

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Robert M. Koczera

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 Casinos in Massachusetts.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---------------------|-------------------|
| Robert M. Koczera | 11th Bristol |
| Stephen R. Canessa | 12th Bristol |
| Stephen L. DiNatale | 3rd Worcester |
| Rosemary Sandlin | 3rd Hampden |

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING CASINOS IN MASSACHUSETTS.

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

1 The General Laws are hereby further amended by Inserting after chapter
2 128C the following chapter: Chapter 128D. Establishing Casinos in
3 Massachusetts.

4 SECTION 1. General Provisions.

5 (a) This chapter shall be known and may be cited as "Casinos in Massachusetts
6 Act"

7 (b) No applicant for a gaming license, or a manufacturer's or distributor's license
8 or other affirmative commission approval has any right to a license or the
9 granting of the approval sought. Any license issued or other commission

10 approval granted pursuant to the provisions of this act is a revocable privilege,
11 and no holder acquire any vested right therein or there under.

12 (c) Nothing in this chapter shall preclude any city or town in the commonwealth
13 from prohibiting gaming.

14 (d) In the event of any conflict between the provisions of this chapter and any
15 other provision of the General Laws, the provisions of this chapter shall prevail.

16 SECTION 2. Definitions.

17 The following words as used in this chapter shall, unless the context clearly
18 requires otherwise, have the following meanings:

19 (a) "Affiliate", means any person which a licensee or applicant directly or
20 indirectly controls or in which an applicant or licensee possesses an interest. For
21 the purposes of this section "controls" means either (i) directly or indirectly
22 holding more than ten percent of voting membership rights or voting stock or
23 partnership interests, or (ii) that a majority of the directors, general partners,
24 trustees, or members of an entity's governing body or representatives of, or are
25 directly or indirectly controlled by, the licensee or applicant. For the purposes of
26 this subsection, "possesses an interest in" means either (i) directly or indirectly
27 holding more than five percent of voting membership rights or voting stock, or
28 (ii) that at least twenty-five percent of the directors, general partners, trustees,

29 or members of an entity's governing body or representatives of, or are directly
30 or indirectly controlled by, the licensee or applicant;

31 (b) "Applicant", means any person who on his own behalf or on behalf of
32 another has applied for permission to engage in any act or activity which is
33 regulated by the provisions of this act or regulations promulgated there under.

34 (c) "Application", means a written request for permission to engage in any act or
35 activity which is regulated under the provisions of this act.

36 (d) "Bidder", means an individual, corporation, partnership, organization or
37 association of two or more persons, or other legal entity, that proposes to apply
38 for a state gaming license and has been found suitable by the Commission.

39 (e) "Authority", means the state gaming control authority as established by this
40 act"

41 (f) "Chairman", means the chairman of the state gaming commission.

42 (g) "Commission", means the Massachusetts state gaming commission;

43 (h) "Commissioner", means a member of the state gaming commission.

44 (i)"Committee", means the state gaming policy committee. (j)

45 "Competitive bidding process", means a process whereby the commission seeks
46 potential bidders who desire to obtain a state gaming license, the winner which

47 shall be chosen by competitive standards which are determined and established
48 by the commission.

49 (k) "Controlled game" or "controlled gaming", any game of chance played for
50 currency, check, credit, or any other thing of value that is not prohibited and
51 made unlawful by chapter two hundred and seventy-one of the General Laws, or
52 any other general or special laws, or by local ordinance except:

53 (1) The game of bingo conducted pursuant to section seven A of chapter
54 two hundred and seventy-one and 961 C.M.R. 3.00.

55 (2) Parimutuel wagering on horse and dog races, whether live or
56 simulcast, regulated by the state racing commission.

57 (3) Any lottery game conducted by the state lottery commission, in
58 accordance with section twenty-four of chapter 10 of the General Laws.

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

61 (l) "Electronic Gaming Device", means any mechanical, electrical or other device,
62 contrivance or machine, including any so-called video wagering terminal, video
63 lottery terminal or video poker machine, which, upon insertion of a coin, token
64 or similar object, or upon payment of any consideration, is available to play or
65 operate, the play or operation of which, whether by reason of the skill of the
66 operator in playing a gambling game which is presented for play by the machine

67 or application of the chance, or both, may deliver or entitle the person playing or
68 operating the machine to receive cash, premiums, merchandise, tokens or any
69 thing of value, whether the payoff is made automatically from the machine or in
70 any other manner.

71 (m) "Establishment", means any building, room, place or other indoor or outdoor
72 premises where any controlled gaming occurs, including all public and non-public
73 areas of any such establishment;

74 (n) "Executive Director", the executive director of the state gaming control
75 bureau;

76 (o) "Game" and "gambling game", means any game approved by the commission
77 and played with cards, dice, equipment or any mechanical, electromechanical or
78 electronic device or machine, including slot machine as defined by this act, for
79 money, property, checks, credit or any representative of value, but does not
80 include games played with cards in private homes or residences in which no
81 person makes money for operating the game, except as a player, or games
82 defined within chapter ten or chapter two-hundred seventy-one of the General
83 Laws.

84 (p) "Gaming", "gambling", and "gaming operations", means to deal, operate,
85 carry on, conduct, maintain or expose for play any game as defined in this
86 section.

87 (q) "Gaming device", means any equipment or mechanical, electromechanical or
88 electronic contrivance, component or machine used remotely or directly in
89 connection with gaming or any game which affects the result of a wager by
90 determining "Win or loss".

91 (r) "Gaming employee", means any person employed in a properly licensed
92 gaming facility including, without limitation, boxmen; dealers or croupiers;
93 floormen; machine mechanics; security employees; count room personnel; cage
94 personnel; slot machine and slot booth personnel; collection personnel;
95 surveillance personnel; and data processing personnel; or any other person
96 whose employment duties predominantly involves the maintenance or
97 operation of gaming activity or equipment and assets associated therewith or
98 who, in the judgment of the commission, is so regularly required to work in a
99 restricted area that licensure as a gaming employee is appropriate.

100 (s) "Gaming establishment", means any establishment licensed to conduct
101 gaming operations in the commonwealth under this chapter.

102 (t) "Gaming license" or "license", means any license or work permit issued by the
103 commission under this chapter that authorizes the person named therein to
104 engage or participate in controlled gaming, including, work permits and licenses
105 issued to gaming establishments, to gaming suppliers, to parties in interest, to
106 gaming schools, and to officers and directors of licensed persons or entities;

107 (u) "Gaming establishment", any establishment licensed to conduct gaming
108 operations in the commonwealth under this chapter;

109 (v) "Gaming service industry", means any form of enterprise which provides
110 more than one hundred thousand dollars per annum in goods or services
111 regarding the realty, construction, maintenance, or business of a proposed or
112 existing gaming facility on a regular or continuing basis which directly relate to
113 gaming activities or indirectly relate to gaming operations including, without
114 limitation, junket enterprises, security businesses, manufacturers, suppliers,
115 distributors and servicers of gaming devices or equipment; waste disposal
116 companies; maintenance companies; schools teaching gaming and either playing
117 or dealing techniques; suppliers of alcoholic beverages, food and nonalcoholic
118 beverages; vending machine providers; linen suppliers; shopkeepers located
119 within the approved hotels; limousine services; and construction companies
120 contracting with gaming applicants or licensees or their employees or agents, or
121 any other enterprise which purchases more than fifty thousand dollars per
122 annum in goods or services from or which does more than fifty thousand dollars
123 worth of business per annum with licensed gaming facilities, provided that
124 professional services such as accountants, auditors, attorneys, and broker
125 dealers, or other professions which are regulated by a public agency, are exempt
126 from the provisions of this subsection.

127 (w) "Holding company", means any corporation, firm, partnership, trust, or other
128 form of business organization not a natural person that, directly or indirectly,
129 owns, has the power or right to control, or holds with power to vote, all or any
130 part of the limited partnership interests or outstanding voting securities of a
131 corporation or any other business entity that holds or applies for a state
132 gambling license. In addition, a holding company indirectly has, holds, or owns
133 any power, right, or security mentioned herein if it does so through any interest
134 in a subsidiary or successive subsidiaries, however many of these subsidiaries
135 may intervene between the holding company and the corporate licensee or
136 applicant.

137 (x) "Intermediary company", means any corporation, firm partnership trust or
138 other form of business organization other than a natural person that is both of
139 the following: (1) a holding company with respect to a corporation or limited
140 partnership that holds or applies for a gaming license and (2) a subsidiary with
141 respect to a holding company.

142 (y) "Land-based licensed gaming facility" means any licensed gaming facility that
143 is principally located on land.

144 (z) "License" means a gaming license" or a manufacturer's or distributor's
145 license.

146 (aa) "License fees" means any money required by law to be paid to obtain or
147 renew a gaming license manufacturer's or distributor's license.

148 (bb) "Licensed gaming facility" means any facility wherein all gaming is
149 sanctioned and regulated by the Commission and fully taxed by the
150 commonwealth.

151 (cc) "Licensee" means any person to whom a valid gaming license manufacturer's
152 or distributor's license has been issued.

153 (dd) "Manufacturer" means a person who: (1) manufactures, assembles,
154 programs or makes modifications to a gaming device or cashless wagering
155 system; or (2) designs, controls the design or assembly or maintains a copyright
156 over the design of a mechanism, electronic circuit or computer program which
157 cannot be reasonably demonstrated to have any application other than in a
158 gaming device or in a cashless wagering system, for use or play in this state or for
159 distribution outside of this state

160 (ee) "Manufacturer's, seller's or distributor's license", means a license issued
161 pursuant to this act.

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

167 (gg) "Person" or "party" means a natural person, corporation, partnership,
168 limited partnership, trustee, holding company, joint venture, association, or any
169 business entity.

170 (hh) "Request for proposals" means a written document issued by the
171 commission to potential bidders which invites bidders to submit proposals
172 outlining their qualifications and desire to obtain a gaming license from the
173 commission.

174 (ii) "Skimming", means the intentional excluding of or the taking of any monies,
175 chips, or any other items in an attempt to exclude any monies, chips, or any
176 other items or their value from the deposit, counting, collection, or computation
177 of gross revenues from gaming operations or activities, net gaming proceeds, or
178 amounts due the commonwealth pursuant to this act.

179 (jj) "Slot machine", means any mechanical, electrical or other device, contrivance
180 or machine, including any so-called video wagering terminal, video lottery
181 terminal or video poker machine, which, upon insertion of a coin, token or
182 similar object, or upon payment of any consideration, is available to play or
183 operate, the play or operation of which, whether by reason of the skill of the
184 operator in playing a gambling game which is presented for play by the machine
185 or application of the element of chance, or both, may deliver or entitle the
186 person playing or operating the machine to receive cash, premiums,

187 merchandise, tokens or any thing of value, whether the payoff is made
188 automatically from the machine or in any other manner.

189 (kk) "Substantial party in interest", means any person holding a greater than five
190 percent direct or indirect pecuniary interest, whether as owner, mortgagor or
191 otherwise, in an operating entity, premises, or any other licensee or applicant.

192 (ll) "Water-based licensed gaming facility", means any licensed gaming facility
193 that is principally located on the water.

194 (mm) "Work permit", means any card, certificate, or permit issued by the
195 commission authorizing the holder to be employed in a licensed gaming facility.

196 (nn) "Gross gaming revenue", the total, prior to the deduction of any operating,
197 capital or other expenses whatsoever, less only the total of all sums paid out as
198 winnings, of all gaming establishment revenue generated by the gaming
199 establishment of any casino licensed under this chapter derived from the
200 conduct of any game conducted at a licensed casino.

201

202 SECTION 3. Gaming Control Commission: Composition, Powers and Duties.

203 (a) There shall be established a Massachusetts Gaming Control Commission
204 consisting of five members. Each member shall be a citizen of the United States
205 and a resident of the commonwealth. No person holding any elective office in
206 state, county, or local government; nor any officer or official of any political

207 party, nor any person who was formerly a licensee or an unlicensed employee of
208 a gaming licensee within the five years prior to any appointment shall be eligible
209 for appointment to the commission. The commission shall be composed of the
210 most qualified persons available; but no person actively engaged or having a
211 direct pecuniary interest in gaming activities shall be a member of the
212 commission. The governor shall appoint three members of the commission and
213 designate one member to serve as chairman of the commission. The attorney
214 general of the commonwealth shall appoint one member of the commission. The
215 attorney general's appointee shall have experience in legal issues with respect to
216 gaming establishments and be a member in good standing with the
217 Massachusetts Bar Association. The auditor of the commonwealth shall appoint
218 one member of the commission. The auditor's appointee shall have experience in
219 accounting and possess a Massachusetts license as a Certified Public Accountant.

220 (b) Members of the commission shall serve a term coterminous with that of the
221 elected Governor and serve until a successor is appointed. Any member shall be
222 eligible for reappointment but no member shall serve more than 2 terms of 4
223 years each. Any person appointed to fill a vacancy in the office of a member of
224 the commission shall be appointed in a like manner and shall serve for only the
225 unexpired term of such member. Any commissioner may be removed by the
226 governor for just cause, and shall be removed immediately upon conviction of
227 any felony.

228 (c) Four of the members shall constitute a quorum and the affirmative vote of a
229 majority of members present at a duly called meeting where a quorum is present
230 shall be necessary for any action to be taken by the commission. The commission
231 annually may elect 1 of its members as vice-chairperson, shall elect a secretary
232 and a treasurer, and may elect or appoint other officers as it may deem
233 necessary, none of whom, other the vice-chairperson, are required to be
234 members of the commission. The secretary shall keep a record of the
235 proceedings of the commission and shall be custodian of all books, documents,
236 and papers filed by the commission and of its minute book and seal. The
237 secretary shall cause copies to be made of all minutes and other records and
238 documents of the commission and shall certify that such copies are true copies,
239 and all persons dealing with the commission may rely upon such certification.
240 The treasurer shall be the chief financial and accounting officer of the
241 commission and shall be in charge of its funds, books of account and accounting
242 records. The officers of the commission shall be subject to the same
243 requirements as the members of the commission.

244 (d) Meetings of the commission shall be subject to Sections 11A and 11A1/2 of
245 Chapter 30A, provided, however, that any discussion or consideration of law
246 enforcement or investigatory information, trade secrets or commercial or
247 financial information may be held by the commission in executive session closed
248 to the public notwithstanding the provisions of Section 11A1/2 of Chapter 30A,
249 but the purpose of any such executive session shall be set forth in the official

250 minutes of the commission and no business which is not directly related to such
251 purpose shall be transacted nor shall any vote be taken during such executive
252 session. A public record of every vote shall be maintained at the commission.
253 The commission may maintain any other files and records as it deems
254 appropriate. Regular and special meetings of the commission may be held, at the
255 discretion of the commission, at such times and places as it may deem
256 convenient.

257 (e) The commission members shall devote that time to the business of the
258 commission as may be necessary to the discharge of their duties. The members
259 of the commission shall be compensated for work performed for the commission
260 at fifty thousand dollars per annum, with the chairman receiving ten thousand
261 dollars per annum in addition to his compensation. Before entering upon the
262 duties of his or her office each member shall swear that he or she is not
263 pecuniary interested in any business or organization holding a gaming license
264 under this act, or doing business with any gaming service industry, as defined by
265 this act and shall submit to the governor, attorney general and state auditor, a
266 statement of financial interest required by chapter two-hundred sixty-eight B of
267 the General Laws listing all assets and liabilities, property and business interests,
268 and sources of income of said commissioner and his spouse. Such statement
269 shall be under oath and shall be filed at the time of employment and annually
270 thereafter. No commission member shall have any interest, direct or indirect, in
271 any applicant or in any person licensed by or registered with the commission

272 during his term of office. Regular and special meetings of the commission may be
273 held, at the discretion of the commission, at such times and places as it may
274 deem convenient.

275 (f) The commission shall make an annual report of its activities to the general
276 court by March thirty-one, for the prior calendar year.

277 (g) The commission shall have general responsibility for the implementation of
278 this act, as hereinafter provided, including, the right to hear and decide promptly
279 and in reasonable order all license, registration, certificate, and permit
280 applications and causes affecting the granting, suspension, revocation, or
281 renewal thereof; to conduct all hearings pertaining to civil violations of this act
282 or regulations promulgated hereunder; the method and form of application
283 which any applicant for a gaming license or for a manufacturer's, sellers or
284 distributor's license must follow and complete before consideration of his
285 application by the commission; the information to be furnished by any applicant
286 or licensee concerning his antecedents, habits, character, associates, criminal
287 history or record, business activities and financial affairs, past or present; the
288 information to be furnished by a licensee relating to his gaming employees; the
289 fingerprinting of an applicant or licensee or employee of a licensee or other
290 methods of identification; the manner and procedure of all hearings conducted
291 by the State Gaming Control Authority, as defined by this act, or commission or
292 any hearing examiner of the authority or commission, including special rules of

293 evidence applicable thereto and notices thereof; the issuance and revocation of
294 work permits for employment of persons in licensed gambling facilities; the
295 manner in which winnings, compensation from games and gaming devices, and
296 gross revenue must be computed and reported by the licensee; the minimum
297 procedures for adoption by each licensee to exercise effective control over its
298 internal fiscal affairs; the payment by any applicant of all or any part of the fees
299 and cost of investigation of such applicant as may be determined by the bureau
300 or the commission; governing the manufacture, sale and distribution of gambling
301 devices and equipment; licensee bonding requirements; monitoring of licensee
302 requirements; investigations both civil and criminal; the method and operation
303 of gambling operations including the type and manner of gambling, record
304 keeping, accounting, audit requirements and safeguarding of assets; the testing
305 and inspection of gambling equipment; the licensing of corporations, limited
306 partnerships, holding companies and intermediary companies; the limitations of
307 security contracts and agreements; the sale of securities of affiliated companies;
308 emergency proceedings; setting forth those persons to be excluded or ejected
309 from gambling establishments including the type of conduct prohibited thereat;
310 to collect all license and registration fees, taxes and penalties imposed by this act
311 and the regulation issued pursuant thereto; to be present through its inspectors
312 and agents at all times during the operation of any licensed gaming facility for
313 the purpose of certifying the revenue thereof and receiving complaints from the
314 public; and to review and rule upon any complaint by a licensed gaming facility

315 licensee regarding any investigative procedures of the bureau which are
316 unnecessarily disruptive of licensed gaming facility operations; and a code of
317 conduct for employees of the bureau. The need to inspect and or investigate a
318 licensed gaming facility shall be presumed at all times. The commission shall
319 adopt an official seal and alter same at pleasure.

320 (h) The commission shall conduct hearings in accordance with the provisions of
321 Chapter 30A. The commission may, by a majority vote, issue subpoenas for the
322 attendance of witnesses or the production of any records, books, memoranda,
323 documents, or other papers, or things, at or prior to any hearing as is necessary
324 to enable the commission to effectually discharge its duties, and may administer
325 oaths or affirmations as necessary in connection therewith. The commission
326 may petition a superior court for an order requiring compliance with a
327 subpoena. The commission and the bureau shall have the authority to propound
328 written interrogatories and may administer oaths, issue subpoenas, propound
329 written interrogatories, require testimony under oath, report same, and fashion
330 recommended decisions upon the recommendation of said commission.

331 (i) The commission may require any person to apply for a license as provided in
332 this act and approve or disapprove, transactions, events, and processes as
333 provided in this act. The commission may grant or deny any application for a
334 license or approval; may limit, condition, restrict, suspend, or revoke any license
335 or approval for any cause deemed reasonable by the commission, consistent

336 with this act or any general or special. The commission may also impose a civil
337 fine of not more than fifteen thousand dollars upon any person licensed,
338 registered or otherwise approved under this act, for any violation of this act or of
339 any general or special law related to gambling. The commission may, as further
340 provided in regulations approve or disapprove transactions, events, and
341 processes as provided in this act, take actions reasonably designed to ensure
342 that no unsuitable persons are associated with controlled gambling activities.

343 The commission may expend for legal, investigative, clerical and other assistance
344 such as may be appropriated therefore. Investigators employed by the
345 commission shall have access to all records maintained by the all licensees and
346 registrants hereunder, whether maintained at the licensed gambling
347 establishment or other location as may be pertinent to the investigatory powers
348 of the commission.

349 (j)The commission shall assure, to the extent required by this act, that licenses,
350 approvals, certificates, or permits shall not be issued to nor held by, nor shall
351 there be any material involvement, directly or indirectly, with the licensed
352 gaming facility operation or the ownership thereof by, unqualified or disqualified
353 persons or persons whose operations are conducted in a manner not conforming
354 with the provisions of this act. In enforcing the provisions of this act, the
355 commission shall have the power and authority to deny any application; limit or
356 restrict any license, registration, certificate, permit or approval; suspend or
357 revoke any license, registration, certificate, permit or approval; and, impose a

358 penalty on any person licensed, registered, or previously approved for any cause
359 deemed reasonable by the commission pursuant to rules and regulations
360 promulgated thereby.

361 (k) No commission member or person employed by the commission shall
362 represent any person or party other than the commonwealth before or against
363 the commission for a period of two years from the termination of his office or
364 employment with the commission.

365 (l) The commission shall initiate proceedings or actions appropriate to enforce
366 statutory and regulatory requirements mandated of license-holders.

367 (m) The commission shall have the power to acquire, lease, use, hold and
368 mortgage real, personal or mixed property or any interest, easements or rights
369 therein, as may be necessary or appropriate to carry out the provisions of this
370 act; to enter into agreements or other transactions with the commonwealth or
371 any political subdivision or public instrumentalities thereof, the United States
372 government or any federal, state or other governmental agency; to formulate
373 plans for the projects involving the acquisition and operation of facilities
374 pursuant to the provisions of this act, and to construct or reconstruct, expand,
375 remodel, to fix and revise from time to time, and to charge and collect rates,
376 fees, rentals and other charges for the use of any building, structure, other
377 property or portion thereof under its control; and to acquire in the name of the
378 commission by purchase or otherwise,

379 (n) The commission may investigate, civilly or criminally, fraud, deceit,
380 misrepresentation or violations of law by any person licensed or registered
381 under this act, or the occurrence of any such activity within or involving any
382 licensed gambling establishment or gambling operation. If the commission has
383 reasonable basis to believe that any person licensed or registered under this act
384 is engaged in criminal behavior or that criminal activity is occurring within or
385 involving any licensed gaming facility or licensed gambling operation said
386 commission shall report same to the attorney general of the commonwealth and
387 the district attorney of the county within which the gaming facility is located and
388 make available to the attorney general and said district attorney all relevant
389 information on such activity. The commission, as it deems appropriate, may ask
390 the attorney general and/ or said district attorney to restrain a violation of this
391 act or enforce any provision thereof. An action brought against a person
392 pursuant to this act does not preclude any other criminal or civil proceeding as
393 may be authorized by law.

394 (o) No person shall transfer a direct or indirect pecuniary interest in a licensed
395 operating entity or premises, or enter into an option contract or other
396 agreement providing for such transfer in the future, without having notified the
397 commission. No person shall transfer a greater than five percent direct or
398 indirect pecuniary interest in a licensed operating entity or premises without the
399 issuance by the commission to the transferee of an operating license or an

400 affirmative statement that the transferee has met the operating license
401 standards, as the commission may require.

402

403 SECTION 4. State Gaming Control Authority: Composition, Powers and Duties.

404 (a) There shall be established a State Gaming Control Authority. The authority
405 may acquire such furnishings, equipment, supplies, stationery, books, motor
406 vehicles and other things as it may deem necessary or desirable in carrying out
407 its functions; incur such other expenses, within the limit of money available to it,
408 as it may deem necessary. The authority shall furnish to the commission such
409 administrative and clerical services and such furnishings, equipment, supplies,
410 stationery, books, motor vehicles and all other things as the commission may
411 deem necessary or desirable in carrying out its functions. Except as otherwise
412 provided in this act, all costs of administration incurred by the authority must be
413 paid out on claims from the state general fund in the same manner as other
414 claims against the state are paid.

415 (b) The position of Executive Director of the state gaming control authority is
416 hereby created. The Gaming Control Commission shall appoint the executive
417 director for a term of five years. The executive director shall not serve more than
418 two consecutive terms. The executive director may be removed by the governor
419 for cause. The executive director shall be responsible for the conduct of the
420 commission's administrative matters. The executive director shall be the

421 executive secretary of the commission and shall carry out and execute the duties
422 as specified by law and the commission. The executive director shall employ such
423 professional, technical, and clerical assistants and employees as necessary,
424 subject to appropriation; provided, however, that such assistants and employees
425 shall not be subject to chapter thirty-one or section nine A of chapter thirty of
426 the General Laws. The executive director shall devote his entire time and
427 attention to the business of his office and shall not pursue any other business or
428 occupation or hold any other office of profit.

429 (c) The authority shall, within the limits of legislative appropriations or
430 authorizations, employ and fix the salaries of or contract for the services of such
431 professional, technical and operational personnel and consultants as the
432 execution of its duties and the operation of the authority and commission may
433 require. The authority and the commission shall, by suitable regulations,
434 establish a comprehensive plan governing employment, job classifications and
435 performance standards, and retention or discharge of employees to assure that
436 termination or other adverse action is not taken against such employees except
437 for cause. The authority may employ the services of such persons as it considers
438 necessary for the purposes of consultation or investigation.

439 (d) Each employee of the authority shall file with the state ethics
440 commission a statement of financial interest as defined in chapter two-hundred
441 sixty-eight B of the General Laws listing all assets and liabilities, property and
442 business interests, and sources of income of said employee and his spouse. Such

443 statement shall be under oath and shall be filed at the time of employment and
444 annually thereafter.

445 (e) No employee of the authority shall be permitted to gamble in any
446 establishment licensed by the Commission except in the course of his duties.
447 Each employee or agent of the bureau shall devote his entire time and attention
448 to his duties and shall not pursue any other business or occupation or other
449 gainful employment; provided, however, that secretarial and clerical personnel
450 may engage in such other gainful employment as shall not interfere with their
451 duties to the commission or bureau, unless otherwise directed; and provided
452 further, however, that other employee and agents of the authority may engage
453 in such other gainful employment as shall not interfere or be in conflict with
454 their duties to the authority, upon approval by the commission and the director
455 of the authority.

456 (f) No person employed by the authority shall represent any person or party
457 other than the commonwealth before or against the authority or the
458 commission for a period of one year from the termination of his office or
459 employment with the authority.

460 (g) Before the beginning of each legislative year, the authority shall submit to the
461 house and senate committees on ways and means and the joint committee on
462 state administration and oversight a report defining, for the preceding twelve
463 month period, the gross revenue, net revenue, and average depreciation of each

464 licensee; the number of persons employed by each licensee, and related payroll
465 information; and the assessed valuation of each Massachusetts licensed gaming
466 facility as listed on the assessment rolls.

467 (h) Employees of the authority and their agents may inspect and examine all
468 premises wherein gaming is conducted or gambling devices or equipment are
469 manufactured, sold or distributed; inspect all equipment and supplies in, upon or
470 about such premises; summarily seize and remove from such premises and
471 impound any equipment, supplies, documents or records for the purpose of
472 examination and inspection; demand access to and inspect, examine, photocopy
473 and audit all papers, books and records of any applicant or licensee, on his
474 premises, or elsewhere as practicable, and in the presence of the applicant or
475 licensee, or his agent, respecting the gross income produced by any gaming
476 business, and require verification of income, and all other matters affecting the
477 enforcement of the policy or any of the provisions of this act; demand access to
478 and inspect, examine, photocopy and audit all papers, books and records of any
479 affiliate of a licensee whom the authority or commission knows or reasonably
480 suspects is involved in the financing, operation or management of the licensee.
481 Licensees must retain all books, papers, and records necessary for audits for
482 three years after the date of the surrender or revocation of his gaming license.

483 (i) The authority may place expert accountants, technicians, and any other
484 persons, as it may deem necessary, in the office, gambling area, or other place of

485 business of any person licensed or registered under this act for the purpose of
486 determining compliance with the rules and regulations adopted pursuant to this
487 act.

488 (j) The authority may investigate, for purposes of prosecutions any suspected
489 criminal violation of this act; provided, however, that nothing in this section shall
490 be deemed to limit the investigatory and prosecutorial powers of other state and
491 local officials and agencies, including district attorneys and police departments.

492 (k) The authority may recommend to the commission the denial of any
493 application, the limitation, conditioning, restriction, suspension, or revocation of
494 any license, permit, registration or approval, or the imposition of any fine upon
495 any person licensed or approved by the commission.

496 (l) The executive director of the authority and employees of the authority so
497 designated by the director shall have and exercise throughout the
498 commonwealth, subject to the rules and regulations as the director, with the
499 approval of the commission, may from time to time adopt, all the authority of
500 police officers and constables, except the service of civil process, to effectuate
501 the purposes of this act.

502 (m) No official, member, employee, or agent of the commission or authority,
503 having obtained access to confidential records or information in the
504 performance of duties pursuant to this act, unless otherwise provided by law,
505 shall knowingly disclose or furnish the records or information, or any part

506 thereof, to any person who is not authorized by law to receive it. Violation of this
507 provision shall be punishable by a fine of not more than ten thousand dollars or
508 by imprisonment in a house of correction for not more than one year, or by both
509 such fine or imprisonment.

510 (n) The authority shall make a continuous study and investigation of gaming
511 throughout the commonwealth in order to ascertain defects in state gaming law,
512 or in rules and regulations issued thereunder; to formulate recommendations for
513 changes in said law and the rules and recommendations promulgated
514 thereunder. The authority shall make a continuous study and investigation of the
515 operation and administration of similar laws in other states or countries; of any
516 literature or reports on the subject which from time to time may be published or
517 available to licensed gaming facilities; of any federal laws which may affect the
518 operation of gaming in the commonwealth; and of the reaction of citizens of the
519 commonwealth to existing and potential features of gaming with a view to
520 recommending or effecting changes that will tend to better serve and implement
521 the purposes of state gaming law. The authority shall make a continuous study of
522 state gaming policy, including gaming, as defined by this act; the state lottery, as
523 defined by chapter ten; and pari-mutual racing, as defined by chapter one-
524 hundred twenty-eight; and the impact of said policy on the Commonwealth.

525 (o) The executive director of the authority shall petition the commission to
526 initiate proceedings or actions appropriate to enforce statutory and regulatory

527 requirements mandated of license-holders, and the commission shall grant or
528 deny such petitions expeditiously.

529

530 SECTION 5. Records of Commission and Authority Proceedings.

531 (a) The commission shall cause to be made and kept a record of all proceedings
532 at regular and special meetings of the commission. These records shall be open
533 to public inspection.

534 (b) Notwithstanding any other general or special law to the contrary all files,
535 records, reports, and other information in possession of any state or local
536 governmental agency including tax filings and related information that are
537 relevant to an investigation by the bureau conducted pursuant to this act shall
538 be made available to the authority as requested. However, any tax or financial
539 information received from a governmental agency shall be used solely for
540 effectuating the purposes of this act. To the extent that these files, records,
541 reports, or information are confidential or otherwise privileged from disclosure
542 under any law they shall not lose that confidential or privileged status for having
543 been disclosed to the authority.

544 (c) No statement, and no publication of any document, described in this section
545 shall impose liability for defamation or constitute a ground for recovery in any
546 civil action. If any document or communication described above contains any

547 information that is privileged or exempt from public disclosure that privilege or
548 exemption is not waived or lost because the document or communication is
549 disclosed to the authority or the commission or any of their agents or
550 employees.

551 (d) The attorney general, every district attorney, and every state and local law
552 enforcement agency shall notify the authority of any investigation or prosecution
553 of any person if it appears that a violation of any law related to gambling had
554 occurred.

555

556 SECTION 6. Finding of Suitability. License Approval.

557 (a) The commission and the authority shall investigate the qualifications of each
558 applicant under this act before any license is issued or any registration, finding of
559 suitability or approval of acts or transactions for which commission approval is
560 required or permission is granted, and shall continue to monitor the conduct of
561 all licensees and registrants and other persons having a material involvement,
562 directly or indirectly with a licensed gaming facility or holding company to ensure
563 that licenses are not issued or held by, nor is there any material involvement
564 directly or indirectly with a licensed gaming facility or holding company by
565 unqualified, disqualified or unsuitable persons, or persons whose operations are
566 conducted in an unsuitable manner or in unsuitable or prohibited places or
567 locations, as provided in commission regulations. All expenses associated with

568 the licensing of any applicant shall be borne by the applicant. Pursuant to its
569 regulations, the commission shall require each applicant for a gambling license
570 to deposit with the commission, together with the application therefore, an
571 application fee. Such fee shall constitute the anticipated costs and charges
572 incurred in the investigation and processing of the application, and any
573 additional sums as are required by the commission to pay final costs and
574 charges.

575 (b) The commission and the authority may require a finding of suitability or the
576 licensing of any person who owns any interest in the premises of a licensed
577 establishment; owns any interest in real property used by a licensed
578 establishment whether he leases the property directly to the licensee or through
579 an intermediary; repairs, rebuilds or modifies any gaming device; manufactures
580 or distributes chips or gaming tokens for use in this state.

581 (c) The commission and the authority may require a finding of suitability or the
582 licensing of any person who furnishes services or property to a state gaming
583 licensee under any arrangement pursuant to which the person receives
584 payments based on earnings, profits or receipts from gaming.

585 d) No person shall operate a gaming establishment without having obtained all
586 necessary operating licenses from the commission. There shall be a single
587 licensed operator for each gaming establishment. The licensing standards must
588 be met at all times by each officer, director, partner, and trustee of the operating

589 entity, by each substantial party in interest of the operating entity or of the
590 premises on which such establishment is located, and by such other party in
591 interest of the operating entity, the premises, or any holding company or
592 intermediary company of the operating entity or the premises as the commission
593 may require. In no event shall the commission permit person or entity previously
594 convicted of a felony to be a party in interest of the operating entity or of the
595 premises or of any holding or intermediary company of the operating entity or
596 the premises. A separate license shall be required for any person described
597 above, unless the commission specifically determines otherwise.

598 (e) The commission is authorized to award no more the 3 casino licenses in the
599 Commonwealth, with no more than 1 license awarded per region, as follows: -

600 Region 1 – Suffolk, Middlesex and Essex counties;

601 Region 2 – Norfolk, Bristol, Plymouth, Nantucket, Dukes and
602 Barnstable counties; and

603 Region 3 – Worcester, Hampshire, Hampden, Franklin, and Berkshire
604 counties.

605 (f) Each license approved by the Commission pursuant to Section 6(e) shall be
606 awarded as the result of a competitive bidding process to be designed and
607 established by said commission in which the successful applicant shall bid not
608 less than \$100 million.

609 (g) No casino license shall issue to an applicant who is a federally recognized
610 Native American tribe located in the Commonwealth or an applicant who is
611 partnered with a federally recognized Native American tribe located in the
612 Commonwealth unless the Native American tribe has entered into a contractual
613 agreement with the Commonwealth in which the Native American tribe agrees
614 to waive any and all of its rights under the Indian Gaming Regulatory Act, 25
615 U.S.C. Sections 2701 et seq., and be subject to the civil and criminal laws,
616 statutes, ordinances, and jurisdiction of the Commonwealth with respect to all
617 activities relating to the development and operation of the resort casino and the
618 applicable rules and regulations prescribed by the commission.

619 (h) No application for any gaming license established under this act shall be
620 granted without a majority vote of those voting in a local referendum of the host
621 community in accordance with the procedures established under the general
622 laws.

623 (i) A person may apply to be a licensed operator by filing an application with the
624 commission, in the form and with such accompanying application fees as the
625 commission may establish. Information on the application will be used as the
626 basis for a thorough background investigation which the bureau shall conduct
627 with respect to each applicant. Each application shall disclose the identity of
628 each party in interest, each holding company and intermediary company, and
629 each affiliate of the operating entity. The application shall disclose, in the case of

630 a privately held corporation, the names and addresses of all directors, officers,
631 and stockholders; in the case of a publicly traded corporation, the names and
632 addresses of all directors, officers, and persons holding at least one percent of
633 the total capital stock issued and outstanding; in the case of a partnership, the
634 names and addresses of all partners, both general and limited; and in the case of
635 a trust, the names and addresses of all trustees and beneficiaries.

636 (j) Each operating entity shall identify, in its application, the premises containing
637 the establishment where it proposes to conduct its gaming operations. The
638 application shall contain such information regarding the physical location and
639 condition of the premises and the potential impact of the proposed gaming
640 operations upon adjacent properties and the municipality and region within
641 which the premises are located, as the commission may require. The application
642 shall disclose the identity of all parties in interest regarding the premises; and
643 provided, further, except as otherwise permitted herein, no person other than a
644 licensee hereunder shall have any right to or interest in net gaming revenue or
645 adjusted net gaming revenue in the form of a percentage of any sums payable
646 hereunder.

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

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

655 (m) Licensed operators shall provide all full time employees and part time
656 employees working a minimum of twenty hours a week with health insurance
657 coverage.

658 (n) Any person who the commission determines is qualified to receive a license
659 or be found suitable under the provisions of this act, may be issued a state
660 gaming license or found suitable, as appropriate. The burden of proving his
661 qualification to receive any license or be found suitable is on the applicant. A
662 license to operate a gaming establishment must not be granted unless the
663 applicant has satisfied the commission that he or she has adequate business
664 probity, competence and experience, in gaming; and the proposed financing of
665 the entire operation is adequate for the nature of the proposed operation; and,
666 from a suitable source. All applications to receive a license or be found suitable
667 constitutes a request for a determination of the applicant's general character,
668 integrity, and ability to participate or engage in, or be associated with gaming, as
669 appropriate. The commission may limit the license or place such conditions
670 thereon as it may deem necessary in the public interest. The commission may, if
671 it considers necessary, issue a probationary license. No state gaming license may
672 be assigned either in whole or in part. The commission may limit or place such

673 conditions as it may deem necessary in the public interest upon any registration,
674 finding of suitability or approval for which application has been made. A licensee
675 may be granted a temporary gaming license to operate a gaming facility during
676 the construction phase of any licensed gaming facility, provided that no more
677 than one temporary license be awarded for any licensed gaming facility, and
678 provided further that no temporary license remain in force for a period in excess
679 of twenty-four months.

680 (o) Any state license in force is renewable every 10 years, from the date of first
681 issuance. The commission shall adopt regulations to establish standards and the
682 process concerning the renewability of licenses.

683 (p) If satisfied that an applicant is eligible to receive a state gaming,
684 manufacturing, selling, or distributing license, and upon tender of all license fees
685 and taxes as required by law and regulation of the commission; and a bond
686 executed by the applicant as principal, and by a corporation qualified under the
687 laws of the commonwealth as surety, payable to the commonwealth, and
688 conditioned upon the payment of license fees and taxes and the faithful
689 performance of all requirements imposed by law or regulation or the conditions
690 of the license, the commission shall issue and deliver to the applicant a license
691 entitling him to engage in the gaming, manufacturing, selling, or distributing
692 operation for which he is licensed, together with an enumeration of the specific
693 terms and conditions of the license.

694 (q) A license issued pursuant to the provisions of this act must be posted by the
695 licensee and kept posted at all times in a conspicuous place in the area where
696 gaming is conducted in the establishment for which the license is issued until it is
697 replaced by a succeeding license.

698 (r) If the commission is not satisfied that an applicant is qualified to be licensed
699 under this act, the commission may cause to be made such investigation into and
700 conduct such hearings concerning the qualifications of the applicant in
701 accordance with its regulations as it may deem necessary.

702 (s) The commission has full and absolute power and authority to deny any
703 application for any cause it deems reasonable. If an application is denied, the
704 commission shall prepare and file its written decision upon which its order
705 denying the application is based.

706 (t) A person who has had his application for a license denied or who has been
707 found unsuitable by the commission shall not retain his interest in a corporation,
708 partnership, limited partnership, limited-liability company or joint venture
709 beyond that period prescribed by the commission; and shall not accept more for
710 his interest in a corporation, partnership, limited partnership, limited-liability
711 company or joint venture than he paid for it or the market value on the date of
712 the denial of the license or the finding of unsuitability.

713 (u) The voluntary surrender of a license by a licensee does not become effective
714 until accepted in the manner provided in the regulations of the commission. The

715 surrender of a license does not relieve the former licensee of any penalties,
716 fines, fees, taxes or interest due.

717 (v) The authority shall promptly and in reasonable order investigate all
718 applications, enforce the provisions of this act and any regulations promulgated
719 hereunder. The authority shall provide the commission with all information
720 necessary for all actions requested of it under this act and for all proceedings
721 involving enforcement of the provisions of this act or any regulations
722 promulgated hereunder.

723 (w) The authority shall investigate the qualifications of each applicant before any
724 license, certificate, or permit is issued pursuant to the provisions of this act;
725 investigate the circumstances surrounding any act or transaction for which
726 commission approval is required; investigate violations of this act and
727 regulations promulgated hereunder; initiate, prosecute and defend such
728 proceedings before the commission, or appeals there from, as the authority may
729 deem appropriate; provide assistance upon request by the commission in the
730 consideration and promulgation of rules and regulations; conduct continuing
731 reviews of licensed gaming facility operations through on-site observation and
732 other reasonable means to assure compliance with this act and regulations
733 promulgated hereunder; conduct audits of licensed gaming facility operations at
734 such times, under such circumstances, and to such extent as the director shall
735 determine, including reviews of accounting, administrative and financial records

736 and management control systems, procedures and records utilized by a licensed
737 gaming facility licensee; and be entitled to request information, materials and
738 any other data from any licensee or registrant, or applicant for a license or
739 registration under this act.

740 (x) Each licensee or registrant, or applicant for a license or registration under this
741 act shall cooperate with the commission and the authority in the performance of
742 their duties.

743 (y) The authority and its employees and agents, upon approval of the director,
744 shall have the authority, without notice and without warrant to inspect and
745 examine all premises wherein gaming is conducted; or gaming devices or
746 equipment are manufactured, sold, distributed, or serviced, or wherein any
747 records of such activities are prepared or maintained; to inspect all equipment
748 and supplies in, about, upon or around such premises; to seize summarily and
749 remove from such premises and impound any such equipment or supplies for
750 the purposes of examination and inspection; to inspect, examine and audit all
751 books, records, and documents pertaining to a gaming licensee's operation; to
752 seize, impound or assume physical control of any book, record, ledger, game,
753 device, cash box and its contents, counting room or its equipment, or licensed
754 gaming facility operations; and to inspect the person, and personal effects
755 present in a licensed gaming facility licensed under this act, of any holder of a

756 license or registration issued pursuant to this act while that person is present in
757 a licensed gaming facility.

758 (z) Every licensed gaming facility must, upon receipt of criminal or civil process
759 compelling testimony or production of documents in connection any criminal
760 investigation, immediately disclose such information to the authority.

761

762 SECTION 7. Right to Hearing.

763 Any person aggrieved by a determination by the commission to issue, deny,
764 modify, revoke or suspend any license or approval, or to issue an order, under
765 the provisions of this act, may request an adjudicatory hearing before the
766 commission under the provisions of chapter thirty A of the General Laws. Any
767 such determination shall contain a notice of this right to request a hearing and
768 may specify a time limit, not to exceed twenty-one days, within which said
769 person shall request said hearing. If no such request is timely made, the
770 determination shall be deemed assented to. If a timely request is received, the
771 commission shall within a reasonable time act upon a request in accordance with
772 the provisions of said Chapter 30 A. A person aggrieved by a final decision in an
773 adjudicatory hearing held under the provisions of this section may obtain judicial
774 review thereof pursuant to the provisions of chapter thirty A.

775

776 SECTION 8. Criminal Acts and Penalties; Age Restrictions.

777 (a) Except as otherwise provided in this act or in chapter ten or in Section 7A of
778 Chapter 271 of the General Laws, it is unlawful for any person to deal, operate,
779 carry on, conduct, maintain or expose for play in the commonwealth of
780 Massachusetts any gambling game, gaming device, or slot machine as defined by
781 this act; to receive, directly or indirectly, any compensation or reward or any
782 percentage or share of the money or property played, for keeping, running or
783 carrying on any gambling game, gaming device, or slot machine; to permit any
784 gambling game, gaming device, or slot machine to be conducted, operated, dealt
785 or carried on in any house or building or other premises owned by him, in whole
786 or in part; to lend, let, lease or otherwise deliver or furnish any equipment of any
787 gambling game, including any slot machine, for any interest, percentage or share
788 of the money or property played, under guise of any agreement whatever; to
789 lend, let, lease or otherwise deliver or furnish, except by a bona fide sale or
790 capital lease, any slot machine under guise of any agreement whereby any
791 consideration is paid or is payable for the right to possess or use that slot
792 machine, whether the consideration is measured by a percentage of the revenue
793 derived from the machine or by a fixed fee or otherwise; to furnish services or
794 property, real or personal, on the basis of a contract, lease or license, pursuant
795 to which that person receives payments based on earnings or profits from any
796 gambling game, including any slot machine, without having first procured a state
797 gaming license from the commission.

798 (b) Any person included on the list of persons to be excluded or ejected from a
799 gambling establishment pursuant to regulations promulgated pursuant to this
800 act who knowingly enters or remains on the premises of a licensed gambling
801 establishment shall be punished by a fine to be determined by the commission,
802 in addition to any other penalties prescribed by law.

803 (c) Any person under the age of twenty-one years who plays, places wagers at, or
804 collects winnings from, whether personally or through an agent, any controlled
805 game, or who is employed as an employee in a licensed gaming establishment
806 shall be punished by imprisonment in the house of correction for not more than
807 one year, or by a fine of not more than one thousand dollars, or by both such
808 imprisonment and fine any licensee, or other person, who knowingly allows a
809 person under the age of twenty-one to play, place wagers at or collect winnings,
810 whether personally or through an agent, shall be punished by imprisonment in
811 the house of correction for a term of not more than one year or pay a fine of not
812 more than ten thousand dollars, or by both such imprisonment and fine. A
813 subsequent violation of this section shall subject the licensee to imprisonment in
814 the house of correction for not more than two years or pay a fine of not more
815 than twenty-five thousand dollars or by both such imprisonment and fine. In any
816 prosecution or other proceeding for the violation of this subsection, it shall not
817 be a defense for the licensee or his agent to plead that he believed the person to
818 be twenty-one years of age or older.

819 (d) Any person who willfully fails to report, pay, or truthfully account for and pay
820 over any license registration fee, penalty, fine, or interest thereon imposed by
821 this act, or willfully attempts in any manner to evade or defeat the license fee,
822 penalty, fine, or interest thereon or payment thereof shall be punished by a fine
823 to be determined by the commission.

824 (e) Any person who willfully resists, prevents, impedes, or interferes with the
825 commission or the authority or any of their agents or employees in the
826 performance of duties pursuant to this act shall be punished by a fine to be
827 determined by the commission, in addition to any other penalties prescribed by
828 law.

829 (f) Any person who willfully violates, attempts to violate, or conspires to violate
830 any provision of a regulation adopted pursuant to this chapter shall be punished
831 by a fine to be determined by the commission, in addition to any other penalties
832 prescribed by law.

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

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

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

844 (3) to manufacture or distribute within the territorial boundaries of the
845 commonwealth any gaming equipment to be used in connection with controlled
846 gaming shall be punished by imprisonment in the state prison for not more than
847 five years, or by imprisonment in a house of correction for not more than two
848 and one-half years, or by a fine of not more than ten thousand dollars, or by
849 both such imprisonment and fine.

850 (h) Any person who knowingly permits any controlled game to be conducted,
851 operated, dealt, or carried on in any house or building or other premises that he
852 or she owns or leases, in whole or in part, if that activity is undertaken by a
853 person who is not licensed as required by state law shall be punished by
854 imprisonment in a state prison for not more than five years, or by imprisonment
855 in a house of correction for not more than one year, or by a fine of not less than
856 ten thousand dollars, or by both such imprisonment and fine.

857 (i) Any former commission member who, within three years after his
858 employment on said commission has ceased, solicits or accepts employment
859 with or provides consultant services to any licensee or at any licensed gaming
860 facility shall be deemed to have violated chapter two hundred sixty-eight B of

861 the General Laws. Any licensed gaming facility which employs a former
862 commission member in violation of this subsection shall be punishable by a fine
863 to be determined by the commission.

864 (j) It is unlawful for any person:

865 (1) to alter or misrepresent the outcome of a game or other event on
866 which wagers have been made after the outcome is determined but before it is
867 revealed to the players;

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

871 (3) to manipulate, with the intent to cheat, any component of a gaming
872 device in a manner contrary to the designed and normal operational purpose for
873 the component, including but not limited to, varying the pull of the handle of a
874 slot machine, with knowledge that the manipulation affects or reasonably may
875 tend to affect the outcome of the game or with knowledge of any event that
876 affects the outcome of the game. As used in this section, "cheat" means to alter
877 the selection of criteria which determine: (a) the results of a game; or (b) the
878 amount or frequency of payment in a game.

879 (4) to have on his person or in his possession on or off the premises of
880 any licensed gaming establishment any key or device known to have been
881 designed for the purpose of and suitable for opening, entering or affecting the

882 operation of any gaming or equipment, or for removing money or other contents
883 there from, except where such person is a duly authorized employee of a
884 licensee acting in furtherance of his employment within a licensed gaming
885 establishment.

886 (k) A violation of this section shall be punishable by imprisonment in a house of
887 correction for not more than two years or by a fine of not more than one
888 thousand dollars, or by both such imprisonment and fine.

889 (l) Any individual who commits, attempts, or conspires to commit skimming, as
890 defined by this act, for a total value of less than one thousand dollars against a
891 gaming licensee or upon the premises of a licensed gaming facility shall be
892 punished by imprisonment in a house of correction for not more than five years
893 and by a fine of not more than five thousand dollars, or by imprisonment in a
894 house of correction for not more than ten years and by a fine of not more than
895 ten thousand dollars if the total value is more than one thousand dollars.

896 (m) In addition to any other penalty imposed under this section, a violation of
897 this section by a licensed gaming establishment shall subject to forfeiture to the
898 commonwealth any or all of the gaming equipment related to the violation. A
899 district attorney may petition the superior court in the name of the
900 commonwealth in the nature of a proceeding in rem to order forfeiture of any
901 such gaming equipment subject to forfeiture under the provisions of this
902 paragraph. Such petition shall be filed in the court having jurisdiction over said

903 gaming equipment or having final jurisdiction over any related criminal
904 proceedings brought under any provision of this chapter. In all such suits where
905 the property is claimed by any person, other than the commonwealth, the
906 commonwealth shall have the burden of proving to the court the existence of
907 probable cause to institute the action, and any such claimant shall then have the
908 burden of proving that the gaming equipment is not forfeitable. The court shall
909 order the commonwealth to give notice by certified or registered mail to the
910 owner of said gaming equipment and to such other persons as appear to have an
911 interest therein, and the court shall promptly, but not less than two weeks after
912 notice, hold a hearing on the petition. Upon the motion of the owner of said
913 gaming equipment the court may continue the hearing on the petition pending
914 the outcome of any criminal trial related to the violation of this chapter. At such
915 hearing the court shall hear evidence and make conclusions of law, and shall
916 thereupon issue a final order, from which the parties shall have a right of appeal.
917 In all such suits where a final order results in a forfeiture, said final order shall
918 provide for disposition of said gaming equipment, by the commonwealth in any
919 manner not prohibited by law, including official use by an authorized law
920 enforcement or in other public agency, or sale at public auction or by
921 competitive bidding. The proceeds of any such sale shall be used to pay the
922 reasonable expenses of the forfeiture proceedings, seizure, storage,
923 maintenance of custody, advertising, and notice, and the balance thereof shall
924 be deposited in the gaming regulatory account established by this chapter.

925

926 SECTION 9. Revenues. License Fees. Penalties.

927 (a) Each gaming establishment shall pay to the commission a minimum sum
928 equal to 27% of gross gaming revenues, post payout and pre-expenses, from all
929 table games, slot machines or video gaming devices.

930 (b) There is hereby established a gaming investigative account. Any and all
931 expenses associated with the licensing of any applicant and monitoring of any
932 licensee shall be borne by the applicant or licensee. Pursuant to its regulations,
933 the commission shall require each applicant to deposit with the commission,
934 together with the application therefore, an application fee which shall be
935 deposited in the gaming investigative account. Such fee shall constitute the
936 anticipated costs and charges incurred in the investigation and processing of the
937 application, and any additional sums as required by the commission and the
938 authority to pay final costs and charges. Expenses may be advanced from the
939 gaming investigative account by the commission to the authority. Any money
940 received from an applicant in excess of the costs and charges incurred in the
941 investigation or the processing of the application shall be refunded pursuant to
942 regulations adopted by the commission. At the conclusion of the investigation
943 the bureau shall provide the applicant a written accounting of the costs and
944 charges so incurred.

945 (c) Two-thirds all fees, revenue, and penalties collected pursuant to this act,
946 with the exception of those revenues collected as stated in Section 9 (a) of this
947 act, shall be deposited in the general fund. Funds deposited in the general fund,
948 pursuant to this act, shall, subject to appropriation, be expended for the support
949 of the commission and the bureau in carrying out their duties and
950 responsibilities under this act. One-third of all fees, revenue, and penalties
951 collected pursuant to this act, with the exception of those revenues collected as
952 stated in section nine (a) of this act, shall go directly to cities and towns in the
953 form of local aid toward general operations using the lottery formula.

954 (d) All revenue received from any game or gaming device which is leased for
955 operation on the premises of the licensee-owner to a person other than the
956 owner thereof, or located in an area or space on the premises which is leased by
957 the licensee-owner to any such person, must be attributed to the owner for the
958 purposes of this section and be counted as part of the gross revenue of the
959 owner. The lessee is liable to the owner for his proportionate share of the
960 license fees.

961 (e) In addition to any other tax or fee imposed by this act, there is also hereby
962 imposed an annual fee of 5 million dollars for gaming license holders, and an
963 annual license fee of \$1,000 upon every slot machine maintained for use or in
964 use in any licensed gaming facility in the commonwealth.

965 (f) All gaming license fees and penalties imposed by the provisions of this act
966 must be paid to the state treasurer, two-thirds to be deposited into the general
967 fund and the remaining third directly to a special account to be distributed to the
968 cities and towns of the Commonwealth. Fees shall be paid annually on or before
969 June twentieth. Penalties imposed under this act shall be paid within thirty days
970 of the final determination of the commission of the violation.

971 (g) There is hereby imposed upon each slot machine operated in this state an
972 annual excise tax of five hundred dollars. If a slot machine is replaced by
973 another, the replacement is not considered a different slot machine for the
974 purpose of imposing this tax. The commission shall collect the tax annually on or
975 before June twentieth, as a condition precedent to the issuance of a state
976 gaming license to operate any slot machine for the ensuing fiscal year beginning
977 July first, from a licensee whose operation is continuing; collect the tax in
978 advance from a licensee who begins operation or puts additional slot machines
979 into play during the fiscal year prorated monthly after July thirty-first; include
980 the proceeds of the tax in its reports of state gaming taxes collected. The
981 commission shall pay over not less than one half of the tax as collected to the
982 treasurer of the municipality within which the gaming facility is located to be
983 deposited to the general fund of said municipality. Not more than one half of
984 the tax as collected shall go to communities surrounding the host community for
985 the purposes of traffic and public safety concerns resulting from the operation of
986 the gaming facility as prescribed according to the commission.

987 (h) If the growth in lottery receipts is less than the average of the prior five
988 years, the difference in revenues will be provided to the lottery from the fees,
989 revenue and penalties collected pursuant to this act, for the purpose of local aid
990 to the municipalities in the Commonwealth, provided the lottery payout
991 percentages do not change and the number of games remains the same or
992 greater. This provision will be applicable for the first 5 years for each gaming
993 facility licensed by the commission.

994 SECTION 10. Reporting Violations of Act.

995 All licensees, all registrants, all persons required to be qualified under this act,
996 and all persons employed by a gaming service industry licensed pursuant to this
997 act, shall have a duty to inform the commission or authority of any action which
998 they believe would constitute a violation of this act. No person who so informs
999 the commission or the authority shall be discriminated against by an applicant
1000 licensee or registrant because of the supplying of such information.

1001

1002 SECTION 11. Licensing of Gaming Service Industries.

1003 (a) All gaming service industries as defined in this act offering goods or services
1004 which directly relate to gaming activities or indirectly relate to gaming
1005 operations shall be licensed in accordance with rules of the commission and
1006 prior to conducting any business whatsoever with a gaming applicant or licensee,

1007 its employees or agents, and in the case of a school prior to enrollment of any
1008 students or offering of any courses to the public whether for compensation or
1009 not. Gaming service industries that directly relate to gaming activities shall
1010 include gaming and wagering equipment manufacturers, suppliers and repairers,
1011 schools teaching gaming and either playing or dealing techniques, and gaming
1012 security services. Gaming service industries that indirectly relate to gaming
1013 operations shall include junket enterprises; suppliers of alcoholic beverages,
1014 food and nonalcoholic beverages; garbage handlers; vending machine providers;
1015 linen suppliers; maintenance companies; shopkeepers located within the
1016 approved hotels; limousine services and construction companies contracting
1017 with gaming applicants or licensees or their employees or agents.

1018 (b) Each gaming service industry, as well as its owners, management and
1019 supervisory personnel and other principal employees must qualify under
1020 standards promulgated by the commission.

1021 (c) The commission may exempt any person or field of commerce from the
1022 licensing requirements of this subsection if the person or field of commerce
1023 demonstrates that it is regulated by a public agency or that it will provide goods
1024 or services in insubstantial or insignificant amounts or quantities, or provides
1025 professional services such as accountants, auditors, attorneys, or broker dealers,
1026 and that licensing is not deemed necessary in order to protect the public interest
1027 or to accomplish the policies established by this act. Upon granting an exemption

1028 or at any time thereafter, the commission may limit or place such restrictions
1029 thereupon as it may deem necessary in the public interest, and shall require the
1030 exempted person to cooperate with the commission and the authority and, upon
1031 request, to provide information in the same manner as required of a gaming
1032 service industry licensed pursuant to this section.

1033 (d) Licensure pursuant to this section of any gaming service industry may be
1034 denied to any applicant disqualified in accordance with the criteria contained in
1035 section six of this act.

1036

1037 SECTION 12. Problem Gambling. Education and Treatment.

1038 The department of public health is hereby authorized and directed to conduct a
1039 comprehensive study to measure the prevalence of compulsive, obsessive
1040 behaviors in Massachusetts; to measure the prevalence of problem gambling in
1041 Massachusetts; to measure the prevalence of underage problem gambling in
1042 Massachusetts; and, to measure the social cost of problem gambling in
1043 Massachusetts; and to develop appropriate treatment modalities and public
1044 education strategies that address the findings of said study.

1045

1046 SECTION 13. Disclosure Requirements.

1047 Every licensed gaming establishment shall disclose clearly and conspicuously on
1048 each electronic gaming device the numerical odds of winning or if the odds
1049 cannot be calculated, the manner by which a person may be notified of all
1050 previous winnings on each electronic gaming device, and the number of previous
1051 winners

1052 .

1053 SECTION 14. Recovery of Gaming Debts by Patrons.

1054 (a) Whenever a licensee refuses payment of alleged winnings to a patron, the
1055 licensee and the patron are unable to resolve the dispute to the satisfaction of
1056 the patron and the dispute involves:

1057 1) at least five hundred dollars, the licensee shall immediately notify the
1058 authority;

1059 2) less than five hundred dollars, the licensee shall inform the patron of
1060 his right to request that the authority conduct an investigation.

1061 The authority shall conduct whatever investigation it deems necessary and shall
1062 determine, in its sole discretion and without need for a hearing whether
1063 payment should be done. In the event the authority determines that payment
1064 should be made, all costs of the investigation shall be borne by the licensee.
1065 Failure of the licensee to notify the authority or inform the patron as provided
1066 herein shall subject the licensee to disciplinary action.

1067 (b) Any party aggrieved by the determination of the authority may file a petition
1068 for reconsideration with the commission setting forth the basis of the request
1069 for reconsideration. Any hearing for reconsideration shall be conducted pursuant
1070 to regulations adopted by the commission

1071 .

1072 SECTION 15. Severability.

1073 The invalidity of any section, sections or subsections or parts of this act shall not
1074 affect the validity of the remainder of this act.