

21-0017

Amdt. #1
POLITICAL &
GOVERNMENT

LAW
ADVOCACY
LITIGATION

NIELSEN MERKSAMER

NIELSEN MERKSAMER PARRINELLO GROSS & LEONI LLP

October 5, 2021

VIA PERSONAL DELIVERY

Hon. Rob Bonta
Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

RECEIVED

OCT 5 2021

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Anabel Renteria, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Constitutional
Amendment (A.G. No. 21-0017) – Amended Language

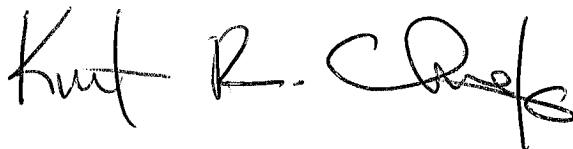
Dear Mr. Bonta:

Pursuant to Section 9002(b) of the California Elections Code, please find attached hereto amendments to the above-captioned initiative measure. We hereby request that a title and summary be prepared for the initiative measure using the amended language. Our addresses as registered voters, the required proponent affidavits pursuant to Sections 9001 and 9608 of the California Elections Code, and a check for \$2,000.00 were included with the original submission.

All inquires or correspondence relative to this initiative should be directed to:

Kurt R. Oneto
Nielsen Merksamer LLP
1415 L Street, Suite 1200
Sacramento, CA 95814
(916) 446-6752

Sincerely,



Kurt R. Oneto, Proponent

Enclosure: Proposed Initiative Constitutional Amendment – *Amended Language*

SACRAMENTO

1415 L STREET, SUITE 1200
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October 5, 2021

VIA PERSONAL DELIVERY

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Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

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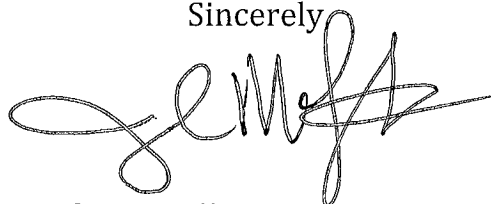
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Sacramento, CA 95814
(916) 446-6752

Thank you for your assistance.

Sincerely

A handwritten signature in black ink, appearing to read "John J. Moffatt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John J. Moffatt, Proponent

Enclosure: Proposed Initiative Constitutional Amendment – *Amended Language*

Section 1. Title.

This measure shall be known and may be cited as the California Solutions to Homelessness and Mental Health Support Act.

Section 2. Statement of Intent and Purposes.

The People of the State of California find and declare the following:

(a) California's homelessness and mental health crises demand action. Nearly half of all unsheltered people in the country live in California, and public school data shows that more than 250,000 public school students are experiencing homelessness.

(b) Mental health disorders are among the most common health conditions faced by Californians: Nearly 1 in 6 California adults experience a mental illness of some kind; 1 in 24 has a serious mental illness that makes it difficult to carry out major life activities; and 1 in 13 children has an emotional disturbance that limits participation in daily activities. With no adequate permanent funding stream, every level of government has disinvested in mental health services – leaving those in most dire need of support without help.

(c) In May 2018, the United States Supreme Court eliminated the federal prohibition on sports betting. As a result, states now have the freedom to authorize online sports betting at locations within their borders and establish regulations, consumer protections, responsible gaming measures, and taxes on online sports betting.

(d) Unregulated and untaxed online sports betting is currently happening throughout California in the illegal market without any consumer or responsible gaming protections. Leading economists and industry experts estimate the illegal market has flourished with billions of dollars bet online annually across the United States.

(e) Allowing state-regulated entities to offer responsible online sports betting that includes a comprehensive licensing process, limits online sports betting to individuals 21 years of age or older, and imposes enforcement and accountability measures will generate billions of dollars in revenue to help fight homelessness and expand mental health support in California.

(f) Safe, legal online sports betting that allows people who are 21 years or older to enjoy sports betting over the Internet and on mobile devices should require online sports betting operators to put in place age verification and information-sharing technologies that have been proven effective in other states at preventing minors from participating and impose penalties and fines for violations.

(g) Safe and legal online sports betting should be regulated by the California Department of Justice to ensure minors and children are protected, the integrity of sporting events is maintained, and operators are properly licensed. Smart technologies and information-sharing amongst sports leagues, online sports betting operators, and the Department should be employed to protect minors and maintain sports integrity.

(h) Online sports betting requires the expertise of entities with significant experience operating online sports betting platforms in other U.S. states and territories. Therefore, gaming tribes should be given the option of offering state-regulated online sports betting to individuals who make bets while physically present in this State but outside of Indian lands; qualified online sports betting platform providers should be able to offer their products and services to gaming tribes; and qualified gaming entities that have a market access agreement with a gaming tribe should be permitted to offer online sports betting in this state.

(i) The legal market for online and in-person sports betting must be operated by persons and entities with the ability to protect consumers, prevent minors from accessing sports betting, promote and preserve responsible play, and facilitate a marketplace that responsibly maximizes revenue to accomplish the public policy purposes of this Act. This Act imposes minimum qualifications that such persons and entities must satisfy before they may offer online sports betting in the State of California.

(j) Online and in-person sports betting are complementary and supplementary to each other. They can be offered concurrently in California in order to maximize the amount of tax revenue generated.

Section 3. Section 19.5 is added to Article IV of the California Constitution, to read:

SEC. 19.5. Notwithstanding any contrary provision of this Constitution or any other law:

(a) A gaming tribe, an online sports betting platform provider with an operating agreement with a gaming tribe, or a qualified gaming entity with a market access agreement with a gaming tribe may offer, conduct, and/or operate online sports betting over the Internet and on mobile devices to persons aged 21 years or older physically present anywhere in this State but outside of Indian lands of a federally recognized Indian tribe.

(b)(1) Online sports betting shall only be offered, conducted, and/or operated in this State but outside of Indian lands as specifically set forth in Chapter 4.7 (commencing with Section 19750) of Division 8 of the Business and Professions Code.

(2) The implementation and administration of this section shall be governed by Chapter 4.7 (commencing with Section 19750) of Division 8 of the Business and Professions Code, the provisions of which are hereby expressly authorized and required by this section of the Constitution.

(c) Online sports betting shall not be permitted on youth sports events.

(d)(1) The taxes imposed by Article 8 (commencing with Section 19775) of Chapter 4.7 of Division 8 of the Business and Professions Code shall be in lieu of and preempt all other existing or future state and local taxes imposed on any of the following:

(A) An online sports betting operator in its capacity as an online sports betting operator.

(B) The offering, conduct, and/or operation of online sports betting.

(C) The revenues or income generated from online sports betting.

(2) Notwithstanding paragraph (1), this subdivision does not prohibit the imposition of a tax where all of the following apply:

(A) The tax is generally applicable to a broad range of businesses, business activity, conduct, property, or products.

(B) The tax does not establish or rely on a classification related to or involving any of the following: (i) online sports betting operators; (ii) the offering, conduct, and/or operation of online sports betting; or (iii) the revenues or income from online sports betting.

(C) The tax is applied in a manner that avoids additional taxation of the operation of, or revenues or income generated by, online sports betting.

(e) Any word or phrase appearing in this section that also appears in Article 13 (commencing with Section 19794) of Chapter 4.7 of Division 8 of the Business and Professions Code shall be defined by those statutory definitions.

(f) This section shall take effect on the next January 1 following its approval by the People of the State of California.

Section 4. Chapter 4.7 (commencing with Section 19750) is added Division 8 of the Business and Professions Code, to read:

CHAPTER 4.7. ONLINE SPORTS BETTING

ARTICLE 1. California Online Sports Betting Trust Fund.

19750. California Online Sports Betting Trust Fund.

(a) The California Online Sports Betting Trust Fund (“Fund”) is hereby established in the State Treasury.

(b) Notwithstanding any other provision of law, the Fund, and every account within the Fund, is hereby declared to be a trust fund.

(c) Except as provided in Sections 16310 and 16381 of the Government Code, as those sections read on January 1, 2018, moneys in the Fund shall not be borrowed, loaned, or otherwise transferred to the General Fund or other fund in the State Treasury. Moneys deposited into the Fund, and any account within the Fund, including any interest earned thereon, shall only be used for the specific purposes set forth in this chapter. No action shall be taken that

permanently or temporarily changes the status of the Fund as a trust fund, or borrows, diverts, or appropriates the moneys in the Fund in a manner inconsistent with this chapter.

(d) After deducting and transferring the necessary moneys pursuant to paragraph (2) of subdivision (c) of Section 19751 and repaying the loan authorized by Section 19784, the Controller shall annually allocate and transfer the remaining moneys in the Fund to the following accounts, in the following amounts:

(1)(A) Eighty-five percent (85%) to the California Solutions to Homelessness and Mental Health Support Account, which is hereby created in the Fund. As set forth in this paragraph, moneys in the account shall be appropriated pursuant to Section 12 of Article IV of the Constitution for the purpose of delivering permanent and interim housing, including rental assistance, supportive services, and operating subsidies or reserves for these purposes.

(i) Moneys in the account shall be made available to cities, counties, and continuums of care according to the same allocation formula for the most recent fiscal year used to distribute moneys to those entities under the Homelessness Housing, Assistance, and Prevention program established in Chapter 6 (commencing with Section 50216) of Part 1 of Division 31 of the Health and Safety Code (the "HHAP law"), or any successor statute.

(ii) Moneys appropriated from the account shall be provided to cities, counties, and continuums of care with the same accountability and reporting requirements as established in the HHAP law, or any successor statute.

(iii) Moneys appropriated from the account may be further restricted to advancing the state's goals of improving outcomes for people experiencing homelessness who need access to mental health, substance use disorder treatment, and service enhanced housing.

(B) Moneys in the account, or a portion thereof, may be committed to the repayment of revenue bond indebtedness. The proceeds of any such revenue bonds shall be used solely and exclusively in furtherance of the purposes described in subparagraph (A). No moneys in the account shall ever be committed to the repayment of general obligation bonds.

(C) Notwithstanding subparagraph (A), a portion of the moneys in the account may also be appropriated for mental health treatment programs under Chapter 8 (commencing with Section 4369) of Part 3 of Division 4 of the Welfare and Institutions Code.

(D) Moneys allocated pursuant to this paragraph shall be used to increase and enhance the purposes described in subparagraphs (A) and (C), and not to replace any other existing revenues for those purposes including, but not limited to, existing revenue sources that support the HHAP law. The State and recipient cities, counties, and continuums of care bear the burden of proving by clear and convincing evidence that the moneys allocated pursuant to this paragraph are not being used to supplant preexisting revenues.

(E)(i) Except as provided in clause (ii), not more than forty percent (40%) of the moneys in the account shall be appropriated or used for interim housing.

(ii) In any fiscal year in which moneys appropriated for the HHAP law are equal to, or greater than, the amount appropriated for that purpose during the 2021-2022 fiscal year, the restriction in clause (i) shall not apply.

(2)(A) Fifteen percent (15%) to the Tribal Economic Development Account, subject to subparagraph (B).

(B) In the event that Section 19769 is found by a court of competent jurisdiction to be unenforceable in whole or in part under state or federal law, then the moneys described in subparagraph (A) shall instead be allocated and transferred by the Controller to the California Solutions to Homelessness and Mental Health Support Account.

(e)(1) Moneys shall be appropriated from the Fund pursuant to Section 12 of Article IV of the Constitution in order to cover the operational expenses incurred by the Division and the Department in carrying out this chapter. The annual appropriation for the Division and the Department shall be clearly sufficient to ensure that the Division is adequately staffed, that online sports betting is adequately regulated, and that the purposes of this chapter are being faithfully carried into effect.

(2) Of the moneys appropriated pursuant to this subdivision, eighty-five percent (85%) shall be drawn from the California Solutions to Homelessness and Mental Health Support Account and fifteen percent (15%) shall be drawn from the Tribal Economic Development Account.

19751. California Online Sports Betting Trust Fund Oversight and Accountability.

(a) The People of the State of California hereby declare their unqualified intent for the revenues generated by this chapter to be used to support the purposes set forth in Section 19750 without delay or interruption. The purpose of this section is to provide oversight and accountability mechanisms to guarantee that the People's intent is carried out.

(b) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse or unauthorized use, of moneys deposited into, or appropriated from, the California Online Sports Betting Trust Fund or any account within the Fund.

(c)(1) The nonpartisan California State Auditor shall conduct a biennial independent financial audit of the programs receiving moneys from the Fund. The California State Auditor shall report its findings to the Governor and both houses of the Legislature, and shall make the findings available to the public on its Internet website.

(2)(A) The California State Auditor shall be reimbursed from moneys in the Fund for actual costs incurred in conducting the biennial audits required by this subdivision, in an amount not to exceed six hundred thousand dollars (\$600,000) per audit.

(B) The six hundred thousand dollar (\$600,000) per audit maximum limit shall be adjusted decennially to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this subparagraph.

(d)(1) If any challenge to invalidate an action that violates the use of moneys allocated or appropriated pursuant to this chapter, as specified in this chapter, is successful either by way of a final judgment, settlement, or resolution by judicial, administrative, or legislative action, there is

hereby continuously appropriated from the General Fund to the Controller, without regard to fiscal years, that amount of money necessary to restore the California Online Sports Betting Trust Fund, or account within the Fund, to its financial status had the unlawful action not been taken.

(2) Interest calculated at the Pooled Money Investment Account rate from the date or dates the moneys were unlawfully used shall accrue to the amounts required to be restored pursuant to this section. Within 30 days from the date a challenge is successful, the Controller shall make the transfer required by the continuous appropriation set forth in paragraph (1) and issue a notice to the parties that the transfer has been completed.

(3) If in any challenge brought pursuant to this section a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

(e)(1) Every four years, the Controller shall conduct a performance audit of efforts and programs funded with moneys from the California Solutions to Homelessness and Mental Health Support Account to ensure the moneys are disbursed and expended solely according to this chapter and shall report his or her findings to the Governor, the Legislature, and the public.

(2) Money in the California Solutions to Homelessness and Mental Health Support Account may be appropriated pursuant to Section 12 of Article IV of the Constitution in order to reimburse the Controller for the cost of conducting the audit(s) required by this subdivision. If moneys are appropriated from that account for this purpose, the amount shall not exceed the dollar limit described in paragraph (2) of subdivision (c).

19751.5. Tribal Economic Development Account.

(a) The Tribal Economic Development Account is hereby created in the California Online Sports Betting Trust Fund.

(b)(1) Notwithstanding Section 13340 of the Government Code or any other law, all moneys deposited in the Tribal Economic Development Account, together with any interest

earned thereon, are hereby continuously appropriated, without regard to fiscal years, to federally recognized Indian tribes in California that do not have any of the following: (A) a tribal operator license; (B) an operating agreement with an online sports betting platform provider; or (C) a market access agreement with a qualified gaming entity.

(2) Commencing not sooner than one year after the effective date of this chapter, the Controller shall transfer revenues in the Tribal Economic Development Account to Indian tribes described in paragraph (1). The transfers shall be made pursuant to the procedures adopted pursuant to subdivision (c).

(c) The Division shall, in consultation with the California Gambling Control Commission and the Governor's Tribal Advisor, adopt a regulation establishing a formula for allocating moneys in the Tribal Economic Development Account amongst Indian tribes described in paragraph (1) of subdivision (b). The formula shall, at a minimum, provide the method of allocation and a schedule for payments to be made.

(d) Moneys received by Indian tribes pursuant to this section may be used to support, improve, and expand tribal government, public health, education, infrastructure, economic development, and employment opportunities.

ARTICLE 2. Protection of Minors and Consumers.

19752. Minors Prohibited from Engaging in Online Sports Betting.

(a) A person under 21 years of age shall not do any of the following:

(1) Either personally or through an agent place, or collect winnings from, bets on any sporting event.

(2) Present or offer to any online sports betting operator, or any agent of such operator, any written, printed, or photostatic evidence of age and identity that is false, fraudulent, or not actually their own for the purpose of placing a bet on a sporting event.

(3) Open, maintain, or use in any way an online sports betting account or make or attempt to make an online sports bet.

(b) A person shall not knowingly do either of the following:

(1) Accept or redeem a bet placed by, or offer to accept or redeem a bet on behalf of, a person known to be under 21 years of age.

(2) Allow a person known to be under 21 years of age to open, maintain, or use in any way an online sports betting account or make an online sports bet.

(c) A person who violates this section shall be subject to penalties imposed by the Division as set forth in Section 19781. A person holding a license under this chapter who violates this section shall be subject to further administrative discipline imposed by the Division.

19753. Consumer Protections and Requirements.

(a) An online sports betting operator shall use commercially reasonable efforts to verify that a person placing, making, or initiating a bet on a sporting event is of the legal minimum age for placing such a bet.

(b) An online sports betting operator shall display on its website and mobile application a statement that it is illegal for a person under 21 years of age to engage in online sports betting in this State.

(c) An online sports betting operator shall display a link on its online sports betting platform to an Internet webpage or mobile application screen dedicated to responsible gaming, which shall include all of the following:

(1) Tools for imposing voluntary self-restrictions on betting activity.

(2) A prominent message stating “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER,” or similar message.

(3) A link to an appropriate organization that provides information regarding responsible gaming.

(d) An online sports betting operator shall implement responsible gaming programs that include providing commercially reasonable training to employees with respect to identifying and responding to signs of problem gaming.

19754. Voluntary Restrictions on Betting Activity.

(a) An online sports betting operator shall allow individuals to voluntarily exclude themselves from placing bets with the operator, and shall use commercially reasonable efforts to prevent self-excluded individuals from placing bets.

(b) The Division shall establish a process through which individuals may submit requests to be excluded from sports betting with all online sports betting operators. The Division shall maintain a list of individuals who have self-excluded from placing bets on sporting events and shall make the list accessible to all online sports betting operators.

(c) Any bets placed by an individual prior to self-exclusion shall be permitted to settle and shall not be required to be cancelled.

19755. Online Sports Betting Operator Advertisements.

(a) An online sports betting operator shall:

(1) Use commercially and technologically reasonable means to ensure marketing and advertisements do not purposefully target individuals who have self-excluded from placing bets on sporting events.

(2) Employ commercially reasonable methods to ensure that advertisements for online sports betting:

(A) Do not purposefully target minors, other persons who are ineligible to place bets, or self-excluded individuals.

(B) Disclose the identity of the online sports betting operator.

(C) Provide information about, or links to, resources relating to problem gaming.

(D) Are not false, misleading, or deceptive to a reasonable consumer.

(E) Clearly and conspicuously disclose the material terms of any offer of free or promotional credits. Online advertisements may satisfy this paragraph by containing a hyperlink that takes the viewer directly to the material terms.

(3) Maintain a copy of all advertisements to consumers in this State for no less than three years.

(b) An online sports betting operator shall not be required to obtain prior Division review or approval of any advertisement or promotion.

(c) An operator applicant may engage in pre-launch marketing that clearly discloses the operator applicant is not currently offering, conducting, and/or operating online sports betting in this State.

(d) No limit shall be placed on the type or amount of free bets or promotional credits offered or issued by an online sports betting operator.

19756. Conduct of Online Sports Betting.

(a) Each online sports betting operator shall adopt house rules for game play governing online sports betting transactions with its customers. The rules shall include, at a minimum, all of the following:

(1) The method for calculating and paying winning bets.

(2) The effect on bets, if any, of sports event schedule changes.

(3) The method of notifying consumers of odds changes.

(4) The method of contacting the online sports betting operator for purposes of seeking assistance or lodging complaints.

(5) A description of persons prohibited from placing bets on specific sporting events based upon their association with a sports governing body, sports league, team, or sports event.

(6) The methods of funding an online sports betting account.

(7) The circumstances under which an online sports betting operator may void a bet in its discretion, including obvious errors, and the method for notifying consumers that a bet has been voided.

(b) Customers may establish online sports betting accounts with an online sports betting operator in both of the following ways:

(1) Over the Internet, including on mobile devices.

(2) In-person at locations approved by the Division, if offered by the online sports betting operator.

(c) A customer shall not register more than one account with each online sports betting platform. Online sports betting operators shall use commercially reasonable means to ensure that each customer is limited to one account per platform.

(d) An online sports betting operator may permit account holders to deposit funds into, and withdraw funds from, online sports betting accounts over the Internet, including on mobile devices. Permissible methods of funding and withdrawal include, but are not limited to, credit cards, debit cards, gift cards, reloadable prepaid cards, free and promotional credit, automated clearing house transfers, online and mobile payment systems that support online money transfers, and wire transfers. The Division may approve additional funding and withdrawal methods including, but not limited to, cash deposits at approved locations and secure cryptocurrencies.

(e) Each online sports betting operator shall use commercially reasonable geolocation and geofencing technology to ensure that it accepts bets only from customers who, at the time of placing the bet, are physically present in this State but not physically present on Indian lands.

(f) Each online sports betting operator shall determine and display applicable lines, point spreads, odds, or other information pertaining to online sports betting. The Division shall not specify the manner in which the lines, point spreads, or odds are determined and shall not require such information to be publicly disclosed. The Division shall not set or require a minimum or maximum hold rate.

(g)(1) An online sports betting operator shall maintain in this State, or any other location approved by the Division and consistent with federal law, the computer server or servers used to receive transmissions of requests to place bets and that transmit confirmation of acceptance of bets on sports events placed by customers physically present in this State but outside of Indian lands.

(2) All bets authorized under this chapter must be initiated, made, or otherwise placed by a bettor while physically present within this State but outside of Indian lands.

(3) The intermediate routing of electronic data related to lawful intrastate bets authorized under this chapter shall not determine the location or locations in which the bet is initiated, transmitted, received, or otherwise made.

19757. Risk Management.

(a) An online sports betting operator that is licensed to offer sports betting, whether in-person or online, in this State and one or more other U.S. states or territories may pool liquidity from all such states and territories.

(b) An online sports betting operator may employ systems that offset loss or manage or lay off risk in the offering, conduct, and/or operation of online sports betting.

(c) The systems described in subdivision (b) include, but are not limited to, liquidity pools and exchanges or similar mechanisms with other U.S. states or territories where the online sports betting operator is licensed to offer, conduct, and/or operate sports betting, whether in-person or online.

(d) An online sports betting supplier that is licensed to offer sports betting, whether in-person or online, in this State and one or more other U.S. states or territories may employ the systems described in this section on behalf of an online sports betting operator.

(e) An online sports betting operator, or an online sports betting supplier acting on behalf of an online sports betting operator, shall at all times ensure sufficient funds are available to pay registered players in any liquidity pool.

ARTICLE 3. Protection of Sports Integrity.

19758. Maintaining the Integrity of Sporting Events.

An online sports betting operator shall employ commercially reasonable methods to do all of the following:

(a) Prohibit the online sports betting operator's directors, officers, principal owners, and employees, and any relative living in the same household as those persons, from placing bets with that online sports betting operator.

(b)(1) Prohibit the following persons from placing a bet on any sporting event under the authority of their sports league: athletes, coaches, referees, principal owners of teams, sports league members, and officials of unions that represent athletes or referees.

(2) In determining which persons are excluded from placing bets on specific sporting events under this subdivision, an online sports betting operator shall rely solely and exclusively on lists of such persons that sports leagues may provide to the Division. The Division shall disseminate any such lists to online sports betting operators.

(c) Prohibit any known individual with access to non-public confidential betting information held by the online sports betting operator from placing bets with that operator.

(d)(1) Maintain the security of betting data, customer data, and other confidential information from unauthorized access and dissemination.

(2) Notwithstanding paragraph (1), nothing in this chapter shall preclude the use of Internet or cloud-based hosting of data and information, or the disclosure of data or information as required by law or court order.

(e) Conduct background checks on employees who have not previously undergone a background check during the course of their employment with the online sports betting operator. Background checks shall search for criminal history, including any charges or convictions involving corruption or manipulation of sporting events and association with organized crime.

Section 19759. Abnormal Betting and Other Suspicious Activity.

(a) The Department shall have primary responsibility for conducting, or assisting the Division in conducting, investigations into abnormal betting activity, match fixing, and other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain.

(b) The Division and online sports betting operators shall use commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies or law enforcement agencies. These efforts shall include, but are not limited to, using commercially reasonable efforts to provide, or arrange the providing of, betting information.

(c)(1) An online sports betting operator shall, as soon as practicable, report to the Division any information relating to:

(A) Criminal or material disciplinary proceedings commenced against the online sports betting operator by this State, another U.S. state or territory, or the United States, in connection with its operations.

(B) Abnormal betting activity or patterns that may indicate a concern with the integrity of a sporting event or events.

(C) Any other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain, including match fixing.

(D) Suspicious or illegal betting activities if known to the operator, including but not limited to use of funds derived from illegal activity, bets to conceal or launder funds derived from illegal activity, using agents to place bets, or using false identification. Nothing herein shall require the disclosure of suspicious activity reports made pursuant to and deemed to be confidential under federal law.

(2) An online sports betting operator shall implement commercially reasonable internal controls designed to identify the activities described in this subdivision.

(3) The information described in subparagraphs (B) and (C) of paragraph (1) shall be reported by an online sports betting operator as soon as practicable and simultaneously to the relevant sports governing body and the Division.

(d) The Division and online sports betting operators shall maintain the confidentiality of information provided by a sports governing body for purposes of investigating or preventing the activities described in subparagraphs (B) and (C) of paragraph (1) of subdivision (c), unless the disclosure is consented to by the sports governing body or is required by state law, the Division, or court order.

19759.5. Restrictions on Betting Requested by Sports Governing Bodies.

(a)(1) A sports governing body may submit to the Division a written request, in a form prescribed by the Division, to restrict, limit, or exclude a certain type, form, or category of online sports betting with respect to a covered sporting event of the sports governing body, if the sports governing body believes that such type, form, or category of online sports betting with respect to the covered sporting event of the sports governing body may undermine the integrity or perceived integrity of such body or covered sporting events of such body.

(b) The Division shall request comment from online sports betting operators on all requests made pursuant to this section. After giving due consideration to all comments received, the Division shall, upon a demonstration of good cause from the requestor that such type, form, or category of sports betting is likely to undermine the integrity or perceived integrity of such body or sporting events of such body, grant the request.

(c)(1) The Division shall respond to a request concerning a covered sporting event before the start of the event, or, if it is not feasible to respond before the start of the event, no later than 7 days after the request is made.

(2) If the Division determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the Division may provisionally grant the request of the sports governing body pending the Division's final determination thereon. Unless the Division provisionally grants the request, online sports betting operators may continue to

offer sports betting and accept bets on the covered sporting event pending a final determination by the Division.

Section 19760. Records of Bets.

(a) Online sports betting operators shall maintain records of all bets placed, including personally identifiable information of the bettor, amount and type of bet, time the bet was placed, location of the bet, including IP address if applicable, the outcome of the bet, and records of abnormal betting activity for three years after the sporting event occurs. If a video recording of the transaction is created, it shall be maintained for at least one year from the date the sporting event occurred. Online sports betting operators shall make such data available for inspection upon request of the Division or as required by court order.

(b) Online sports betting operators shall use commercially reasonable efforts to maintain in real time and at the account level, anonymized information regarding a bettor, amount and type of bet, the time the bet was placed, the location of the bet, including the IP address if applicable, the outcome of the bet, and records of abnormal betting activity. The Division may request such information in the form and manner as required by rule of the Division. Nothing in this subdivision shall require an online sports betting operator to provide any information that is prohibited by federal, state or local laws or regulations, including without limitation laws and regulations relating to privacy and personally identifiable information.

(c) If a sports governing body has notified the Division that access to the information described in subdivision (a) for bets placed on sporting events of such sports governing body is necessary to monitor the integrity of such body's sporting events, and represents to the Division that it specifically uses such data for the purpose of monitoring the integrity of sporting events of such sports governing body, then online sports betting operators shall share, in a commercially reasonable frequency, form, and manner, with the sports governing body or its designee(s) the same information the online sports betting operator is required to maintain under subdivision (b) with respect to bets on sporting events of such sports governing body. Sports governing bodies and their designees may only use information received under this section for integrity-monitoring purposes and may not use information received under this section for any commercial or other purpose. Nothing in this section shall require an online sports betting operator to provide any

information that is prohibited by federal, state or local laws or regulations, including without limitation laws and regulations relating to privacy and personally identifiable information.

19761. Permissible Online Sports Betting Types and Events.

(a)(1) The Division shall maintain in real time a publicly accessible list of sports events, sports leagues, and bet types that are authorized for online sports betting pursuant to this chapter.

(2) An online sports betting operator may accept bets on sports events, sports leagues, and bet types appearing on the list.

(3) An online sports betting operator may submit a written request to the Division seeking additional sporting events, sports leagues, or bet types to be added to the list maintained pursuant to this section.

(b) The Division shall consider the following factors when making determinations on requests submitted pursuant to paragraph (3) of subdivision (a):

- (1) Whether the outcome of the sporting event or bet type can be verified.
- (2) Whether the outcome of the sporting event may be affected by any bet type placed.
- (3) Whether the sporting event is conducted in conformity with all applicable laws.

(c) No bets shall be authorized or allowed upon any of the following with respect to sporting events:

- (1) The occurrence of injuries or penalties.
- (2) The outcome of player discipline rulings.
- (3) The outcome of replay reviews.

(d)(1) The Division shall approve or deny a request made pursuant to paragraph (3) of subdivision (a) within five business days of receipt of the request.

(2) The Division shall make good faith efforts to issue a determination in advance of the next opportunity for bets to be offered or accepted on the sporting event, sports league, or bet type subject to the request if the online sports betting operator makes the request at least three business days in advance thereof. If the request is approved, the sporting event, sports league, or bet type shall be added without delay to the list maintained pursuant to paragraph (1) of subdivision (a).

(3) If the Division does not communicate its determination to the online sports betting operator within five business days of receipt of the request, then both of the following shall apply:

(A) The online sports betting operator shall be permitted to offer betting on the next occurrence of the sporting event, sports league, or bet type after expiration of the five-business day deadline.

(B) The Division shall add without delay the sporting event, sports league, or bet type to the list maintained pursuant to paragraph (1) of subdivision (a).

(e) If a sports event or sports league has been generally authorized by the Division pursuant to this section, an online sports betting operator may accept bets on all sports events of the kind generally conducted by that sports league.

ARTICLE 4. Online Sports Betting Operators.

19762. Online Sports Betting Authorized.

(a) Online sports betting is hereby authorized to be offered, conducted, and/or operated in this State consistent with this chapter and Section 19.5 of Article IV of the California Constitution.

(b) Online sports betting shall only be offered, conducted, and/or operated in this State pursuant to an online sports betting operator license issued by the Division to a gaming tribe, an online sports betting platform provider with an operating agreement with a gaming tribe, or a qualified gaming entity with a market access agreement with a gaming tribe.

(c) No person may engage in any activity in connection with online sports betting in this State unless all necessary licenses or temporary licenses have been obtained pursuant to this chapter and the rules and regulations of the Division.

(d) An online sports betting operator license issued pursuant to this chapter does not entitle the license holder to accept any bet from a person who is physically present on Indian lands when the bet is made or initiated.

19763. Online Sports Betting Operator Licenses.

(a) A license shall be obtained by each online sports betting operator as provided in this chapter.

(b)(1) An online sports betting operator license may be applied for in the following ways:

(A) By a gaming tribe (a “tribal application”). Under a tribal application, the gaming tribe is the operator applicant. If the application is approved, the online sports betting operator license shall be issued to the gaming tribe (a “tribal operator license”).

(B) By a qualified gaming entity (a “qualified gaming entity application”). Under a qualified gaming entity application, the qualified gaming entity shall be the operator applicant. If the application is approved, the online sports betting operator license shall be issued to the qualified gaming entity (a “qualified gaming entity operator license”).

(C) By an online sports betting platform provider (an “online sports betting platform provider application”). Under an online sports betting platform provider application, the online sports betting platform provider shall be the operator applicant. If the application is approved, the online sports betting operator license shall be issued to the online sports betting platform provider (an “online sports betting platform provider operator license”).

(2) No person may obtain an online sports betting operator license pursuant to this section except a gaming tribe, a qualified gaming entity, or an online sports betting platform provider.

(3) Beyond the express requirements of this chapter, the Division may specify additional information required to be submitted as part of a tribal application, qualified gaming entity application, or an online sports betting platform provider application.

(c)(1) An operator applicant shall submit an application to the Division in the manner prescribed by the Division together with an application fee of one hundred fifty thousand dollars (\$150,000).

(2)(A) The application fee in paragraph (1) shall cover up to two thousand (2,000) hours of Division professional staff time expended on matters directly related to the application.

(B) The operator applicant shall reimburse the Division for any additional hours required to process the application at the hourly rate for human resource services used by the Contracted Human Resources Unit within the Department of General Services Office of Human Resources, as set forth in the Department of General Services Price Book.

(3) In no event shall the combined total amount paid by an operator applicant pursuant to this subdivision exceed two hundred fifty thousand dollars (\$250,000).

(d) In determining whether to approve an operator applicant's application to become an online sports betting operator, the Division may request from the operator applicant, and consider, any or all of the following information:

(1) Whether the operator applicant has adequate capitalization and the financial ability to responsibly pay its secured and unsecured debts in accordance with its financing agreements and other contractual obligations.

(2) Whether the operator applicant has a history of material noncompliance with sports betting licensing requirements of this State, any other U.S. state or territory, or the United States, where the noncompliance resulted in a material enforcement action by the government agency with authority over the operator applicant.

(3) Whether the operator applicant or any key person of the operator applicant has been indicted for, charged with, arrested for, or convicted of, pleaded guilty or nolo contendere to, or

forfeited bail concerning, any misdemeanor or felony criminal offense under the laws of this State, any other U.S. state or territory, or the United States, except for traffic violations.

(4) Whether the operator applicant has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt.

(5) Whether the operator applicant has a history of material noncompliance with any regulatory requirements of this State, any other U.S. state or territory, or the United States, where the noncompliance resulted in material enforcement actions by the government agency with authority over the operator applicant.

(e) Upon approval by the Division, and payment of an initial license fee as provided in subdivision (f), the Division shall issue the online sports betting operator license, which shall expire five years from the date of issuance.

(f) Upon notice by the Division that it has approved the application for an online sports betting operator license, and before issuance of the license, the operator applicant shall pay an initial license fee to the Division as follows:

(1) The initial fee for a tribal operator license or online sports betting platform provider operator license shall be ten million dollars (\$10,000,000).

(2) The initial fee for a qualified gaming entity operator license shall be one hundred million dollars (\$100,000,000).

(g) As part of an operator applicant's application, the Division may identify and require applications from specified key persons of the operator applicant as provided in Article 7.

(h)(1) An online sports betting operator license authorizes the holder of the license to operate one online sports betting platform, subject to the branding provisions set forth in paragraph (2) of subdivision (i).

(2)(A) A person holding an online sports betting operator license may act as an online sports betting platform provider, provided that such person has:

(i) Submitted the documentation required by Section 19767 for online sports betting platform providers.

(ii) Paid an initial license fee pursuant to paragraph (1) of subdivision (f) for each gaming tribe for which it is an online sports betting platform provider.

(B) An online sports betting platform provider shall not provide any service described within the definition of “online sports betting platform provider” to any gaming tribe other than as provided in this subdivision.

(i)(1)(A) Where a gaming tribe is issued a tribal operator license, the gaming tribe shall operate the online sports betting platform only under the gaming tribe’s own name or, if the tribe became a gaming tribe on or before July 1, 2021, a trademark owned by the gaming tribe as of July 1, 2021.

(B) If a tribe becomes a gaming tribe after July 1, 2021, the gaming tribe shall operate any online sports betting platform only under the gaming tribe’s own name.

(2) Where a qualified gaming entity is issued a qualified gaming entity operator license, it may operate its online sports betting platform under one of the following names, chosen at the discretion of the qualified gaming entity:

(A) The name, trade name, licensed trademark, or assumed business name of the qualified gaming entity.

(B) The name, trade name, licensed trademark, or assumed business name of an affiliate of the qualified gaming entity.

(C) The name of the gaming tribe with which the qualified gaming entity has a market access agreement.

(D) If the tribe with which the qualified gaming entity has a market access agreement became a gaming tribe on or before July 1, 2021, a trademark owned by the gaming tribe as of July 1, 2021.

(E) Any combination of the names described in subparagraph (A) through subparagraph (D).

(3) Where an online sports betting platform provider is issued an online sports betting platform provider operator license, the online sports betting platform provider shall operate, or facilitate or support the operation of, the online sports betting platform only under a name permitted under subparagraph (A) or subparagraph (B) of paragraph (1) of this subdivision for use by the gaming tribe to which the online sports betting platform provider is providing services pursuant to an operating agreement.

19764. Temporary Online Sports Betting Operator Licenses.

(a) The Division shall issue a temporary online sports betting operator license to any operator applicant if all of the following conditions are satisfied:

(1) The operator applicant has submitted an application pursuant to Section 19763.

(2) The operator applicant satisfies the conditions of paragraph (1) or paragraph (2) of subdivision (ii) of Section 19794.

(3) The operator applicant pays the initial license fee as set forth in subdivision (f) of Section 19763.

(b)(1) Within 30 days of receiving a request for a temporary license, the Division shall issue the temporary online sports betting operator license to an operator applicant that satisfies the requirements of subdivision (a). The temporary license shall expire two years from the date it is issued or on the date the Division issues a license to the operator applicant pursuant to Section 19763, whichever occurs first.

(2) A temporary license issued pursuant to this section entitles a person to immediately engage in all activities that may be undertaken by a person holding a license issued pursuant to Section 19763.

(c) If the Division fails to make a final determination on the application submitted pursuant to Section 19763 within the initial two-year period of temporary licensure, then the

temporary license shall be extended in two-year increments or until a final determination is made, whichever occurs first.

19765. Online Sports Betting Platform Testing.

(a) If the Division imposes a testing requirement for online sports betting platforms, it shall accept either of the following test results for the online sports betting platform in lieu of a new test, if issued not more than 180 days before the date the relevant application is submitted pursuant to this article or Article 6:

(1) A satisfactory result issued by an independent testing laboratory, if the laboratory has been approved to conduct such testing by the Division or a U.S. state or territory.

(2) A satisfactory result issued by a U.S. state or territory.

(b) This section shall apply to online sports betting operators, including online sports betting platform providers, and online sports betting suppliers.

19766. Renewal of Online Sports Betting Operator Licenses.

(a) The Division shall establish a process for an online sports betting operator to renew its license consistent with this section.

(b) When seeking to obtain a license renewal, an online sports betting operator shall submit to the Division both of the following:

(1) All documentation or information as the Division may require demonstrating that the online sports betting operator continues to meet the requirements of this chapter and the regulations of the Division.

(2) A renewal application fee of fifty thousand dollars (\$50,000).

(c) If an online sports betting operator submits a renewal application to the Division at least 60 days prior to the expiration of the operator's current license, then the Division shall make a determination on the renewal application prior to the expiration of the current license.

(d) The Division shall renew the online sports betting operator license for an additional five-year period unless the online sports betting operator's renewal application demonstrates that it will be unable to satisfy all requirements of this chapter and regulations of the Division. Upon renewal of the license, the online sports betting operator shall pay a license renewal fee of one million dollars (\$1,000,000) for a tribal operator license or online sports betting platform provider operator license and ten million dollars (\$10,000,000) for a qualified gaming entity operator license.

19767. Documentation Requirements Relative to Gaming Tribes.

(a) Before conducting sports betting in this state pursuant to licenses issued under this article, the person holding a qualified gaming entity operator license or an online sports betting platform provider operator license shall submit copies of an agreement between the license holder and a gaming tribe as follows:

(b) The holder of a qualified gaming entity operator license shall submit to the Division a market access agreement, entered into between the qualified gaming entity and a gaming tribe, relative to the qualified gaming entity's offering of online sports betting in this state. The terms of the market access agreement shall be determined solely by the parties to the agreement.

(c) The holder of an online sports betting platform provider operator license shall submit to the Division an operating agreement, entered into between the online sports betting platform provider and a gaming tribe. The purpose of the operating agreement is to specify the allocation of rights, responsibilities, and obligations between the online sports betting platform provider and the gaming tribe to which the platform provider is providing services.

(1) The operating agreement shall be binding on the parties. Once approved by the Division, material changes to the operating agreement shall not be made without the written approval of the Division. The Division shall issue its written response to any request for a material change to an operating agreement within 10 business days of the request.

(2) Matters that shall be specified in the operating agreement include, but are not limited to, the following:

(i) The name under which the online sports betting platform will be operated.

(ii) The profit-sharing allocation, if any, between the gaming tribe and the online sports betting platform provider.

(iii) Any other information required by the Division.

(d) The Division may adopt a model or template operating agreement to be used by online sports betting platform providers.

19768. Processing Online Sports Betting Operator Applications.

(a) Notwithstanding any contrary provision of law, an application submitted pursuant to this article or Article 6, and all documents, reports, and data submitted therewith, that contain proprietary information, trade secrets, financial information, or personal information about any person are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, or any successor law.

(b) When an application under this article requires a criminal background investigation for an individual, and the individual has submitted to a criminal background check in this State or any other U.S. state or territory in the previous 12 months, the individual shall not be required to submit to another criminal background check, or another submission of fingerprints, if the individual submits the results of the previous criminal background and a declaration under penalty of perjury attesting that there has been no change in the individual's criminal history in the previous 12 months.

(c) The fees set forth in this article, Article 6, and Article 7 shall be adjusted decennially to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this subdivision.

ARTICLE 5. State of California Jurisdiction Over Online Sports Betting.

19769. Jurisdiction Over Online Sports Betting Retained by State of California.

(a) The Division shall condition the issuance, maintenance, and renewal of every tribal operator license upon the gaming tribe irrevocably consenting to all of the following:

(1) Payment of the surcharge set forth in Section 19775 of this chapter, and any subsequent amendments thereto.

(2) Payment of penalties for any violations of this chapter as set forth in Section 19781 and all other fees imposed pursuant to this chapter or regulations adopted thereunder.

(3) Compliance with all state laws governing online sports betting set forth in this chapter, and all regulations, rules, orders, and interpretations adopted or enforced pursuant to this chapter.

(4) Submission to the jurisdiction of the courts of this State, and any other appropriate state or federal court having jurisdiction and venue, for the limited purpose of enforcing this chapter, including all of the following:

(A) An express limited waiver of sovereign immunity, and any right to assert sovereign immunity, against this State or the Division.

(B) Consenting to be sued by the State of California or the Division in California state courts, and any other appropriate state or federal court having jurisdiction and venue, and to be bound by the judgments thereof, with respect to the limited purposes of paying the surcharge described in paragraph (1), paying penalties and fees described in paragraph (2), and complying with the laws, regulations, rules, orders, and interpretations described in paragraph (3).

(C) An express waiver of exhaustion of tribal remedies.

(5) Submission to the jurisdiction of the Division, including but not limited to inspection and audit of the gaming tribe's online sports betting operations and records to ensure the protection of minors and consumers, protection of sports integrity, and full and accurate payment of the surcharge set forth in Section 19775 of this chapter.

(b) The Division shall not issue or renew a tribal operator license unless the gaming tribe complies with this section.

19770. Limitation on State Jurisdiction Over Gaming Tribes.

(a) Notwithstanding anything to the contrary in this chapter, with respect to gaming tribes, this chapter regulates only online sports betting by persons physically present anywhere in this State but outside of Indian lands.

(b) This chapter does not extend State of California jurisdiction to the making or placing of bets by persons who are physically present on Indian lands at the time a bet is made or initiated.

(c) This chapter does not create or extend any State of California jurisdiction or regulatory authority over any other gaming operations of a federally recognized Indian tribe.

ARTICLE 6. Online Sports Betting Suppliers.

19771. Online Sports Betting Supplier Licenses.

(a) Online sports betting suppliers shall obtain a license pursuant to this article.

(b)(1) Supplier applicants shall submit an online sports betting supplier application to the Division in the manner prescribed by the Division together with an application fee of twenty-five thousand dollars (\$25,000).

(2)(A) The application fee in paragraph (1) shall cover up to three hundred thirty-three (333) hours of Division professional staff time expended on matters directly related to the application.

(B) The supplier applicant shall reimburse the Division for any additional hours required to process the application at the hourly rate for human resource services used by the Contracted Human Resources Unit within the Department of General Services Office of Human Resources, as set forth in the Department of General Services Price Book.

(3) In no event shall the combined total amount paid by a supplier applicant pursuant to this subdivision exceed forty thousand dollars (\$40,000).

(c)(1) Upon notice by the Division that it has approved the application for an online sports betting supplier license, and before issuance of the license, the supplier applicant shall pay an initial license fee of one hundred thousand dollars (\$100,000) to the Division.

(2) An online sports betting supplier license issued pursuant to this section is valid for five years from the date of issuance.

(d) A licensed online sports betting operator may perform any and all functions of an online sports betting supplier without obtaining a separate online sports betting supplier license.

19772. Temporary Online Sports Betting Supplier Licenses.

(a) The Division shall issue a temporary online sports betting supplier license to any supplier applicant that has submitted an application pursuant to Section 19771 and has been licensed or similarly authorized to provide substantially the same services for online sports betting in at least two other U.S. states or territories.

(b)(1) Within 30 days of receiving a request for a temporary license, the Division shall issue the temporary online sports betting supplier license to a qualified supplier applicant. The temporary license shall expire two years from the date it is issued or on the date the Division issues a license to the supplier applicant pursuant to Section 19771, whichever occurs first.

(2) A temporary license issued pursuant to this section entitles a person to immediately engage in all activities that may be undertaken by a person holding a license issued pursuant to Section 19771.

(c) If the Division fails to make a final determination on the application submitted pursuant to Section 19771 within the initial two-year period of temporary licensure, then the temporary license shall be extended in two-year increments or until a final determination is made, whichever occurs first.

19773. Renewal of Online Sports Betting Supplier Licenses.

(a) The Division shall establish a process for licensed online sports betting suppliers to renew their licenses consistent with this section.

(b) When seeking to obtain a license renewal, an online sports betting supplier shall submit to the Division both of the following:

(1) All documentation or information as the Division may require demonstrating that the online sports betting supplier continues to meet the requirements of this chapter and the regulations of the Division.

(2) A renewal application fee of ten thousand dollars (\$10,000).

(c) If the online sports betting supplier submits a renewal application to the Division at least 60 days prior to the expiration of the supplier's current license, then the Division shall make a determination on the renewal application prior to the expiration of the current license.

(d) The Division shall renew the online sports betting supplier license for an additional five-year period unless the online sports betting supplier's renewal application demonstrates that it will be unable to satisfy all requirements of this chapter and regulations of the Division. Upon renewal of the license, the online sports betting supplier shall pay a license renewal fee of fifty thousand dollars (\$50,000).

ARTICLE 7. Online Sports Betting Key Persons.

19774. Key Person Licenses.

(a)(1) The Division may require a key person of an online sports betting operator, operator applicant, online sports betting supplier, or supplier applicant to submit an application and obtain a license pursuant to this article.

(2) When key persons are required to submit applications pursuant to this article, the Division shall utilize a multijurisdictional licensing form used by other U.S. states and territories wherever possible. The Director shall obtain advice from the Committee regarding the most appropriate multijurisdictional licensing form to be used.

(b)(1) The Division shall issue a temporary key person license if the person holds a comparable license or similar authorization issued by another U.S. state or territory where online sports betting is legal, including authorizations where a comprehensive suitability review of the

person was satisfactorily conducted in the course of licensing another entity but no formal license or similar document was issued to the person.

(2)(A) The Division may accept a comparable license or similar authorization described in paragraph (1) in full satisfaction of the requirement to obtain a key person license pursuant to this article. If the Division refuses to accept a comparable license or similar authorization from another U.S. state or territory, it shall provide written justification for its refusal to the person seeking licensure.

(B) Where the Division refuses to accept a comparable license or similar authorization, the person seeking licensure shall have the right to appeal the Division's decision to the Attorney General.

(c) For persons who do not qualify for a temporary key person license pursuant to subdivision (b), the Division may issue a temporary key person license upon satisfactory completion of a criminal background check.

(d) The Division may issue an online sports betting operator license or online sports betting supplier license, or a temporary version of those licenses, while a key person license application is still pending and undergoing review.

(e)(1) The Division may impose a key person application fee of up to two thousand four hundred dollars (\$2,400).

(2)(A) The application fee in paragraph (1) shall cover up to one hundred (100) hours of Division professional staff time expended on matters directly related to the application.

(B) The key person applicant shall reimburse the Division for any additional hours required to process the application at the hourly rate for human resource services used by the Contracted Human Resources Unit within the Department of General Services Office of Human Resources, as set forth in the Department of General Services Price Book.

(3) In no event shall the combined total amount paid by a key person applicant pursuant to this subdivision exceed ten thousand dollars (\$10,000).

(f) Prior to issuance of a key person license, the key person shall pay a license fee of seven hundred fifty dollars (\$750).

(g) A key person license shall be valid for not less than five (5) years. The Division may impose a renewal application fee of not more than five hundred dollars (\$500), and a renewal license fee of not more than seven hundred fifty dollars (\$750).

(h) The Division shall not require licensing of any persons who are not key persons, but may require criminal background checks of persons who are not key persons where good cause exists to do so.

ARTICLE 8. Online Sports Betting Surcharges.

19775. Online Sports Betting Operator Surcharge.

(a) There is hereby imposed upon each online sports betting operator a surcharge equal to ten percent (10%) of the online sports betting operator's adjusted gross online sports betting receipts derived from the offering, conduct, and/or operation of online sports betting in this State. The accrual method of accounting shall be used for purposes of calculating the amount of surcharge owed by an online sports betting operator pursuant to this section.

(b)(1) The surcharge imposed pursuant to this section is due and payable to the Division in monthly installments on or before the last calendar day of the month following the calendar month in which the adjusted gross online sports betting receipts were received.

(2) An online sports betting operator shall complete and submit a return for the preceding month by electronic communication to the Division, on or before the last calendar day of each month, in the form prescribed by the Division. The return shall provide all of the following:

(A) The sports betting operator's total gross receipts and adjusted gross online sports betting receipts from offering, conducting, and/or operating online sports betting during the month.

(B) The surcharge amount for which the online sports betting operator is liable.

(C) Any additional information necessary in the computation and collection of the surcharge on adjusted gross online sports betting receipts required by the Division.

(3) The surcharge amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

(c)(1) An online sports betting operator's adjusted gross online sports betting receipts for a month is a negative number when the operator's total gross receipts taken in from the bets placed by patrons is less than the sum of all of the following:

(A) All winnings paid out to patrons who placed bets on the online sports betting operator's platform.

(B) All voided bets.

(C) All excise taxes paid pursuant to federal law.

(D) The value of all merchandise or property awarded as a prize to bettors.

(2)(A) When an online sports betting operator's adjusted gross online sports betting receipts for a month is a negative number pursuant to the formula set forth in paragraph (1), the Division shall allow the operator to carry over the negative amount within twelve months and deduct such amount from its surcharge liability for that month. The Division may require the negative amount to be spread across multiple months within the twelve-month period.

(B) The negative amount of adjusted gross receipts may not be carried back to an earlier month and moneys previously paid to the Division shall not be refunded, except if the online sports betting operator surrenders its license and the online sports betting operator's last return reported negative adjusted gross online sports betting receipts.

(d)(1)(A) An online sports betting operator may take a credit against the surcharge described in subdivision (a) equal to twenty percent (20%) of the initial license fee paid pursuant to subdivision (f) of Section 19763 in each of the first five calendar years following the issuance of an initial online sports betting operator license or temporary license.

(B) If an online sports betting operator renews its license, the sum of any credit not applied in each of the first five calendar years following the issuance of an initial online sports betting operator license or temporary license may be carried forward into the sixth and subsequent calendar years until the credit is exhausted.

(2)(A) An online sports betting operator may take a credit against the surcharge described in subdivision (a) equal to twenty percent (20%) of the renewal license fee paid pursuant to subdivision (d) Section 19766, plus any credit carried over pursuant to paragraph (1), in each of the five calendar years following renewal of an online sports betting operator license.

(B) If an online sports betting operator renews its license more than once, the sum of any credit not applied in each of the first five calendar years following its previous renewal of an online sports betting license may be carried forward into the sixth and subsequent calendar years until it is exhausted.

(3) In no event shall the amount of credit applied pursuant to this subdivision reduce below zero the amount of surcharge owed for any calendar year.

(4) The credit described in this subdivision can be taken against one or more monthly installments made pursuant to subdivision (b), so long as the total amount of credit taken does not exceed the limits set forth in paragraph (1) and paragraph (2).

(e) The following shall be promptly transferred from the Division to the Controller for deposit into the Fund:

(1) Proceeds of the surcharge imposed pursuant to this section.

(2) The fees and costs required by subdivisions (c) and (f) of Section 19763, subdivisions (b) and (d) of Section 19766, subdivisions (b) and (c) of Section 19771, and subdivisions (b) and (d) of Section 19773.

(3) Any amounts paid pursuant to of Section 19774.

(f) If requested by the Division, an online sports betting operator shall agree to engage an independent firm of certified public accountants approved by the Division to perform an annual

audit in order to ensure that the surcharge imposed by this section is being accurately calculated and paid.

19776. Surcharge on Bets Made Through Illegal or Tax-Exempt Online Sports Betting Platforms.

(a)(1) A tax is hereby imposed upon a bettor for the privilege of placing or making, while physically present in this State but outside of Indian lands, a bet on or through an illegal or tax-exempt online sports betting platform. The rate of tax shall be fifteen percent (15%) of the dollar amount bet on or through the illegal or tax-exempt online sports betting platform.

(2) The People of the State of California hereby declare that the character of the tax imposed by this section, based upon its incidents and from its natural and legal effect, is an obligation upon the person placing or making the bet at the location where the individual is physically present when the bet is made or initiated, and not an obligation upon the owner or operator of the illegal or tax-exempt online sports betting platform.

(b) The Division may adopt any regulation and take any action necessary or convenient for the implementation and enforcement of this section. The regulations may include, but are not limited to, all of the following:

(1) Requiring individuals placing or making a bet on or through an illegal or tax-exempt online sports betting platform to register with the Division prior to making or placing such a bet.

(2) Requiring owners, operators, or agents of an illegal or tax-exempt online sports betting platform to disclose the names of persons who make or place a bet on or through the illegal or tax-exempt online sports betting platform while physically present in this State but outside of Indian lands.

(3)(A) Taking any and all legal actions against an owner, operator, business partner, or agent of an illegal or tax-exempt online sports betting platform that refuses to disclose names of bettors pursuant to paragraph (2), in order to compel the disclosure of the names sought.

(B) Actions may include blocking access to the Internet website or mobile application of the illegal or tax-exempt online sports betting platform from any and all locations in California but outside of Indian lands.

(4) Contracting with the Department of Tax and Fee Administration for assistance with administration and collection of the tax.

(5) Establishing deadlines for the payment and collection of the tax. The Division may require the tax to be paid at the time the bet is made or initiated, or on a daily, weekly, monthly, quarterly, semi-annual, or annual basis, or any combination thereof.

(6) Publishing a list of known illegal or tax-exempt online sports betting platforms.

(c) In addition to any other penalties, there is hereby established a civil penalty of one thousand dollars (\$1,000) per day that any tax owed pursuant to this section is past due under regulations adopted by the Division. Proceeds of any penalties incurred under this subdivision shall be deposited into the Fund.

(d) Proceeds from the tax imposed by this section shall be deposited into the Fund.

(e) The tax imposed pursuant to this section shall not apply to, or be imposed upon, any person for making or placing a bet of any kind if the person is physically present upon Indian lands at the time the bet is made or initiated.

(f) For purposes of this section, an “illegal or tax-exempt online sports betting platform” is an online sports betting platform that is any of the following:

(1) Owned by a person who is exempt from the surcharge imposed by Section 19775.

(2) Owned or operated by a person who has not submitted to the jurisdiction and regulatory control of the Division.

(3) Owned or operated by a person who does not possess the licenses required by this chapter for the offering, conduct, and/or operation of online sports betting in this State but outside of Indian lands.

ARTICLE 9. Division of Online Sports Betting Control.

19777. Division of Online Sports Betting Control Established.

(a) Notwithstanding any contrary provision of law, including but not limited to Part 6 of Division 3 of Title 2 of the Government Code, there is hereby established within the Department of Justice a Division of Online Sports Betting Control.

(b) The Division shall continue in existence on and after the effective date of this chapter, and shall remain separate and independent from all other divisions, bureaus, branches, sections, and units within the Office of the Attorney General and the Department of Justice.

(c) The Attorney General shall appoint a Director of the Division, who shall lead the Division in the performance of its duties. The Director shall serve at the pleasure of the Attorney General.

(d) Consistent with applicable civil service laws, the Attorney General shall retain, appoint, or assign employees to the Division sufficient to carry out its duties as set forth in this chapter and implementing regulations. The Attorney General shall consult with the Director regarding the number and qualifications of employees necessary for the Division to carry out its duties. The Division may contract for services that cannot be provided by employees.

19778. Powers of the Division.

(a) The Division is vested with exclusive power, authority, and jurisdiction to implement and enforce this chapter and supervise the offering, conduct, and/or operation of online sports betting in the State of California but outside of Indian lands.

(b) The Division shall do all of the following:

(1) Exercise all of the powers of the Office of the Attorney General and the Department of Justice in the performance of its duties.

(2)(A) Adopt, amend, and rescind regulations necessary to carry out the purposes and provisions of this chapter.

(B) The Division shall consult with, and obtain written input from, the Committee prior to proposing, adopting, amending, or rescinding any regulation or emergency regulation.

(C) The Division shall examine the regulations adopted in other U.S. states or territories where online sports betting is lawfully conducted and shall, as far as practicable, adopt a similar regulatory framework. The Division may enlist the assistance of the Committee in identifying and examining the relevant regulations adopted in other U.S. states or territories.

(3) Establish and maintain an office for the transaction of its business in Sacramento.

(c)(1) Included within the Division's general power to adopt, amend, and rescind regulations is the power to adopt regulations relating to (A) the acceptance of bets on a sports event, or a series of sports events; (B) the types of records which shall be kept; (C) the protections for patrons placing bets; and (D) the promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," or similar message on an online sports betting platform.

(2) Paragraph (1) is merely a partial description of the regulatory powers of the Division. Nothing in paragraph (1) shall be interpreted as any limitation whatsoever on the powers of the Division.

(d) The Division shall not adopt or enforce any rule or regulation that either:

(1) Requires an online sports betting operator to maintain any hold, whether expressed as a percentage of bets, specific amounts, or otherwise.

(2) Requires that an online sports betting operator must report or display the handle or amount bet on individual sports events or bet types.

(e) The Division shall only deny, limit, condition, or restrict a license, permit, registration, or approval for good cause, subject to due process.

(f) In addition to its other powers, the Division may take any of the following actions:

(1) Subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records, or other items material to the performance of the Division's duties or exercise of its powers, including, but not limited to, its power to audit a person's compliance with this chapter.

(2) Institute and defend civil actions in any court to restrain or halt a violation of this chapter.

(3) Initiate disciplinary action for violations of this chapter.

(4) Inspect equipment, supplies, and systems of any online sports betting operator or online sports betting supplier.

(5) Require any person to apply for a license, permit, registration, or approval as specified in this chapter or in any regulation adopted pursuant to this chapter. The Division may limit, condition, or restrict any license, permit, registration, or approval.

19779. Delegation of Power to the Director.

(a) All power necessary to carry out the administrative and executive functions of the Division is hereby delegated to the Director. These powers include, but are not limited to, all of the following:

(1) The issuance and renewal of licenses.

(2) The conduct of investigations, inspections, and audits.

(3) The civil prosecution and settlement of violations of this chapter.

(4) The approval of forms of betting, types of sports events, and sports leagues.

(5) The granting of requests and waivers, answering inquiries, issuing interpretations, and otherwise taking all actions that are reasonably requested by applicants and licensees in furtherance of, and consistent with, the efficient administration and enforcement of this chapter.

(b) An applicant or licensee that receives an adverse determination, denial, or rejection from the Director may appeal the adverse determination, denial, or rejection to the Attorney General. The Attorney General shall independently review appeals brought pursuant to this subdivision de novo.

19780. Confidentiality.

(a) The Division shall maintain a file of all applications for licenses under this chapter. The Division shall maintain a record of all actions taken with respect to those applications.

(b) Except as necessary for the administration of this chapter, no person having obtained access to confidential records or information in the performance of duties pursuant to this chapter, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is an infraction and may subject the violator to civil liability, including damages, and disciplinary action.

(c) Notwithstanding subdivision (k) of Section 1798.24 of the Civil Code, a court shall not compel disclosure of personal information in the possession of the Division to any person in any civil proceeding wherein the Division or Attorney General is not a party, except for good cause and upon a showing that the information cannot otherwise be obtained. This section shall not authorize the disclosure of personal information that is otherwise exempt from disclosure.

(d) Disclosures that are required to be made to the Division as necessary for the administration of this Chapter shall not waive attorney-client privilege held by the person or affiliate of a person required to make such a disclosure.

19781. Fines and Penalties for Violations of Chapter.

(a) The Division may impose fines, place licensees on probation, and revoke licenses in response to violations of this chapter, subject to due process. The Division may impose fines upon any person holding, or required to hold, a license, permit, registration, or approval under this chapter or the regulations adopted pursuant to this chapter.

(b) The Division has the sole and exclusive power to enforce this chapter and impose fines and other penalties for violations of this chapter.

(c) Maximum fines for violations of this chapter shall be as follows:

(1) For an online sports betting operator or online sports betting supplier:

(A) \$15,000 where the violation involves a person under 21 years of age.

(B) \$10,000 for all other violations.

(2) For a key person:

(A) \$7,500 where the violation involves a person under 21 years of age.

(B) \$5,000 for all other violations.

(3) For all other persons:

(A) \$5,000 where the violation involves a person under 21 years of age.

(B) \$2,500 for all other violations.

(d) Notwithstanding subdivision (c), the maximum fine for multiple violations of this chapter arising out of the same transaction, occurrence, or set of circumstances shall be as follows:

(1) \$100,000 for an online sports betting operator or online sports betting supplier.

(2) \$50,000 for a key person.

(3) \$25,000 for all other persons.

(e)(1) Nothing in this chapter shall be subject to, or construed to create, a private right of action.

(2) Article 18 (commencing with Section 19990) of Chapter 5 of Division 8 shall not apply to any conduct made lawful by this chapter or regulations adopted thereunder.

19782. Emergency Regulations.

(a) The Division shall adopt emergency regulations sufficient to permit online sports betting to be offered, conducted, and/or operated in this State but outside of Indian lands. Emergency regulations shall be adopted in accordance with the schedule set forth in Section 19791.

(b) Any emergency regulation adopted pursuant to this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other contrary provision of law, an emergency regulation adopted by the Division shall remain in effect until a permanent replacement regulation has been adopted.

19783. Reporting Violations to the Division.

Any person or entity holding a license, permit, or approval under this chapter shall report known violations of this chapter or other applicable law, or regulations adopted pursuant to this chapter, to the Division. Violations shall be reported with commercially reasonable promptness, which shall include adequate time to conduct an internal investigation concerning any potential violation.

19784. Division Start-Up Loan.

(a) Notwithstanding any other contrary provision of law, a loan in the amount of up to thirty million dollars (\$30,000,000) is hereby made from the General Fund to the Attorney General for the purposes of establishing the Division, hiring a Director and other Division employees, securing office space for the Division, adopting regulations, reviewing and processing applications, and administering this chapter.

(b) The loan shall be repaid within five years. The Legislature shall appropriate moneys in the Fund to repay the loan.

(c) The Controller and all other responsible state officials shall take all actions necessary to effectuate the loan required by this section.

ARTICLE 10. Online Sports Betting Independent Advisory Committee.

19785. Online Sports Betting Independent Advisory Committee Established.

(a) An Online Sports Betting Independent Advisory Committee is hereby established within the Division.

(b) No individual holding federal, state, tribal, or local elected or appointed office and no officer or official of any political party is eligible for appointment to the Committee.

(c) Nine members of the Committee constitute a quorum for purposes of voting and conducting business of the Committee.

(d) The Committee shall elect a chairperson from among its membership. The chairperson shall serve in that capacity for two years and is eligible for reelection. The chairperson shall preside at all meetings and shall have all the powers and privileges of other Committee members.

(e) The Committee shall meet not less than quarterly, and may hold additional regular and special meetings at the call of the Committee or the chairperson.

(f) At least two employees of the Division shall be assigned full-time to staffing and supporting the Committee.

19786. Committee Membership.

(a) The Committee shall be composed of seventeen members appointed as follows:

(1) The Governor shall appoint four members as follows: one representative with expertise in law enforcement or public health, one representative of the general public, one representative of gaming tribes, and one representative of qualified gaming entities.

(2) The Assembly Speaker shall appoint three members as follows: one representative of the general public, one representative of gaming tribes, and one representative of qualified gaming entities.

(3) The Senate President Pro Tempore shall appoint three members as follows: one representative of the general public, one representative of gaming tribes, and one representative of qualified gaming entities.

(4) The Lieutenant Governor shall appoint two members as follows: one representative with expertise in responsible gaming, and one representative of gaming tribes or qualified gaming entities.

(5) The Controller shall appoint two members as follows: one representative with expertise in accounting, and one representative of gaming tribes.

(6) The Treasurer shall appoint two members as follows: one representative with expertise in public finance, and one representative of qualified gaming entities.

(7) The Secretary of State shall appoint one member with expertise in technology or privacy.

(b) No organization, including but not limited to a gaming tribe, qualified gaming entity, law enforcement organization, or public health organization, shall have more than one individual from their organization appointed to the Committee at any given time.

(c) The Attorney General, or the Attorney General's representative, shall serve as a non-voting ex officio member of the Committee.

(d) Each member of the Committee shall either be a citizen and resident of the United States or satisfy the requirements of subdivision (b) of Section 1020 of the Government Code.

19787. Committee Member Terms.

(a) Each appointing authority described in Section 19786 shall make their initial appointments to the Committee in accordance with the schedule set forth in Section 19791.

(b) The term of initial appointees to the Committee shall begin on the forty-fifth day after the effective date of this chapter. The terms of initial appointees to the Committee shall be as follows:

(1) The Governor's and Lieutenant Governor's initial appointees shall serve for a term of four years.

(2) The Assembly Speaker's and Senate President Pro Tempore's initial appointees shall serve for a term of three years.

(3) The Controller's, Treasurer's, and Secretary of State's initial appointees shall serve for a term of two years.

(c) After the initial terms, the term of each appointed or reappointed Committee member shall be four years. Each member of the Committee shall serve until a successor is appointed.

(d) A member of the Committee may be removed by the appointing authority for malfeasance in office or neglect of duty. No member shall be removed unless the reasons for removal are presented in writing to the member.

(e)(1) Within 10 days of the changed circumstance, a member of the Committee appointed to represent a specific expertise, organization, or type of entity shall notify in writing their appointing authority if they no longer possess or represent that specific expertise, organization, or type of entity, or are otherwise unable to continue serving as a member of the Committee.

(2) Upon receipt of the written notice by the appointing authority, the member's position on the Committee shall be deemed vacant. Within 30 days of receipt of the written notice, the appointing authority shall appoint a successor to serve the remainder of the former member's term. Upon expiration of the unexpired term, the successor may be appointed to a full term.

19788. Duties of the Committee.

(a) The Committee shall advise and make recommendations to the Division and Director with respect to implementing this chapter. The Committee shall advise and make

recommendations upon any aspect of implementing this chapter, including but not limited to, the following:

(1) Technologies and other measures that can be employed to prevent persons under 21 years of age from placing bets.

(2) Best online sports betting practices utilized in other U.S. states and territories.

(3) Options consistent with this chapter that will responsibly maximize the amount of revenues paid into the Fund.

(4) Administrative and technical support guidance to the Division with respect to online sports betting.

(5) Recommendations on new regulations that should be adopted, and existing regulations that should be amended, updated, or rescinded.

(b) The Committee is authorized, but not limited, to do any of the following:

(1) Undertake investigations or studies.

(2) Issue written reports.

(3) Post any report or recommendation on the Division's Internet website under the Committee's own link thereon.

19789. Compensation.

(a) Each Committee member, except ex officio members, shall be entitled to one hundred fifty dollars (\$150) per diem. Per diem shall be paid to Committee members for each day spent in actual attendance at, or in traveling to and from, meetings of the Committee, or on special assignment for the Committee as approved by the Committee chairperson and the Director.

(b) No member of the Committee shall receive per diem for more than 40 days in a calendar year.

(c) Committee members shall receive the necessary traveling expenses and meal allowances, as approved by the Director.

(d) The per diem and reimbursement authorized in this section shall be wholly defrayed from moneys in the Fund.

ARTICLE 11. Amendment, Effective Date, and Commencement of Online Sports Betting.

19790. Amendment.

(a) The People of the State of California hereby declare as follows:

(1) Under subdivision (c) of Section 10 of Article II of the California Constitution, and as described in *People v Kelly* (2010) 47 Cal.4th 1008, the Legislature lacks power to make any amendments to an initiative statute without subsequent voter approval, unless specifically authorized by the People to make amendments without voter approval.

(2) Under subdivision (c) of Section 10 of Article II of the California Constitution, and as described in *Amwest Surety Insurance Company v. Wilson* (1995) 11 Cal.4th 1243, where the People do authorize the Legislature to amend an initiative statute, the People have power to attach conditions to the authorization.

(b)(1) Except as provided in paragraph (2), after the effective date of this chapter, the Legislature may amend this chapter by a statute passed in each house of the Legislature by rollcall vote entered into the journal, five-sixths of the membership concurring, provided that the statute is consistent with, and furthers the purpose of, this chapter. No bill seeking to amend this chapter after the effective date of this chapter may be passed or ultimately become a statute unless the bill has been printed and distributed to members, and published on the Internet, in its final form, for at least 15 business days prior to its passage in either house of the Legislature.

(2) Notwithstanding paragraph (1), the Legislature may amend the percentage allocation of moneys between the California Solutions to Homelessness and Mental Health Support

Account and the Tribal Economic Development Account set forth in subdivision (d), and paragraph (2) of subdivision (e), of Section 19750 by a statute passed in each house of the Legislature by rollcall vote entered into the journal, two-thirds of the membership concurring.

(c) No statute enacted after October 1, 2021, but prior to the effective date of this chapter, that would constitute an amendment of this chapter, shall be operative after the effective date of this chapter unless the statute was passed in accordance with the requirements of subdivision (b).

(d) The purposes of this chapter are described in Section 2 of the California Solutions to Homelessness and Mental Health Support Act.

19791. Effective Date and Commencement of Online Sports Betting.

(a) This chapter shall take effect on the next January 1 following its approval by the People of the State of California.

(b) Not later than 30 days after the effective date of this chapter, all initial appointments to the Committee shall be made.

(c) Within 120 days after the effective date of this chapter, the Division shall publish proposed emergency regulations sufficient for implementing this chapter, including but not necessarily limited to, application forms for licenses and submissions authorized by Articles 4, 5, 6, and 7. The Division shall invite and consider comments on the proposed emergency regulations from the public and the Committee.

(d) Within 150 days after the effective date of this chapter, the Division shall adopt final emergency regulations implementing this chapter, including application forms as described in subdivision (c).

(e) Within 160 days after the effective date of this chapter, the Division shall begin accepting license applications from operator applicants, supplier applicants, key persons, and for temporary licenses. The Division shall make a determination on an application within 60 days of receipt thereof.

(f)(1) Within 240 days after the effective date of this chapter, the Division shall permit online sports betting operators to commence offering, conducting, and/or operating online sports betting in this State as provided in this chapter.

(2) All operator applicants that have submitted an application pursuant to Section 19763 within 30 days of the adoption of final emergency regulations pursuant to subdivision (d) shall be given an equal opportunity to first commence offering, conducting, and/or operating online sports betting in this State on the same day.

(3) All operator applicants that have submitted an application pursuant to both Section 19763 and Section 19764 within 30 days of the adoption of final emergency regulations pursuant to subdivision (d) shall be given an equal opportunity to first commence offering, conducting, and/or operating online sports betting in this State on the same day. Operator applicants described in this paragraph may be permitted to first commence offering, conducting, and/or operating online sports betting in this State before operator applicants described in paragraph (2).

ARTICLE 12. Trade Secrets and Personal and Proprietary Information.

19792. Trade Secrets and Proprietary Information.

(a) Any submissions to the Division pursuant to this chapter, and all documents, reports, and data submitted therewith, that contain proprietary information, trade secrets, financial information, or personal information about any person or entity are not public records subject to disclosure for purposes of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code or any other state law.

(b) Submissions described in subdivision (a) shall be treated by the Division as confidential records and shall not be publicly disclosed or disseminated unless required by an order of a court of competent jurisdiction.

19793. Personal Information and Compliance with State Law.

(a) The collection, use, retention and sharing of personal information pursuant to this chapter and regulations adopted thereunder shall be governed by this chapter and not any other state law.

(b) For the purposes of California law, including but not limited to Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code, the People hereby find and declare that the collection, use, retention, and sharing of personal information authorized or required by this chapter is necessary in order to comply with California state law as set forth in this chapter.

ARTICLE 13. Definitions.

19794. Definitions.

For purposes of this chapter, as used in both the singular and plural form, the following definitions shall apply:

(a) “Adjusted gross online sports betting receipts” means the dollar amount remaining after subtracting the dollar amounts described in paragraph (2) from the dollar amounts described in paragraph (1):

(1) Total gross receipts.

(2) The total dollar amount of all the following paid out or lost by the online sports betting operator:

(A) All moneys paid out as winnings to all bettors.

(B) The value of all merchandise or property awarded as a prize to bettors.

(C) All federal excise taxes.

(D) All voided bets.

(b) “Amateur sports event” or “amateur sporting event” means any sports or athletic event that is not a professional sports event, collegiate sports event, or youth sports event.

(c) “Collegiate sports event” or “collegiate sporting event” means an athletic event or events in which at least one participant is a team from a public or private institution of higher

learning or an individual competing on behalf of a public or private institution of higher learning, regardless of where such institution is located.

(d) “Committee” means the Online Sports Betting Independent Advisory Committee established in Article 10.

(e) “Competitive event” or “novelty event” means any other event of any kind authorized by the Division for betting under this chapter, including but not limited to awards shows, non-athletic competitions and events, popular culture, and current events. “Competitive event” or “novelty event” does not include federal, state, local, or foreign elections.

(f) “Covered sporting event” or “covered sports event” means a professional, collegiate, or amateur sports event of a sports governing body on which one or more online sports betting operators offer or accept bets.

(g) “Department” means the California Department of Justice.

(h) “Division” means the Division of Online Sports Betting Control established in Article 9.

(i) “Director” means the director of the Division of Online Sports Betting Control.

(j) “Electronic sports event” or “electronic sporting event” means leagues, competitive circuits, tournaments, or similar competitions where individuals or teams play video games, typically for spectators, either in-person or online, for the purpose of prizes, money, or entertainment.

(k) “Fund” means the California Online Sports Betting Trust Fund established by Section 19750.

(l)(1) “Gaming tribe” means a federally recognized Indian tribe that legally operates slot machines or conducts banking and percentage card games, roulette, or games played with dice in conformity with either of the following:

(A) A valid compact negotiated with the Governor and ratified by the Legislature as provided in Section 19 of Article IV of the California Constitution.

(B) Class III gaming procedures issued by the Secretary of the United States Department of the Interior pursuant to the remedial provisions of Section 2710(d)(7) of Title 25 of the United States Code, or any successor federal statute.

(2) "Gaming tribe" includes any instrumentality, political subdivision, or other legal entity through which a gaming tribe operates slot machines or conducts banking and percentage card games, sports betting, roulette, or games played with dice in this State.

(m) "Handle" means the dollar amount equal to the total of all bets on a sporting event.

(n) "Hold" means the dollar amount equal to the total of all bets, except for bets made with free bets or promotional gaming credits, that an online sports betting licensee collects from patrons, less the total amount of all sums paid out as winnings to all patrons.

(o) "Indian lands" means the "Indian lands" of a federally recognized Indian tribe, as defined in Section 2703(4) of Title 25 of the United States Code, or any successor federal statute.

(p) "Key person" means a managerial employee of an operator applicant, supplier applicant, online sports betting operator, or online sports betting supplier who performs the function of principal executive officer, principal operations officer, or principal accounting officer, and any principal owner of such licensee or applicant, except for an institutional investor that holds for investment purposes less than 25 percent of the equity of applicant, operator, or supplier.

(q) "Market access agreement" means an agreement between a qualified gaming entity and a gaming tribe concerning the qualified gaming entity's offering and conduct of online sports betting to persons physically present in this State but outside of Indian lands, the terms of which shall be determined solely by the parties to the agreement.

(r) "Motor sports event" means a sports event in which participants compete using a machine-powered vehicle or apparatus.

(s)(1) “Online sports betting” means accepting a bet or bets through an online sports betting platform on any of the following:

(A) Sporting events.

(B) Portions or combinations of sporting events.

(C) The individual statistics or performance of athletes or participants in a sporting event or combination of sporting events.

(2) Online sports betting can take the form of placing or accepting bets by way of any system or method of betting, including but not limited to single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange betting, in-game betting, in-play bets, proposition bets, and straight bets.

(3) “Online sports betting” does not include parimutuel betting on horse racing as set forth in Article 9 (commencing with Section 19590) of Chapter 4 of Division 8.

(t)(1) “Online sports betting operator” means the person or persons described in paragraph (2) that are licensed pursuant to this chapter to offer, conduct, and/or operate online sports betting in this State but outside of Indian lands.

(2)(A) Where a gaming tribe obtains a tribal operator license pursuant to Article 4 of this chapter, the gaming tribe is the online sports betting operator.

(B) Where a qualified gaming entity obtains a qualified gaming entity operator license pursuant to Article 4 of this chapter, the qualified gaming entity is the online sports betting operator.

(C) Where an online sports betting platform provider obtains an online sports betting platform provider operator license pursuant to Article 4 of this chapter, the online sports betting platform provider is the online sports betting operator.

(u) “Online sports betting operator license” means a license issued by the Division to an online sports betting operator pursuant to this chapter to offer, conduct, and/or operate online

sports betting in this State but outside of Indian lands. An “online sports betting operator license” includes a tribal operator license, a qualified gaming entity operator license, and an online sports betting platform provider operator license.

(aa) “Online sports betting platform” or “platform” means an online-enabled application, Internet website, or other electronic or digital technology used to offer, conduct, and/or operate online sports betting.

(ab) “Online sports betting platform provider” means a person that contracts with a gaming tribe to provide an online sports betting platform or other services to the gaming tribe that are specific to online sports betting and that are necessary for offering, conducting, and/or operating online sports betting by the gaming tribe, including odds and line information, settling bets, or maintaining sports betting customer accounts.

(ac) “Online sports betting platform provider application” means an application described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 19763.

(ad) “Online sports betting platform provider license” means an online sports betting operator license described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 19763.

(bb) “Online sports betting supplier” means a person that provides or offers services to an online sports betting operator.

(cc) “Operating agreement” means a written contract in a form approved by the Division in which a gaming tribe and an online sports betting platform provider agree to all of the following:

(1) The online sports betting platform provider will offer, conduct, and/or operate online sports betting in lieu of the gaming tribe.

(2) The online sports betting platform provider shall apply for an online sports betting operator license, and shall be the only party to the agreement that obtains any license under this chapter.

(3) The gaming tribe shall have no active role in the offering, conduct, and/or operation of online sports betting.

(4) Whether the online sports betting platform provider will share a portion of profits from the offering, conduct, and/or operation of online sports betting with the gaming tribe.

(5) The online sports betting platform provider shall be responsible for payment of all license fees, license renewal fees, taxes, penalties, fines, and surcharges applicable to the offering, conduct, and/or operation of online sports betting with persons physically present in this State but outside of Indian lands.

(dd) "Operator applicant" means all of the following:

(1) Where a gaming tribe submits a tribal operator application pursuant to Article 4 of this chapter, the gaming tribe is operator applicant.

(2) Where a qualified gaming entity submits a qualified gaming entity application pursuant to Article 4 of this chapter, the qualified gaming entity is the operator applicant.

(3) Where an online sports betting platform provider submits an online sports betting platform provider application pursuant to Article 4 of this chapter, the online sports betting platform provider is the operator applicant.

(ee) "Patron," "bettor," "consumer," or "customer" means an individual in this State eligible to place, make, or initiate bets on sports events pursuant to this chapter who has placed, made, or initiated, or in the future places, makes, or initiates, such bets.

(ff) "Person" means individuals, natural persons, gaming tribes, tribal entities, corporate entities, and any other legal entity of any kind. When used as a noun, "individual" means a human being.

(gg) "Principal owner" means a person or entity that holds more than a 10 percent ownership interest.

(hh) "Professional sports event" or "professional sporting event" means an athletic event in which at least two or more competitors participate and one or more competitors receives compensation for participating in the event. Any event that qualifies as a collegiate sport shall not be considered a professional sport regardless of whether competitors are compensated.

(ii) "Qualified gaming entity" means a person that satisfies at least one of the following conditions:

(1) The person and its affiliates collectively are licensed or similarly authorized to offer, conduct and/or operate online sports betting in at least ten U.S. states or territories; or

(2) The person and its affiliates collectively (A) are licensed or similarly authorized to offer, conduct, and/or operate online sports betting in at least five U.S. states or territories; and (B) operate and/or manage at least twelve casinos physically located anywhere within a U.S. state or territory that offer games that would be "Class III gaming" under Section 2703 of Title 28 of the United States Code if the casino were operated by an Indian tribe.

(jj) "Qualified gaming entity application" means an application described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 19763.

(kk) "Qualified gaming entity operator license" means an online sports betting operator license described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 19763.

(ll) "Tribal application" means an application described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 19763.

(mm) "Tribal operator license" means an online sports betting operator license described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 19763.

(ma)(1) "Sports event" or "sporting event" means all of the following:

(A) A professional sports event.

(B) An athletic event.

(C) A collegiate sports event.

(D) An amateur sports event.

(E) An electronic sports event.

(F) A motor sports event.

(G) A competitive event or novelty event.

(2) "Sports event" or "sporting event" does not include horse races that are subject to Article 9 (commencing with Section 19590) of Chapter 4 of Division 8.

(mb) "Sports governing body" means an organization that is headquartered in the United States and prescribes final rules and enforces codes of conduct with respect to a covered sports event and participants therein.

(nn) "Sports league" means an organization that hosts or coordinates a recurring series of sports events between teams or individuals that are members of, or affiliated with, the organization.

(oo) "Supplier applicant" means a person that applies for an online sports betting supplier license pursuant to Article 6.

(pp) "Total gross receipts" means the total dollar amount of all online sports bets, except for sports bets made with free bets or promotional gaming credits, that the online sports betting operator collects from bettors.

(qq) "U.S. state or territory" means the District of Columbia, any United States territory, or any state represented in the United State Senate besides the State of California.

(rr)(1) "Bet" or "wager" means the staking or risking by a person of something of value upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome. The terms do not include:

(A) Any activity governed by the securities laws of the United States or this state.

(B) Any contract of indemnity or guarantee.

(C) Any contract for insurance.

(D) Participation in any game or contest in which the participants do not stake or risk anything of value other than personal efforts of the participants in playing the game or contest or obtaining access to the Internet, or points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor.

(E) A fantasy sports contest in which winning outcomes reflect the relative knowledge and skill of the players and are predominantly determined by the accumulated statistical performance of athletes or individuals.

(2) References to a bet or wager being “made,” “placed,” or “initiated, or any combination or conjugation of those terms, are used interchangeably within this chapter.

(ss)(1) “Youth sports event” or “youth sporting event” means an athletic event or events in which either of the following conditions exists:

(A) The majority of participants are under the age of 18 years.

(B) At least one participant is a team from a public or private elementary, middle, or secondary school, regardless of where such school is located.

(2) Notwithstanding paragraph (1), if an athletic event is an Olympic event or meets the definition of “collegiate sports event” or “professional sports event,” then the event shall not be considered to be a youth sports event regardless of the age of the participants.

(3) Designation as a “youth sports event” shall be limited to the single game or match in which either of the conditions set forth in subparagraph (A) or subparagraph (B) of paragraph (1) exist, and shall not be construed to prohibit betting on other games in a tournament or multigame event in which a youth sports team participates.

Section 5. Section 15.5 is added to Article XIII B of the California Constitution, to read:

SEC. 15.5. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenues from the California Online Sports Betting Trust Fund created by the California Solutions to Homelessness and Mental Health Support Act, or any other revenues deposited into any other fund or account pursuant to that Act. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenues being deposited in or appropriated from the California Online Sports Betting Trust Fund created by California Solutions to Homelessness and Mental Health Support Act or any other fund or account pursuant to that Act.

Section 6. Section 23.5 is added to Article XVI of the California Constitution, to read:

SEC. 23.5. The taxes imposed by the California Solutions to Homelessness and Mental Health Support Act and the revenue derived therefrom, including investment interest, shall not be considered General Fund revenues for purposes of Section 8 and its implementing statutes, and shall not be considered "General Fund revenues," "state revenues," or "General Fund proceeds of taxes" for purposes of subdivisions (a) and (b) of Section 8 and its implementing statutes.

Section 7. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any part of this Act or application thereof would be subsequently declared invalid.

Section 8. Conflicting and Non-Conflicting Initiative Measures.

(a) Conflicting Initiative Measures. In the event that this initiative measure and another initiative measure or measures authorizing sports betting to be offered over the Internet and on mobile devices to persons aged 21 years or older physically present in this State but outside of Indian lands shall appear on the same statewide election ballot, the other initiative measure or

measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(b) Non-conflicting Initiative Measures.

(1) Notwithstanding subdivision (a), this initiative measure shall not be deemed to be in conflict with the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act, which was initially designated as Initiative No. 19-0029 Amendment #1 by the Attorney General and # 1886 by the Secretary of State.

(2) The voters hereby declare that this Act and the initiative measure described in paragraph (1) *are* complementary and supplementary to each other; and are *not* competing all-or-nothing alternatives. The voters hereby freely and unequivocally express their intent that if this Act and the initiative measure described in paragraph (1) are both approved at the same election, that both this Act and the other initiative measure should both be given full force and effect.

(3) The voters hereby further declare:

(A) The California Sports Wagering Regulation and Unlawful Gambling Enforcement Act and this Act *are* complementary and supplementary to each other.

(B) This Act and the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act are *not* competing all-or-nothing alternatives.

(C) It is the intent of the People that, should this Act and the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act both be approved by the voters at the same election, both measures should be given full force and effect in order ensure that the benefits of safe, legal online *and* in-person sports betting can both be realized for the State of California.

(c) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.

Section 9. Liberal Construction.

This Act shall be liberally construed to give effect to its intent and purposes, which are expressed in Section 2 of this Act.

Section 10. Legal Defense.

The purpose of this section is to ensure that the people's precious right of initiative cannot be improperly annulled by state politicians who refuse to defend the will of the voters. Therefore, if this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge which attempts to limit the scope or application of this Act in any way, or alleges this Act violates any state or federal law in whole or in part, and both the Governor and Attorney General refuse to defend this Act to the fullest extent possible on behalf of the State of California, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act to the fullest extent possible on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act to the fullest extent possible. The written affirmation shall be made publicly available upon request.

(c) In order to support the defense of this Act in instances where the Governor and Attorney General fail to do so despite the will of the voters, a continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California to the fullest extent possible.