542 demanded sooner than 30 days by the commission.

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

546 (1) The applicant must be a parimutuel licensee licensed under chapter 128A and
547 also licensed to conducted simulcast racing under chapter 128C,

548 (2) The applicant must be a licensed lottery reseller and must sell lottery products at
549 its establishment;

550 (3) The applicant must demonstrate that it has sufficient capital capacity to install the
551 electronic gaming devices in a suitable facility within a reasonable period of time after being

552 licensed and that the applicant's proposal for electronic gaming devices will provide maximum
553 amount of return to the Commonwealth at its facility,

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

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

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

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

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

568 (b) The commission shall collect, on behalf of the Commonwealth, from each
569 licensee a sum equal to 52.5 percent of net gaming revenues from electronic gaming devices;
570 provided, further, that this percentage shall not be increased, nor decreased for 10 years after the
571 initial issuance of the license to the applicant; provided, further, that from said sums the

572 commission shall first pay to the Treasurer, on behalf of the local aid fund, a sum equal to the
573 diminishment, if any, in said fund attributable to this Chapter, as certified by the Treasurer, and
574 secretary of administration and finance, and the chairs of the house and senate ways and means
575 committees. Of the funds collected by the commission under this paragraph, on behalf of the
576 Commonwealth one-third shall be deposited in the General Fund, one-third shall be deposited in
577 the Commonwealth Stabilization Fund, and one-third shall be utilized for local aid.

578 The commission shall collect from each licensee a sum equal to 7 percent of net gaming
579 revenues from electronic gaming devices; which the commission shall then deposit in the purse
580 account pool established under subsection (l) of this section.

581 The commission shall collect from each licensee a sum equal to 5 percent of net gaming
582 revenues from electronic gaming devices, which the commission shall deposit in the live racing
583 promotional fund established under subsection (k) of this section.

584 The commission shall collect from each licensee a sum equal to 2 percent of net gaming
585 revenues from electronic gaming devices, which the commission shall then deposit in the
586 community mitigation fund established under subsection (i) of this section.

587 The commission shall collect a sum equal to 0.5 percent of net gaming revenues from
588 electronic gaming devices, which the commission shall pay toward compulsive gambling
589 organizations, as determined by the department of public health; provided further, that said
590 compulsive gambling organization, or organizations shall utilize said monies for the prevention,
591 intervention and treatment of compulsive gambling in the Commonwealth; provided further that,
592 not less than 20 percent of the funds received under this paragraph shall be utilized for the

593 purpose of identification, prevention, intervention, and treatment of compulsive gambling in
594 minority and immigrant communities; provided further, that the commission shall not pay more
595 than \$6,000,000 annually to compulsive gambling organizations or organizations, as determined
596 by the department of public health, and the remainder of said amount shall be collected by the
597 commission, on behalf of the Commonwealth, and 50 percent of said overage amount shall be
598 deposited in the General Fund and the other 50 percent of the overage shall be deposited in the
599 Commonwealth Stabilization Fund.

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

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

611 (d) No person or party shall operate a gaming establishment without having obtained
612 all necessary operating licenses from the commission. There shall be a single licensed operator
613 for each gaming establishment and each racing meeting licensee. No licensee shall operate, invest
614 or own, in whole or in part, another licensee's license or establishment. If a licensee does have

615 more than one license, or operates, invests or owns, in whole or in part, another license, said
616 licensee shall within 30 days divest the license or interest subject to the approval of the
617 commission, and shall pay a fine of up to \$5,000 per day; provided further that persons or
618 entities that violate this section shall be required to surrender to the commission any licenses
619 issued to the licensee under this chapter, chapter 24, chapter 128A and chapter 128C; provided
620 further, that the persons or entities shall be prohibited in the future from being able to apply and
621 receive licenses under said chapters. Failure for a licensee to comply with this section shall
622 result in a fine of \$5,000 per day.

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

633 (e) A person may apply to be a licensed operator by filing an application with the
634 commission. Each application shall disclose the identity of each party in interest, each holding
635 company and intermediary company, and each affiliate of the operating entity. The application
636 shall disclose, in the case of the privately held corporation, the names and addresses of all

637 directors, officers, and stockholders; in the case of a publicly traded corporation, the names and
638 addresses of all directors, officers, and persons holding at least five percent of the total capital
639 stock issued and outstanding; in the case of a limited liability company, the names and addresses
640 of all members of the management committee and all persons holding at least 5 percent of the
641 membership interests; in the case of a partnership, the names and addresses of all partners, both
642 general and limited; and in the case of a trust, the names and addresses of all trustees and
643 beneficiaries.

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

657 (g) No licensed operator shall obtain any gaming equipment from a person who does
658 not hold a license. No licensed operator shall enter into any agreement for the receipt of goods

659 or services, of any form and in any amount, from a person who does not hold a license, when a
660 license is required for such agreement under this act or under regulations promulgated by the
661 commission.

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

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

681 communities with more than 1 licensed pari-mutuel racetrack, or licensed gaming establishment
682 and communities contiguous to said communities. Any and all unspent funds shall remain in the
683 account to be appropriated by the commission for future mitigation claims.

684 (j) The commission is authorized and directed to establish through the division the
685 live racing promotion fund for each parimutuel racing meeting licensee which are also licensed
686 gaming operators under this chapter. The purpose of said each fund is to promote, sustain and
687 improve live racing in the Commonwealth. The money deposited into said account shall be
688 collected annually by the commission under subsection (a) of this section. The commission shall
689 establish rules and regulations under what conditions, the method and time, the application and
690 review process, and the criteria by which said funds may be distributed to the licensee in the
691 form of reimbursements for costs born by the licensee which is directly associated to the
692 improvement of the live racing industry at the licensee's facility. As part of the consideration for
693 reimbursement, the commission shall consider, but is not limited to, the following: capital
694 improvements to the racetrack, capital improvements to the backstretch area which shall include
695 suitable housing, toilet facilities and the barns, capital improvements to the spectator area for the
696 racetrack, capital improvements to the kennels, promoting and advertising the live racing product
697 and only the live racing product, promoting and encouraging horse breeding in the
698 Commonwealth, promoting and encouraging better treatment and welfare of horses and dogs,
699 providing for health and human services to backstretch workers, so-called, and jockeys,
700 providing additional purses beyond those required under Chapter 128A, Chapter 128C, and this
701 Chapter of the General Laws or any other special law, and holding races specifically for
702 Massachusetts breed horses. The commission shall on an annual basis review the progress of the
703 live racing product of each licensee' facility and may withhold distribution of funds if the live

704 racing product does not demonstrate an improvement; provided that, the commission shall
705 considered, but is not limited, as the improvement in the progress of live racing: the number of
706 live racing days actually conducted, the wagers made of live races, and the wagers made on
707 simulcast of the live races out of the Commonwealth. The commission may provide for
708 reimbursement to the licensee in circumstances where there is no demonstrable improvement in
709 the live racing if the commission determines that the degradation of the live racing product was
710 the result of the weather conditions, race track conditions, strikes, work stoppages, sickness or
711 quarantine not within the control of the licensee. Should any licensee be unable, for any reason,
712 to conduct parimutuel live racing under Chapter 128A of the General Laws and is also unable to
713 conduct simulcast under Chapter 128C of the General Laws then the commission, on behalf of
714 the Commonwealth, shall deposit the remainder of the funds in the licensee's account in the
715 General Fund; in addition, all moneys required to be distribution to this fund from subsection (a)
716 of this section shall instead be collected by the commission on behalf of the
717 Commonwealth. Should a licensee become licensed or regain a license to conduct parimutuel
718 live racing under chapter 128A and meet the requirements under chapter 10 and chapter 10A, of
719 the General Laws and the commission's rule and regulations and is licensed to simulcast racing
720 under chapter 128C, then the commission shall reestablish said account in accordance to this
721 section, but the licensee is not entitled or shall receive any monies collected on behalf of the
722 Commonwealth during the period of time the licensee was prohibited from conducting live
723 racing. No monies from this fund can be used to, promote, advertise, purchase, transport,
724 replace, maintain or dispose of any electronic gaming devices or equipment, simulcast devices or
725 equipment as defined under this chapter and chapter 128C.

726 (k) The commission is authorized and directed through the division to establish the
727 live racing purse pool account to be used to supplement the purses of parimutuel racing meeting
728 licensees which are also licensed gaming operators under this chapter. The commission shall
729 establish rules and regulations for the collection, application and distribution of said funds in the
730 live racing purse pool account. Of the funds collected by the commission each year under
731 subsection (a) of this section for said account, not less than 35% shall be deposited in the purse
732 account for the running horse racing meeting licensee in Suffolk County, not less than 15% shall
733 be deposited in the purse account for the harness horse racing meeting licensee in Norfolk
734 County, not less than 5% shall be deposited in the purse account for the greyhound racing
735 meeting licensee in Suffolk County, and not less than 5% shall be deposited in the greyhound
736 racing meeting licensee in Bristol County and the remainder shall be deposited into the purse
737 account pool and the commission shall determine what the additional amount, if any, is needed
738 to ensure that the racing meeting licensee's live racing product is competitive with racetracks
739 with a similar type and to ensure that there are sufficient purse funds to have Massachusetts
740 breed horses racing at racetracks within Commonwealth. As part of the determination for
741 additional purse funds to be deposited into each racing meeting licensees' purse account from
742 said account, the commission shall consider the average purse per race of the twenty 20 running
743 horse racetracks in the United States from the previous year multiplied by the number of races
744 completed from the previous year in compliance with chapter 128A of the General Laws, the
745 commission may consider the average purse per race of the 10 harness horse racetracks in the
746 United States from the previous year multiplied by the number of races completed from the
747 previous year in compliance with chapter 128A of the General Laws, the commission may
748 consider the average purse per race of the 10 greyhound racetracks in the United States from the

749 previous year multiplied by the number of races completed from the previous year in compliance
750 with chapter 128A of the General Laws, the commission shall conduct a comparison of
751 racetracks of the same species and types of racing to those Commonwealth's racing meeting
752 licensee.

753 The commission shall pay 2 percent of the running horse racing meeting licensee purses
754 provided under the live racing purse pool account to the Massachusetts Thoroughbred Breeders'
755 Association, Inc. The running horse racing meeting licensee in Suffolk County and the harness
756 horse racing meeting licensee in Norfolk County shall be required to dedicated not less than 6
757 percent of the purses distributed under this section towards racing and purses specifically for
758 Massachusetts breed horses. Unspent money from the live racing purse account pool shall be
759 retained in said account and may be only be spent by the commission in compliance with this
760 section.

761 Should any licensee unable to conduct parimutuel live racing under Chapter 128A of the
762 General Laws for any reason, then the commission shall discontinue depositing purse monies
763 from the live racing purse pool account into said licensee's purse account after the day live
764 racing ends; provided, that the division is authorized and directed to recover any unspent purse
765 funds from said licensee and deposit it into live purse pool account as unspent funds; and
766 provided further, that any remaining distributions to said licensee not yet made shall be
767 transferred to the unspent portion of the account. Should a licensee become licensed or regain a
768 license to conduct parimutuel live racing and meet the requirements under Chapter 10 and 10A
769 of the General Laws and the commission's rule and regulations, then the commission is
770 authorized to continue distributions form this section into the licensee's purse account in

771 accordance to this section, but the licensee is not entitled or shall receive any purse monies
772 during the period of time the licensee was prohibited from conducting live racing.

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

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

786 Section 5. The commission may make an assessment against the licensees for the
787 purpose of reimbursing the Commonwealth the cost of the division's operation, administration
788 and regulation. Said assessment shall be certified annually by the commission as sufficient to
789 reimburse the commonwealth for funds appropriated for the operation of the division, including
790 amounts sufficient to cover the cost of fringe benefits as established by the secretary of
791 administration and finance pursuant to section 6B of chapter 29 of the General Laws. Said
792 assessment shall be made proportionately against each licensee on the basis of the amount of net

793 gaming revenue retained by each licensed operator from the previous fiscal year. If the
794 commission fails to expend in any fiscal year the total amount assessed under this paragraph, any
795 amount unexpended shall be credited against the assessment to be made in the following year
796 and the assessment in such following year shall be reduced by such unexpended amount. If the
797 commission finds that it is unable to meet its operating budget during a fiscal year and if it
798 determines that it requires additional funding is needed, then the commission must make a
799 request to the Governor, the State Treasurer, the House and Senate Committees on Ways and
800 Means, and the Joint Committee on Consumer Protection and Professional Licensure, and said
801 request must include a explanation for the request of addition funding.

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

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

810 (b) Notwithstanding any other general or special law to the contrary all files, records,
811 reports, and other information in the possession of any state or local governmental agency
812 including tax filings and related information that are relevant to an investigation by the executive
813 director conducted pursuant to this chapter shall be made available by such agency to the
814 commission as requested. Any tax or financial information received from a governmental

815 agency shall be used solely for effectuating the purposes of this chapter. To the extent that these
816 files, records, reports, or information are confidential or otherwise privileged from disclosure
817 under any law, they shall not lose that confidential or privileged status for having been disclosed
818 to the commission; provided further, that the commission shall consult with the division of
819 public records regarding the handling of said information.

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

823 Section 7. (a) No official, member, employee, or agent of the commission and the
824 division, having obtained access to confidential records or information in the performance of
825 duties pursuant to this chapter, unless otherwise provided by law, shall knowingly disclose or
826 furnish the records or information, or any part thereof, to any person who is not authorized by
827 law to receive it. Violation of this provision shall be punishable by a fine of not more than
828 \$10,000 or by imprisonment in the house of corrections for not more than 1 year, or by both such
829 fine and imprisonment.

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

833 (c) Any person included on the list of persons to be excluded or ejected from a
834 licensed gaming establishment pursuant to regulations promulgated pursuant to this chapter who
835 knowingly enters or remains on the premises of a licensed gaming establishment shall be

836 punished by imprisonment in the house of corrections for not more than 1 year, or by a fine of
837 not more than \$10,000, or both.

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

848 (e) Any person who willfully fails to report, pay, or truthfully account for and pay
849 over any fee, penalty, fine, or interest thereon, imposed by this chapter or any regulation
850 thereunder, or willfully attempts in any manner to evade or defeat any fee, penalty, fine, or
851 interest thereon, or payment thereof shall be punished by imprisonment in state prison for not
852 more than 5 years or by imprisonment in the house of correction for not more than 2 1/2 years, or
853 by a fine of not more than \$10,000 plus the unpaid fee, penalty, fine, or interest plus interest, or
854 by both.

855 (f) Any person who willfully resists, prevents, impedes, interferes with, or makes
856 any false, fictitious or fraudulent statement, or representation to the commission or to the
857 division of racing and gaming or to their agents or employees in the performance of duties

858 pursuant to this chapter, shall be punished by imprisonment in the house of corrections for not
859 more than 2 years, or by a fine of not more than \$5,000, or by both.

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

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

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

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

872 (h) Any person who knowingly permits any controlled game to be conducted,
873 operated, dealt, or carried on in any house or building or other premises that he or she owns or
874 leases, in whole or in part, if that activity is undertaken by a person who is not licensed as
875 required by this chapter shall be punished by imprisonment in state prison in the house of
876 corrections for not more than 2 1/2 years, or by a fine of not more than \$10,000, or by both.

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

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

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

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

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

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

903 (k) A violation of this chapter, the penalty for which is not specifically fixed in this
904 section, shall be punishable by imprisonment in the house of corrections for not more than 2
905 years, or by 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
907 to 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
913 process compelling testimony or production of documents in connection with any civil or
914 criminal 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 revocation
920 of the license. No person who so informs the commission shall be discriminated against by an
921 applicant or licensee because of the supplying of such information.

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

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

927 (b) less than \$500, the gaming establishment shall inform the patron of his right to
928 request 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
937 reconsideration. Any hearing for reconsideration shall be conducted pursuant to regulations
938 adopted by the 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 a
941 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
944 type by any telecommunication device, including telephone, cellular phone, Internet, or local
945 area 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 for
948 not more than 2 years or pay a fine of not more than \$25,000 per violation or by both; provided,
949 however, that this section shall not apply to the use of a local area network as a means to place
950 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
954 Auditor who shall have access to all books and records of the commission. Further, the
955 commission shall annually, on or before January first, provide the State Auditor with all annual
956 independent audits required of all licensees.

957 The State Auditor may at anytime, at his or her discretion, audit the financial activities
958 and any other activities of any gaming licensee licensed under this chapter; provided further, that
959 the 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
963 Official Edition, is hereby amended by striking out the definition of “Commission” and inserting
964 in 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
973 Official Edition, is hereby amended by inserting after the word “standards”, in line 8, the
974 following 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
978 occupant in control of premises where a local area network or Internet service or both is located,
979 or a subscriber for an local area network service or Internet service, knowingly permits another

980 to 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 for
982 placing all or any portion of a wager with another, upon the result of a trial or contest of skill,
983 speed, or endurance of man, beast, bird, or machine, or upon the result of an athletic game or
984 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 year;
990 provided, however, that this section shall not apply to use of local area networks or other similar
991 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,
993 as so appearing, the following section:-

994 Section 22C. Nothing in this chapter shall authorize the prosecution, arrest or conviction
995 of any 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
1000 hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 1

1001 of 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
1004 amended by striking out the words “December 31, 2008”, inserted by section 2 of said chapter
1005 54, and 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
1007 amended by striking out the words “, and until December 31, 2008”, inserted by section 3 of said
1008 chapter 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
1010 words “, and until December 31, 2008”, inserted by section 4 of said chapter 54, and inserting in
1011 place 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
1013 hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 5
1014 of 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
1017 acts of 1991 is hereby amended by striking out the words “, and until December 31, 2008”,
1018 inserted by section 6 of said chapter 54, and inserting in place thereof the following words:- , and
1019 until December 31, 2009.

1020 SECTION 18. The last paragraph of said section 3 of said chapter 114 is hereby amended
1021 by 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
1027 by 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 54,
1031 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
1033 striking out the words “December 31, 2008”, inserted by section 11 of said chapter 54, and
1034 inserting in place thereof the following words:- December 31, 2009.

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

1038 SECTION 24. Notwithstanding the provisions of any general or special law or rule or
1039 regulation to the contrary, including the provisions of chapter 150E of the General Laws, all

1040 employees, equipment, finances, data, and records of the Massachusetts state racing commission
1041 shall be transferred to the Massachusetts division of gaming racing and shall be transferred with
1042 no 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
1056 Massachusetts state lottery commission shall occur one year after the passage of this
1057 act. Members of the Massachusetts gaming control commission shall be appointed
1058 within 30 days of this act. The Massachusetts gaming control commission and the state racing
1059 commission shall enter into a memorandum of understanding to transition of the functions, duties
1060 and responsibilities to the state racing commission to the Massachusetts state lottery and gaming
1061 commission within 1 year.