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Senate Bill _____
By _____

House No. HB1610
By Turner

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 39,
relative to video gaming regulation and taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-501, is amended
by deleting the section in its entirety and by substituting instead the following:

The following definitions apply to this part unless the context
otherwise requires:

(1) "Authorized gaming activity" means activity pertaining to
an authorized video gaming machine for which all licenses, permits
and other commission approval required by the Tennessee Video
Gaming Regulation and Taxation Act have been duly issued and
remain in effect.

(2) "Authorized video gaming machine" means any electronic
gaming machine, (for which all necessary licenses, permits and other
commission approval have been duly issued and remain in effect),
which, upon insertion of currency or coins, utilizes a video display

and microprocessors and allows the player, by reasonable measure of player skill, to receive free games or credits that may be redeemed for cash. The term "authorized video gaming machine" does not include:

(A) any slot machine;

(B) any gaming device, whether electric, electronic, mechanical, or electro-mechanical, employing any technique to extend playing time whereby any modality used to accomplish such extended play may be quantified and such quantification may be recorded or removed by any means other than playing the game for an extended period of time, including any gaming device which has inherent in its design, whether by hardware or software, any available means, whether or not used or activated, for recording the removal of such quantified modality, (the presence of any device employing a play strategy that is historically considered a gambling game, including, but not necessarily limited to, poker, craps, blackjack, roulette, or slot machines, shall constitute sufficient probable cause to justify issuance of a search warrant to determine if such device is in fact an illegal gaming device).

(C) any machine with a preset automatic cash payout.

(3) "Commission" means the Tennessee Video Gaming Commission created by Section 12, Part 2, §4-_-201, of this act.

(4) "Gambling" or "gambling activity" means risking anything of value for profit when return is contingent to some degree on chance, but does not include a lawful business transaction.

(5) "Gambling bet" means anything of value risked in gambling.

(6) "Illegal gambling device or record" means anything designed and manufactured primarily for use in gambling, or used in gambling which is not specifically authorized by the Tennessee Video Gaming Regulation and Taxation Act or which is specifically authorized pursuant to such act but which has not received necessary licenses, permits, and/or commission approval. The term "illegal gambling device or record" includes, but is not limited to:

(A) any slot machine;

(B) any gaming device, whether electric, electronic, mechanical, or electro-mechanical, employing any technique to extend playing time whereby any modality used to accomplish such extended play may be quantified and such quantification may be recorded or removed by any means other than playing the game for an extended period of time, including any gaming device which has inherent in its design, whether by hardware or software, any available means, whether or not actually used or activated, for recording the removal of such quantified modalit, (the presence of any device employing a play strategy that is historically considered a gambling game, including, but not necessarily limited to, poker, craps, blackjack, roulette, or slot machines, shall constitute sufficient probable cause to justify issuance of a search warrant to determine if such device is in fact an illegal gaming device).

(C) any machine with a preset automatic cash payout.

(7) "Lottery" means a transaction in which the elements of prize, chance and consideration are present and skill is absent.

(8) "Profit" means anything of value in addition to the gambling bet.

(9) "State gaming license" means a license issued under Section 12, Part 3, §4-_-305 of this act for the manufacture of authorized video gaming machines and associated equipment; a license issued under Section 12, Part 3, §4-_-306 of this act for the distribution of authorized video gaming machines and associated equipment to licensed operators; a license issued under Section 12, Part 3, §4-_-307 of this act for the purchase of authorized video gaming machines and associated equipment and the leasing and furnishing of such machines and associated equipment to another for use in public; or a license issued under Section 12, Part 3, §4-_-308 of this act for the owning or managing premises and operating or controlling for use in public authorized video gaming machines and associated equipment.

SECTION 2. Tennessee Code Annotated, Section 39-17-502, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A person commits an offense who knowingly engages in gambling activities other than authorized gaming activities.

(b) The offense of gambling is a Class C misdemeanor.

SECTION 3. Tennessee Code Annotated, Section 39-17-503, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A person commits an offense who knowingly induces or aids another to engage in gambling activities other than authorized gaming activities and who:

(1) intends to derive or derives an economic benefit other than personal winnings from such activities; or

(2) participates in such activities and has, other than by virtue of skill or luck, a lesser risk of losing or greater chance of winning than one (1) or more of the other participants.

(b) The offense of gambling promotion is a Class B misdemeanor.

SECTION 4. Tennessee Code Annotated, Section 39-17-504, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A person commits an offense who knowingly invests in, finances, owns, controls, supervises, manages or participates in an enterprise engaged in gambling activities that are not authorized gaming activities.

(b) For purposes of this section, "an enterprise engaged in gambling activities" means two (2) or more persons regularly engaged in gambling promotion as defined in § 39-17-503.

(c) The offense of aggravated gambling promotion is a Class E felony.

SECTION 5. Tennessee Code Annotated, Section 39-17-505, is amended by deleting the section in its entirety and by substituting instead the following:

(a) A person commits an offense who knowingly owns, manufactures, possesses, buys, sells, rents, leases, stores, repairs, transports, prints or makes any illegal gambling device or record. However, it is not an offense for a person to own or possess in this state a lottery ticket originating from a state in which a lottery is lawful, if such ticket is not owned or possessed for the purpose of resale.

(b) An illegal gambling device or record is contraband and shall be subject to seizure, confiscation, forfeiture, and destruction. A video gaming machine which has not received all necessary licenses, permits, and

commission approval shall constitute an illegal gambling device and shall be subject to seizure, confiscation, forfeiture and disposal in accordance with the provisions of Tennessee Code Annotated, Section 39-11-116.

(c) Possession of an illegal gambling device or record is a Class B misdemeanor.

(d) This section does not apply to a public officer or to a person who comes into possession of an illegal gambling device or record or an authorized video gaming machine in or by reason of the performance of an official duty and who holds it for lawful disposal. This section does not apply to an officer or employee of a federal or state chartered financial institution or a licensed manufacturer or a licensed distributor or any person who takes possession of an authorized video gaming machine pursuant to a valid lien held by the financial institution or manufacturer or distributor or person on such video gaming machine, provided that the officer or employee immediately:

(1) notifies the commission,

(2) stores such machine in accordance with the rules of the commission, and

(3) does not dispose of such machine in any manner without specific commission approval.

SECTION 6. Tennessee Code Annotated, Section 39-17-509, is amended by adding the following language:

The general assembly, by enacting this part, specifically provides that any device which is not prohibited by this part is exempt from the provisions of 15 U.S.C. § 1172.

SECTION 7. Tennessee Code Annotated, Title 39, Chapter 17, Part 5, is amended by adding the following language as a new, appropriately designated section:

39-17-5_. (a) A person commits an offense who knowingly sells, assigns, leases or transfers any state gaming license or permit issued by the commission under the Tennessee Video Gaming Regulation and Taxation Act.

(b) The offense of transferring a permit or license is a Class B misdemeanor.

SECTION 8. Tennessee Code Annotated, Title 39, Chapter 17, Part 5, is amended by adding the following language as a new, appropriately designated section:

39-17-5_. (a) A person commits the offense of counterfeiting or defacing an official document when he knowingly counterfeits, alters, or wrongfully displays a seal, decal, license, identification number or device, or other document duly issued by the Tennessee Video Gaming Commission.

(b) The offense of counterfeiting or defacing a document issued by the commission is a Class E felony.

SECTION 9. Tennessee Code Annotated, Title 39, Chapter 17, Part 5, is amended by adding the following language as a new, appropriately designated section:

39-17-5_. (a) It is an offense for a person to knowingly allow a person under twenty-one (21) years of age to participate in a gambling activity or authorized gaming activity.

(b) The offense of knowingly allowing a minor to participate in a gambling activity or authorized gaming activity is a Class E felony and, in a

case involving authorized gaming activity, shall result in suspension or revocation of licenses, permits, and/or commission approval.

SECTION 10. Tennessee Code Annotated, Title 39, Chapter 17, Part 5, is amended by adding the following language as a new, appropriately designated section:

39-17-5_. (a) It is an offense for a person under twenty-one (21) years of age to participate in a gambling activity or authorized gaming activity.

(b) A violation of this section by a person under eighteen (18) years of age is subject to juvenile proceedings.

(c) A violation of this section by a person over eighteen (18) years of age is a Class B misdemeanor.

SECTION 11. Tennessee Code Annotated, Title 39, Chapter 17, Part 5, is amended by adding the following language as a new, appropriately designated section:

39-17-5_. (a) A person commits the offense of tampering with an authorized video gaming machine if he knowingly manipulates or attempts or conspires to manipulate the communications or recordkeeping apparatus or functions or the outcome or payoff of an authorized video gaming machine by physical tampering or other interference with the proper functioning of the machine.

(b) A violation of this section is a Class E felony.

SECTION 12. Tennessee Code Annotated, Title 4, is amended by adding the following language as a new, appropriately designated chapter:

PART I

§4-_-101. This chapter shall be known and may be cited as "The Tennessee Video Gaming and Taxation Act of 1995".

§4-_-102. (a) The general assembly finds that for the purpose of ensuring the proper video gaming environment in this state it is necessary and desirable to adopt a public policy regarding such activities in Tennessee. The general assembly therefore declares it is necessary to:

(1) create and maintain a uniform regulatory climate that assures players, owners, tourists, citizens, and others that the gaming industry in this state is fair and is not influenced by corrupt persons, organizations, or practices;

(2) protect legal public gaming activities from unscrupulous players and vendors and detrimental influences;

(3) protect the public from unscrupulous proprietors and operators of gambling establishments, games, and devices;

(4) protect state and local governments from those who would conduct illegal gambling activities that deprive those governments of tax revenues; and

(5) protect the health, safety, and welfare of all citizens of this state, including those who do not gamble, by regulating gaming activities.

(b) The general assembly adopts the policy that an applicant for a license or permit or other commission approval under this chapter does not have a right to the issuance of a license or permit or the granting of the approval sought. The issuance of a license or permit issued or other commission approval granted pursuant to the provisions of this chapter is a privilege revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or other commission approval granted. A license or permit issued under this chapter may not be sold, assigned, leased, or transferred.

(c) Funding sufficient to pay the expense of administration and control of gaming as regulated by this chapter shall be annually appropriated by the general assembly. From state revenues generated by the provisions of this act, the general assembly shall annually appropriate not less than one million dollars (\$1,000,000) which shall be allocated exclusively for the study, treatment, and rehabilitation of persons who may be affected by pathological gambling behavior.

§4-_-103. In view of Article 11, Section 5, of the Constitution of the State of Tennessee, this chapter shall be strictly construed by the commission and the courts to allow only those types of video gaming activity that are clearly allowed by this act. Nothing contained within the provisions of this act shall be construed to authorize the sale of lottery tickets within the state.

§4-_-104. Unless the context requires otherwise, the following definitions apply to this chapter:

(1) "Applicant" means a person who has applied for a license or permit or other commission approval pursuant to this chapter.

(2) "Application" means a written request for a license or permit or other commission approval. The commission shall promulgate rules, in accordance with the provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, describing the forms and information required for application for license, permit, or commission approval.

(3) "Associated equipment" means all proprietary devices, machines, or parts used in the manufacture or maintenance of an authorized video gaming machine, including but not limited to integrated circuit chips, printed wired assembly, printed wired boards,

printing mechanisms, video display monitors, metering devices, and cabinetry.

(4) "Authorized gaming activity" means activity pertaining to an authorized video gaming machine for which all licenses, permits, and other commission approval required by this chapter have been issued and are currently in effect.

(5) "Authorized video gaming machine" means any electronic gaming machine, for which all necessary licenses, permits and other commission approval have been duly issued and remain in effect, and which, upon insertion of cash, utilizes a video display and microprocessors and allows a player, by reasonable measure of player skill, to receive free games or credits that may be redeemed for cash. Each credit shall have a cash value of twenty-five cents (0.25¢) or less. The term "authorized video gaming machine" does not include:

(A) any slot machine;

(B) any gaming device, whether electric, electronic, mechanical, or electro-mechanical, employing any technique to extend playing time whereby any modality used to accomplish such extended play may be quantified and such quantification may be recorded or removed by any means other than playing the game for an extended period of time, including any gaming device which has inherent in its design, whether by hardware or software, any available means, whether or not used or activated, for recording the removal of such quantified modality, (the presence of any device employing a play strategy that is historically considered a

gambling game, including, but not necessarily limited to, poker, craps, blackjack, roulette, or slot machines, shall constitute sufficient probable cause to justify issuance of a search warrant to determine if such device is in fact an illegal gaming device).

(C) any machine with a preset automatic cash payout.

(6) "Commission" means the Tennessee Video Gaming Commission created by Section 12, Part 2, §4-_-201 of this act.

(7) "Distributor" means a person who purchases authorized video gaming machines or associated equipment from licensed manufacturers for distribution to licensed operators for use or play in this state.

(8) "Gambling" or "gambling activity" means risking anything of value for profit when return is contingent to some degree on chance, but does not include a lawful business transaction.

(9) "Gambling bet" means anything of value risked in gambling.

(10) "Illegal gambling device or record" means anything designed and manufactured primarily for use in gambling, or used in gambling which is not specifically authorized by the Tennessee Video Gaming Regulation and Taxation Act or which is specifically authorized pursuant to such act but which has not received all necessary licenses, permits, and/or commission approval. The term "illegal gambling device or record" includes but is not limited to:

(A) any slot machine;

(B) any gaming device, whether electric, electronic, mechanical, or electro-mechanical, employing any technique

to extend playing time whereby any modality used to accomplish such extended play may be quantified and such quantification may be recorded or removed by any means other than playing the game for an extended period of time, including any gaming device which has inherent in its design, whether by hardware or software, any available means, whether or not used or activated, for recording the removal of such quantified modality, (the presence of any device employing a play strategy that is historically considered a gambling game, including, but not necessarily limited to, poker, craps, blackjack, roulette, or slot machines, shall constitute sufficient probable cause to justify issuance of a search warrant to determine if such device is in fact an illegal gaming device).

(C) any machine with a preset automatic cash payout.

(11) "Manufacturer" means a person who assembles from raw materials or subparts a complete authorized video gaming machine or pieces of an authorized video gaming machine of any kind, or supplies authorized video gaming machines or associated equipment to distributors for use or play in this state.

(12) "Licensed establishment owner or manager" means a person who owns or manages premises, and operates or controls thereon for use in public an authorized video gaming machine provided or placed by written contract from an operator.

(13) "Licensee" means a person who has received a license or permit from the commission.

(14) "Lottery" means a transaction in which the elements of prize, chance and consideration are present and skill is absent.

(15) "Net machine income" means total money put into an authorized video gaming machine minus credits paid out in cash.

(16) "Operator" means a person who:

(A) purchases, or obtains from a licensed distributor an authorized video gaming machine for use in authorized gaming activities; and

(B) leases the machine to a licensed establishment owner or manager for use in authorized gaming activity; and

(C) has at least one (1) full-time employee, who may include the operator, who has been certified as a technician by the manufacturer of the machine.

(17) "Permit" means approval from the commission to make available for public play an authorized video gaming machine approved by the commission pursuant to this chapter.

(18) "Person" or "persons" means both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(19) "Premises" means the physical building or property within or upon which an authorized gaming activity occurs, as stated on a licensed establishment owner's or manager's license application and approved by the commission; and shall include only structures that are permanently attached to land so as to become a fixture and an encumbrance upon real property and are open for business on a year-round basis.

(A) If the premises are characterized by common wall(s) or zero lot line(s), then there shall be no ingress or egress through such common wall(s) or across such zero lot line(s).

(B) If the premises are not characterized by common wall(s) or zero lot line(s), then there must be at least one hundred feet (100') between entrances if such premises are operated by the same operator.

(20) "Profit" means anything of value in addition to the bet but does not include the entertainment value of playing games.

(21) "Public gaming" means gaming conducted in:

(A) a building to which the public has access or may be permitted to have access; or

(B) a place of public resort, including but not limited to a building owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization.

(22) "State gaming license" means a license issued by the commission under Section 12, Part 3, §4-_-305 of this act for the manufacture of authorized video gaming machines and associated equipment; or a license issued under Section 12, Part 3, §4-_-306 of this act for the purchase and distribution of authorized video gaming machines and associated equipment to licensed operators; or a license issued under Section 12, Part 3, §4-_-307 of this act for the purchase or obtaining of authorized video gaming machines and associated equipment and the leasing of such machines and associated equipment for use in public; or a license issued under

Section 12, Part 3, §4-_-308 of this act to an establishment owner or manager for the operation of authorized gaming activities.

§4-_-105. A local government may not license or regulate gaming activities authorized by this chapter or assess or charge any fees or taxes.

PART 2

4-_-201. (a) There is hereby created a Tennessee Video Gaming Commission, hereinafter referred to as the "commission," which shall consist of seven (7) members.

(b) Seven (7) members shall be appointed by the governor with consent of the general assembly as expressed by joint resolution. If the governor makes an appointment while the general assembly is not in session, the appointee shall serve only until the close of the next annual session unless the general assembly approves a joint resolution of consent as required by this subsection.

(c) One (1) member shall have a background in law enforcement and may be appointed by the governor from a list of three (3) persons nominated by the Tennessee Bureau of Investigation.

(d) Not less than two (2) members shall be from the same grand division of the state.

(e) The members of the commission shall serve staggered terms, accomplished by the following manner of initial appointments:

(A) Two (2) members shall serve two (2) year terms;

(B) Two (2) members shall serve three (3) year terms;

and

(C) Three (3) members shall serve four (4) year terms.

All subsequent appointments shall be for four (4) years. A member shall not serve more than two (2) consecutive, four (4) year terms.

(f) If a vacancy occurs, the governor shall make an appointment for the remainder of the unexpired term as he would make an original appointment.

(g) Upon expiration of his or her term of office, a member shall continue to serve until his successor is appointed.

§4-_-202.

(a) To be eligible to serve as a member of the commission, a person:

(1) shall have been a legal resident of this state for five (5) years immediately preceding the appointment, and shall be more than thirty (30) years of age;

(2) shall be of such character and reputation as to promote public confidence in the administration of video gaming machine control within this state;

(3) shall not directly or indirectly or in any capacity own or have any interest in any video gaming machine operation or device, including but not limited to an interest as owner, lessor, lessee, operator, manager, concessionaire, stockholder or employee;

(4) shall not be a public official or public employee;

(5) shall not have been convicted of any gambling or gaming offense under the federal law or the laws of this state or any other state or of an offense which is punishable as a felony under the federal law or the laws of this state or any other state;

(6) shall not wager or cause a wager to be placed upon any video gaming machine which is under the jurisdiction and supervision of the commission;

(7) shall not accept any pecuniary or other form of reward or gift from any licensee or permittee of the commission;

(8) shall have no pecuniary interest or engage in any private employment in a business which does business with any licensee or permittee of the commission; and

(9) shall comply with the requirements for commission employees set out in Section 12, Part 3, §4-_-302 of this chapter.

(b) A person who serves as a commission member in violation of subsection (a) commits a Class C misdemeanor.

§4-_-203. Each member of the commission shall receive compensation for his services in an amount determined by the commission not to exceed fifty dollars (\$50.00) per diem when actually engaged in the discharge of official commission duties. Additionally, a member shall also receive reimbursement for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general.

§4-_-204. The members of the commission shall annually elect one (1) of its members to serve as chairman of the commission.

§4-_-205. Four (4) members of the commission shall constitute a quorum for the transaction of business or the exercise of its powers.

§4-_-206. A member of the commission shall be subject to removal from office as provided in Tennessee Code Annotated, Title 8, Chapter 47, Part 1.

§4-_-207. (a) The commission shall appoint an executive secretary who shall serve at the pleasure of the commission. The secretary shall devote full time to the duties of the office and shall not hold any other office or employment.

(b) To be eligible to serve as executive secretary, a person shall meet the qualifications and restrictions required of a commission member under the provisions of Section 12, Part 2, §4-_-202, except the qualifications concerning the residency. A person who serves as secretary in violation of such provisions commits a Class C misdemeanor.

(c) The executive secretary shall receive an annual salary to be determined by the commission within such salary scales as established by state regulations, and shall be allowed actual and necessary expenses incurred in the performance of official duties.

(d) The executive secretary shall:

(1) attend all meetings of the commission;

(2) keep a complete record of the proceedings at each meeting of the commission;

(3) prepare at the general office of the commission all books, documents and papers entrusted to the care of the commission, and prepare for service such books, documents, and papers as may be required by the commission;

(4) Serve as executive officer and chief administrative officer for the commission and be responsible for implementation and

enforcement of this act, this chapter and all rules, regulations, conditions, orders and directives of the commission;

(5) Supervise and direct all employees of the commission;

and

(6) Perform such other duties and functions as shall be delegated by the commission.

§4-_-208. Each member of the commission and the executive secretary shall furnish a corporate surety bond executed by a surety company authorized to do business in Tennessee, conditioned upon the faithful performance of the duties and the correct accounting of all sums received and coming into their control under this chapter. The bond shall be payable to the state in the amount of fifty thousand dollars (\$50,000).

§4-_-209. Within the limitations of funding provided by appropriation of the general assembly, the executive secretary shall employ, at reasonable compensation, a chief officer of investigations and enforcement. The chief officer of investigations and enforcement shall be an experienced law enforcement officer; shall be responsible for conducting, supervising, and coordinating commission endeavors to enforce rules pertaining to gambling and gaming activities; shall supervise investigatory employees of the commission; and shall fully cooperate with state law enforcement officers, state revenue collection officials, district attorneys general, and local law enforcement agencies in order to ensure full compliance with all laws pertaining to gambling and gaming activities in this state. Within the limitations of funding provided by appropriation of the general assembly, the executive secretary shall also employ, at reasonable compensation, other employees deemed by the commission to be essential to, or in the best interests of the commission for, the purpose of maintaining integrity and

honesty in the authorized video gaming machine industry. Essential employees shall include, but not necessarily be limited to, the following categories: investigatory, clerical, laboratory/technical, and electronic information management. To serve as an employee of the commission a person must comply with the requirements and restrictions established for commission members by the provisions of Section 12, Part 2, §4-_-202, except residency requirements; and a person who serves as an employee of the commission in violation of such requirements and restrictions commits a Class C misdemeanor.

§4-_-210. All meetings of the commission shall be open and public in accordance with Tennessee Code Annotated, Title 8, Chapter 44. A public record of every vote and action taken by the commission shall be maintained at the commission's office. Except as specifically provided to the contrary by the provisions of §4-_-301(e), all records of the commission shall be open to inspection by the public during regular office hours.

§4-_-211. (a) The commission shall keep detailed records of all its meetings, expenditures, actions, collections and business.

(b) The commission shall prepare annually a report of all such meetings, expenditures, collections, actions and business. The report shall be delivered to the governor and to each member of the general assembly.

(c) The commission shall also offer practical suggestions and recommendations as it deems proper and desirable to accomplish more fully the intent and policy of this chapter. The commission shall appoint a non-voting, advisory committee of persons regulated by the commission. Any person serving on any such committee shall serve without compensation or reimbursement. Any such committee shall consist of three (3) members, at

least one of whom shall be appointed from each of the state's three (3) grand divisions.

§4-_-212. The commission shall be subject to periodic audit by the state comptroller under the authority granted by Tennessee Code Annotated, Section 8-4-109 and Section 4-29-111.

§4-_-213. All fees collected by the commission pursuant to this chapter shall be paid into the state general fund and shall be allocated to fund the provisions of this act; provided, however, the provisions of this section shall not be construed to constitute an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

§4-_-214. In accordance with the provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, the commission shall promulgate such rules as may be reasonably necessary to implement the provisions of this chapter in an efficient, effective, and thorough manner.

PART 3

§4-_-301. (a) The commission shall administer and enforce the provisions of this chapter and shall enforce and assist state and local law enforcement agencies to enforce the other provisions of this act.

(b) The commission shall promulgate rules to establish procedures for the application for licenses and permits, and necessary application forms.

(c) The commission shall promulgate rules to establish recordkeeping requirements for licensees and permittees,

procedures for inspection of records, methods for collection of fees and penalties.

(d) The commission may suspend, revoke, deny, or place a condition on a license or permit issued under this chapter. Any person aggrieved by any such action of the commission may appeal such action as a contested case proceeding under the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

(e) All records of the commission shall be open to inspection by the public during regular office hours, provided, however, the commission shall not release the following information to the general public:

(1) records of the commission directly pertaining to an active investigation of possible criminal activity, or

(2) criminal history information, also known as "rap sheets," obtained by the commission from the Federal Bureau of Investigation, Tennessee Bureau of Investigation, or any other law enforcement agency.

However, nothing contained within the provisions of this act shall be construed to preclude the commission from sharing its investigatory records and information with the Tennessee Department of Revenue; a law enforcement official of this state, another state, or the federal government; a district attorney general; or a law enforcement official of a county or municipality.

§4-_-302. An employee of the commission, a former commission employee during the first three hundred sixty-five (365) days following termination of employment, or any peace officer or prosecutor directly

involved with the prosecution, investigation, regulation, or licensing of gambling or gaming may not:

(a) serve as an officer or manager of a corporation or organization, other than a nonprofit corporation or organization, that conducts a gaming activity;

(b) receive or share in, directly or indirectly, any profit of a gaming activity regulated by the commission;

(c) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of an authorized video gaming machine or illegal gambling device or record, or the conduct of any gaming activity, or the provision of independent consultant services in connection with a gaming activity.

A person who violates this section commits a Class C misdemeanor.

§4-_-303. (a) The commission is authorized to issue state gaming licenses under this chapter solely for:

(1) the manufacture of authorized video gaming machines and associated equipment to be sold exclusively to distributors under Section 12, Part 3, §4-_-305 of this act;

(2) the sale of authorized video gaming machines by licensed distributors only to licensed operators, licensed manufacturers, or licensed distributors under Section 12, Part 3, §4-_-306 of this act;

(3) the purchase of authorized video gaming equipment from a licensed distributor by a licensed operator and the lease of such equipment to a licensed establishment owner or manager for use in public under Section 12, Part 3, §4-_-307 of this act; and

(4) the operation of authorized gaming activities by an establishment owner or manager under Section 12, Part 3, §4-_-308 of this act.

The commission is also authorized to issue permits for the use and play of authorized video gaming machines under Section 12, Part 3, §4-_-309 of this act.

(b)(1) A person is not eligible for issuance of a license or permit by the commission:

(A) under Section 12, Part 3, §4-_-306 of this act, unless he can demonstrate that he, (and if a corporation or partnership, all its stockholders, officers, directors, or partners), is a resident of Tennessee.

(B) under Section 12, Part 3, §4-_-307 of this act, unless he can demonstrate that he, (and if a corporation or partnership, all its stockholders, officers, directors, or partners), has resided in the state of Tennessee for five (5) years immediately preceding the date of application.

(C) under Section 12, Part 3, §4-_-308 of this act, unless he can demonstrate:

(i) that he has a beer license issued under Tennessee Code Annotated, Title 57, Part 5, or a license for consumption of alcoholic beverages on premises issued under Tennessee Code Annotated, Title 57, Part 4; or

(ii) that the authorized gaming machines under this act will be placed in a separate room or partitioned

area where persons under twenty-one (21) years of age are not allowed access; and

(iii) that he is of good character and repute, and is not currently enjoined from operating a public nuisance.

(2) There shall be no residency requirement for a license or permit under Section 12, Part 3, §4-_-305 of this act.

(c) A person whom the commission determines is qualified to receive a state gaming license under the provisions of this chapter may, based on information available to, required by, or supplied to the commission under commission rules, be issued a state gaming license. A license issued under the provisions of Section 12, Part 3, §4-_-307 of this act shall authorize the holder, during the time in which the license is effective, to apply for and hold permits under the provisions of Section 12, Part 3, §4-_-309 of this act for authorized video gaming machines.

(d) The commission may issue a license or permit if the available evidence demonstrates that the applicant is not:

(1) a person who, because of his or her prior activities or criminal record:

(A) poses a threat to the public interest of the state or the effective regulation and control of gaming; or

(B) creates a danger of illegal practices, methods, or activities in the conduct of gaming or in the carrying on of the business and financial arrangements incidental to gaming; or

(2) receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the commission finds to meet the provisions of subsection (d)(1) may be considered an unsuitable source.

(e) A license or permit may be revoked by the commission at any time after issuance if the commission determines that the licensee or permittee no longer meets the requirements of this section.

§4-_-304. (Reserved).

§4-_-305. (a) The commission shall promulgate rules to govern licensure of persons who assemble, produce, manufacture or supply authorized video gaming machines or associated equipment to distributors for use or play in the state.

(b) It is unlawful for any person to assemble, produce, manufacture, or supply any video gaming machine or associated equipment for use or play in the state without having first been issued a video gaming machine manufacturer's license by the commission, except as provided in Section 12, Part 3, §4-_-306 and §4-_-307 of this act. Violation of this subsection constitutes a Class E felony.

(c) The commission shall charge an annual license fee of five thousand dollars (\$5,000) for the issuance or renewal of a video gaming machine manufacturer's license.

(d) In addition to other license fees, the commission may charge the applicant a one-time video gaming machine manufacturer's license application processing fee. The processing

fee may not exceed the commission's actual costs for processing an application.

(e) All video gaming machine manufacturers' licenses shall expire on June 30 each year. However, initial video gaming machine manufacturers' licenses shall be issued each year on: January 1, April 1, July 1, or October 1. The annual license fee charged for such initial license shall be prorated according to the date of issuance. The commission shall establish and announce quarterly deadlines for consideration of such initial licenses and shall duly consider and appropriately act upon all applications properly submitted before such deadline.

(f) A person to whom a license is issued under this section is not eligible for issuance of a license for the distribution or operation of authorized gaming activities under Section 12, Part 3, §4-_-306, 4-_-307, or 4-_-308 of this act.

(g) It is unlawful for any person to whom a license is issued under this section to sell or supply any video gaming machine or associated equipment for use or play in the state to any person other than a person to whom a license has been issued under Section 12, Part 3, §4-_-306. Violation of this subsection constitutes a Class E felony.

§4-_-306. (a) The commission shall promulgate rules to govern licensure of persons who purchase authorized video gaming machines and associated equipment from licensed manufacturers and who sell such authorized video gaming machines or associated equipment to licensed operators for use or play in this state.

(b) It is unlawful for any person to purchase any video gaming machine or associated equipment from a licensed manufacturer or to sell any video gaming machine or associated equipment to any operator without having first been issued a video gaming machine distributor's license. Violation of this subsection constitutes a Class E felony.

(c) The commission shall charge an annual license fee of two thousand five hundred dollars (\$2,500) for the issuance or renewal of a video gaming machine distributor's license.

(d) In addition to other license fees, the commission may charge the applicant a one-time video gaming machine distributor's license application processing fee. The processing fee may not exceed the commission's actual cost for processing an application.

(e) All video gaming machine distributors' licenses expire on June 30 of each year. However, initial video gaming machine distributors' licenses shall be issued each year on: January 1, April 1, July 1, or October 1. The annual license fee charged for such initial license shall be prorated according to the date of issuance. The commission shall establish and announce quarterly deadlines for consideration of such initial licenses and shall duly consider and appropriately act upon all applications properly submitted before such deadline.

(f) A person to whom a license is issued under this section shall purchase video gaming machines only from one who is licensed under this act as a video gaming machine manufacturer, [or from another distributor or operator if the machine has been licensed for at least six (6) months] and shall sell video gaming machines only to

one who is licensed under this act as a video gaming machine operator, distributor, or manufacturer. Violation of this subsection constitutes a Class E felony.

§4-_-307. (a) The commission shall promulgate rules to govern licensure of persons who:

(1) Purchase or obtain, from authorized distributors only, equipment of any kind for use in any authorized gaming activity; and

(2) Lease, or otherwise furnish, the equipment to another person for use in public.

(b) It shall be unlawful for any person to purchase or obtain equipment of any kind for use in any gaming activity and lease the equipment to another person for use in public without first having been issued a video gaming machine operator's license. After January 1, 1997, no person shall own more than eight percent (8%) of the total number of authorized video gaming machines licensed, permitted, and approved by the commission for use in this state, nor shall a person own stock in any two (2) or more entities owning more than eight percent (8%) aggregate of the total number of authorized video gaming machines licensed, permitted, and approved by the commission for use in this state. After January 1, 1998, no person shall own more than four percent (4%) of the total number of authorized video gaming machines licensed, permitted, and approved by the commission for use in this state, nor shall a person own stock in any two (2) or more entities owning more than four percent (4%) aggregate of the total number of authorized video gaming machines licensed, permitted, and approved by the

commission for use in this state. After January 1, 2000, no person shall own more than two percent (2%) of the total number of authorized video gaming machines licensed, permitted, and approved by the commission for use in this state, nor shall a person own stock in any two (2) or more entities owning more than two percent (2%) aggregate of the total number of authorized video gaming machines licensed, permitted, and approved by the commission for use in this state. This subsection does not apply to ownership of stock in a publicly traded company provided ownership or voting rights are less than five percent (5%) of the total stock. Violation of this subsection constitutes a Class E felony.

(c) The commission shall charge an annual fee of one thousand dollars (\$1,000) for the issuance and renewal of a video gaming machine operator's license.

(d) In addition to other license fees, the commission may charge the applicant a one-time video gaming machine operator's license application processing fee. The processing fee may not exceed the commission's actual costs for processing an application.

(e) All video gaming machine operator's licenses shall expire on June 30 of each year. However, initial video gaming machine operators' licenses shall be issued each year on: January 1, April 1, July 1, or October 1. The annual license fee charged for such initial license shall be prorated according to the date of issuance. The commission shall establish and announce quarterly deadlines for consideration of such initial licenses and shall duly consider and appropriately act upon all applications properly submitted before such deadline.

(f) A person to whom a license is issued under this section is not eligible for:

(1) issuance of a license for manufacturing or supply of authorized video gaming machines or associated equipment under Section 12, Part 3, §4-__-305 and §4-__-306 of this act, or

(2) issuance of a license to own or manage premises, and operate or control for use in public, an authorized video gaming machine under Section 12, Part 3, §4-__-308 of this act.

(g) If an authorized video gaming machine or associated equipment or record has been properly permitted pursuant to this act and has been in service for at least six (6) months, then a person to whom a license is issued under this section may resell such authorized video gaming machine or associated equipment or record to a person to whom a license is issued under this section, or to a person to whom a license is issued under Section 12, Part 3, §4-__-305 or §4-__-306 of this act, or to a person for use or play out of the state of Tennessee.

(h) It is unlawful for any person to whom a license is issued under this section to purchase any video gaming machine or associated equipment from any person other than a person having a license under Section 12, Part 3, §4-__-306. It is unlawful for any person to whom a license is issued under this section to sell, rather than lease, any video gaming machine or associated equipment for use or play in the state to any person having a license under Section 12, Part 3, §4-__-308. It is unlawful for any person to whom a license

is issued under this section to offer a bonus, gratuity, or any valuable consideration as an inducement to another to enter into or renew a contract with a premises owner or manager. Violation of this subsection constitutes a Class E felony.

(i) A person to whom a license is issued under this section is not eligible for issuance of a license for the manufacture or distribution or operation of authorized video gaming machines under Section 12, Part 3, §4-_-305, §4-_-306, or §4-_-308 of this act.

§4-_-308. (a) The commission shall promulgate rules for licensure of persons who own or manage premises, and operate or control for use in public, an authorized video gaming machine provided or placed by written contract from a licensed operator, provided however, such rules shall require issuance of all necessary licenses and permits prior to the date on which such written contract is entered into by such parties.

(b) It shall be unlawful for any person to own or manage any premises and operate or control for use or play in public:

(1) an authorized video gaming machine without having first been issued a video gaming machine premises owner's or manager's license, or

(2) have more than five (5) authorized video gaming machines on the premises; provided, however, clubs as defined in Tennessee Code Annotated, Section 57-4-102(4)(A), may have one (1) additional machine for each one hundred (100) members, the total number of video gaming machines not to exceed ten (10). Violation of this subsection is a Class C misdemeanor, or

(3) an authorized video gaming machine if the person is currently enjoined from operating a public nuisance.

Violation of this subsection constitutes a Class E felony.

(c) A license for the operation of authorized gaming activity by a licensed establishment owner or manager must include the following information:

(1) a description of the premises upon which the authorized gaming activity will take place; and

(2) the establishment owner's or manager's name; and

(3) a description of each authorized video gaming machine for which the licensed operator supplying the machine has agreed to place upon the premises, including the type of game and model number for each such machine;

or

(4) a description of each authorized video gaming machine which is present and/or available for play upon the premises, including the name of the licensed operator supplying the machine, the type of game and license number or decal number for each such machine; and

(5) any other relevant information determined necessary by the commission.

(d) The establishment owner's or manager's license shall be subject to annual renewal along with all permits for authorized video gaming machines listed to the establishment owner or manager.

(e) The establishment owner's or manager's license must be updated each time the permit for an authorized video gaming

machine is newly issued and each time an authorized video gaming machine is removed from the premises.

(f) The commission shall charge an annual license fee of one hundred dollars (\$100) for the issuance or renewal of an establishment owner's or manager's license, which fee shall include updating during the license year.

(g) In addition to other license fees, the commission may charge the applicant a one-time establishment owner's or manager's license application processing fee. The processing fee may not exceed the commission's actual costs for processing an application.

(h) All establishment owner's or manager's licenses expire on June 30 of each year. However, initial establishment owner's or manager's licenses shall be issued each year on: January 1, April 1, July 1, or October 1. The annual license fee charged for such initial license shall be prorated according to the date of issuance. The commission shall establish and announce quarterly deadlines for consideration of such initial licenses and shall duly consider and appropriately act upon all applications properly submitted before such deadline.

(i) The establishment owner's or manager's license must be prominently displayed upon the premises for which it is issued.

(j) A person to whom a license is issued under this section is not eligible for issuance of a license for the manufacture or distribution or operation of authorized video gaming machines under Section 12, Part 3, §4-_-305, §4-_-306, or §4-_-307 of this act. A person to whom a license is issued under this section shall not advertise in any media or any manner, visible from outside the

premises, the fact that video gaming machines are available for use within the premises. A person to whom a license is issued under this section shall not lease any video gaming machines unless such lease constitutes a written, exclusive contract for a period of at least two (2) years, initially, and for a period of at least one year in all subsequent years of the lease contract. To be a valid lease, the contract must be entered into only after the parties to the lease are properly licensed pursuant to the provisions of this act.

§4-_-309. (a) The commission, upon payment of the fee provided in subsection (b) and in conformance with rules promulgated under this part, may issue to a person who is a duly licensed operator under Section 12, Part 3, §4-_-308 of this act, a permit for use and play of an authorized video gaming machine.

(b) The commission shall charge an annual permit fee of one hundred dollars (\$100) for each authorized video gaming machine permit.

(c) Each such permit shall expire on June 30 of each year, and the fee shall be prorated.

(d) An applicant for an authorized video gaming machine permit shall disclose on the application form to the commission any information required by the commission consistent with the provisions of Section 12, Part 3, §§4-_-303 through 4-_-308 of this act and applicable rules of the commission.

§4-_-310. Each authorized video gaming machine licensed under this chapter shall:

(a) offer only games specifically authorized by the commission;

(b) not have any means of manipulation unless specifically approved by the commission;

(c) have one (1) or more mechanisms that accept coins or cash in the form of bills, (The mechanisms shall be designed to prevent obtaining credits without paying by stringing, slamming, drilling, or other means. If such attempts involve physical tampering, the machine shall suspend itself from operation until reset.);

(d) have nonresettable meters housed in any readily accessible locked machine area that keep a permanent record of all cash inserted into the machine, all refunds of winnings made by the machine's printer, credits played for video games, and credits won by video game players;

(e) be capable of printing a ticket voucher stating the value of the cash award for the player at the completion of each video game, the time of day in a twenty-four (24) hour format showing hours and minutes, the date; the machine serial number, the sequential number of the ticket vouchers, and an encrypted validation number from which the validity of the prize may be determined;

(f) have accounting software that keeps an electronic record which includes, but is not limited to, the following: total cash inserted into the machine, the value of winning tickets claimed by players, the total video gaming credits played and the total video gaming credits awarded by a video game, and the payback percentage credited players of each video game;

(g) be linked by a dedicated, sole-use telephone line to a central, computerized communications system maintained by the commission to provide auditing program information required by the

commission, (Public use of each machine shall be prohibited unless and until such machine is properly connected to and communicating with such central, computerized communications system. In no event may the communications system approved by the commission limit participation to less than five (5) manufacturers of video gaming machines by either the cost in implementing the necessary program modifications to communicate or the inability to communicate with the central communications system. Nothing in this section shall be construed as requiring a machine to be in constant communication with a central computer).

§4-_-311. (a) The commission shall examine and may approve a new video gaming machine and associated equipment which are manufactured, sold, or distributed for use in the state before the video gaming machine or associated equipment is sold, played, or used.

(b) A video gaming machine or associated equipment may not be examined or approved by the commission until the video gaming machine manufacturer is licensed as required in Section 12, Part 3, §4-_-305 of this act.

(c) The commission shall require the manufacturer seeking the examination and approval of a new video gaming machine or associated equipment to pay the actual costs of the examination in advance and, after the completion of the examination, shall refund overpayment or charge and collect amounts sufficient to reimburse the commission for underpayment of actual costs.

(d) The commission may inspect and test and approve, disapprove, or place a condition upon a video gaming machine prior to its distribution and placement for play by the public.

§4-_-312. (a) A person may make available for public play only the number of authorized video gaming machines specifically approved by a license for the operation of authorized gaming activity issued by the commission by this part; provided, however, nothing contained within the language of this subsection shall be construed to supersede or modify the prohibition contained within Section 12, Part 3, §4-_-307(b). No person licensed under the provisions of this act shall offer or provide credit or any other inducement to any player to play or continue to play any licensed game. The offer or provision of such credit or inducement is a Class E felony.

(b) Only the number of approved machines for which permits have been granted under Section 12, Part 3, §4-_-309 of this act may be made available for play for the public on the premises of a licensed owner or manager; provided, however, nothing contained within the language of this subsection shall be construed to supersede or modify the prohibition contained within Section 12, Part 3, §4-_-307(b).

§4-_-313. With respect to authorized video gaming machines, the commission shall prescribe the expected payback value of one (1) credit awarded to be not less than eighty percent (80%) nor more than ninety-two percent (92%), of the value of one (1) credit played, as confirmed by an independent testing laboratory as selected by the commission. Each authorized video gaming machine must have an electronic accounting device that the commission may use to verify the winning percentage. The commission may promulgate rules setting forth the specification of electronic accounting devices which must be included on authorized video gaming machines.

§4-_-314. (a) An authorized video gaming machine may not allow more than five dollars (\$5.00) to be played on any one cycle of operation.

(b) An authorized video gaming machine shall not allow more than one player to activate the game simultaneously.

(c) A licensee shall pay in cash all credits owed to a player as shown on a valid ticker voucher.

§4-_-315. (a) An operator issued a license under this part shall pay to the Tennessee Department of Revenue, by means of electronic funds transfer, a video gaming machine tax of fifteen percent (15%) of net machine income after winnings are paid from each authorized video gaming machine for which a permit has been issued under this part. For 1997, the amount of such tax shall be increased to seventeen and one-half percent (17.5%). For 1998, the amount of such tax shall be increased to twenty percent (20%). For 1999, the amount of such tax shall be increased to twenty-two and one-half percent (22.5%). And for 2000 and subsequent years, the amount of such tax shall be fixed at twenty-five percent (25%). Except as provided in subsection (e), the revenues collected pursuant to such tax shall be paid into the state's general fund.

(b) An operator issued a license under this part shall pay to the licensed establishment owner or manager, after deducting the tax required by subsection (a) and the winnings paid to players, no more than forty percent (40%) of net machine income from each authorized video gaming machine on his premises as shall be specified in a contract required pursuant to Section 12, Part 3, §4-_-308(j).

(c) An operator issued a permit under this part shall keep a record of net machine income in such form as the commission may require. The

records must at all times during the business hours of the licensee be subject to inspection by the commission.

(d) An operator shall, upon request by the commission, complete and deliver to the commission a statement showing the total net machine income from each authorized video gaming machine for which a permit has been issued, together with the total amount due the state as authorized video gaming machine net income tax for the preceding reporting period. The statement must contain other relevant information as the commission may require.

§4-_-316. If a machine fails to meet the specifications and requirements of this part or any rule of the commission which specification or requirement existed at the time the machine was approved or at any time after its initial permit has been issued, the operator shall immediately remove the machine from public access until it meets all requirements.

§4-_-317. All fines, penalties, forfeitures, and confiscated money collected as a result of criminal, civil, or administrative process for a violation of a provision of this chapter or a rule of the commission must be deposited in the state's general fund. All such fines, penalties, forfeitures, and confiscated money shall be allocated to fund the provisions of this act; provided, however, the provisions of this sentence shall not be construed to constitute an appropriation of funds and no funds shall be obligated or expended pursuant to this sentence unless such funds are specifically appropriated by the general appropriations act.

§4-_-318. (a) If the commission has reasonable grounds to believe that a person has engaged or is engaging in an act or practice constituting a significant violation of a provision of this chapter or a rule or order of the commission, then the commission may:

(1) issue an emergency suspension of a license or permit effective immediately; and

(2) following notice and an opportunity for hearing, and with the right of judicial review, pursuant to the Tennessee Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5:

(A) order continued suspension of license or permit pending such judicial review;

(B) place the licensee or permittee on probation;

(C) suspend for a period not to exceed one hundred eighty (180) days a license or permit for the gaming activity, device or record, or enterprise involved in the act or practice constituting the violation;

(D) revoke a license or permit for the gaming activity, device or record, or enterprise involved in the act or practice constituting the violation;

(E) impose a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation, whether or not the person is licensed by the commission; and

(F) impose any combination of the penalties contained in this subsection (a).

(b) If the commission has reasonable grounds to believe that a person may have committed a criminal offense, it shall promptly notify the appropriate state and/or local law enforcement agencies and prosecutorial authorities.

(c) A civil penalty imposed under this section must be collected by the commission and deposited in the state's general fund and shall be allocated to fund implementation of the provisions of this act; provided,

however, the provisions of this sentence shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this sentence unless such funds are specifically appropriated by the general appropriations act. If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and may be recovered by the commission in a civil action.

(d) If sufficient cause exists under this section, the commission may disable one or more gaming machines via the dedicated, sole-use telephone line described in Section 12, Part 3, §4-_-310(g).

(e) A person aggrieved by an action of the commission may appeal such action, which shall be conducted as a contested case proceeding under the provisions of the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 13. On or before October 1, 1995, the commission shall advertise for and otherwise solicit applications from all persons who may desire licensure effective January 1, 1996. All such applications received by the commission shall be appropriately reviewed and considered and all such applications which are approved shall be simultaneously announced on December 8, 1995, and shall become effective on January 1, 1996.

SECTION 14. For purposes of Tennessee Code Annotated, Section 4-29-118, and the Tennessee Governmental Entity Review Law, the Tennessee State Video Gaming Machine Control Commission, created by this act, shall terminate on June 30, 1997.

SECTION 15. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid

provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 16. For purposes of appointing the commission; organizing the commission and its staff; advertising, soliciting, reviewing and approving licenses; and promulgating all rules reasonably necessary for implementation of this act; this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 1996.