

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Morrissey, Michael (SEN)**

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

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

**An Act revitalizing live racing in the Commonwealth.**

PETITION OF:

NAME:	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:*

1           SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section  
2   48, as appearing in the 2004 Official Edition, and inserting in place thereof the following  
3   section:- Section 48. The state lottery and gaming commission shall oversee and execute the  
4   duties of chapter 128, chapter 128A and any other general or special law involving the state  
5   racing commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

107 (21) the licensing and regulation of central computer system provider, which services electronic  
108 gaming devices and on and off site auditing of said electronic gaming devices; provided that, the  
109 commission shall ensure that the central computer system shall employ a widely accepted

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

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

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

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

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



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

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

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

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

158 (n) No licensed operator, licensed person, licensed party, a licensee's affiliate, a licensee's  
159 substantial party of interest, licensee's party of interest, as defined under section 2 of Chapter  
160 10A of the General Laws, shall transfer any license in whole or in part issued by the  
161 Commonwealth, municipality, county, authority, district, commission or any other subdivision of  
162 the Commonwealth, without the approval of the commission and the commission may require a  
163 payment by the transferer or transferee or both, as determined by the commission, to the  
164 commission, on behalf of the Commonwealth, and said payment shall be deposited into the  
165 General Fund; provided, that the commission shall consider as a factor in determining the  
166 amount of the payment the difference in value of the licensee's property between the time of  
167 when the licensee received the license and the time of or anticipated time of the transfer through  
168 the average of three separate assessments made by the licensee, the commission and an  
169 independent assessor chosen by the commission, and the cost of said assessment shall be part of  
170 the payment of the transfer; and provided further, that the commission shall consider as a factor  
171 in determining the amount of the payment the market value of the license of when it was  
172 acquired and at the time of the transfer; provided further, that the commission shall consider as a  
173 factor in determining the amount of the payment the increased value of the property, land,  
174 establishment, management agent, entity or business value as a result of possessing a gaming  
175 operator's license. In no event shall a bona fide commercial financial institution licensed by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

285 such matters as he deems necessary and advisable to improve the operation and administration of  
286 gaming.

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

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

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

296 Chapter 10A. Live Racing and Gaming

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

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



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

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

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

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

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

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

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

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

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

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

339 (3) any lottery game conducted by the state lottery commission, in accordance with Section  
340 24 of chapter 10 of the General Laws;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

386 or affiliates may intervene between the holding company and the corporate licensees or  
387 applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

460 (d) The executive director shall investigate the qualifications of each applicant under this  
461 chapter and make a recommendation to the commission before any license is issued. The  
462 executive director shall also continue to monitor the conduct of all licensees and other persons  
463 having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring



464 that licenses are not issued to, or held by, and there is no direct or indirect material involvement  
465 with a licensee by unqualified, disqualified, or unsuitable persons, or persons whose operations  
466 are conducted in unsuitable manner or in unsuitable or prohibited places, as provided in  
467 commission regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

566 fund attributable to this Chapter, as certified by the Treasurer, and secretary of administration  
567 and finance, and the chairs of the house and senate ways and means committees. Of the funds  
568 collected by the commission under this paragraph, on behalf of the Commonwealth one-third  
569 shall be deposited in the General Fund, one-third shall be deposited in the Commonwealth  
570 Stabilization Fund, and one-third shall be utilized for local aid.

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

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

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

580 The commission shall collect a sum equal to 0.5 percent of net gaming revenues from electronic  
581 gaming devices, which the commission shall pay toward compulsive gambling organizations, as  
582 determined by the department of public health; provided further, that said compulsive gambling  
583 organization, or organizations shall utilize said monies for the prevention, intervention and  
584 treatment of compulsive gambling in the Commonwealth; provided further that, not less than 20  
585 percent of the funds received under this paragraph shall be utilized for the purpose of  
586 identification, prevention, intervention, and treatment of compulsive gambling in minority and

587 immigrant communities; provided further, that the commission shall not pay more than  
588 \$6,000,000 annually to compulsive gambling organizations or organizations, as determined by  
589 the department of public health, and the remainder of said amount shall be collected by the  
590 commission, on behalf of the Commonwealth, and 50 percent of said overage amount shall be  
591 deposited in the General Fund and the other 50 percent of the overage shall be deposited in the  
592 Commonwealth Stabilization Fund.

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

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

604 (d) No person or party shall operate a gaming establishment without having obtained all  
605 necessary operating licenses from the commission. There shall be a single licensed operator for  
606 each gaming establishment and each racing meeting licensee. No license shall operate, invest or  
607 own, in whole or in part, another licensee's license or establishment. If a licensee does have  
608 more than one license, or operates, invests or owns, in whole or in part, another license, said

609 licensee shall within 30 days divest the license or interest subject to the approval of the  
610 commission, and shall pay a fine of up to \$5,000 per day; provided further that persons or  
611 entities that violate this section shall be required to surrender to the commission any licenses  
612 issued to the licensee under this chapter, chapter 24, chapter 128A and chapter 128C; provided  
613 further, that the persons or entities shall be prohibited in the future from being able to apply and  
614 receive licenses under said chapters. Failure for a licensee to comply with this section shall  
615 result in a fine of \$5,000 per day.

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

626 (e)       A person may apply to be a licensed operator by filing an application with the  
627 commission. Each application shall disclose the identity of each party in interest, each holding  
628 company and intermediary company, and each affiliate of the operating entity. The application  
629 shall disclose, in the case of the privately held corporation, the names and addresses of all  
630 directors, officers, and stockholders; in the case of a publicly traded corporation, the names and



631 addresses of all directors, officers, and persons holding at least five percent of the total capital  
632 stock issued and outstanding; in the case of a limited liability company, the names and addresses  
633 of all members of the management committee and all persons holding at least 5 percent of the  
634 membership interests; in the case of a partnership, the names and addresses of all partners, both  
635 general and limited; and in the case of a trust, the names and addresses of all trustees and  
636 beneficiaries.

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

650 (g) No licensed operator shall obtain any gaming equipment from a person who does not  
651 hold a license. No licensed operator shall enter into any agreement for the receipt of goods or  
652 services, of any form and in any amount, from a person who does not hold a license, when a

653 license is required for such agreement under this act or under regulations promulgated by the  
654 commission.

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

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

675 and communities contiguous to said communities. Any and all unspent funds shall remain in the  
676 account to be appropriated by the commission for future mitigation claims.

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

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

719 (k) The commission is authorized and directed through the division to establish the live  
720 racing purse pool account to be used to supplement the purses of parimutuel racing meeting

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

744 racetracks of the same species and types of racing to those Commonwealth's racing meeting  
745 licensee.

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

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

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

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

779 Section 5. The commission may make an assessment against the licensees for the purpose of  
780 reimbursing the Commonwealth the cost of the division's operation, administration and  
781 regulation. Said assessment shall be certified annually by the commission as sufficient to  
782 reimburse the commonwealth for funds appropriated for the operation of the division, including  
783 amounts sufficient to cover the cost of fringe benefits as established by the secretary of  
784 administration and finance pursuant to section 6B of chapter 29 of the General Laws. Said  
785 assessment shall be made proportionately against each licensee on the basis of the amount of net  
786 gaming revenue retained by each licensed operator from the previous fiscal year. If the  
787 commission fails to expend in any fiscal year the total amount assessed under this paragraph, any

788 amount unexpended shall be credited against the assessment to be made in the following year  
789 and the assessment in such following year shall be reduced by such unexpended amount. If the  
790 commission finds that it is unable to meet its operating budget during a fiscal year and if it  
791 determines that it requires additional funding is needed, then the commission must make a  
792 request to the Governor, the State Treasurer, the House and Senate Committees on Ways and  
793 Means, and the Joint Committee on Consumer Protection and Professional Licensure, and said  
794 request must include a explanation for the request of addition funding.

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

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

802 (b) Notwithstanding any other general or special law to the contrary all files, records,  
803 reports, and other information in the possession of any state or local governmental agency  
804 including tax filings and related information that are relevant to an investigation by the executive  
805 director conducted pursuant to this chapter shall be made available by such agency to the  
806 commission as requested. Any tax or financial information received from a governmental  
807 agency shall be used solely for effectuating the purposes of this chapter. To the extent that these  
808 files, records, reports, or information are confidential or otherwise privileged from disclosure  
809 under any law, they shall not lose that confidential or privileged status for having been disclosed



810 to the commission; provided further, that the commission shall consult with the division of  
811 public records regarding the handling of said information.

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

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

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

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

829 (d) Any person under the age of 21 years who plays, places wagers at, or collects winnings  
830 from, whether personally or through an agent, any controlled game, or who is employed as an

831 employee in a licensed gaming establishment shall be punished by imprisonment in the house of  
832 correction for not more than 1 year, or by a fine of not more than \$1,000, or by both such  
833 imprisonment and fine. Any licensee, or other person, who knowingly allows a person under the  
834 age of 21 to play, place wagers at or collect winnings, whether personally or through an agent,  
835 shall be punished by imprisonment in the house of correction for a term of not more than 1 year  
836 or pay a fine of not more than \$10,000, or by both. A subsequent violation of this section shall  
837 subject the licensee to imprisonment in the house of correction for not more than 2 years or pay a  
838 fine of not more than \$25,000, or by both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

925 Any hearing for reconsideration shall be conducted pursuant to regulations adopted by the  
926 commission.

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

931 Section 11. Any person or entity who knowingly transmits or receives wagers of any type by  
932 any telecommunication device, including telephone, cellular phone, Internet, or local area  
933 network, which shall mean to include wireless local networks, or any other similar device or  
934 equipment, or knowingly installs or maintain said device or equipment for the transmission or  
935 receipt of wagering information shall be punished by imprisonment in the house of correction for

936 not more than 2 years or pay a fine of not more than \$25,000 per violation or by both; provided,  
937 however, that this section shall not apply to the use of a local area network as a means to place  
938 wagers on a licensed gaming establishment, or use of said devices or equipment by the  
939 commission in its duties in regulating, enforcing and auditing a licensed gaming operator, or use  
940 of said devices or equipment for the purpose of a licensed gaming operator advertising itself.

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

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

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

953 "Commission," the state lottery and gaming commission, established under section 23 of chapter  
954 10 of the General Laws.

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

958 “Commission,” the state lottery and gaming commission, established under section 23 of chapter  
959 10 of the General Laws.

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

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

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



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

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

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

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

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

994 SECTION 14. The introductory paragraph of section 13 of said chapter 494 is hereby amended  
995 by striking out the words “, and until December 31, 2008”, inserted by section 3 of said chapter  
996 54, and inserting in place thereof the following words:- , and until December 31, 2009.

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

1000 SECTION 16. The first paragraph of section 9 of chapter 277 of the acts of 1986 is hereby  
1001 amended by striking out the words “, and until December 31, 2008”, inserted by section 5 of said  
1002 chapter 54, and inserting in place thereof the following words:- , and until December 31, 2009.

1003 SECTION 17. The first sentence of the first paragraph of section 3 of chapter 114 of the acts of  
1004 1991 is hereby amended by striking out the words “, and until December 31, 2008”, inserted by  
1005 section 6 of said chapter 54, and inserting in place thereof the following words:- , and until  
1006 December 31, 2009.

1007 SECTION 18. The last paragraph of said section 3 of said chapter 114 is hereby amended by  
1008 striking out the words “December 31, 2008”, inserted by section 7 of said chapter 54, and  
1009 inserting in place thereof the following words:- December 31, 2009.

1010 SECTION 19. The first paragraph of section 4 of said chapter 114 is hereby amended by striking  
1011 out the words “, and until December 31, 2008”, inserted by section 8 of said chapter 54, and  
1012 inserting in place thereof the following words:- , and until December 31, 2009.

1013 SECTION 20. The last paragraph of said section 4 of said chapter 114 is hereby amended by  
1014 striking out the words “December 31, 2008”, inserted by section 9 of said chapter 54, and  
1015 inserting in place thereof the following words:- December 31, 2009.

1016 SECTION 21. The first paragraph of section 5 of said chapter 114 is hereby amended by striking  
1017 out the words “, and until December 31, 2008”, inserted by section 10 of said chapter 54, and  
1018 inserting in place thereof the following words:- , and until December 31, 2009.

1019 SECTION 22. Section 13 of chapter 101 of the acts of 1992 is hereby amended by striking out  
1020 the words “December 31, 2008”, inserted by section 11 of said chapter 54, and inserting in place  
1021 thereof the following words:- December 31, 2009.

1022 SECTION 23. Section 45 of chapter 139 of the acts of 2001 is hereby amended by striking out  
1023 the words “December 31, 2008”, inserted by section 12 of said chapter 54, and inserting in place  
1024 thereof the following words:-December 31, 2009.

1025 SECTION 24. Notwithstanding the provisions of any general or special law or rule or regulation  
1026 to the contrary, including the provisions of chapter 150E of the General Laws, all employees,  
1027 equipment, finances, data, and records of the Massachusetts state racing commission shall be  
1028 transferred to the Massachusetts division of gaming racing and shall be transferred with no  
1029 impairment of employment rights held immediately before the transfer date, without interruption  
1030 of service, without impairment of seniority, retirement or other rights of employees and without  
1031 reduction in compensation or salary grade. All transferred employees shall continue their right to  
1032 collectively bargain pursuant to chapter 150E of the General Laws and shall be considered  
1033 employees for the purposes of said chapter 150E. Any collective bargaining agreement in effect  
1034 immediately before the transfer date shall continue in effect and the terms and conditions of  
1035 employment therein shall continue as if the employees had not been so transferred, until a new  
1036 successor agreement is reached with the Massachusetts state lottery commission. Within 90 days  
1037 of said transfer the Massachusetts Labor Relations Commission shall conduct an election with

1038 said transferred employees selecting from the existing collective bargaining representatives, the  
1039 winner of said election shall be the exclusive bargaining representative of all Massachusetts state  
1040 lottery commission employees. All new employees of the Massachusetts state lottery  
1041 commission shall be placed in said bargaining unit.

1042 SECTION 25. The transfer of powers from the state racing commission to the Massachusetts  
1043 state lottery commission shall occur one year after the passage of this act. Members of the  
1044 Massachusetts gaming control commission members shall be appointed within 30 days of this  
1045 act. The Massachusetts gaming control commission and the state racing commission shall enter  
1046 into a memorandum of understanding to transition of the functions, duties and responsibilities to  
1047 the state racing commission to the Massachusetts state lottery and gaming commission within 1  
1048 year.

1049