SENATE DOCKET, NO. FILED ON: 1/9/2009

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

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The Commonwealth of Massachusetts

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PRESENTED BY:

**Morrissey, Michael (SEN)**

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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 revitalizing live racing in the Commonwealth.

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PETITION OF:

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| --- | --- |
| Name: | District/Address: |
| Morrissey, Michael (SEN) | Norfolk and Plymouth |

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

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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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:*

 SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section 48, as appearing in the 2004 Official Edition, and inserting in place thereof the following section:-  Section 48. The state lottery and gaming commission shall oversee and execute the duties of chapter 128, chapter 128A and any other general or special law involving the state racing commission.

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

SECTION 3.   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 4. 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, chapter 128A, and chapter 128C, any special or general law that pertains to chapter 10A, chapter 128A, and chapter 128C, and any special or general law as it pertains to live and simulcast racing, to exercise all powers granted thereunder, and to promulgate all rules and regulations necessary thereof.

When exercising its duties under chapter 10A, chapter 128A, and chapter 128C, 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 racing and 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. Any application to receive any license under this chapter 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. The commission may approve or disapprove transactions and events as provided in this chapter, 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, chapter 128A, and chapter 128C; 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, 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. The commission may contract with an independent testing laboratory to conduct any necessary testing under this section. The independent testing laboratory must have a national reputation which is demonstrably competent and qualified to scientifically test and evaluate slot machines for compliance with this chapter and to otherwise perform the functions assigned to it in this chapter. An independent testing laboratory shall not be owned or controlled by a licensee. The use of an independent testing laboratory for any purpose related to the conduct of slot machine gaming by a licensee under this chapter shall be made from a list of one or more laboratories approved by the commission.

(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 an annual audit 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.

                        (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 5 years, and may be renewed at the discretion of the commission for a term not to exceed 5 years; provided further, that the commission shall set a renewal fee on the license of not less than $25,000,000.

(j)         Any failure of a licensee to comply with this chapter, chapter 10A, chapter 128A or chapter 128C 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 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, chapter 128A or chapter 128C of the General Laws, 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 of racing and 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 of racing and 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 other than as a racetrack.

(w)       The commission may, one-year after four licenses to the racing meeting licensees have been granted in the Commonwealth under Chapter 10A of the General Laws, make a determination on the viability of granting 1 additional gaming operator license in either Hampden, or Hampshire County; provided however, that said license shall be a granted only to a parimutuel racetrack in accordance with Chapter 128A of General Laws, and is authorized to conduct simulcast racing pursuant to 128C of the General Laws and is authorized to be a lottery reseller, pursuant to Chapter 10 of the General Laws; provided, that tin making such determination, said commission shall take into consideration the economic impact, environmental issues, public safety impact, effect on traffic and infrastructure and other relevant costs, benefits and factors of granting and additional license.  The applicant for said license shall be required to fulfill the requirements under this Chapter and Chapter 10A of the General Laws and the rules and regulations set forth by the commission.  No current or former licensed gaming operator under Chapter 10A of the General Laws or racing meeting licensee under Chapter 128A of the General Laws shall have any direct or indirect, real interest, personal interest or pecuniary interest the applicant’s license application.  Nothing in this section shall preclude any city or town in the commonwealth from prohibiting the use and operation of electronic gaming devices in the community, from imposing local controls or conditions on electronic gaming devices, from enacting or enforcing applicable zoning laws or regulations, or from imposing any fee or tax otherwise authorized, provided any inspection, tax, or fee is not inconsistent with this act, or the laws of the United States.

SECTION 5. 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 of racing and gaming established under chapter 10A of the General Laws, 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 parimutuel wagering and licensed gaming establishments in accordance with the provisions of the chapter 128A, chapter 128C, chapter 10A of the General Laws, 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 6.   The General Laws, as appearing in the 2004 official edition, is hereby amended by inserting after chapter 10 the following new chapter:-

            Chapter 10A.   Live Racing and Gaming

Section 1. (a)    This act shall be known and may be cited as the "Live Racing Revitalization 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, chapter 10, chapter 128A and chapter 128C 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 Racing and 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 racing and 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 operation," one or more controlled games that are operated, carried on, conducted, maintained, offered or exposed for play.

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

            "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 premises 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.

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

            "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 racing and 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; and,

(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;

(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)  Notwithstanding the provisions of chapter 137, chapter 271 or any other general or special law to the contrary, each racing meeting licensee is eligible to be licensed, subject to all terms and conditions imposed by the commission and subject to each racing meeting licensees eligibility to hold such license, as determined by the Commission, which shall include the suitability of each racing meeting licensee to hold, maintain and control such a license, to operate a gaming establishment; and apply to the commission for the right to be awarded one of four licenses to operate up to 2,000 electronic gaming devices at said licensee's premises only; provided further, that only one racing meeting licensee shall be allowed to hold in whole or in part one license under this section.  The commission shall determine how many electronic gaming devices shall be allowed at each licensee’s location, and the suitability of each licensee to solicit, own, rent, lease, maintain, and operate electronic gaming devices.

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

In addition to paying the fee under subsection (c) of this section and any 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 parimutuel licensee licensed under chapter 128A and also licensed to conducted simulcast racing under chapter 128C,

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

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

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

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

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

(7)        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; and

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

(b)        The commission shall collect, on behalf of the Commonwealth, from each licensee a sum equal to 52.5 percent of net gaming revenues from electronic gaming devices; provided, further, that this percentage shall not be increased, nor decreased for 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 Chapter, as certified by the Treasurer, and secretary of administration and finance, and the chairs of the house and senate ways and means committees.  Of the funds collected by the commission under this paragraph, on behalf of the Commonwealth one-third shall be deposited in the General Fund, one-third shall be deposited in the Commonwealth Stabilization Fund, and one-third shall be utilized for local aid.

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

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

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

The commission shall collect a sum equal to 0.5 percent of net gaming revenues from electronic gaming devices, which the commission shall pay toward compulsive gambling organizations, as determined by the department of public health; provided further, that said compulsive gambling organization, or organizations shall utilize said monies for the prevention, intervention and treatment of compulsive gambling in the Commonwealth; provided further that, not less than 20 percent 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; provided further, that the commission shall not pay more than $6,000,000 annually to compulsive gambling organizations or organizations, as determined by the department of public health, and the remainder of said amount shall be collected by the commission, on behalf of the Commonwealth, and 50 percent of said overage amount shall be deposited in the General Fund and the other 50 percent of the overage shall be deposited in the Commonwealth Stabilization Fund.

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

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

 (d)       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 and each racing meeting licensee.  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, chapter 24, chapter 128A and chapter 128C; 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.

(e)        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.

(f)         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.

(g)        No licensed operator shall obtain any gaming equipment 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.

(h)        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.

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

(j)         The commission is authorized and directed to establish through the division the live racing promotion fund for each parimutuel racing meeting licensee which are also licensed gaming operators under this chapter.  The purpose of said each fund is to promote, sustain and improve live racing in the Commonwealth.  The money deposited into said account shall be collected annually by the commission under subsection (a) of this section.  The commission shall establish rules and regulations under what conditions, the method and time, the application and review process, and the criteria by which said funds may be distributed to the licensee in the form of reimbursements for costs born by the licensee which is directly associated to the improvement of the live racing industry at the licensee’s facility.  As part of the consideration for reimbursement, the commission shall consider, but is not limited to, the following: capital improvements to the racetrack, capital improvements to the backstretch area which shall include suitable housing, toilet facilities and the barns, capital improvements to the spectator area for the racetrack, capital improvements to the kennels, promoting and advertising the live racing product and only the live racing product, promoting and encouraging horse breeding in the Commonwealth, promoting and encouraging better treatment and welfare of horses and dogs, providing for health and human services to backstretch workers, so-called, and jockeys, providing additional purses beyond those required under Chapter 128A, Chapter 128C, and this Chapter of the General Laws or any other special law, and holding races specifically for Massachusetts breed horses.  The commission shall on an annual basis review the progress of the live racing product of each licensee’ facility and may withhold distribution of funds if the live racing product does not demonstrate an improvement; provided that, the commission shall considered, but is not limited, as the improvement in the progress of live racing: the number of live racing days actually conducted, the wagers made of live races, and the wagers made on simulcast of the live races out of the Commonwealth.  The commission may provide for reimbursement to the licensee in circumstances where there is no demonstrable improvement in the live racing if the commission determines that the degradation of the live racing product was the result of the weather conditions, race track conditions, strikes, work stoppages, sickness or quarantine not within the control of the licensee.   Should any licensee be unable, for any reason, to conduct parimutuel live racing under Chapter 128A of the General Laws and is also unable to conduct simulcast under Chapter 128C of the General Laws then the commission, on behalf of the Commonwealth, shall deposit the remainder of the funds in the licensee’s account in the General Fund; in addition, all moneys required to be distribution to this fund from subsection (a) of this section shall instead be collected by the commission on behalf of the Commonwealth.  Should a licensee become licensed or regain a license to conduct parimutuel live racing under chapter 128A and meet the requirements under chapter 10 and chapter 10A, of the General Laws and the commission’s rule and regulations and is licensed to simulcast racing under chapter 128C, then the commission shall reestablish said account in accordance to this section, but the licensee is not entitled or shall receive any monies collected on behalf of the Commonwealth during the period of time the licensee was prohibited from conducting live racing.   No monies from this fund can be used to, promote, advertise, purchase, transport, replace, maintain or dispose of any electronic gaming devices or equipment, simulcast devices or equipment as defined under this chapter and chapter 128C.

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

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

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

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

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

Section 5.         The commission may make an assessment against the licensees 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 investigation account under section 8 of this chapter.

Section 6. (a)    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.

(b)        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.

(c)        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 21/2 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 personal 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 therefrom, 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.

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

(b)        less than $500, the gaming establishment shall inform the patron of his 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, 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.

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

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

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

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

SECTION 9. Section 283 of chapter 94 of the General Laws, as appearing in the 2004 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 10.  Section 17B of chapter 271 of the General Laws, as appearing in the 2004 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 11. 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 12. The first paragraph of section 12A of chapter 494 of the acts of 1978 is hereby amended by striking out the words “, and until December 31, 2008”, inserted by section 1 of chapter 54 of the acts of 2006, and inserting in place thereof the following words:- , and until December 31, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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