

**CALIFORNIA ONLINE POKER LAW ENFORCEMENT COMPLIANCE,
AND CONSUMER PROTECTION ACT
(DRAFT)
January 15, 2009**

SECTION 1. The Legislature finds and declares the following:

(a) Leading gaming consultants estimate that in 2008 United States citizens wagered more than ten billion dollars (\$10,000,000,000) online at off-shore, non-United States Internet gambling Web sites, that this amount is likely to grow steadily over the next decade and that every week more than 1,000,000 California citizens play poker on the Internet.

(b) Currently, 2,300 Internet gambling Web sites operate outside the United States, unregulated by any United States governmental entity. Questions often arise about the honesty and the fairness of the games played on these Internet Web sites, whether and/or how customer financial information is protected and about the true purpose for, and use of, proceeds generated by these unregulated Internet Web sites.

(c) The presence, operation and expansion of offshore, unlicensed and unregulated internet poker sites available to Californians endangers the current and future economic health of California gaming establishments, both land-based licensed card rooms and tribes with compacts, who are currently unable to compete with these unregulated and unlicensed sites for online patronage by California consumers.

(d) In 2006, Congress passed and the President signed the Unlawful Internet Gambling Enforcement Act of 2006 (Public Law 109-347); hereafter UIGEA. While UIGEA prohibits the use of banking instruments, such as credit cards, checks, or fund transfers for interstate Internet gambling, it has not eliminated illegal, unregulated Internet gambling, nor has it provided any increased protection for participants in the United States and California.

(e) Declaring that intrastate wagering permitted by individual states is not considered “illegal internet gambling” under the terms of UIGEA, Congress included specific provisions and an exemption in UIGEA for individual states to permit Internet gambling within their own borders under certain conditions, including a means of reasonably insuring prevention of underage Internet gambling and verification of a player’s physical presence in the state.

(f) The State of California currently maintains and enforces substantial regulatory and law enforcement efforts to protect thousands of Californians who play poker for money live in licensed California card rooms, yet provides no licensing requirements, regulatory structure or law enforcement tools to protect millions of Californians who play exactly the same games daily for money online.

(g) In order to protect the millions of Californians who play poker online, and allow state law enforcement to license, regulate internet poker sites that can ensure these consumer protections, it is in the best interest of the state and its citizens to authorize, implement and create a licensing and regulatory structure and system to allow licensed gambling establishments to operate government-regulated Internet poker wagering Web sites, offering similar poker games as permitted in licensed land-based card rooms, as a way of protecting Californians and ensuring that the poker games they are playing are honest and fair and providing the law enforcements and regulatory tools necessary to provide those protections.

SEC. 2 For the purpose of this chapter the following definitions apply:

“Internet Poker” means the offering and play of poker games approved by the Department of Justice for play on-line through the modality of the Internet. Internet Poker, as defined herein, shall be deemed a “controlled game” under Penal Code section 337j, and to the extent consistent with the provisions of this Chapter, subject to all laws and regulations that apply to controlled games.

SEC. 3 The Gambling Control Commission and the Bureau of Gambling Control within the Department of Justice shall prepare draft regulations containing suggested guidelines for the play of poker on the Internet pursuant to the Unlawful Internet Gambling Enforcement Act of 2006 (Public Law 109-347), and provide a structure for regulation of intrastate poker offered on the Internet by gambling establishments and tribal casinos authorized to operate in California . In preparing these suggested guidelines and structure, the commission and the bureau shall include safeguards to address the issue of underage gambling, compulsive gambling, and effective law enforcement oversight of the operation of Internet poker in which millions of Californians already participate with no current protections by California law enforcement agencies.. The purpose of this article is to provide a legal alternative to the illegal gambling currently conducted on the Internet. Therefore, nothing in this chapter, which authorizes Internet activities for licensed gambling establishments, shall be construed to expand "gambling," as used in Article 13 (commencing with Section 19960).

Licenses to operate intrastate Internet poker websites under this Act shall be issued only to current Gaming Establishments licensed by the State of California and California tribes with gaming compacts. The guidelines, regulations and structure prepared by the commission and the bureau shall at a minimum do all of the following:

a) Ensure that Internet Poker is only offered for play in a manner that is lawful under the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. §§ 5361 et seq. (UIGEA).

b) Create a process by which the enforcing agencies can ensure that authorized Internet Poker is only offered for play to a player physically present within the borders of the State of California at the time of play and who is twenty-one years of age or older.

c) Require that each Internet website utilize the services of an approved, independent third party to perform identification, residence, and age verification services for persons establishing an account.

d) Require that the Wagering Hub or Wagering Hubs, shall be located within the boundaries of the State of California.

e) Require that Internet Poker is only be offered for play by a Gambling Establishment located within the boundaries of the State of California, and licensed to do so by the commission pursuant to the Gambling Control Act, Business and Professions Code section 19800 et seq. (Internet Poker Provider). A licensed gambling establishment shall not offer Internet poker independent of that network and no unlicensed entity or person shall be permitted to accept wagers or allow any Californian resident to play internet poker for money. Such unlicensed activity would violate the terms of this Act as well as terms of the intrastate exemption contained in the Federal Unlawful Internet Gambling Act of 2006.

f) Require each licensed gambling establishment desiring to conduct intrastate Internet poker to register with the commission to engage in that activity

g) Require a licensed gambling establishment to conduct the Internet poker games in a manner similar to the conduct of other games played in their establishments. Only those poker games approved for play at land-based licensed gambling establishment within California may be offered for play on the gambling establishment's Internet Web site. The licensed gambling establishment may collect fees from players in the poker games pursuant to the player fee collection methods approved for use within the licensed gambling establishment.

h) Create a process to protect each player's private information and prevent to the extent possible from fraud and identity theft. Enforcing agencies may require Internet websites to utilize personal identification numbers and other technology so that only the accountholder has access to the wagering account, and enforcing agencies may update technological requirements under this section as necessary to provide the highest level of security available to protect consumers' personal financial information and prevent fraud and identity theft to the extent possible..

i) Require that each Internet Website provide for withdrawals from the wagering account only by check, made payable to the account holder and sent to the address of the accountholder, or by an electronic transfer to the same financial account from which the verified accountholder is authorized make deposits into a wagering account. The account holder may also withdraw funds from the wagering account at a gambling establishment by presenting verifiable personal and account information.

j) Ensure that licensed gambling establishment will allow regulatory agency to access the premises to visit, investigate, and place expert accountants, and other persons deemed necessary to ensure strict compliance with its regulations concerning credit authorization, account access, and other security provisions. "Premises" shall include all electronic records held and transactions by the licensed gaming establishment in connection with online operations conducted under this Act.

k) Require that a licensed gambling establishment offering Internet poker provide registered players, in person, by mail or electronically, with information on problem gambling, including a card or electronic banner at sign-on of each online session that displays a 24-hour problem gambling hotline telephone number or website link.

l) Require that a licensed gambling establishment's Internet Web site contain information relating to problem gambling, including a telephone number that an individual may call to seek information and assistance for a potential gambling addiction.

m) Require each Internet website to have an individual, when opening an account, place a limitation on the amount of funds that may be transferred into that account within a 24-hour period. The Internet Web site shall adopt procedures to ensure that the player may not deposit more funds into the account than the amount specified on the application. If, after the account is open, an individual wishes to increase the amount of funds that may be transferred, the Internet Web site may increase the amount after obtaining the appropriate identification. However, that increase shall not be effective until 48 hours after the change is requested.

n) Create a structure that will allow the enforcing agencies to impose an advance fee to the licensed gambling establishment offering Internet poker. The fee shall be used to pay for the cost of implementing and administering the program, fund a gambling control program any extra money shall be deposited into the California's general fund.

o) Create a recommendation for a gross receipts tax structure that mirrors the structure currently imposed on land-based card rooms in California. This shall not be considered a new tax, but an extension of the current gross receipts tax imposed on legal, licensed card rooms in

California to a new revenue stream created by this Act for licensed operators. Revenue from this source shall be deposited in the general fund.

SEC. 4. The enactment of this act authorizes the play of Internet poker upon approval by the California Gaming Commission of the draft structure and regulations required by this Act. The Commission may impose such regulations, pursuant to Section 3 of this Act, on the Wagering Hub or Hubs as well as on individual licensees.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.