

BILL NUMBER: SB 51 INTRODUCED

BILL TEXT

INTRODUCED BY Senator Wright

DECEMBER 19, 2012

An act to add Chapter 5.2 (commencing with Section 19990.01) to Division 8 of, and to repeal Sections 19990.23.5 and 19990.96 of, the Business and Professions Code, relating to Internet gambling, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 51, as introduced, Wright. Internet gambling.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. The Department of Justice has related investigatory and enforcement duties under the act. Any

violation of these provisions is punishable as a misdemeanor, as specified.

This bill would establish a framework to authorize intrastate Internet gambling, as specified. The bill would authorize eligible entities to apply to the commission for a 5-year license to operate an intrastate Internet gambling Web site offering the play of authorized gambling games to registered players within California. The bill would prohibit the offer or play of any gambling game provided over the Internet that is not authorized by the state pursuant to this bill. The bill would provide that any violation of its provisions is punishable as a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require a license applicant to pay an application deposit to the commission, for deposit into the Internet Gambling Licensing Fund, as created by the bill, to be continuously appropriated to the department and the commission for the reasonably anticipated costs of investigating the applicant and evaluating the suitability of the applicant. The bill would also create the Internet Gambling Fund, for the deposit of an unspecified regulatory fee, which would be administered by the Controller subject to annual appropriation by the Legislature for the actual costs of license oversight, consumer protection, state regulation, problem gambling programs, and other purposes related to this bill, and which would not be subject to the formulas established by statute directing expenditures from the General Fund. The bill would require each

licensee to pay a one-time license fee in the amount of \$30,000,000 for deposit in the General Fund. The license fee would be credited against monthly fees imposed on the licensee's gross gaming revenue proceeds, as specified.

Existing law provides that a statute that imposes a requirement that a state agency submit a periodic report to the Legislature is inoperative on a date 4 years after the date the first report is due.

This bill would require the department, notwithstanding that requirement, in consultation with the commission, the Treasurer, and the Franchise Tax Board, to issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this bill within one year of the operative date of this bill and, annually, thereafter.

The bill would also require the Bureau of State Audits, at least 4 years after the issue date of any license by the state, but no later than 5 years after that date, to issue a report to the Legislature detailing the implementation of this bill, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as

an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5.2 (commencing with Section 19990.01) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 5.2. THE INTERNET GAMBLING CONSUMER PROTECTION AND PUBLIC-PRIVATE PARTNERSHIP ACT OF 2013

Article 1. Title, Legislative Declarations, and Statement of Legislative Intent

19990.01. This chapter shall be known and may be cited as the Internet Gambling Consumer Protection and Public-Private Partnership Act of 2013.

19990.02. The Legislature hereby finds and declares all of the following:

(a) Californians participate in illegal online gambling on unregulated Internet gambling Web sites. These Internet gambling Web

sites are operated by offshore operators that are not regulated by United States authorities. As such, neither federal nor California laws provide any consumer protections for California players. California players assume all risks, any negative social or financial impacts are borne by the citizens of California, and the revenues generated from online gambling are being realized by offshore operators and do not provide any benefits to the citizens of California.

(b) The presence, operation, and expansion of offshore, unlicensed, and unregulated Internet gambling Web sites available to Californians endanger Californians because the current Internet gambling Web sites operate illegally and without regulation as demonstrated by criminal prosecutions of some Internet gambling purveyors, and questions often arise about the honesty and the fairness of the games played on these Internet gambling Web sites as well as about the use of proceeds generated by these unregulated Internet gambling Web sites.

(c) In October 2006, Congress passed the SAFE Port Act (Public Law 109-347), to increase the security of United States ports. Embedded within the language of that act was a section entitled the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA), which prohibits the use of banking instruments, including credit cards, checks, or fund transfers, for interstate Internet gambling, essentially prohibiting online gambling by United States citizens. UIGEA includes exceptions that permit individual states to create a regulatory

framework to enable intrastate Internet gambling, provided the bets or wagers are made exclusively within a single state, whose state laws or regulations comply with all of the following:

(1) Contain certain safeguards regarding those transactions, including both of the following:

(A) Age and location verification requirements.

(B) Data security standards designed to prevent access by minors and persons located outside of that state.

(2) Expressly authorize the bet or wager and the method by which the bet or wager is made.

(3) Do not violate any federal gaming statutes, including all of the following:

(A) The Interstate Horseracing Act of 1978.

(B) The Professional and Amateur Sports Protection Act.

(C) The Gambling Devices Transportation Act.

(D) The Indian Gaming Regulatory Act of 1988 (IGRA).

(d) State provision of Internet gambling consistent with federal law provides California with the means to protect its citizens and consumers under certain conditions by providing a framework to ensure that, among other things, minors are prevented from gambling, citizens participating in gambling activities are protected, and the state is not deprived of income tax revenues to which it would otherwise be entitled.

(e) The state currently maintains and implements substantial regulatory and law enforcement efforts to protect thousands of

Californians who gamble and play, among other things, real-money poker in licensed California cardrooms and tribal government casinos, yet the state provides no licensing requirements, regulatory structure, or law enforcement tools to protect millions of Californians who play the same games daily for money on the Internet.

(f) California has a legitimate state interest in protecting the integrity of state-authorized intrastate Internet gaming by licensing only entities already engaged in legal gambling operations subject to the scrutiny and discipline of California regulatory agencies and that are in good standing with those state agencies.

(g) In order to protect Californians who gamble online, allow state law enforcement to ensure consumer protection, and keep the revenues generated from Internet gambling in California, it is in the best interest of the state and its citizens to authorize, implement, and create a legal system for intrastate Internet gambling.

(h) It is also the interest of the state to provide hundreds of millions of dollars annually for the public services that have been cut repeatedly during the state's budget crisis. It is the intent of the Legislature in enacting this act to ensure that the state realizes a minimum of two hundred million dollars (\$200,000,000) of General Fund revenue from licensing fees during the 2013-14 fiscal year.

(i) The state's interests are best met by a public-private partnership between the state and private entities, the terms of

which would facilitate meeting the important consumer protection interests of the state while ensuring, through the success of the private entities, that the state receives the benefits of the licensing scheme as well as tax revenues that it would otherwise not receive.

(j) The state's interests are best met by encouraging competition among qualified entities with the technical expertise and systems that comply with federal law, protect registered players, and ensure that the state collects consideration under the licensing scheme with those qualified entities, personal income taxes owed by registered players, corporate taxes from the earnings of licensed entities, and property, employment, and sales and use taxes created from new businesses, jobs, and other economic inducements from the authorization, regulation, and control of Internet gambling.

(k) The California Gambling Control Commission and the Department of Justice, in conjunction with other state agencies and private partners, has the expertise to evaluate the qualifications of applicants for a license to conduct intrastate Internet gambling services, and to license the best qualified and most responsive applicants to meet the needs of the state and its citizens.

(l) The authorization of intrastate Internet gambling pursuant to this chapter does not violate the California Constitution or interfere with any right under any compact between the state and any federally recognized Indian tribe. Moreover, the authorization and regulation of intrastate Internet gambling pursuant to this chapter

do not violate the exclusivity provisions of any compact between the state and any federally recognized Indian tribe. Internet gambling will take place throughout California. Moreover, the facilities used in the provision of Internet gambling are not slot machines or gaming devices as defined in any of those compacts, and it was not the intent of any party to a tribal-state gaming compact to prohibit the use of a gaming system, or an Internet access device not located in a place of public accommodation, to play nonbanked games that are not subject to the compacts, including the Internet poker authorized by this act. While the federal Indian Gaming Regulatory Act of 1988 balanced the interests of three sovereigns, the state, the tribes, and the federal government, UIGEA was designed to balance the federal interest in secure financial transactions with the state's power to determine how online gambling should take place within that state. Finally, application of UIGEA in California does not violate federal Indian law by impinging upon protected tribal sovereignty.

(m) Nothing in this chapter prohibits any federally recognized Indian tribe within California with a tribal-state gaming compact with the state pursuant to IGRA from participating in intrastate Internet gambling pursuant to these provisions subject to the jurisdiction of the state.

19990.03. It is the intent of the Legislature to create a licensing and regulatory framework to:

(a) Ensure that authorized games are offered only for play in a manner that is consistent with federal and state law.

(b) Authorize the California Gambling Control Commission to issue licenses, with the recommendation of the Department of Justice, to applicants that meet the background requirements and demonstrate the technical expertise to ensure that game play authorized by this chapter is offered only to registered players who are physically present within the borders of California at the time of play and who are 21 years of age or older.

(c) Authorize the commission, after any licensee has been providing authorized games for five years, to renegotiate the fees paid by the licensees, as provided in this chapter, based in large part on the report and recommendations of the Bureau of State Audits to the Legislature pursuant to Section 19990.96, and subject to the statutory approval of the Legislature. Each existing licensee shall have the opportunity to agree to any changes in fees and continue in partnership with the state, or to relinquish its license.

(d) Include all of the provisions in this chapter as terms of the license between the state and each licensee, subject to the enforcement provisions delineated in this chapter.

(e) Ensure that each licensee complies with federal and state laws and regulations.

(f) Grant power to the state agencies authorized in this chapter to oversee the operations of each licensee and to enforce the provisions of this chapter to ensure that the interests of the state and registered players are protected.

(g) Establish a process that includes a background investigation

and requires that each employee of each licensee or subcontractor receives all necessary licenses and work permits from the state.

(h) Ensure that the state is able to collect income tax revenues from registered players.

(i) Distribute regulatory fees collected by the state from each licensee to the Internet Gambling Fund, as established in Section 19990.86, which shall be administered by the Controller, subject to annual appropriation by the Legislature, and which shall not be subject to the formulas established by law directing expenditures from the General Fund, for the following:

(1) The actual costs of license oversight, consumer protection, state regulation, and problem gambling programs.

(2) Other purposes related to this chapter as the Legislature may decide.

(j) Create systems to protect each registered player's private information and prevent fraud and identity theft.

(k) Ensure that registered players are able to have their financial transactions processed in a secure and transparent fashion.

(l) Ensure that all applicable state agencies will have unrestricted access to the premises and records of each licensee to ensure strict compliance with state law concerning credit authorization, account access, and other security provisions.

(m) Require that each licensee provide registered players with accessible customer service.

(n) Require that each licensee's Internet Web sites contain information relating to problem gambling, including a telephone number that an individual may call to seek information and assistance for a potential gambling addiction.

(o) Require that each licensee and all of its subcontractors be organized in California. The licensee, its facilities, its bank accounts and accounting records related to its intrastate online gambling operations, and its registered players' deposits shall be located entirely within the state.

(p) Ensure that there are no artificial business constraints on the licensee, such as limits on the percentage of revenues that may be paid to technology supply contractors or limits on the number of intrastate Internet gambling Web sites a licensee may operate. Licensees and suppliers are free to structure their own desired relationships without interference from the state.

(q) Ensure that all employees of the licensee are physically present in the state when working on the licensee's Internet gambling Web site or in its facilities connected to the play of Internet gambling in this state, or when in contact with registered players. However, the licensee shall have discretion to use the expertise of personnel not physically present in the state when necessary to protect registered players and state interests, including, but not limited to, for the purposes of diagnosing and addressing technological problems, investigating fraud and collusion, and supervising software and configuration changes.

(r) Create an express exemption from disclosure, pursuant to the California Public Records Act under subdivision (b) of Section 6253 of the Government Code, that exempts from public disclosure proprietary information of a license applicant or a licensee in order to permit disclosure of confidential information to state agencies while achieving the public policy goals of deploying secure systems that protect the interests of the state and players.

(s) Preserve the authority of the state to opt out of, or opt into, any federal framework for Internet gambling, or to enter into any agreement with other states to provide Internet gambling.

(t) As a matter of statewide concern, preempt any city, county, or city and county from enacting any law or ordinance regulating or taxing any matter covered in this chapter.

## Article 2. Definitions

19990.05. For the purposes of this chapter the following words have the following meanings:

(a) "Authorized game" means a game approved by the department pursuant to Section 19990.14 and played using an intrastate Internet Web site pursuant to the authority of the state or offered by a licensee as authorized by the state on an intrastate Internet Web site operated by a licensee pursuant to this chapter.

(b) "Background investigation" means a process of reviewing and

compiling personal and criminal history and financial information through inquiries of various law enforcement and public sources to establish a person's qualifications and suitability for a license.

(c) "Bet" means the placement of a wager in a game.

(d) "Commission" means the California Gambling Control Commission.

(e) "Core functions" and "core functioning" mean any of the following:

(1) The management, administration, or control of wagers on authorized games provided over the Internet.

(2) The management, administration, or control of the games with which those wagers are associated.

(3) The development, maintenance, provision, or operation of a gaming system.

(f) "Department" means the Department of Justice.

(g) "Employee" means any natural person employed in, or serving as a consultant or independent contractor with respect to, the core functioning of the actual operation of an intrastate Internet gambling Web site.

(h) "Employee work permit" means a permit issued to an employee of the licensee or a subcontractor by the commission after a background investigation.

(i) "Finding of suitability" means a finding by the commission that a person meets the qualification criteria described in Article 4 (commencing with Section 19990.20), and that the person would not be

disqualified from being a licensee on any of the grounds specified in Article 4 (commencing with Section 19990.20).

(j) "Gambling" means to deal, operate, carry on, conduct, maintain, or expose for play any game for money.

(k) "Game" means any gambling game.

(l) "Gaming system" means the technology, including hardware and software, used by a licensee to facilitate the offering of authorized games to registered players.

(m) "Good standing" means that a person has not had a gambling or racing license suspended or revoked by a final decision of the board or commission that issues that license or been finally ordered by a court of competent jurisdiction to cease conducting gaming activities. A suspension, revocation, or order shall be deemed final for purposes of this definition when it is no longer subject to challenge or appeal through administrative or court processes.

(n) "Gross revenues" means the total amount of money paid to a licensee pursuant to activities authorized under this chapter. Gross revenues shall not include player deposits and wagers.

(o) "Internet Gambling Fund" means the fund established pursuant to Section 19990.86 for annual appropriation by the Legislature.

(p) "Intrastate" means within the borders of California.

(q) "Key employee" means any natural person employed by a licensee, subcontractor, or player recruiter, or by a holding or intermediary company of a licensee, subcontractor, or player recruiter, who is an officer or director of the licensee or

certificate holder, or who, in the judgment of the commission, has the authority to exercise significant influence over decisions concerning the operation of the licensee or certificate holder as that operation relates to the Internet gambling authorized by this chapter.

(r) "Land-based gaming entity" means a card club operated pursuant to Chapter 5 (commencing with Section 19800) or a casino operated by a federally recognized Indian tribe on Indian land in California that provides any game for players on its premises that is offered on an intrastate Internet gambling Web site.

(s) "Licensee" means an entity licensed pursuant to this chapter to offer the play of authorized games to registered players on an intrastate Internet Web site.

(t) "Online self-exclusion form" means a form on which an individual notifies a licensee that he or she must be excluded from participation in authorized games for a stated period of time.

(u) "Owner" means any person that has a financial interest in or control of a licensee, subcontractor, or other entity required to be found suitable under this chapter.

(v) "Per hand charge" means the amount charged by the licensee for registered players to play in a per hand game.

(w) "Per hand game" means an authorized game for which the licensee charges the player for each hand played.

(x) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association,

joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(y) "Play settings" means the options and default parameters made available by a licensee to a registered player in the play of authorized games.

(z) (1) "Poker" means any of several card games that meet all of the following criteria:

(A) Not banked by either the house or by a player.

(B) Commonly referred to as "poker."

(C) Played by two or more individuals who wager against each other on the cards dealt to them out of a common deck of cards, including games using electronic devices that simulate a deck of cards.

(D) Players compete against each other and not against the person or entity operating the game.

(E) Success over time is influenced by the skill of the player.

(F) Wagers of one player are often designed to affect the decisions of another player in the game.

(G) The operator of the game may assess a fee.

(2) "Poker" includes poker tournaments in which players pay a fee to the operator of the tournament under the authority of the state pursuant to this chapter.

(aa) "Proprietary information" means and includes all information that, whether or not patentable or registerable under patent, copyright, trademark, or similar statutes, (1) can be protected as a

trade secret under California law or any other applicable state law, federal law, or foreign law, or (2) derives independent economic value, actual or potential, from not being generally known to the public or to other persons that can obtain economic value from its disclosure or use. "Proprietary information" includes, but is not limited to, computer programs, databases, data, algorithms, formulae, expertise, improvements, discoveries, concepts, inventions, developments, methods, designs, analyses, drawings, techniques, strategies, new products, reports, unpublished financial statements, budgets, projections, billing practices, pricing data, contacts, client and supplier lists, business and marketing records, working papers, files, systems, plans and data, and all registrations and applications related thereto.

(ab) "Registered player" means a player who has registered with a licensee to play authorized games.

(ac) "Registration information" means the information provided by a person to a licensee in order to become a registered player.

(ad) "Robotic play" means the use of a machine or software by a registered player or licensee to automate the next player action at any point in a game.

(ae) "State" means the State of California.

(af) (1) "Subcontractor" means any person that does any of the following:

(A) On behalf of a licensee, knowingly manages, administers, or controls wagers on authorized games provided over the Internet by a

licensee pursuant to this chapter.

(B) On behalf of a licensee, knowingly manages, administers, or controls the games with which those wagers are associated.

(C) On behalf of a licensee, develops, maintains, provides, or operates a gaming system.

(D) Sells, licenses, or otherwise receives compensation for selling or licensing information on individuals in California who made wagers on games over the Internet that were not licensed under this chapter via a database or customer lists.

(E) Provides any product, service, or asset to a licensee and is paid a percentage of gaming revenue by the licensee, not including fees to financial institutions and payment providers for facilitating a deposit by a customer.

(F) Provides intellectual property, including the trademarks, tradenames, service marks, or similar intellectual property under which a licensee identifies its games to its customers.

(2) "Subcontractor" shall not include a provider of goods or services that provides similar goods or services to the public for purposes other than the operation of Internet gambling activities, and is not otherwise directly or indirectly involved in the operation of an intrastate Internet gambling Web site pursuant to a license issued under this chapter.

(ag) "Terms of Use Registered Player's Agreement" means the agreement offered by a licensee and accepted by a registered player delineating, among other things, permissible and impermissible

activities on an intrastate Internet gambling Web site and the consequences of engaging in impermissible activities.

(ah) "Tournament" means a department-approved competition in which registered players play a series of authorized games to decide the winner.

(ai) "Tournament charge" means the amount charged by the licensee for registered players to play in a tournament.

(aj) "Tournament winnings" means the amount of any prize awarded to a registered player in a tournament.

(ak) "Tribe" means a federally recognized California Indian tribe, including, but not limited to, the governing body of that tribe or any entity that is an affiliate of that tribe.

### Article 3. Legal Authorized Games Offered Over the Internet in California

19990.10. Under the federal Unlawful Internet Gambling Enforcement Act of 2006, California is permitted to authorize games as long as all players and the online wagering activities are located within the state and the games are not played by minors.

19990.11. Notwithstanding any other law, a person in California 21 years of age or older is hereby permitted to participate as a registered player in an authorized game provided over the Internet by a licensee as described in this chapter.

19990.12. (a) A person shall not offer any game on the Internet in this state unless that person holds a valid license issued by the state to offer the play of authorized games on an intrastate Internet gambling Web site pursuant to this chapter.

(b) It is unlawful for any person to offer or play any gambling game provided on the Internet that is not authorized by the state pursuant to this chapter.

(c) It is unlawful for any person to aggregate computers or other access devices in a public setting for the purpose of playing gambling games on the Internet, whether or not otherwise authorized pursuant to this chapter, or to promote or market that activity.

(d) Any violation of this chapter is punishable as a misdemeanor.

19990.13. Chapter 5 (commencing with Section 19800) does not apply to this chapter.

19990.14. (a) Only poker shall be offered for play on an intrastate Internet gambling Web site pursuant to this chapter.

(b) Only the types of poker games approved by the department for play on an intrastate Internet gambling Web site shall be offered for play on an intrastate Internet gambling Web site pursuant to this chapter.

Article 4. Licensing of Intrastate Internet Gambling Web Site Operators

19990.20. (a) A license to operate an intrastate Internet gambling Web site pursuant to this chapter shall be issued for a term of five years. Subject to the power of the commission to deny, revoke, suspend, condition, or limit any license, as provided in this chapter, a license is eligible for renewal at the end of each term. Failure of a licensee to file an application for renewal may be deemed a surrender of the license. The commission shall draft necessary regulations for the licensing renewal process.

(b) All initial licenses issued pursuant to this chapter shall take effect on the same date, as determined by the department, but not later than January 1, 2015.

19990.21. (a) Each entity described in subdivision (b) is eligible for a single intrastate Internet gambling license. There is no limit on the total number of licenses the state may issue. Any of the eligible entities may jointly apply for a license, either as a consortium or by forming an entity comprised entirely of eligible entities. Each eligible entity may have an interest in only a single license.

(b) An entity eligible to apply for, receive, and maintain an intrastate Internet gambling license pursuant to this chapter includes all of the following:

(1) A gambling enterprise, as defined in subdivision (m) of Section 19805, that holds an owner license issued pursuant to subdivision (a) of Section 19851, and that has been subject to oversight by, and in good standing with, the commission for the three

years immediately preceding its application for licensure.

(2) A federally

recognized California Indian tribe operating a casino pursuant to a tribal-state gaming compact under the federal Indian Gaming Regulatory Act of 1988, or pursuant to procedures prescribed under Section 2710(d)(7)(A)(vii) of Title 25 of the United States Code, that has been subject to oversight by, and in good standing with, the commission and the department for the three years immediately preceding its application for licensure.

(3) A thoroughbred, quarter horse, or harness association licensed by the California Horse Racing Board that has been subject to oversight by, and in good standing with, the board for the three years immediately preceding its application for licensure.

(4) An operator of an online advanced deposit wagering site regulated by the California Horse Racing Board that has been subject to oversight by, and in good standing with, the board for the three years immediately preceding its application for licensure.

(5) A wholly owned subsidiary of any of the entities described in paragraphs (1) to (4), inclusive, created for the purpose of engaging in the activities permitted by this chapter.

(c) For the purposes of this section, incorporation or other change in legal form of ownership during the three years immediately preceding application for licensure shall not disqualify an entity otherwise eligible for licensure pursuant to subdivision (b).

Additionally, for the purposes of this section, a group of eligible

entities jointly applying for a license, either as a consortium or by forming an entity comprised entirely of eligible entities, need not have been in existence for three years to be eligible for a license pursuant to this section, provided that its members meet all other eligibility requirements of this section.

19990.22. (a) Factors to be considered in evaluating a license applicant shall include, but are not limited to, quality, competence, experience, past performance, efficiency, reliability, financial viability, durability, adaptability, timely performance, integrity, security, and the applicant's subcontractors for core functions.

(b) (1) A license applicant, and all subcontractors of the applicant, shall be a resident of California, or an entity organized in California, and subject to state taxation, auditing, and enforcement. All facilities, bank accounts, and accounting records of the license applicant related to intrastate Internet gambling shall be located in California.

(2) At all times, a license applicant or licensee shall be domiciled in California and in good standing with the Secretary of State and the Franchise Tax Board.

(3) All subcontractors of a license applicant or licensee, or persons otherwise providing goods or performing services in connection with the operation of authorized games for the license applicant or licensee, or any of its subcontractors, and any persons that have the authority to exercise significant influence over a subcontractor shall be subject to this subdivision. If a licensee

desires to enter into an agreement with a person to provide goods or services in connection with the operation of authorized games, that person shall be subject to this subdivision and investigation and a finding of suitability as set forth in Section 19990.23. The commission may establish a registration process and application for subcontractors not performing core functions.

(c) In addition to any other confidentiality protections afforded to license applicants, the state and its agencies shall treat the proprietary information of any license applicant as confidential to protect the license applicant and to protect the security of any prospective intrastate Internet gambling Web site. This chapter does not prohibit the exchange of confidential information among state agencies considering a license application. The confidentiality provisions in this chapter exempt proprietary information supplied by a license applicant to a state agency from public disclosure consistent with subdivision (b) of Section 6253 of the Government Code.

(d) A license applicant that has been deemed eligible shall submit to the commission, together with its application, an application deposit of no less than one million dollars (\$1,000,000), and no greater than five million dollars (\$5,000,000), as determined by the department, in consultation with the commission, for the reasonably anticipated costs to complete necessary background investigation and evaluate the suitability of the applicant. All moneys collected pursuant to this subdivision shall be deposited into the Internet

Gambling Licensing Fund, as hereby created, to be administered by the department. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the department and the commission, without regard to fiscal years, in the amounts necessary for the department and the commission to perform their duties under this section and Section 19990.23. Any funds associated with the license applicant that remain after completion of background investigation and the finding of suitability shall be refunded to the applicant. If additional moneys are needed to complete the investigation of the license applicant, the applicant shall pay the funds necessary to complete the investigation.

(e) An applicant for an intrastate Internet gambling license pursuant to this chapter that is a federally recognized Indian tribe or an entity that is either wholly owned by a tribe or that consists of one or more tribes shall include with its license application an express waiver of the applicant's sovereign immunity solely for the purposes of investigating the suitability of the applicant, and enforcing this chapter and any regulations promulgated thereunder, and with regard to any claim, sanction, or penalty arising therefrom, against the applicant as a prospective or actual licensee, and for no other purpose.

19990.23. (a) The department shall review the suitability of a license applicant to operate an intrastate Internet gambling Web site.

(b) The department may establish a process to conduct a

preliminary determination of suitability based on a partial investigation of license applicants seeking licensure along with a determination of which license applicants may be subject to a partial investigation. A partial investigation is intended to screen out applicants that do not meet the suitability requirements of this chapter. A partial investigation shall include fingerprint-based state and federal criminal history checks and clearances, and inquiries into various public databases regarding credit history and any civil litigation. A partial investigation shall also include a review of the applicant's financial status, which shall include the required submission of a report prepared on behalf of the applicant by a department-approved forensic accounting, audit, or investigative firm, in a format developed by the department, and at the applicant's expense. The report shall include the financial information necessary for the department to make a preliminary determination of suitability. The department may specify additional requirements regarding the contents of the report and any other financial information or documentation required to be submitted with the application. A full investigation shall be conducted of only those persons that pass the partial investigation and that will undergo a full investigation pursuant to subdivision (c). Those applicants that do not pass the partial investigation may appeal the decision to the commission.

(c) The department shall conduct a full investigation into the suitability of any license applicant to operate an intrastate

Internet gambling Web site. The investigation shall include all of the following persons:

(1) The license applicant and all of its subcontractors that provide services related to core functions.

(2) All officers of the license applicant.

(3) The owner or owners of the following:

(A) The license applicant.

(B) Any affiliate of the license applicant.

(C) Any subcontractors of a license applicant, or other persons otherwise providing goods to, or performing services for, the license applicant related to core functions.

(D) Any person deemed by the department to have significant influence over the license applicant or its subcontractors or their respective operations.

(d) A full investigation shall include a review and evaluation of the license applicant's qualifications and experience to provide the services anticipated of a licensee, which shall include the required submission of a report prepared on each applicant by an outside firm contracted and supervised by the department, in a format developed by the department, and at the applicant's expense. The report shall include information necessary for the department to make a determination of suitability, as specified in regulation, consisting of, but not limited to, personal history, prior activities and associations, credit history, civil litigation, past and present financial affairs and standing, and business activities. The

department may specify additional requirements regarding the contents of the report and other information or documentation required to be submitted with the application. The license applicant shall also provide compliance certification of its gaming software by a department-approved gaming laboratory.

(e) (1) Both of the following persons are subject to the investigation required under subdivision (c):

(A) A person that directly or indirectly holds a beneficial interest or ownership interest of 10 percent or more of a subcontractor or player recruiter of the licensee. The commission may require any person with a smaller interest to be found suitable in the exercise of its discretion where it deems appropriate. If the person is not a natural person, the department may determine which officers, directors, and owners of the person are significantly involved in the management or control of the person as it relates to core functions so as to require an investigation into suitability.

(B) If the owner is a publicly traded or qualified racing association, then each officer, director, and owner, other than an institutional investor, of 5 percent or more of the outstanding shares of the publicly traded corporation.

(2) An institutional investor holding more than 10 percent and less than 25 percent of the equity securities of a subcontractor's holding or intermediary companies shall be granted a waiver of any investigation of suitability or other requirement if all of the following apply:

(A) The securities are those of a corporation, whether publicly traded or privately held.

(B) Holdings of those securities were purchased for investment purposes only.

(C) The institutional investor annually files a certified statement with the department to the effect that it has no intention of influencing or affecting the affairs of the issuer, the licensee, or subcontractor, as applicable, or its holding or intermediary companies.

(3) Notwithstanding paragraph (2), the institutional investor may vote on matters put to the vote of the outstanding security holders.

(4) The certification described in subparagraph (C) of paragraph (2) shall include a statement that the institutional investor beneficially owns the equity securities of the corporation for investment purposes only, and in the ordinary course of business as an institutional investor, and not for the purpose of (A) causing, directly or indirectly, the election of members of the board of directors, or (B) effecting any change in the corporate charter, bylaws, management, policies, or operations of the corporation or any of its affiliates. The certification also shall indicate any changes to the structure or operations of the institutional investor that could affect its classification as an institutional investor, as listed in paragraph (7). Additionally, the certification shall state that the institutional investor and corporation shall maintain gaming compliance policies and procedures to implement and ensure

compliance with this chapter and regulations promulgated thereunder.

(5) An institutional investor granted a waiver under paragraph (2) that subsequently decides to influence or affect the affairs of the issuer shall provide not less than 30 days' notice of that intent and shall file with the department a request for determination of suitability before taking any action that may influence or affect the affairs of the issuer. However, the institutional investor may vote on matters put to the vote of the outstanding security holders. If an institutional investor changes its investment intent, or the department finds reasonable cause to believe that the institutional investor may be found unsuitable, the institutional investor shall take no action other than divestiture with respect to its security holdings until it has complied with any requirements established by the department, which may include the execution of a trust agreement. The subcontractor and its relevant holding, intermediary, or subsidiary company shall immediately notify the department of any information about, or actions of, an institutional investor holding its equity securities when that information or action may impact upon the eligibility of the institutional investor for a waiver pursuant to paragraph (2).

(6) If at any time the department finds that an institutional investor holding any security of a holding or intermediary company of a subcontractor, or, where relevant, of another affiliate or subsidiary company of a holding or intermediary company of a subcontractor that is related in any way to the financing of the

subcontractor, fails to comply with the terms of paragraphs (2) to (5), inclusive, or if at any time the department finds that, by reason of the extent or nature of its holdings, whether of debt or equity securities, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a subcontractor that investigation and determination of suitability of the institutional investor are necessary to protect the public interest, the department may take any necessary action otherwise authorized under this chapter to protect the public interest.

(7) For purposes of this subdivision, an "institutional investor" includes all of the following:

(A) Any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees.

(B) An investment company registered under the federal Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(C) A collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency.

(D) A closed-end investment trust.

(E) A chartered or licensed life insurance company or property and casualty insurance company.

(F) A federally regulated or state-regulated bank, savings and loan, or other federally or state-regulated lending institution.

(G) An investment adviser registered under the federal Investment Advisers Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.).

(H) Other persons as the department may determine for reasons

consistent with the public interest.

(f) Except as otherwise provided by statute or regulation, every person, that, by statute or regulation, is required to hold a license shall obtain a license prior to engaging in the activity, or occupying the position, with respect to which the license is required. An applicant for licensing, or for any approval or consent, shall make a full and true disclosure of all information to the department and the commission as necessary to carry out the policies of the state relating to the licensing and control of gambling. The burden of proving a person's qualifications to receive a license is on the applicant.

(g) The commission shall issue a finding of suitability for a license applicant to operate an intrastate Internet gambling Web site only if, based on all of the information and documents submitted, the commission is satisfied that each of the persons subject to investigation pursuant to this section is both of the following:

(1) A person of good character, honesty, and integrity, or, if an entity, in good standing in its jurisdiction of organization and in all other jurisdictions in which it is qualified, or should be qualified, to do business.

(2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in

the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

(h) The commission shall issue a finding that a license applicant is not suitable to operate an intrastate Internet gambling Web site if it finds that any person subject to investigation pursuant to this section is described by any of the following:

(1) Failed to clearly establish eligibility and qualifications in accordance with this chapter.

(2) Failed to timely provide information, documentation, and assurances required by this chapter or requested by the department, or, with respect to a license applicant, failed to reveal any fact material to qualification, or supplied information that is untrue or misleading as to a material fact pertaining to the suitability criteria.

(3) Been convicted of a felony, including a conviction by a federal court or a court in another state or foreign jurisdiction for a crime that would constitute a felony if committed in California.

(4) Been convicted of any misdemeanor, in any jurisdiction, involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code. However, the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the department or affect the applicant's burden.

(5) Has associated with criminal profiteering activity or organized crime, as defined in Section 186.2 of the Penal Code.

(6) Has contemptuously defied any legislative investigative body, or other official investigative body of any state or of the United States or any foreign jurisdiction, when that body is engaged in the investigation of crimes relating to gambling, official corruption related to gambling activities, or criminal profiteering activity or organized crime, as defined in Section 186.2 of the Penal Code.

(7) Is less than 21 years of age.

(8) Has knowingly and willfully accepted any wager from a person in the United States on any form of Internet gaming that has not been affirmatively authorized by law in this state or the United States after December 31, 2006, or has been the holder of a direct or indirect financial interest in a person or entity that has accepted such a wager.

(i) (1) The commission shall reject the license application of any applicant found to be ineligible for licensure.

(2) If denial of the application, or approval of the license with restrictions or conditions on the license, is recommended, the department shall prepare and file with the commission written reasons upon which the recommendation is based. Prior to filing its recommendation with the commission, the department shall meet with the applicant, or the applicant's duly authorized representative, and inform the applicant generally of the basis for any proposed recommendation that the application be denied, restricted, or

conditioned.

(3) This section neither requires the department to divulge to the applicant any confidential information received from any law enforcement agency or any information received from any person with assurances that the information would be maintained confidential, nor to divulge any information that might reveal the identity of any informant or jeopardize the safety of any person.

(4) Denial of an application shall be without prejudice to a new and different application filed in accordance with any regulations adopted by the department with respect to the submission of applications.

(5) A request to withdraw an application for a license may be made by the license applicant at any time prior to final action on the application by the department by filing a written request with the commission to withdraw the application.

19990.23.5. (a) A finding of suitability by a state gaming agency within the United States with expertise recognized within the gaming industry, and that is also recognized as meeting this standard by the department, shall be grounds for a state provisional finding of suitability with respect to a particular person or entity until a permanent suitability finding is issued by the department as to that person or entity.

(b) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends

that date.

19990.24. In addition to any other data that the department shall request from license applicants as a matter of law and to ensure that any license applicant is legally, technically, and financially qualified to become a licensee, the department shall request that any license applicant name, describe, or provide all of the following:

(a) The license applicant's qualifications and the qualifications of its executives and employees to receive an employee work permit as set forth in Section 19990.31.

(b) The license applicant's experience and qualifications to provide the services anticipated of a licensee as set forth in Article 5 (commencing with Section 19990.30).

(c) The names of all of the license applicant's owners, executives, and employees, as well as sufficient personally identifiable information on each of those persons to conduct background investigations as required by the department.

(d) The fingerprints of the owners, directors, managers, executives, and employees of the licensee, its affiliates, and subcontractors taken using live scan technology.

(e) Documentation and information relating to the license applicant and its direct and indirect owners, including, but not limited to, all of the following:

(1) With respect to the license applicant and any of its subcontractors, proof of formation in California, including, as applicable, articles of incorporation, articles of organization,

bylaws, operating agreement, partnership agreement, or other formation or charter documents.

(2) Current and historical audited financial and accounting records performed in accordance with Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS).

(3) Any documents relating to legal and regulatory proceedings.

(4) Any documents relating to the license applicant's business history and structure.

(5) Any documents relating to the nature and sources of the license applicant's financing, including, but not limited to, operating agreements, partnership agreements, stock purchase agreements, loan capital agreements, pro forma cap tables, pro forma statements of profits and loss, investor rights agreements, voting agreements, and shareholder agreements. These materials may be submitted subject to a request for confidentiality.

(6) Any documentation that demonstrates that the license applicant is financially qualified to perform the obligations of a licensee as described in this article.

(7) An independent financial audit report by a certified public accountant.

(f) Documentation and information relating to all proposed subcontractors of the license applicant, including, but not limited to, all of the following:

(1) A description of the services to be provided by each

subcontractor.

(2) Information for each subcontractor as set forth in subdivisions (b), (c), (d), and (e).

(3) For subcontractors that are not formed in California, a commitment in writing by the subcontractor to create a California subsidiary prior to the commencement of authorized games provided by the licensee. The commitment required pursuant to this paragraph shall be subject to the cure provisions of Section 19990.61.

(g) A description of the games and services the license applicant proposes to offer to registered players.

(h) A description of the manner in which the licensee's facilities will accomplish the goals of this chapter, including, but not limited to:

(1) The licensee's location within the state.

(2) The licensee's security systems.

(i) The license applicant's proposal for the manner in which it will facilitate compliance with all of the standards set forth in this chapter and federal law, including, but not limited to, Section 5362(10)(B) of Title 31 of the United States Code, including, but not limited to, all of the following:

(1) Age and location verification requirements reasonably designed to block access by minors and persons located out of state.

(2) Appropriate data security standards to prevent unauthorized access by any persons whose age and current location have not been verified in accordance with this chapter and applicable regulations.

(3) The requirement that the licensee be located in California and all bets be initiated and received or otherwise made exclusively within California.

(j) The system requirements that the license applicant plans to implement to achieve the state's goals under this chapter, including, but not limited to:

(1) Connectivity.

(2) Hardware.

(3) Software.

(4) Antifraud systems.

(5) Virus prevention.

(6) Data protection.

(7) Access controls.

(8) Firewalls.

(9) Disaster recovery.

(10) Redundancy.

(11) Gaming systems, including, but not limited to, hardware and software that ensure all of the following:

(A) The games are legal.

(B) The games are independent and fair and played by live persons.

(C) Game and betting rules are available to all registered players.

(D) All data used for the conduct of each game is randomly generated and unpredictable.

(12) Accounting systems, including but not limited to, those for any of the following:

(A) Registered player accounts.

(B) Per hand charges.

(C) Transparency and reporting to all state agencies.

(D) Distribution of funds, pursuant to the license and this chapter, to the state and registered players.

(E) Ongoing auditing and ongoing internal control and compliance reviews.

(13) Facility security systems to protect the intrastate Internet gambling Web site from internal and external threats.

(k) The license applicant's proposal to facilitate the statutory duties and responsibilities of the state agencies with jurisdiction over aspects of the licensee's operations, including, but not limited to, all of the following:

(1) The department.

(2) The commission.

(3) The Treasurer.

(4) The Franchise Tax Board.

(l) An acknowledgment by the license applicant that the fees or terms of the license issued by the state may be modified by the state after five years, at which point the licensee may either agree to be subject to that modification or relinquish the license.

(m) In addition to demonstrating that the license applicant is legally, technically, and financially qualified to become a licensee,

a licensee shall also provide compliance certification of its gaming software by a department-approved gaming laboratory to ensure that it complies with the requirements of this chapter.

19990.25. (a) A holder of an owner license issued pursuant to subdivision (a) of Section 19851, and that is in good standing, shall not be deemed unqualified to operate a land-based gambling entity by reason of an investment in a license applicant or a licensee.

(b) An official representative of the government of a federally recognized California Indian tribe with a tribal-state gaming compact with the state shall not be deemed unqualified to operate a land-based gambling entity by reason of an investment in a license applicant or a licensee.

(c) (1) A license applicant whose application is denied may bring an action to appeal that decision to the Superior Court of the County of Sacramento. The decision of the Superior Court of the County of Sacramento is not appealable. No remedy other than an injunction is available pursuant to this subdivision.

(2) The Superior Court of the County of Sacramento shall uphold the decision by the department if there is any substantial evidence to support the department's decision to deny the license application.

(3) If the Superior Court of the County of Sacramento finds for the license applicant, it shall return the application to the department for action consistent with the decision of the court.

## Article 5. Rights and Obligations of Licensees

19990.30. (a) A licensee shall comply with the terms of this chapter.

(b) In the event of commercial infeasibility created by a change in federal law rendering the provision of intrastate Internet gambling services illegal, or some other event, a licensee may abandon its operations after providing the department with 90 days' advance notice of its intent and a statement explaining its interpretation that continuing to operate the intrastate Internet gambling Web site is commercially infeasible. In response to that notice, the state may file an action in the Superior Court of the County of Sacramento as it deems necessary to protect any state interests, including, but not limited to, the interests of registered players.

(c) If any dispute arises between the state and the licensee, either the department or a licensee may file an action in the superior court of any county in which the department has an office for an interpretation of the rights and responsibilities of the state and the licensee pursuant to this chapter.

19990.31. (a) Prior to initiating operations and thereafter, a licensee shall ensure that each employee has been issued an employee work permit by the department, pursuant to standards adopted by the department, prior to that person having access to the licensee's

facilities. The permit shall be renewed every two years.

(b) An employee work permit shall not be issued unless, based on all of the information and documents submitted, the department is satisfied that the applicant is, at a minimum, all of the following:

(1) A person of good character, honesty, and integrity.

(2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of incidental business and financial arrangements.

(3) A person who is in all other respects qualified to hold an employee work permit as provided in this chapter.

(c) An applicant for an employee work permit is disqualified for any of the following reasons:

(1) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.

(2) Failure of the applicant to provide timely information, documentation, and assurances required by this chapter or requested by any state official, or failure of the applicant to reveal any fact material to the qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

(3) Conviction of a felony, including a conviction by a federal

court , a court in another state, or a court in another country, for a crime that would constitute a felony if committed in California.

(4) Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code. However, the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the department or affect the applicant's burden under subdivision (b).

(5) Association of the applicant with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

(6) Contemptuous defiance by the applicant of any legislative investigative body, or other official investigative body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling, official corruption related to gambling activities, or criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code.

(7) The applicant is less than 21 years of age.

(d) A licensee shall apply for an employee work permit on behalf of each employee.

(e) An employee work permit shall not be issued unless the applicant meets the qualification standards adopted by the commission.

(f) The department shall establish a fee to be paid by a licensee for the cost of background investigation on employee work permit applications submitted on behalf of that licensee's employees. The department and the commission shall establish processes for the revocation or suspension of an intrastate Internet gambling license or employee work permit, and to withdraw an application for an intrastate Internet gambling license or employee work permit.

(g) (1) A licensee or subcontractor of a licensee shall not enter into, without prior approval of the department, any contract or agreement with a person who is denied a gambling license or employee work permit pursuant to Chapter 5 (commencing with Section 19800), or whose gambling license or employee work permit is suspended or revoked by the department, or with any business enterprise under the control of that person, after the date of receipt of notice of the department's action.

(2) A licensee or subcontractor of a licensee shall not enter into any contract or agreement with a person or entity that has knowingly and willfully accepted any wager from persons in the United States on any form of Internet gaming that has not been affirmatively authorized by law in this state or the United States after December 31, 2006, or has been the holder of a direct or indirect financial interest in a person or entity that has accepted such a wager.

(h) A licensee or subcontractor of a licensee shall not employ, without prior approval of the department, any person in any capacity for which he or she is required to have an employee work permit, if

the person has been denied a gambling license or an employee work permit pursuant to Chapter 5 (commencing with Section 19800), or if his or her gambling license or employee work permit has been suspended or revoked after the date of receipt of notice of the action by the department. A licensee or subcontractor of a licensee shall not enter into a contract or agreement with a person whose application for a gambling license or an employee work permit has been withdrawn with prejudice, or with any business enterprise under the control of that person, for the period of time during which the person is prohibited from filing a new application for a gambling license or an employee work permit.

(i) If an employee who is required to hold an employee work permit pursuant to this chapter is denied an employee work permit, or has his or her employee work permit revoked by the department, the employee shall be terminated immediately in all capacities. Upon notifying the licensee of the department's action, the employee shall have no further involvement in the gambling operation.

(1) If an employee who is required to hold an employee work permit pursuant to this chapter has his or her employee work permit suspended, the employee shall be suspended in all capacities. Upon notifying the licensee of the department's action, the employee shall not be permitted to have any involvement in the gambling operation during the period of suspension.

(2) A licensee or subcontractor of a licensee shall not designate another employee to replace the employee whose employment was

terminated or suspended, unless the other employee has an existing work permit.

(j) A licensee or subcontractor of a licensee shall not pay to a person whose employment has been terminated or suspended pursuant to subdivision (i) any remuneration for any service performed in any capacity in which the person is required to hold an employee work permit, except for amounts due for services rendered before the date of receipt of notice of the department's action of suspension or termination.

(k) Except as provided in subdivision (i), a contract or agreement for the provision of services or property to a licensee or subcontractor or for the conduct of any activity pertaining to the operation of an intrastate Internet gambling Web site, which is to be performed by a person required by this chapter or by regulations adopted pursuant to this chapter, to hold an employee work permit, shall be terminated upon a suspension or revocation of the person's employee work permit.

(l) In any case in which a contract or agreement for the provision of services or property to a licensee or an affiliate thereof, or for the conduct of any activity at an intrastate Internet gambling Web site, is to be performed by a person required by this chapter or by regulations adopted by the department to hold an employee work permit, the contract shall be deemed to include a provision for its termination without liability on the part of the licensee, affiliate, or subcontractor upon a suspension or revocation of the person's

employee work permit. In any action brought by the department to terminate a contract pursuant to subdivision (k) or this subdivision, it shall not be a defense that the agreement does not expressly include the provision described in this subdivision, and the lack of express inclusion of the provision in the agreement shall not be a basis for enforcement of the contract by a party thereto.

(m) If a licensee does not comply with the requirements of this section, the department may impose a civil fine of not more than \_\_\_\_\_ dollars (\$\_\_\_\_) per occurrence. In the event that a licensee negligently, willfully, or wantonly fails to comply with these requirements, the department may initiate an enforcement action and subject a licensee to a civil fine of \_\_\_\_\_ dollars (\$\_\_\_\_) and may begin proceedings to suspend or revoke the licensee's license.

19990.32. The licensee is responsible for providing current and accurate documentation on a timely basis to all state agencies, as provided in this chapter.

(a) In addition to any other confidentiality protections provided to persons licensed by the state, the state and its agencies shall treat the proprietary information provided by a licensee as confidential to protect the licensee and to protect the security of the intrastate Internet gambling Web site.

(b) The confidentiality provisions of this chapter exempt proprietary information supplied by a licensee to a state agency from public disclosure consistent with subdivision (b) of Section 6253 of the Government Code.

19990.33. (a) Changes in ownership of the licensee shall be approved by the department prior to the closing of any proposed transaction.

(b) The department shall investigate to ensure that any person acquiring an interest in a licensee is suitable and otherwise financially, technically, and legally qualified to be a licensee consistent with this chapter. If an acquiring person is found to be unsuitable to be a licensee or otherwise not financially, technically, or legally qualified to be a licensee, the licensee or the acquiring person may challenge that determination consistent with subdivision (c) of Section 19990.25.

19990.34. All facilities, software, including downloadable programs, and any other property, both tangible and intangible, used by the licensee in offering authorized games for play on an intrastate Internet gambling Web site shall be the property of the licensee or its subcontractors, and shall be approved by the department.

19990.35. (a) A licensee shall ensure that registered players are eligible to play authorized games and implement appropriate data security standards to prevent access by a person whose age and location has not been verified in accordance with this chapter.

(b) A registered player shall be physically located within the State of California at the time of gambling.

(c) A registered player shall not be less than 21 years of age.

(1) Online games shall not be provided, directly or indirectly, to

any person under 21 years of age.

(2) Each licensee shall do all of the following:

(A) Prior to registering a person as a registered player or permitting a person to play an authorized game, the licensee shall verify that the person is 21 years of age or older. The licensee or seller shall attempt to match the name, address, and date of birth provided by the person to information contained in records in a database of individuals who have been verified to be 21 years of age or older by reference to an appropriate database of government records. The licensee also shall verify that the physical billing address on the check or credit card offered for payment by the person matches the address listed in the database.

(B) If the licensee is unable to verify that the person is 21 years of age or older pursuant to subparagraph (A), the licensee shall require the person to submit an age-verification kit consisting of an attestation signed by the person that he or she is 21 years of age or older and a copy of a valid form of government identification. For the purposes of this section, a valid form of government identification includes a driver's license, state identification card, passport, official naturalization or immigration document, such as an alien registration receipt card or an immigrant visa, or United States military identification. The licensee also shall verify that the physical billing address on the check or credit card provided by the person matches the address listed in the government identification.

(C) The licensee shall not permit registered players to make payments by money order or cash. The licensee shall submit to each credit card company with which it has credit card sales, information in an appropriate form and format so that the words "Internet gambling" may be printed on the purchaser's credit card statement when a payment to a licensee is made by credit card payment.

(3) If a licensee complies with the requirements of paragraph (2), and a person under 21 years of age participates in an authorized game provided by the licensee, the licensee is not in violation of this section.

(4) The department may assess civil penalties against a person that violates this section, according to the following schedule:

(A) Not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000) for the first violation.

(B) Not less than two thousand five hundred dollars (\$2,500) and not more than three thousand five hundred dollars (\$3,500) for the second violation.

(C) Not less than four thousand dollars (\$4,000) and not more than five thousand dollars (\$5,000) for the third violation.

(D) Not less than five thousand five hundred dollars (\$5,500) and not more than six thousand five hundred dollars (\$6,500) for the fourth violation.

(E) Ten thousand dollars (\$10,000) for a fifth or subsequent violation.

(d) The department shall, by regulation, provide a process for a

licensee to exclude from play any person who has filled out an online self-exclusion form.

(1) The department shall develop an online self-exclusion form within six months of the operative date of this chapter.

(2) The department shall deliver the form to each licensee.

(3) A licensee shall prominently display a link to the department's Responsible Gambling Internet Web page and the online self-exclusion form on the Internet Web page that is displayed when either of the following occurs:

(A) A person registers as a registered player.

(B) Each time a registered player accesses the intrastate Internet gambling Web site prior to playing.

(4) A licensee shall retain the online self-exclusion form to identify persons who want to be excluded from play.

(5) A licensee that has made commercially reasonable efforts to comply with this subdivision shall not be held liable in any way if a person who has filled out an online self-exclusion form plays despite that person's request to be excluded.

19990.36. A licensee shall only offer authorized games and process bets in accordance with the specified game and betting rules established by the licensee and approved by the department pursuant to Sections 19990.14 and 19990.37.

19990.37. (a) In order to propose a game for play, a licensee shall provide the department with both of the following:

(1) Game rules and betting rules it proposes to offer to

registered players.

(2) Documentation relating to development and testing of the game's software.

(b) The department shall approve the game rules and betting rules before a licensee may offer the game to registered players.

19990.38. (a) A licensee shall ensure that games are fair.

(b) The gaming system shall display for each game the following information:

(1) The name of the game.

(2) Any restrictions on play.

(3) The rules of the game.

(4) All instructions on how to play.

(5) The unit and total bets permitted.

(6) The registered player's current account balance which shall be updated in real time.

(7) Any other information that a licensee determines is necessary for the registered player to have in real time to compete fairly in the game.

(c) Data used to create game results shall be unpredictable so that it is infeasible to predict the next occurrence in a game, given complete knowledge of the algorithm or hardware generating the sequence and all previously generated numbers.

(d) A licensee shall deploy controls and technology to minimize fraud or cheating through collusion, including external exchange of information between different players, robotic play, or any other

means.

(1) If a licensee becomes aware that fraud or cheating is taking place or has taken place, it shall take steps to stop those activities immediately and inform the department of all relevant facts.

(2) The department shall not impose liquidated damages against a licensee to prevent fraud or cheating if the licensee can demonstrate that it acted responsibly to prevent those activities as soon as the licensee became aware of them.

(e) In a per hand game, if the gaming server or software does not allow a game to be completed, the game shall be void and all funds relating to the incomplete game shall be returned to the registered player's account.

(f) In a tournament, if the gaming server or software does not allow the tournament to be completed, all prize money shall be distributed among players in accordance with the procedure published by the licensee prior to the commencement of the tournament.

19990.39. (a) A licensee shall register players and establish player accounts prior to play.

(b) A person shall not participate in any game provided by a licensee unless the person is a registered player and holds an account.

(c) Accounts shall be established in person, or by United States mail, telephone, or any electronic means.

(d) To register and establish an account, a person shall provide

the following registration information:

(1) Full legal name.

(2) Principal residence address.

(3) Telephone number.

(4) Social security number.

(5) Identification or certification to prove that person is at least 21 years of age.

(6) Valid email address.

(e) A licensee shall provide registered players with the means to update the registration information provided to the licensee.

(f) Nothing in this section shall prevent a licensee from entering into a marketing agreement with any third party to recruit people to become registered players if the registration process described in this section is under the sole control of the licensee.

19990.40. (a) A licensee shall provide a means for registered players to put funds into a registered player account and transfer funds out of that account.

(b) A registered player shall identify the source of funds to be used to put money into the account established once the registration process is complete, and a licensee shall provide a means for a registered player to transfer money into and out of the player's intrastate Internet gambling Web site account.

(c) At the time of establishing an intrastate Internet gambling Web site account, a registered player shall designate the bank account into which funds from the registered player's intrastate

Internet gambling Web site account are to be transferred.

(d) A registered player shall establish only one account on any intrastate Internet gambling Web site.

(e) While playing an authorized game, a licensee shall not permit a registered player to increase the amount of money in that registered player's account after that hand has started and before its completion.

(f) A licensee shall maintain records on the balance of each registered player's account.

(g) A licensee shall not permit a registered player to place a wager unless the registered player's account has sufficient funds to cover the amount of the wager.

(h) A licensee shall not provide credit to a registered player's account or act as agent for a credit provider to facilitate the provision of funds.

(i) No interest shall be paid by a licensee with respect to registered player accounts.

19990.41. (a) A licensee shall segregate funds it holds in all registered player accounts from all of its other assets.

(b) A licensee shall not commingle funds in the segregated account containing funds paid by registered players with any other funds held by the licensee, including, but not limited to, operating funds of the licensee. Both the accounts of the licensee and its segregated registered player accounts shall be held in financial institutions located in the state.

(c) Funds held in a registered player's account shall only be used for the following purposes:

(1) To pay per hand or tournament charges owed by a registered player to the licensee for play of authorized games.

(2) To transfer funds from one registered player's account to the account of another registered player to reconcile the result of a loss in the play of an authorized game.

(3) To transfer funds from a registered player's account to a temporary account to be held by a licensee pending the outcome of an authorized game.

(4) To remit tax proceeds due and owing from a registered player to the Franchise Tax Board.

(5) To transfer funds from a registered player's account with the licensee to an account specified by a registered player upon that registered player's request.

19990.42. Prior to completing the registration process, a licensee shall explain to the person who is registering in a conspicuous fashion the privacy policies of the intrastate Internet gambling Web site, and the person shall assent to the following policies:

(a) No personally identifiable information shall be shared with any nongovernment third parties except as provided in subdivision (k) of Section 19990.47.

(b) All personally identifiable information about registered players shall be shared with state agencies, including, but not

limited to, the department, the commission, the Franchise Tax Board, and the Department of Child Support Services as necessary to assist them in fulfilling their obligations.

(c) Personally identifiable information may be shared with government agencies only as set forth in subdivision (b) or subject to court order as provided in subdivision (j) of Section 19990.47.

19990.43. A licensee may require that a registered player, or a person registering as a player, agree to a Terms of Use Registered Player's Agreement.

19990.44. A licensee may suspend or revoke the account of a registered player for any of the following reasons:

(a) A person or registered player provided false information to the licensee, including, but not limited to, in the registration process.

(b) The registered player has not updated registration information to keep it current.

(c) The registered player has violated the intrastate Internet gambling Web site's Terms of Use Registered Player's Agreement.

(d) The person has already been registered.

(e) The licensee suspects that the registered player has participated in an illegal or unauthorized activity on the intrastate Internet gambling Web site.

(f) The licensee is directed by a state agency to suspend or revoke the registered player's account.

19990.45. (a) Upon registration, and each time a registered player logs into an intrastate Internet gambling Web site, the licensee shall permit a registered player to adjust his or her play settings to:

(1) Set a limit on the deposits that can be made per day.

(2) Set a limit on the aggregate losses in a registered player's account within a specified period of time.

(b) During play, in order to assist a registered player to decide whether to suspend play, the registered player's screen shall do all of the following:

(1) Once an hour, indicate how long the player has been playing and the current value and change in value of the registered player's total account since the time of last logging in.

(2) At least once every six hours, require the registered player to confirm that the player has read the messages required in paragraph (1), and give an option to the player to end the session or return to the game.

19990.46. A licensee shall establish a toll-free telephone customer service hotline that shall be available to registered players 24 hours per day, 365 days a year. All employees shall be physically present in the state while in contact with registered players. However, the licensee shall have discretion to use the expertise of personnel not physically present in the state when necessary to protect registered players and state interests, including, but not limited to, for the purposes of diagnosing and

addressing technological problems, investigating fraud and collusion, and supervising software and configuration changes. The licensee shall give notice to the department when using personnel who are out of state.

19990.47. (a) A licensee shall protect the privacy of registered players and their personally identifiable information.

(b) A licensee shall comply with all state and federal privacy and data protection laws.

(c) At the time of registration with a licensee as a registered player, and at least once a year thereafter, a licensee shall provide notice in the form of a separate, written statement, delivered via United States Postal Service or electronic mail, to the registered player that clearly and conspicuously informs the registered player of all of the following:

(1) The nature of personally identifiable information collected or to be collected with respect to the registered player and the nature of the use of that information.

(2) The nature, frequency, and purpose of any disclosure that may be made of personally identifiable information, including an identification of the types of persons to whom the disclosure may be made.

(3) The period during which personally identifiable information will be maintained by the licensee.

(4) The times and place at which the registered player may have access to personally identifiable information in accordance with

subdivision (h).

(5) The limitations provided by this section with respect to the collection and disclosure of personally identifiable information by a licensee and the right of the registered player under subdivision (j) or (k) to enforce those limitations.

(d) A licensee shall not collect personally identifiable information concerning any registered player without the prior written or electronic consent of the registered player concerned.

(e) A licensee may collect personally identifiable information in order to do both of the following:

(1) Obtain information necessary to operate the intrastate Internet gambling Web site and offer authorized games to registered players pursuant to this chapter.

(2) Detect unauthorized play, activities contrary to a licensee's Terms of Use Registered Player's Agreement, or activities contrary to state or federal law.

(f) Except as provided in subdivision (g), a licensee shall not disclose personally identifiable information concerning any registered player without the prior written or electronic consent of the registered player concerned and shall take actions necessary to prevent unauthorized access to that information by a person other than the registered player or licensee.

(g) A licensee may disclose personally identifiable information if the disclosure is any of the following:

(1) Necessary to render, or conduct a legitimate business activity

related to, the provision of authorized games to the registered player by the licensee.

(2) Subject to subdivision (k), made pursuant to a court order authorizing the disclosure, if the registered player is notified of the order by the person to whom the order is directed.

(3) A disclosure of the names and addresses of registered players to any tournament third party, if both of the following apply:

(A) The licensee has provided the registered player the opportunity to prohibit or limit the disclosure.

(B) The disclosure does not reveal, directly or indirectly, the nature of any transaction made by the registered player over the intrastate Internet gambling Web site.

(4) To the department to fulfill its obligations under this chapter or a state agency as authorized in this chapter.

(5) To persons found suitable under this chapter if the registered player is notified and consents to the information being shared.

(h) A registered player shall be provided access to all personally identifiable information regarding that registered player that is collected and maintained by a licensee. The information shall be made available to the registered player at reasonable times and at a place designated by the licensee. A registered player shall be provided reasonable opportunity to correct any error in the information.

(i) A licensee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which

it was collected, and there are no pending requests or orders for access to the information under subdivision (k).

(j) Any person aggrieved by any act of a licensee in violation of this section may bring a civil action in any superior court in California. The court may award:

(1) Actual damages but not less than the rate of \_\_\_\_ a day for each day of violation or \_\_\_\_, whichever is higher.

(2) Punitive damages.

(3) Reasonable attorney's fees and other litigation costs reasonably incurred.

(k) Except as provided in subdivision (g), a governmental or nongovernmental third party may obtain personally identifiable information concerning a registered player pursuant to a court order only if, in the court proceeding relevant to the court order, both of the following apply:

(1) The third party offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity or otherwise relevant to a pending civil action and that the information sought would be material evidence in the case.

(2) The registered player about whom the information is requested is afforded the opportunity to appear and contest the third-party's claim.

19990.48. A licensee shall establish a book of accounts and regularly audit all of its financial records and reports, which shall, at a minimum, include all of the following:

(a) Monthly auditable and aggregate financial statements of gambling transactions.

(b) Monthly calculation of all amounts payable to the state.

(c) The identity of registered players.

(d) The balance on each registered player's account at the start of a session of play, the amount won or lost by each registered player during a game, and the balance on the registered player's account.

(e) The wagers placed on each game, time stamped by the games server.

(f) The result of each game, time stamped by the games server.

(g) The amount, if any, as determined by the registered player, withheld from winnings for federal or state income tax purposes.

19990.49. (a) A licensee shall make all financial records established and maintained pursuant to Section 19990.48, including, but not limited to, all books, records, documents, financial information, and financial reports, available on an electronic basis, as required by the department or other state agencies so that those state agencies can fulfill their responsibilities under this chapter. A state agency may request specific printed hard copies of records for good cause.

(b) The licensee's data shall be retained in a manner by which it may be accessed by the state agencies online.

(c) Notwithstanding subdivision (b), data covered by subdivisions (d), (e), and (f) of Section 19990.48 shall be accessible to the

state agencies online for 120 days, and, thereafter, archived and retained for one year.

19990.50. (a) A licensee shall implement technical systems that materially aid the department in the protection of registered players. Software shall meet, at a minimum, international industry standards as verified by a department-approved gaming laboratory.

(b) A licensee shall define and document its methodology for developing software and applications and describe the manner in which software protects registered players from fraud and other risks in the play of authorized games and in the management of registered player accounts.

(c) A licensee shall meet minimum game server connectivity requirements to ensure that registered players are protected from losses due to connectivity problems.

(d) A licensee shall ensure that all transactions involving registered players' funds shall be recoverable by the system in the event of a failure or malfunction.

(e) All information required for reviewing a game interrupted due to loss of connectivity shall be recoverable by the licensee.

(f) Preventative and detective controls addressing money laundering and fraud risks shall be documented and implemented by the licensee.

19990.51. (a) A licensee may charge registered players to play in authorized games.

(b) Per hand charges are permitted.

(1) A per hand charge shall be designated and conspicuously posted on the intrastate Internet gambling Web site.

(2) A licensee may vary the per hand charges to registered players based on betting limits or other factors.

(c) Tournament charges shall be permitted.

(1) A tournament charge shall be designated and conspicuously posted on the intrastate Internet gambling Web site.

(2) A licensee may vary tournament charges based on tournament prizes or other factors.

(d) A licensee shall provide notice to the department of the charges to registered players prior to initiating play.

19990.52. A licensee may enter into an agreement with any third party to sponsor or underwrite prizes for a tournament.

19990.53. A licensee may enter into an agreement to sell advertisement space on any Internet Web site it controls.

19990.535. (a) A licensee may enter into an agreement with a third party for marketing, or any other purpose consistent with this chapter, including, but not limited to, displaying the name of a marketing partner on a screen viewed by a registered player.

(b) A licensee shall not utilize any brand or business name, trade or service mark, software, technology, operational systems, customer information, or other data acquired, derived, or developed directly or indirectly from any operation that has knowingly and willfully accepted any wager from persons in the United States on any form of Internet gaming that has not been affirmatively authorized by law in

this state or the United States after December 31, 2006. To the extent any business relationships or financial arrangements were utilized or existed to further any such illegal Internet gambling, those relationships and arrangements shall be discontinued.

19990.54. A licensee may enable a chat function between registered players if it has in place effective controls against collusion.

19990.55. A licensee may post Internet Web links on the Internet Web sites it controls to permit registered players to access remote Internet Web sites.

19990.56. A licensee may enter into contractual agreements with one or more licensees for the purpose of ensuring adequate player liquidity.

19990.57. A licensee may allow a registered player to participate simultaneously in multiple games or tournaments, if the licensee has demonstrated to the department that it has technical controls that prohibit a registered player from playing multiple hands simultaneously in the same game.

19990.58. (a) Before the collection of a registered player fee, wager, or deposit on any authorized game on the licensee's intrastate Internet gambling Web site, the licensee shall remit to the Treasurer for deposit in the General Fund a one-time license fee in the amount of thirty million dollars (\$30,000,000). This amount shall be credited against fees imposed pursuant to subdivision (b) on the licensee's gross gaming revenue proceeds for the first five years of

operation. Upon depletion of the license fee, the department shall notify the licensee to commence monthly payments to the state in accordance with subdivision (b).

(b) A licensee shall remit to the Treasurer on a monthly basis for deposit in the General Fund, an amount equal to 10 percent of its gross revenues.

(1) Each monthly payment shall be due on the 10th day of the following month.

(2) A licensee shall make all electronic and written financial records available to the Treasurer, the commission, and the department on an electronic basis.

(3) For the purposes of determining gross revenues, the licensee and the Treasurer shall use generally accepted accounting principles.

(c) Each licensee shall pay a regulatory fee, to be deposited in the Internet Gambling Fund as established by Section 19990.86, in an amount to be determined by the department for the actual costs of license oversight, consumer protection, state regulation, problem gambling programs, and other purposes related to this chapter.

19990.59. (a) The licensee shall facilitate the collection of personal income taxes from registered players by the Franchise Tax Board.

(b) The licensee shall withhold 5 percent of tournament winnings for state income tax if the winnings less the tournament charge are more than six hundred dollars (\$600) and are at least 300 times the

tournament charge.

(1) The licensee shall transfer that withheld income to the Franchise Tax Board.

(2) Winnings and losses of the registered player from other tournaments sponsored by the licensee during the year are not taken into account in arriving at the six-hundred-dollar (\$600) amount. Required withholding is determined on a tournament-by-tournament basis.

(c) Within six months of the operative date of this chapter, the Franchise Tax Board shall publish a form to be used annually by a licensee to report information concerning income tax revenues from registered players. The Franchise Tax Board shall provide a date by which the form is required to be filed. The form shall include, but shall not be limited to, the following information:

- (1) The registered player's first name and surname.
- (2) Social security number.
- (3) The total amount the registered player deposited in his or her account during the year.
- (4) The registered player's total winnings, if any, during the year.
- (5) The registered player's total losses, if any, during the year.
- (6) The total amount withheld by the licensee, if any, during the year for purposes of federal or state income taxes.
- (7) Whether the registered player opened or closed his or her

account during the year.

(d) The licensee shall electronically file a copy of the form with the Franchise Tax Board for each registered player who held an account with the licensee for all, or any portion of, the taxable year. The licensee shall electronically provide each registered player with a copy of the form.

19990.60. A security interest in a licensee, other than a security interest in financed or leased equipment, shall not be enforced except in conformity with regulations adopted by the commission. If a licensee contracts to acquire or transfer any assets or property in circumstances where the transferor or transferee must be licensed or found suitable, then the transaction shall not have a closing date prior to the approval or licensing of the other party, except as provided in regulations of the commission.

19990.61. (a) A licensee shall act expeditiously to cure any violation of this chapter, or any regulation adopted pursuant to this chapter, in the offer or administration of authorized games that interferes with its obligations to the state or registered players under this chapter.

(b) If a licensee becomes aware of any violation, it shall notify the department immediately and work with the department to develop a plan to rectify the violation.

(c) If the department becomes aware of any violation, or if it becomes aware of any activities that might lead to a violation, the department shall provide notice of that violation to the licensee and

a reasonable opportunity to cure the violation.

(d) All state agencies with responsibilities under this chapter shall report any actual or suspected violation of this chapter, or any regulation adopted pursuant to this chapter, or activities that may lead to such a violation, to the department immediately so that the department can assess whether it needs to commence an investigation or enforcement action.

(e) A licensee shall be afforded a reasonable time period to cure any reported violation. The department may assess penalties for any violation of this chapter, or any regulation adopted pursuant to this chapter.

(f) The department shall have the subpoena power in an investigation of any violation of this chapter, or any regulation adopted pursuant to this chapter.

(g) The department may revoke or suspend any license or work permit under this chapter upon reaching a finding that the licensee or employee is in violation of any provision of this chapter, or any regulation adopted pursuant to this chapter.

(h) A licensee may appeal any decision of the department pursuant to this section to the superior court. The superior court shall hear any appeal de novo.

19990.62. The department shall protect the rights and assets of registered players on an intrastate Internet gambling Web site if the licensee's license pursuant to this chapter is revoked or the licensee becomes bankrupt.

19990.63. (a) A licensee shall at all times indemnify, defend, and hold harmless the state and its agencies from and against any claims, damages, liabilities, costs, and expenses, including, but not limited to, reasonable attorney's fees and expenses arising out of any third-party claim made against the state or any of its agencies relating to actions of the licensee and this chapter. However, the state shall not enter into a settlement agreement related to any of those claims, damages, liabilities, costs, or expenses without the prior written approval of the licensee.

(b) The state and its agencies shall promptly notify a licensee of any claim or litigation to which the indemnity set forth in subdivision (a) applies.

(c) At the option of a licensee, it may assume the defense of any claim or litigation. If a licensee assumes the defense of any claim or litigation, the licensee's obligation with respect thereto shall be limited to the payment of any settlement approved by the licensee, or any judgment in connection with that claim or litigation.

#### Article 6. Authority of State Agencies

19990.70. (a) (1) Within 120 days after the operative date of this chapter, the commission, and any other state agency with a duty pursuant to this chapter, shall, in order to comply with time deadlines, in consultation with the department, adopt regulations to

implement this chapter, and to facilitate the operation of intrastate Internet gambling Web sites and expedite the state's receipt of revenues in compliance with this chapter. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the commission and those other state agencies are hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the commission and those other state agencies shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code, but shall promulgate permanent regulations in accordance with all applicable law.

(2) The regulations adopted by the commission shall address underage gambling and problem gambling.

(3) The regulations of the commission also shall provide for temporary or provisional approvals, licenses, or certificates for heirs, executors, receivers, trustees, conservators, key employees, and other persons where an approval, license, or certificate is required.

(b) (1) Each state agency with a duty pursuant to this chapter shall identify a contact person at that agency and describe the responsibility of the contact with respect to the state agency's

duty.

(2) Any notice provided by a licensee to a state agency pursuant to this chapter shall be addressed to the contact identified by the state agency pursuant to paragraph (1).

(3) Unless otherwise provided by this chapter, notice by a licensee to the state shall be deemed effectively given upon personal delivery, three days after deposit in the United States mail by certified or registered mail, return receipt requested, one business day after its deposit with any return receipt express courier, prepaid, or one business day after electronically confirmed transmission by facsimile.

19990.71. The Legislature may, by a statute adopted by a majority vote of both houses, do either of the following:

(a) Opt out of, or opt into, any federal framework for Internet gambling.

(b) If the United States Department of Justice notifies the department in writing that it is permissible under federal law, enter into any agreement with other states or foreign jurisdictions to provide Internet gambling.

19990.72. The department may outsource its regulatory functions under this chapter where optimal to provide efficient, effective, and robust regulation with access to worldwide expertise tested and proven in the gambling industry. This may include, but is not limited to, state and international regulatory agencies. To expedite the implementation of Internet gambling, contracts pursuant to this

section shall not be subject to otherwise applicable provisions of the Government Code or the Public Contract Code and, for those purposes, the department shall not be considered a state agency or public entity.

#### Article 7. Protection of Registered Players

19990.75. A licensee shall use its best efforts to protect registered players. Subject to the approval of the department, and consistent with uniform standards established by the department by regulation, each licensee shall establish administrative procedures to resolve registered player complaints.

19990.76. If a registered player has a complaint against a licensee, the exclusive remedy shall be to register the complaint with the department, unless an action is brought pursuant to subdivision (j) of Section 19990.47.

19990.77. (a) The department, in consultation with the commission, shall establish regulations with respect to registered player complaints.

(b) Under the regulations, the department shall do all of the following:

(1) Investigate registered player complaints to determine if a licensee has failed to meet its obligations to a registered player.

(2) Attempt to resolve complaints by registered players if a

licensee fails to meet an obligation to a registered player.

(3) Initiate enforcement actions to require specific performance of any obligation that a licensee has to a registered player and payment by the licensee of restitution to a registered player for actual losses and interest thereon.

19990.78. A licensee may appeal any action by the department pursuant to this article to the superior court, which shall review the appeal de novo.

#### Article 8. Disposition of State Regulatory Proceeds

19990.86. (a) The Treasurer shall transfer all amounts received from a licensee pursuant to subdivision (c) of Section 19990.58 to the Controller for deposit in the Internet Gambling Fund, which is created in the State Treasury, to be administered by the Controller, subject to annual appropriation by the Legislature. These amounts shall not be subject to the formulas established by statute directing expenditures from the General Fund.

(b) The state agencies shall submit revenue needs to fulfill their obligations under this chapter for the upcoming fiscal year to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget, as well as the Senate and Assembly Committees on Governmental Organization and the Department of Finance on or before March 31 of the preceding fiscal year. A justification of those

costs shall be provided with each submission of revenue needs.

(c) The State Department of Alcohol and Drug Programs, Office of Problem Gambling, shall submit revenue needs for programs to alleviate problem gambling that results from the offering of authorized games for the upcoming fiscal year to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget, as well as the Senate and Assembly Committees on Governmental Organization, the Senate and Assembly Committees on Human Services, and the Department of Finance on or before March 31 of the preceding fiscal year. A justification of those costs shall be provided with each submission of revenue needs.

(d) All remaining proceeds not allocated to subdivisions (b) and (c) shall remain in the Internet Gambling Fund subject to appropriation by the Legislature.

#### Article 9. Preemption of Local Regulation

19990.90. A city, county, or city and county shall not regulate, tax, or enter into a contract with respect to any matter related to this chapter. This section shall not prohibit or limit the investigation and prosecution of any violation of this chapter.

#### Article 10. Reports to the Legislature

19990.95. Notwithstanding Section 10231.5 of the Government Code, within one year of the operative date of this chapter and, annually thereafter, the department, in consultation with the commission, the Treasurer, and the Franchise Tax Board, shall issue a report to the Legislature describing the state's efforts to meet the policy goals articulated in this chapter. The report shall be submitted in compliance with Section 9795 of the Government Code.

19990.96. (a) At least four years after the issue date of any license pursuant to this chapter, but no later than five years after that date, the Bureau of State Audits shall issue a report to the Legislature detailing the implementation of this chapter. The State Auditor may advise the Legislature on any recommendations regarding the terms of licensure, including the consideration paid to the state, the economic and operational impacts upon the licensee and the state, and any other issues that may be relevant to the state's decision whether to impose modifications on existing licensees' fees or terms of licensure. The report may also advise the Legislature as to any proposed changes to Article 5 (commencing with Section 19990.30) of this chapter.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2020.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Chapter 5.2 (commencing with Section 19990.01) to Division 8 of the Business and Professions Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The limitations on the people's rights of access set forth in this chapter are necessary to protect the privacy and integrity of information submitted by the registered players as well as the proprietary information of the license applicants and licensees.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate

effect. The facts constituting the necessity are:

In order to protect the interests of Californians who play online gambling games and to ensure that people play fair games, that the state realizes the revenues, and that suitable persons operate intrastate Internet gambling Web sites, it is necessary that this act take effect immediately.