SENATE DOCKET, NO. FILED ON: 1/14/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Michael W. Morrissey**

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*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 establishing the Massachusetts gaming control act.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Michael W. Morrissey | Norfolk and Plymouth |

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act establishing the Massachusetts gaming control act.

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

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

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

SECTION 3. Said Chapter 10 of the General Laws is hereby amended by inserting after section 24A, as so appearing, the following:-

Section 24B. Notwithstanding any general or special law to the contrary, the commission is shall implement chapter 10A, any special or general law that pertains to chapter 10A, to exercise all powers granted thereunder, and to promulgate all rules and regulations necessary thereof.

When exercising its duties under chapter 10A, the commission shall comply with the following:

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

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

(c)        The commission may require any person to apply for a license as provided in this chapter and approve or disapprove any such application or other transactions, events, and processes as provided in this chapter and chapter 10A. Any application to receive any license under this chapter and chapter 10A shall constitute a request for a determination of the applicant's general character, integrity, and ability to participate or engage in, or be associated with, gaming.

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

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

(f)         The commission may issue regulations providing for a fine or penalty or interest on such fine or penalty, upon any gaming licensee, for violation of this chapter and chapter 10A. The commission may approve or disapprove transactions and events as provided in this chapter, and chapter 10A take actions reasonably designed to ensure that no unsuitable persons are associated with controlled gaming, and take actions reasonably designed to ensure that gaming activities take place only in suitable premises.

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

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

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

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

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

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

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

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

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

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

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

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

(12) the manufacturing, distribution, sale, testing, servicing, and inspection of gaming equipment, including requirements for the identification and licensing of same; provided that the commission may authorize a licensee to utilize a third party to installing, testing and servicing of gaming equipment; provided further that, said third party is licensed by the commission pursuant to this chapter and chapter 10A;

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

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

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

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

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

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

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

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

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

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

(23) the collection of fees associated with application of licenses under this chapter and chapter 10A and fees for investigation under this chapter and chapter 10A.

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

(i)         Each operating license shall be issued for an initial term of 10 years, and may be renewed at the discretion of the commission for a term not to exceed 10 years; provided that the commission conducts an investigation, which shall include, but is not limited to, the financial and operational functions, impact and mitigation on the host and contiguous communities, and determine the social-economic affect from the licensee prior to reissuance of the license; provided further, that the commission shall set a renewal fee, which shall not be less than $50,000,000.

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

(k)        A gaming establishment license issued pursuant to this chapter and chapter 10A must be posted by the licensee and kept posted at all times in a conspicuous place in the area where gaming is conducted in the establishment for which the license is issued until it is replaced by a succeeding license.

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

(m)       No person or entity licensed as a licensed gaming operator, gaming establishment or racing meeting licensee, under chapter 10A, shall be permitted to transfer a direct or indirect real interest, personal interest, pecuniary interest, including, but limited to, substantial party in interest and affiliates defined under section 2 of chapter 10A of the General Laws, in the interests of the licensee’s corporate governing structure, including those defined under Chapter 108A, Chapter 109, Chapter 155, Chapter 156, Chapter 156A, Chapter 156B, Chapter 156C and Chapter 156D of the General Laws and those entities established under the rules and regulations of the Secretary of State, the licensee’s establishment, licensee’s structure, licensee’s real property, licensee’s premise or licensee’s facility, or enter into an option contract, management contract, or other agreement or contract providing for such transfer in the present or future, without the notification and approval the commission, and the commission may require either the transferer or transferee or both, as determined by the commission, to pay to the Commonwealth an amount representing the Commonwealth’s share of the increased value for said of said property or contracts.  The commission shall promulgate rules and regulations for the determination of the payment which serves in the best interest of the Commonwealth as a result of the transfer; provided that the commission may consider the actual increase or decrease in the pecuniary value of said license, the real property, and the shares of interest among the time it was initially purchased, the time of receiving a license and the time of the transfer; provided further, that any payment collected by the commission, on behalf of the Commonwealth, shall be deposited in the General Fund..

(n)        No licensed operator, licensed person, licensed party, a licensee’s affiliate, a licensee’s substantial party of interest, licensee’s party of interest, as defined under section 2 of Chapter 10A of the General Laws, shall transfer any license in whole or in part issued by the Commonwealth, municipality, county, authority, district, commission or any other subdivision of the Commonwealth, without the approval of the commission and the commission may require a payment by the transferer or transferee or both, as determined by the commission, to the commission, on behalf of the Commonwealth, and said payment shall be deposited into the General Fund; provided, that the commission shall consider as a factor in determining the amount of the payment the difference in value of the licensee’s property between the time of when the licensee received the license and the time of or anticipated time of the transfer through the average of three separate assessments made by the licensee, the commission and an independent assessor chosen by the commission, and the cost of said assessment shall be part of the payment of the transfer; and provided further, that the commission shall consider as a factor in determining the amount of the payment the market value of the license of when it was acquired and at the time of the transfer; provided further, that the commission shall consider as a factor in determining the amount of the payment the increased value of the property, land, establishment, management agent, entity or business value as a result of possessing a gaming operator’s license.  In no event shall a bona fide commercial financial institution licensed by the division of banks, which becomes a substantial party of interest, as defined under section 2 of Chapter 10A of the General Laws, with a licensee be deemed to be a transfer; provided further, that the commission may reject such transfer if it deems it unsuitable.   The commission may place any condition or restriction on the transfer of a license or substantial interest or party of interest, and in all instances it shall consider whether additional compensation is owed to the Commonwealth.

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

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

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

(r)        The commission may investigate fraud, deceit, misrepresentation or violations by any licensee under this chapter, or the occurrence of any such activity involving any licensee.  If the commission has reasonable basis to believe that any licensee has been or is engaged in criminal behavior or that criminal activity is occurring within or involving any licensed gaming establishment, the commission shall report same to the district attorney of the county within which the gaming establishment is located and make available to said district attorney and attorney general all relevant information on such activity.  The commission shall direct through the division gaming such state or municipal police officers to guard and protect the lives and safety of the public and property at any such gaming establishment, and to perform any such other duties which may be required by said commission in order to maintain fair and honest gaming establishment.  The said police officers so assigned shall, except in the case of an emergency, while on duty at any such establishment be subject to the operational authority of the commission; provided, however, that such assignment or reassignment shall not in any way impair any rights to which any officer may by entitled.  The commission assess an annual fee to be paid by the licensees’ for the costs associated with the state police as it relates to this chapter and chapter 10A; provided further, that said fee shall be paid by each licensee in equal portions.  The commission shall establish a fee schedule for the purposes of defraying the costs incurred by police officers of the department of public safety for work associated under this chapter and chapter 10A and shall direct the division gaming to collect said fee from the licensees.

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

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

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

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

(v)        The commission shall require the licensee to provide annual updates regarding the condition of the facility and the commission shall approve plans for all capital projects in excess of $500,000, and projects that would substantially change the use of the property.

(w) The commission shall promulgate rules and regulations regarding the minimum standards of employment and employee conditions at licensed gaming establishments. Said rules and regulations shall not be below those practiced by the hotel and service industries in Massachusetts, and the commission shall set a minimum wages for employees at licensed gaming establishments to be based on a minimum of 150% of the federal poverty guideline for a family of four as of September 1, 2008, and shall make annual adjustments based on the changes to the consumer price index.

SECTION 4. Said chapter 10 is hereby further amended by inserting after section 26, as so appearing, the following section:-

Section 26a.  The Treasurer shall appoint, subject to the approval of the commission, a director for division gaming pursuant to chapter 10A, hereinafter called the executive director, who shall serve at the pleasure of the commission, shall devote his entire time and attention to the duties of his office, and shall receive such salary as the commission may determine.  The executive director shall serve for a term of five years.  The executive director shall not serve more than two consecutive terms.   He shall supervise and administer the operation of licensed gaming establishments in accordance with the provisions of the chapter 10A, and any special laws and rules and regulations made thereunder.

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

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

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

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

SECTION 4.   The General Laws, as appearing in the 2008 official edition, is hereby amended by inserting after chapter 10 the following new chapter:-

Section 1. (a)    This act shall be known and may be cited as the "Massachusetts Gaming Control Act."

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

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

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

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

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

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

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

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

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

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

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

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

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

“Division,” means the division of gaming established under section 3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) To collect fees, penalties, fines, payments and other funds on behalf of the commission and transfer said funds in accordance to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

Section 4.         (a) There shall be no more than two gaming licenses issued to entities. For the purposes of this section, Worcester and Hampden Counties is designated the region one and Bristol County shall be designed as region two. Each region shall be eligible to receive no more than one gaming license. Region one shall be the first region to have applicants apply and a license issued, provided that the commission determines that there is a suitable location for a facility under this section. After license in region one has been issued to a an applicant, applicants for region two shall submit applications and a license may be issued, provided that the commission determines that there is a suitable location for a facility under this section. Should there be more than one entity seeking a gaming license in a single location, the commission shall choose the best proposal possible, which shall include consideration of the amount of fee, established under (c) of this section, the gaming entity ability and willingness to pay said fee to the commonwealth; provided further, that if the commission in its judgment determines that there is no best proposal that meets this section or the commission’s standards or does not provide, in the commission’s determination, the maximum possible revenue to the Commonwealth, then a license will not be issued.

The commission shall designate a site for the development of a casino facility and associated or auxiliary facilities per region; provided further, that the commission shall establish a priority list of locations under region one and region two to be designated as a casino site that meets the requirements of this section. The commission must designate a site for region one before region two, and no license shall be issued at each region before a site has been chosen; but applications for a license can be requested by the commission prior to the site being designated.

As part of its determination for a suitable location the commission must investigate and consider the positive and negative affects a casino facility will have to the host community and communities contiguous to the site, provided further, that factors to consider include, but is not limited to, the regional and local economy, job creation or loss, road and traffic, public access, water, drainage, sewer, fire department coverage, police department coverage and other public safety, emergency access, housing, public education influx and other infrastructure related issues; provided further, that all applicants seeking a license shall disclose to the commission all interests, options, agreements in property and provide information, including demographic, geographic, and any other information requested by the commission, to the commission, provided further, that the commission’s choice of location must maximize the revenue from the casino facility to the Commonwealth; provided further, that the commission shall consider property whereby a casino facility can be established as soon as reasonable after the license is issued; provided further, that the commission must receive a strong indication from the municipality that it would support having a casino facility within its borders. The commission may hold one or more public hearing at locations of its choosing to solicit comments from any persons regarding the suitability of a location, and the commission may use the information collected as part of the commission’s deliberations when searching for a suitable location.

The commission shall first consider all property that is owned by the state, a city, a town, a county, an authority, a district or any other political subdivision of the Commonwealth, for a casino facility site that meets the requirements of this section. The commission is authorized to enter into an agreement with any city, a town, a county, an authority, a district or any political subdivision of the Commonwealth for use of said property for the purpose of establishing a casino facility. Any city, town, district, authority, commission or any other political subdivision of the Commonwealth is authorized to enter lease of land to a licensed gaming operator for up to fifty (50) years and shall file said lease agreement with the commission. If the commission in its judgment finds that no property owned by the state, a city, a town, a county, an authority, a district or any other political subdivision of the Commonwealth is suitable for a casino facility, then the commission shall identify any other suitable property that will comply with this paragraph; and, the commission may utilize its powers under (h) of this section to acquire said property. If the commission determines in its best judgment there is no best site, then a license shall not be issued and the commission shall locate an appropriate location elsewhere in the Commonwealth. The commission shall report on the sites considered and chosen for a casino facility, report on the reasons and method of why a location was chosen or not chosen, and, if necessary, a recommendation for a location outside the scope of this chapter and explain why said location is appropriate to the governor, the treasurer, the house and senate clerks, the house and senate committees on ways and means, and the committee on consumer protection and professional licensure, within thirty (30) days after a site is chosen.

No single gaming entity, including its individual shareholders, shall have more than one gaming license.

Said licensees shall pay monthly to the commission, on behalf of the Commonwealth, a sum equal to twenty-five (25%) percent of net gaming revenues; provided, that this percentage shall not be increased for not less than ten (10) years after the initial issuance of the license to the applicant; provided further, that from said sums the commission shall first pay to the Treasurer, on behalf of the local aid fund, a sum equal to the diminishment, if any, in said fund attributable to this act, as certified by the Treasurer, and secretary of administration and finance, and the chairs of the house and senate ways and means committees, provided further that, said sums to the local aid fund and the calculation determining that said sums should be placed in the local aid fund shall be part of the commission’s annual report as required under this chapter; and provided further, that the remaining funds collected shall be deposited into the General Fund.

The commission shall determine the maximum number of electronic gaming devices to be at each licensed premise on an annual basis. The licensee may petition the commission requesting additional electronic gaming devices and the commission may at its discretion decide whether to increase or decrease the number of gaming devices. The commission shall annually determine the maximum number of wagering games and the types of wagering that a licensee is permitted to have at the establishment; provided however, that the licensee shall be permitted to petition the commission for additional wagering games and new types of wagering games and the commission shall consider whether to grant the licensee’s request.

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

1. The applicant must be a eligible to be licensed lottery reseller and must agree sell lottery products at its establishment in a conspicuous location;
2. must demonstrate that the applicant is able to invest no less than $750 million into the facility and property, which shall not include the purchase or lease price of the land where the facility will be located;
3. the applicant must supply a detailed breakdown of new job creation expected as a result of receiving a license;
4. must have a certified and binding vote from the city or town where the gaming facility will be located, including those gaming entities located on public land, and said vote must not be prior to January 1, 2009;
5. must have an agreement between the city or town and the applicant to have a gaming facility and said agreement shall include all stipulations of responsibilities between the city or town and the gaming facility and said agreement must be determined as reasonable by the commission, provided further that, said agreement, when executed and accepted by the commission, shall be deemed to be and treated as approval for all purposes under all otherwise applicable local zoning and impact laws, with respect to all gaming operations and gaming establishments and related buildings, structures and use on the licensed premises and the same shall be considered a continuation of an existing use for all purposes under all applicable law;
6. must meet the licensee bonding requirement as set by the commission;
7. must have a debt to equity ratio of not more than four to one (4:1) when the application is submitted;
8. the applicant must demonstrate to the commission a plan by which the applicant shall purchase, lease or finance electronic gaming devices from a electronic gaming device distributor or manufacturer licensed by the commission, and utilize said devices in the most efficient manner possible to provide the greatest revenue to the Commonwealth;
9. the applicant must meet the licensee bonding requirement as set by the commission;
10. pay an application fee as set by the commission, provided that said fee shall not be less than $50,000; and
11. applicant is able to demonstrate it is able to comply with the provisions of this chapter.

(b)        The one time initial license fee for region one shall be determined through an auction, provided that, the commission shall set the starting bid, provided, that said starting bid shall not be less than one hundred million dollars ($100,000,000); provided, that the applicants have meet all the qualification set forth by the commission and under this chapter. After the issuance of a license for issue and the conditions of this chapter, the one-time initial license fee for region two the starting bid shall not be less than the final lowest bid for region one or one hundred million dollars ($100,000,000), whichever is larger; provided that, the applicants have meet all the qualification set forth by the commission and under this chapter.

The commission shall establish rules and regulations to conduct the auctions, collect fees, conduct assessments and a process to address a situation should an applicant fails to pay the fee. All such fees collected under the auction process by the commission shall be deposited in the General Fund.

 (c) No person or party shall operate a gaming establishment without having obtained all necessary operating licenses from the commission.  There shall be a single licensed operator for each gaming establishment. No license shall operate, invest or own, in whole or in part, another licensee’s license or establishment.  If a licensee does have more than one license, or operates, invests or owns, in whole or in part, another license, said licensee shall within 30 days divest the license or interest subject to the approval of the commission, and shall pay a fine of up to $5,000 per day; provided further, that persons or entities that violate this section shall be required to surrender to the commission any licenses issued to the licensee under this chapter, and chapter 24; and provided further, that the persons or entities shall be prohibited in the future from being able to apply and receive licenses under said chapters.  Failure for a licensee to comply with this section shall result in a fine of $5,000 per day.

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

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

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

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

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

(h) The commission is hereby authorized to acquire all lands, properties, rights, air rights, subsurface rights, easements and other interests necessary for the development of a casino facility and associated or auxiliary facilities, and to convey the same in fee simple absolute for fair market value to, or to enter into a lease for fair market value not to exceed 50 years at a time with, the designated licensee, as and for a site for the project as provided in this chapter. To carry out and effectuate the foregoing purpose, the commission may take by eminent domain under chapter 79 of the general laws, or acquire by purchase, lease, gift, bequest, grant or otherwise from any party, public or private, and hold, clear, repair, operate and, after having taken or acquired the same, convey fee simple or leasehold interest as provided in this act, any lands and other property, real or personal, improved or unimproved, tangible or intangible, and any interest therein.

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

The commission may establish rules and regulations to assess and collect fees pertaining to individual regulatory, licensing or investigative matters that can be assessed against a licensee; provided, that any fees assessed and collected regarding an application or investigation of a license shall be placed in the gaming investigatory account under section 13 of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All licensees shall have a duty to inform the commission of any action which they reasonably believe would constitute a violation of this chapter, and shall assist the commission and any federal or state law enforcement agency in the investigation and prosecution of such violation.  The commission shall hold a hearing under chapter 30A on any licensees' failure to comply with this paragraph, and may take appropriate actions including suspension or revocation of the license.  No person who so informs the commission shall be discriminated against by an applicant or licensee because of the supplying of such information.

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

(a)        $5,000 or more, the gaming establishment shall immediately notify the executive director and shall inform the patron of his or her right to request that the executive director conduct an investigation; or

(b)        less than $5,000, the gaming establishment shall inform the patron of his or her right to request that the executive director conduct an investigation.

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

Any party aggrieved by the determination of the executive director may file a petition for reconsideration with the commission setting forth the basis of the request for reconsideration.  Any hearing for reconsideration shall be conducted pursuant to regulations adopted by the commission.

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

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

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

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

Section 13. The commission is authorized to establish a gaming investigatory account. Any and all expenses associated with the licensing of any applicant or investigation of a licensee shall be borne by the applicant or licensee. Pursuant to its regulations, the commission shall require each applicant to deposit with the commission, together with the application, an application fee or in the case of an investigation, an investigation fee, which shall be deposited in the gaming investigatory account. Such fee shall constitute the anticipated costs and charges incurred in the investigation and processing of the application or investigation, and any additional sums as are required by the commission to pay final costs and charges. Expenses may be advanced from the gaming investigatory account by the commission to the executive director. Any money received from an applicant in excess of the costs and charges incurred in the investigation or the processing of the application shall be not refunded and shall remain in the account for future investigations. At the conclusion of the investigation, the executive director shall provide the applicant a written accounting of the costs and charges so incurred.

Section 14. The commission shall annually assess and collect a fee, not to exceed than six million ($6,000,000) dollars, to be paid by the licensees for the treatment of compulsive gambling; provided that, the commission shall conduct a public hearing and collect testimony from the public, licensees and compulsive gambling organizations approved by the department of public health as part of its determination of how much money to assess under this section. Said assessment shall be made proportionately against each licensee on the basis of the amount of net gaming; provided that, no less than 25 per cent of the funds received under this paragraph shall be utilized for the purpose of identification, prevention, intervention, and treatment of compulsive gambling in minority and immigrant communities. The commission shall distribute said funds to compulsive gambling organizations or organizations, as determined by the department of public health.

SECTION 5. Section 283 of chapter 94 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “standards”, in line 8,the following words:-or is a licensed and regulated under chapter 10A.

SECTION 6. Section 17 of Chapter 138 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting at the end thereof the following:-

 Notwithstanding the provisions of this section, or anything to the contrary contained herein, the commission is hereby authorized to issue to a licensee of a gaming establishment pursuant to chapter 10A, one or more alcoholic beverage licenses. Said licenses shall not be transferable to any other premises or entity. All other provisions of chapter 138 shall be applicable to the issuance of said license.

SECTION 7.  Section 17B of chapter 271 of the General Laws, as appearing in the 2008 official edition, is amended by inserting after section 17B the following section:-

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

SECTION 8. Said chapter 271 is hereby further amended by inserting after section 22B, as so appearing, the following section:-

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

SECTION 9. Notwithstanding any general or special law to the contrary, the governor shall not concur in a determination that a gaming establishment on newly acquired lands would be in the best interest of an Indian tribe, pursuant to 25 U.S.C. section 2719 (b)(1)(A), unless the house of representatives and senate each have authorized, by majority vote, the governor so to concur. The governor shall not negotiate or enter into a tribal-state compact pursuant to 25 U.S.C. section 2710(d)(3) unless the house of representatives and the senate each approve of the governor entering into said compact. The governor shall not transfer or concur in the transfer of any real property located in the commonwealth into trust for the benefit of and Indian tribe, pursuant to 25 U.S.C. section 2719, without the approval, by majority vote, of the house of representatives and the senate. The Massachusetts state lottery commission shall have all powers necessary to undertake the Commonwealth’s responsibilities and rights under the terms of any compact entered into between the Commonwealth and any federally recognized tribe under the provisions of the Indian Gaming Regulatory Act.