

112TH CONGRESS
1ST SESSION

H. R. 1174

To amend title 31, United States Code, to provide for the licensing of Internet gambling activities by the Secretary of the Treasury, to provide for consumer protections on the Internet, to enforce the tax code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. CAMPBELL (for himself, Mr. FRANK of Massachusetts, Mr. KING of New York, and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 31, United States Code, to provide for the licensing of Internet gambling activities by the Secretary of the Treasury, to provide for consumer protections on the Internet, to enforce the tax code, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Gambling
5 Regulation, Consumer Protection, and Enforcement Act”.

1 **SEC. 2. FEDERAL LICENSING REQUIREMENT FOR INTER-**
2 **NET GAMBLING OPERATORS.**

3 (a) IN GENERAL.—Chapter 53 of title 31, United
4 States Code, is amended by adding at the end the fol-
5 lowing new subchapter:

6 “SUBCHAPTER V—REGULATION OF LAWFUL
7 INTERNET GAMBLING

8 “§ 5381. **Congressional findings**

9 “The Congress finds the following:

10 “(1) Since the development of the Internet, mil-
11 lions of people have chosen to gamble online, and
12 today Internet gambling is offered by operators lo-
13 cated in many different countries under a variety of
14 licensing and regulatory regimes.

15 “(2) Despite the increasing use of the Internet
16 for gambling by persons in the United States, there
17 is no Federal or State regulatory regime in place to
18 protect United States citizens who choose to engage
19 in this interstate activity, or to oversee operators to
20 establish and enforce standards of integrity and fair-
21 ness.

22 “(3) In the United States, gambling activities,
23 equipment, and operations have been subject to var-
24 ious forms of Federal and State control, regulation,
25 and enforcement, with some form of gambling being

1 permitted in nearly every State and by many Indian
2 tribes.

3 “(4) Internet gambling in the United States
4 should be controlled by a strict Federal, State, and
5 tribal licensing and regulatory framework to protect
6 underage and otherwise vulnerable individuals, to
7 ensure the games are fair, to address the concerns
8 of law enforcement, and to enforce any limitations
9 on the activity established by the States and Indian
10 tribes.

11 “(5) An effective Federal, State, and tribal li-
12 censing system would ensure that licenses are issued
13 only to Internet gambling operators which meet
14 strict criteria to protect consumers, and which—

15 “(A) are in good financial and legal stand-
16 ing, and of good character, honesty, and integ-
17 rity;

18 “(B) utilize appropriate technology to de-
19 termine the age and location of users;

20 “(C) adopt and implement systems to pro-
21 tect minors and problem gamblers;

22 “(D) adopt and implement systems to en-
23 force any applicable Federal, State, and Indian
24 tribe limitations on Internet gambling; and

1 “(E) have in place risk-based methods to
2 identify and combat money laundering and
3 fraud relating to Internet gambling, and to pro-
4 tect the privacy and security of users.

5 “(6) There is a need to extend the regulatory
6 provisions of this Act to all persons, locations, equip-
7 ment, practices, and associations related to Internet
8 gambling, with each State and Indian tribe having
9 the ability to limit Internet gambling operators from
10 offering Internet gambling to persons located within
11 its territory by opting out of the provisions of this
12 Act.

13 **“§ 5382. Definitions**

14 “For purposes of this subchapter, the following defi-
15 nitions shall apply:

16 “(1) APPLICANT.—The term ‘applicant’ means
17 any person who has applied for a license pursuant
18 to this subchapter.

19 “(2) BET OR WAGER.—The term ‘bet or wager’
20 has the same meaning as in section 5362(1).

21 “(3) ENFORCEMENT AGENT.—The term ‘en-
22 forcement agent’ means any individual authorized by
23 the Secretary to enforce the provisions of this sub-
24 chapter and regulations prescribed under this sub-
25 chapter.

1 “(4) INDIAN LANDS AND INDIAN TRIBE.—The
2 terms ‘Indian lands’ and ‘Indian tribe’ have the
3 same meanings as in section 4 of the Indian Gaming
4 Regulatory Act.

5 “(5) INTERNET.—The term ‘Internet’ has the
6 same meaning as in section 5362(5).

7 “(6) LICENSEE.—The term ‘licensee’ means an
8 entity authorized to operate an Internet gambling
9 facility in accordance with this subchapter.

10 “(7) OPERATE AN INTERNET GAMBLING FACIL-
11 ITY.—The term ‘operate an Internet gambling facil-
12 ity’ or ‘operation of an Internet gambling facility’
13 means the direction, management, supervision, or
14 control of an Internet site through which bets or wa-
15 gers are initiated, received, or otherwise made,
16 whether by telephone, Internet, satellite, or other
17 wire or wireless communication.

18 “(8) SECRETARY.—The term ‘Secretary’ means
19 the Secretary of the Treasury, or any person des-
20 ignated by the Secretary.

21 “(9) STATE.—The term ‘State’ means any
22 State of the United States, the District of Columbia,
23 or any commonwealth, territory, or other possession
24 of the United States.

1 “(10) SPORTING EVENT.—The term ‘sporting
2 event’ means any athletic competition, whether pro-
3 fessional, scholastic, or amateur.

4 **“§ 5383. Establishment and administration of licens-**
5 **ing program**

6 “(a) TREASURY RESPONSIBILITIES.—The Secretary
7 shall have responsibility for the following activities:

8 “(1) Exercising full regulatory jurisdiction
9 over—

10 “(A) the operation of Internet gambling fa-
11 cilities by licensees; and

12 “(B) the licensure and regulation of all ap-
13 plicants, except to the extent that powers have
14 been delegated to qualified State and tribal reg-
15 ulatory bodies pursuant to this subchapter.

16 “(2) Prescribing such regulations as may be
17 necessary to administer and enforce the require-
18 ments of this subchapter.

19 “(3) Employing enforcement agents with suffi-
20 cient training and experience to administer the re-
21 quirements of this subchapter and the regulations
22 prescribed under this subchapter.

23 “(4) Enforcing the requirements of this sub-
24 chapter through all appropriate means provided
25 under this subchapter and other provisions of law.

1 “(b) INTERNET GAMBLING LICENSING PROGRAM.—

2 “(1) LICENSING REQUIRED FOR CERTAIN
3 INTERNET GAMBLING.—No person may operate an
4 Internet gambling facility that knowingly accepts
5 bets or wagers from persons located in the United
6 States without a license issued by the Secretary in
7 accordance with this subchapter.

8 “(2) AUTHORITY UNDER VALID LICENSE.—A li-
9 censee may accept bets or wagers from persons lo-
10 cated in the United States, subject to the limitations
11 set forth in this subchapter, so long as its license re-
12 mains in good standing.

13 “(c) APPLICATION FOR LICENSE.—

14 “(1) IN GENERAL.—Any person seeking author-
15 ity to operate an Internet gambling facility offering
16 services to persons in the United States may apply
17 for a license issued by the Secretary.

18 “(2) INFORMATION REQUIRED.—Any applica-
19 tion for a license under this subchapter shall contain
20 such information as may be required by the Sec-
21 retary, including the following:

22 “(A) The criminal and credit history of the
23 applicant, any senior executive and director of
24 the applicant, and any person deemed to be in
25 control of the applicant.

1 “(B) The financial statements of the appli-
2 cant.

3 “(C) Documentation showing the corporate
4 structure of the applicant and all related busi-
5 nesses and affiliates.

6 “(D) Documentation containing detailed
7 evidence of the applicant’s plan for complying
8 with all applicable regulations should a license
9 be issued, with particular emphasis on the ap-
10 plicant’s ability to—

11 “(i) protect underage and problem
12 gamblers;

13 “(ii) ensure games are being operated
14 fairly; and

15 “(iii) comply with and address the
16 concerns of law enforcement.

17 “(E) Certification that the applicant
18 agrees to submit to United States jurisdiction
19 and all applicable United States laws relating to
20 acceptance by the applicant of bets or wagers
21 over the Internet from persons located in the
22 United States and all associated activities.

23 “(F) Certification that the applicant has
24 established a corporate entity or other separate
25 business entity in the United States, a majority

1 of whose officers are United States persons
2 and, if there is a board of directors, that the
3 board is majority-controlled by directors who
4 are United States persons.

5 “(d) STANDARDS FOR LICENSE ISSUANCE; SUI-
6 TABILITY QUALIFICATIONS AND DISQUALIFICATION
7 STANDARDS.—

8 “(1) SUITABILITY FOR LICENSING STAND-
9 ARDS.—

10 “(A) IN GENERAL.—No person shall be eli-
11 gible to obtain a license unless the Secretary or
12 an appropriate State officer or agency has de-
13 termined, upon completion of a background
14 check and investigation, that the applicant, and
15 any person deemed to be in control of the appli-
16 cant, is suitable for licensing.

17 “(B) ASSOCIATES OF APPLICANTS.—If the
18 applicant is a corporation, partnership, or other
19 business entity, a background check and inves-
20 tigation shall occur with respect to the presi-
21 dent or other chief executive of the corporation,
22 partnership, or other business entity and other
23 partners or senior executives and directors of
24 the corporation, partnership, or entity, as deter-

1 mined appropriate by the Secretary or any ap-
2 propriate State or tribal officer or agency.

3 “(C) BACKGROUND CHECK AND INVES-
4 TIGATION.—The Secretary shall establish
5 standards and procedures for conducting back-
6 ground checks and investigations for purposes
7 of this subsection.

8 “(2) SUITABILITY FOR LICENSING STANDARDS
9 DESCRIBED.—For purposes of this subchapter, an
10 applicant and any other person associated with the
11 applicant, as applicable, is suitable for licensing if
12 the applicant demonstrates to the Secretary or ap-
13 propriate State or tribal officer or agency by clear
14 and convincing evidence that the applicant (or indi-
15 vidual associated with the applicant, as applicable)—

16 “(A) is a person of good character, hon-
17 esty, and integrity;

18 “(B) is a person whose prior activities,
19 reputation, habits, and associations do not—

20 “(i) pose a threat to the public inter-
21 est or to the effective regulation and con-
22 trol of the licensed activities; or

23 “(ii) create or enhance the dangers of
24 unsuitable, unfair, or illegal practices,
25 methods, and activities in the conduct of

1 the licensed activities or the carrying on of
2 the business and financial arrangements
3 incidental to such activities;

4 “(C) is capable of and likely to conduct the
5 activities for which the applicant is licensed in
6 accordance with the provisions of this sub-
7 chapter and any regulations prescribed under
8 this subchapter;

9 “(D) has or guarantees acquisition of ade-
10 quate business competence and experience in
11 the operation of Internet gambling facilities;
12 and

13 “(E) has or will obtain sufficient financing
14 for the nature of the proposed operation and
15 from a suitable source.

16 “(3) UNSUITABLE FOR LICENSING.—An appli-
17 cant or any other person may not be determined to
18 be suitable for licensing within the meaning of this
19 subchapter if the applicant or such person—

20 “(A) has failed to provide information and
21 documentation material to a determination of
22 suitability for licensing under paragraph (1);

23 “(B) has supplied information which is un-
24 true or misleading as to a material fact per-
25 taining to any such determination;

1 “(C) has been convicted of an offense pun-
2 ishable by imprisonment of more than 1 year;

3 “(D) is delinquent in filing any applicable
4 Federal or State tax returns or in the payment
5 of any taxes, penalties, additions to tax, or in-
6 terest owed to a State or the United States;

7 “(E) has, on or after the date of the enact-
8 ment of the Unlawful Internet Gambling En-
9 forcement Act of 2006—

10 “(i) knowingly participated in, or
11 should have known they were participating
12 in, any illegal Internet gambling activity,
13 including the taking of an illegal Internet
14 wager, the payment of winnings on an ille-
15 gal Internet wager, the promotion through
16 advertising of any illegal Internet gambling
17 Web site or service, or the collection of any
18 payments to an entity operating an illegal
19 Internet gambling Web site; or

20 “(ii) knowingly been owned, operated,
21 managed, or employed by, or should have
22 known they were owned, operated, man-
23 aged, or employed by, any person who was
24 knowingly participating in, or should have
25 known they were participating in, any ille-

1 gal Internet gambling activity, including
2 the taking of an illegal Internet wager, the
3 payment of winnings on an illegal Internet
4 wager, the promotion through advertising
5 of any illegal Internet gambling Web site
6 or service, or the collection of any pay-
7 ments to an entity operating an illegal
8 Internet gambling Web site;

9 “(F) has—

10 “(i) received any assistance, financial
11 or otherwise, from any person who has, be-
12 fore the date of the enactment of the
13 Internet Gambling Regulation, Consumer
14 Protection, and Enforcement Act, know-
15 ingly accepted bets or wagers from a per-
16 son located in the United States in viola-
17 tion of Federal or State law; or

18 “(ii) provided any assistance, financial
19 or otherwise, to any person who has, before
20 the date of the enactment of the Internet
21 Gambling Regulation, Consumer Protec-
22 tion, and Enforcement Act, knowingly ac-
23 cepted bets or wagers from a person lo-
24 cated in the United States in violation of
25 Federal or State law;

1 “(G) with respect to another entity that
2 has accepted a bet or wager from any individual
3 in violation of United States law, has purchased
4 or otherwise obtained—

5 “(i) such entity;

6 “(ii) a list of the customers of such
7 entity; or

8 “(iii) any other part of the equipment
9 or operations of such entity;

10 “(H) is listed on a State gambling ex-
11 cluded persons list; or

12 “(I) fails to certify in writing, under pen-
13 alty of perjury, that the applicant or other such
14 person, and all affiliated business entities (in-
15 cluding all entities under common control), has
16 through its entire history—

17 “(i) not committed an intentional fel-
18 ony violation of Federal or State gambling
19 laws; and

20 “(ii) used diligence to prevent any
21 United States person from placing a bet on
22 an Internet site in violation of Federal or
23 State gambling laws.

24 “(4) APPEAL OF DETERMINATION.—With re-
25 spect to any applicant or other person that the Sec-

1 retary determines is not suitable for licensing within
2 the meaning of this subchapter by reason of sub-
3 paragraph (E) or (F) of paragraph (3), and where
4 the Secretary has not determined that such appli-
5 cant or person was acting in their capacity as a
6 managerial employee of an Internet gambling Web
7 site, the Secretary shall establish an appeals process
8 by which such applicant or person may appeal the
9 Secretary's determination.

10 “(5) ONGOING REQUIREMENT.—A licensee (and
11 any other person who is required to be determined
12 to be suitable for licensing in connection with such
13 licensee) shall meet the standards necessary to be
14 suitable for licensing throughout the term of the li-
15 cense.

16 “(6) PROTECTION OF THE PUBLIC TRUST.—
17 The Secretary may take such action as is necessary
18 to protect the public trust, including the implemen-
19 tation of such safeguards as may be necessary to en-
20 sure the operation of an Internet gambling facility
21 licensed under this subchapter is controlled only by
22 persons who are suitable for licensing.

23 “(7) ENFORCEMENT ACTIONS.—

24 “(A) DETERMINATION OF UNSUITABILITY
25 FOR CONTINUED LICENSURE.—If the Secretary

1 finds that an individual owner or holder of a se-
2 curity of a licensee, or of a holding or inter-
3 mediary company of a licensee or any person
4 with an economic interest in a licensee or a di-
5 rector, partner, or officer of a licensee is not
6 suitable for licensing, the Secretary may deter-
7 mine that the licensee is not qualified to con-
8 tinue as a licensee.

9 “(B) ACTION TO PROTECT THE PUBLIC IN-
10 TEREST, INCLUDING SUSPENSION.—If the Sec-
11 retary may determine that the licensee is not
12 qualified to continue as a licensee, the Secretary
13 shall propose action necessary to protect the
14 public interest, including, if deemed necessary,
15 the suspension of the authority of the licensee
16 to engage in licensed activities.

17 “(C) IMPOSITION OF CONDITIONS INCLUD-
18 ING REMOVAL OF PARTIES.—Notwithstanding a
19 determination under subparagraph (A), the
20 Secretary may allow a licensee to continue en-
21 gaging in licensed activities by imposing condi-
22 tions on the licensee under penalty of revocation
23 or suspension of the authority of the licensee to
24 engage in licensed activities, including—

1 “(i) the identification of any person
2 determined to be unsuitable for licensing;
3 and

4 “(ii) the establishment of appropriate
5 safeguards to ensure such person is ex-
6 cluded from any interest in the licensed ac-
7 tivities.

8 “(e) ASSESSMENTS FOR ADMINISTRATIVE EX-
9 PENSES.—

10 “(1) USER FEES.—

11 “(A) IN GENERAL.—The cost of admin-
12 istering this subchapter with respect to each li-
13 censee, including the cost of any review or ex-
14 amination of a licensee to ensure compliance
15 with the terms of the license and this sub-
16 chapter, shall be assessed by the Secretary
17 against the licensee institution by written notice
18 in an amount appropriate to meet the Sec-
19 retary’s expenses in carrying out such adminis-
20 tration, review, or examination.

21 “(B) DISPOSITION.—Amounts assessed by
22 the Secretary as user fees under subparagraph
23 (A) shall—

1 “(i) be maintained by the Secretary
2 solely for use in accordance with clause
3 (ii);

4 “(ii) be available to the Secretary to
5 cover all expenses incurred by the Sec-
6 retary in carrying out this subchapter; and

7 “(iii) not be construed to be Govern-
8 ment funds or appropriated monies, or
9 subject to apportionment for the purposes
10 of chapter 15 or any other authority.

11 “(C) HEARING.—Any licensee against
12 whom an assessment is assessed under this
13 paragraph shall be afforded an agency hearing
14 if such person submits a request for such hear-
15 ing within 20 days after the issuance of the no-
16 tice of assessment.

17 “(D) COLLECTION.—

18 “(i) REFERRAL.—If any licensee fails
19 to pay an assessment under this paragraph
20 after the assessment has become final, the
21 Secretary shall recover the amount as-
22 sessed by action in the appropriate United
23 States district court.

24 “(ii) APPROPRIATENESS OF ASSESS-
25 MENT NOT REVIEWABLE.—In any civil ac-

1 tion under clause (i), the validity and ap-
2 propriateness of the assessment shall not
3 be subject to review.

4 “(2) DIRECT AND EXCLUSIVE OBLIGATION OF
5 LICENSEE.—The user fee shall be the direct and ex-
6 clusive obligation of the licensee and may not be de-
7 ducted from amounts available as deposits to any
8 person placing a bet.

9 “(f) APPROVAL OF LICENSE.—The Secretary shall
10 grant licenses under this subchapter if the applicant meets
11 the criteria set by the Secretary set forth in this sub-
12 chapter and in any regulations promulgated thereunder.

13 “(g) SAFEGUARDS REQUIRED OF LICENSEE.—No
14 person may operate an Internet gambling facility in ac-
15 cordance with this subchapter unless the person maintains
16 or requires mechanisms so that the following require-
17 ments, and the standards established under section 5384,
18 are met with respect to any Internet bet or wager:

19 “(1) LEGAL AGE.—Appropriate safeguards to
20 ensure that the individual placing a bet or wager is
21 of legal age as defined by the law of the State or
22 tribal area in which the individual is located at the
23 time the bet or wager is placed.

24 “(2) PERMISSIBLE LOCATION.—Appropriate
25 safeguards to ensure that the individual placing a

1 bet or wager is physically located in a jurisdiction
2 that permits Internet gambling at the time the bet
3 or wager is placed.

4 “(3) COLLECTION OF CUSTOMER TAXES.—Ap-
5 propriate mechanisms to ensure that all taxes relat-
6 ing to Internet gambling from persons engaged in
7 Internet gambling are collected at the time of any
8 payment of any proceeds of Internet gambling.

9 “(4) COLLECTION OF TAXES OF LICENSEE.—
10 Appropriate mechanisms to ensure that all taxes re-
11 lating to Internet gambling from any licensee are
12 collected and disbursed as required by law, and that
13 adequate records to enable later audit or verification
14 are maintained.

15 “(5) SAFEGUARDS AGAINST FINANCIAL
16 CRIME.—Appropriate safeguards to combat fraud,
17 money laundering, and terrorist finance.

18 “(6) SAFEGUARDS AGAINST COMPULSIVE GAM-
19 BLING.—Appropriate safeguards to combat compul-
20 sive Internet gambling.

21 “(7) PRIVACY SAFEGUARDS.—Appropriate safe-
22 guards to protect the privacy and security of any
23 person engaged in Internet gambling.

1 “(8) PAYMENT OF ASSESSMENTS.—Appropriate
2 mechanisms to ensure that any assessment under
3 subsection (e) is paid to the Secretary.

4 “(9) OTHER REQUIREMENTS.—Such other re-
5 quirements as the Secretary may establish by regula-
6 tion or order.

7 “(h) TERM AND RENEWAL OF LICENSE.—

8 “(1) TERM.—Any license issued under this sec-
9 tion shall be issued for a 5-year term beginning on
10 the date of issuance.

11 “(2) RENEWAL.—Licenses may be renewed in
12 accordance with the requirements prescribed by the
13 Secretary pursuant to this subchapter.

14 “(i) REVOCATION OF LICENSE.—

15 “(1) IN GENERAL.—Any license granted under
16 this subchapter may be revoked by the Secretary
17 if—

18 “(A) the licensee fails to comply with any
19 provision of this subchapter;

20 “(B) the licensee is determined to be un-
21 suitable for licensing, within the meaning of
22 this subchapter; or

23 “(C) the licensee is determined to be tar-
24 geting marketing or advertising materials at in-
25 dividuals who are not of legal age to place a bet

1 or wager, as defined by the law of the State or
2 tribal area in which the individuals are located.

3 “(2) FINAL ACTION.—Any revocation of a li-
4 cense under paragraph (1) shall be treated as a final
5 action by the Secretary.

6 “(j) REGULATIONS.—The regulations prescribed by
7 the Secretary under this subchapter shall include regula-
8 tions to fully implement—

9 “(1) safeguards required for licensees under
10 subsection (g); and

11 “(2) the requirements for programs relating to
12 the Problem Gambling, Responsible Gambling, and
13 Self-Exclusion Program under section 5384.

14 “(k) ADMINISTRATIVE PROVISIONS.—

15 “(1) GENERAL POWERS OF SECRETARY.—

16 “(A) IN GENERAL.—The Secretary shall
17 have the authority to engage in the following:

18 “(i) Investigate the suitability of each
19 licensee to ensure compliance with this
20 subchapter and regulations prescribed
21 under this subchapter.

22 “(ii) Require licensees to maintain ap-
23 propriate procedures to ensure compliance
24 with this subchapter and regulations pre-
25 scribed under this subchapter.

1 “(iii) Require licensees to maintain
2 substantial facilities involved with the proc-
3 essing of bets or wagers from the United
4 States within the United States.

5 “(iv) Require that a majority of all of
6 the employees of the applicant or licensee,
7 and of its affiliated business entities, be
8 residents or citizens of the United States.
9 All entities under common control shall be
10 considered affiliated business entities for
11 the purposes of this subparagraph.

12 “(v) Require licensees to maintain in
13 the United States all facilities that are es-
14 sential to the regulation of bets or wagers
15 placed from the United States at a location
16 that is accessible to the appropriate regu-
17 latory personnel at all times.

18 “(vi) Examine any licensee and any
19 books, papers, records, or other data of li-
20 censees relevant to any recordkeeping or
21 reporting requirements imposed by the
22 Secretary under this subchapter.

23 “(vii) Require licensees to maintain all
24 facilities within the United States for proc-

1 essing of bets or wagers made or placed
2 from the United States.

3 “(viii) When determined by the Sec-
4 retary to be necessary, summon a licensee
5 or an applicant for a license, an officer or
6 employee of a licensee or any such appli-
7 cant (including a former officer or em-
8 ployee), or any person having possession,
9 custody, or care of the reports and records
10 required by the Secretary under this sub-
11 chapter, to appear before the Secretary or
12 a designee of the Secretary at a time and
13 place named in the summons and to
14 produce such books, papers, records, or
15 other data, and to give testimony, under
16 oath, as may be relevant or material to any
17 investigation in connection with the en-
18 forcement of this subchapter or any appli-
19 cation for a license under this subchapter.

20 “(ix) Investigate any violation of this
21 subchapter and any regulation under this
22 subchapter and any other violation of law
23 relating to the operation of an Internet
24 gambling facility.

1 “(x) Conduct continuing reviews of
2 applicants and licensees and the operation
3 of Internet gambling facilities by use of
4 technological means, onsite observation of
5 facilities, including servers, or other rea-
6 sonable means to assure compliance with
7 this subchapter and any regulations pro-
8 mulgated hereunder.

9 “(xi) Prohibit inappropriate adver-
10 tising practices by licensees, including un-
11 solicited emails targeting members of vul-
12 nerable populations, including problem
13 gamblers and minors, or Internet adver-
14 tising linked to search terms associated
15 with children, problem gamblers, or other
16 topics deemed inappropriate.

17 “(B) EFFECT OF WTO RULING.—Clauses
18 (iii) and (iv) of subparagraph (A) shall cease to
19 have effect if a tribunal of the World Trade Or-
20 ganization of final arbitration rules that the im-
21 plementation of such clauses would violate the
22 trade commitments of the United States under
23 the World Trade Organization.

24 “(2) CONSULTATION WITH INDIAN TRIBES.—In
25 implementing this subchapter, the Secretary shall

1 conduct meaningful consultation with Indian tribes
2 regarding all aspects of this subchapter which affect
3 Indian tribes, both as potential licensing entities or
4 operating entities.

5 “(3) ADMINISTRATIVE ASPECTS OF SUM-
6 MONS.—

7 “(A) PRODUCTION AT DESIGNATED
8 SITE.—A summons issued pursuant to this sub-
9 section may require that books, papers, records,
10 or other data stored or maintained at any place
11 be produced at any business location of a li-
12 censee or applicant for a license or any des-
13 ignated location in any State or in any territory
14 or other place subject to the jurisdiction of the
15 United States not more than 500 miles distant
16 from any place where the licensee or applicant
17 for a license operates or conducts business in
18 the United States.

19 “(B) NO LIABILITY FOR EXPENSES.—The
20 United States shall not be liable for any ex-
21 pense incurred in connection with the produc-
22 tion of books, papers, records, or other data
23 under this subsection.

24 “(C) SERVICE OF SUMMONS.—Service of a
25 summons issued under this subsection may be

1 by registered mail or in such other manner cal-
2 culated to give actual notice as the Secretary
3 may prescribe by regulation.

4 “(4) CONTUMACY OR REFUSAL.—

5 “(A) REFERRAL TO ATTORNEY GEN-
6 ERAL.—In case of contumacy by a person
7 issued a summons under this subsection or a
8 refusal by such person to obey such summons
9 or to allow the Secretary to conduct an exam-
10 ination, the Secretary shall refer the matter to
11 the Secretary of the Treasury for referral to the
12 Attorney General.

13 “(B) JURISDICTION OF COURT.—The At-
14 torney General may invoke the aid of any court
15 of the United States to compel compliance with
16 the summons within the jurisdiction of which—

17 “(i) the investigation which gave rise
18 to the summons or the examination is
19 being or has been carried on;

20 “(ii) the person summoned is an in-
21 habitant; or

22 “(iii) the person summoned carries on
23 business or may be found.

24 “(C) COURT ORDER.—The court may issue
25 an order requiring the person summoned to ap-

1 pear before the Secretary or a delegate of the
2 Secretary to produce books, papers, records,
3 and other data, to give testimony as may be
4 necessary to explain how such material was
5 compiled and maintained, to allow the Secretary
6 to examine the business of a licensee, and to
7 pay the costs of the proceeding.

8 “(D) FAILURE TO COMPLY WITH ORDER.—
9 Any failure to obey the order of the court may
10 be punished by the court as a contempt thereof.

11 “(E) SERVICE OF PROCESS.—All process
12 in any case under this subsection may be served
13 in any judicial district in which such person
14 may be found.

15 “(5) COMPILATION OF DATASETS ON PLAYER
16 BEHAVIOR.—

17 “(A) IN GENERAL.—The Secretary shall
18 compile and make available to the public, on the
19 Web site of the Secretary, datasets on player
20 behavior.

21 “(B) REGULATIONS REQUIRING SUBMIS-
22 SION OF INFORMATION.—The Secretary shall
23 prescribe regulations to require licensees under
24 this subchapter to provide information on play-
25 er behavior that the Secretary determines is ap-

1 appropriate for the datasets under subparagraph
2 (A).

3 “(C) INFORMATION REQUIRED TO BE IN-
4 CLUDED.—Datasets prepared under this para-
5 graph shall include information on any indi-
6 vidual player, if requested by the Secretary, in-
7 cluding but not limited to information con-
8 cerning gambling frequency, gaming duration,
9 the amount wagered, the number of bets placed,
10 and net losses, provided that such request com-
11 plies with the provisions of subparagraph (D).

12 “(D) PROTECTION OF PRIVACY.—All infor-
13 mation provided pursuant to this paragraph
14 shall be aggregated and anonymized, and shall
15 not contain information that either alone or in
16 combination with other data elements would
17 permit identification of any individual player.

18 “(I) CIVIL MONEY PENALTIES.—

19 “(1) IN GENERAL.—The Secretary may assess
20 upon any licensee or other person subject to the re-
21 quirements of this subchapter for any willful viola-
22 tion of this subchapter or any regulation prescribed
23 or order issued under this subchapter, a civil penalty
24 of not more than the greater of—

1 “(A) the amount (not to exceed \$100,000)
2 involved in the violation, if any; or

3 “(B) \$25,000.

4 “(2) ASSESSMENT.—

5 “(A) WRITTEN NOTICE.—Any penalty im-
6 posed under paragraph (1) may be assessed and
7 collected by the Secretary by written notice.

8 “(B) FINALITY OF ASSESSMENT.—If, with
9 respect to any assessment under paragraph (1),
10 a hearing is not requested pursuant to subpara-
11 graph (E) within the period of time allowed
12 under such subparagraph, the assessment shall
13 constitute a final and unappealable order.

14 “(C) AUTHORITY TO MODIFY OR REMIT
15 PENALTY.—The Secretary may compromise,
16 modify, or remit any penalty which the Sec-
17 retary may assess or has already assessed
18 under paragraph (1).

19 “(D) MITIGATING FACTORS.—In deter-
20 mining the amount of any penalty imposed
21 under paragraph (1), the Secretary shall take
22 into account the appropriateness of the penalty
23 with respect to—

1 “(i) the size of the financial resources
2 and the good faith of the person against
3 whom the penalty is assessed;

4 “(ii) the gravity of the violation;

5 “(iii) the history of previous viola-
6 tions; and

7 “(iv) such other matters as justice
8 may require.

9 “(E) HEARING.—The person against
10 whom any penalty is assessed under paragraph
11 (1) shall be afforded an agency hearing if such
12 person submits a request for such hearing with-
13 in 20 days after the issuance of the notice of
14 assessment.

15 “(F) COLLECTION.—

16 “(i) REFERRAL.—If any person fails
17 to pay an assessment after any penalty as-
18 sessed under this paragraph has become
19 final, the Secretary shall recover the
20 amount assessed by action in the appro-
21 priate United States district court.

22 “(ii) APPROPRIATENESS OF PENALTY
23 NOT REVIEWABLE.—In any civil action
24 under clause (i), the validity and appro-

1 priateness of the penalty shall not be sub-
2 ject to review.

3 “(G) DISBURSEMENT.—All penalties col-
4 lected under authority of this subsection shall
5 be deposited into the Treasury.

6 “(3) CONDITION FOR LICENSURE.—Payment by
7 a licensee of any civil penalty assessed under this
8 subsection that has become final shall be a require-
9 ment for the retention of its license.

10 “(m) TREATMENT OF RECORDS.—In light of busi-
11 ness competition, confidentiality, and privacy concerns,
12 the Secretary shall protect from disclosure information
13 submitted in support of a license application under this
14 subchapter and information collected in the course of reg-
15 ulating licensees to the full extent permitted by sections
16 552 and 552a of title 5.

17 “(n) SUITABILITY FOR LICENSING REQUIREMENTS
18 FOR CERTAIN SERVICE PROVIDERS.—

19 “(1) IN GENERAL.—Any person that know-
20 ingly—

21 “(A) manages, administers, or controls
22 bets or wagers that are initiated, received, or
23 otherwise made within the United States,

1 “(B) otherwise manages or administers the
2 games with which such bets or wagers are asso-
3 ciated, or

4 “(C) develops, maintains or operates, or
5 distributes or makes available for downloading
6 software, other system programs or hardware
7 that create, operate, or otherwise affect the out-
8 come of a game,

9 shall meet all of the suitability for licensing criteria
10 established under this section in the same manner
11 and to the same extent as if that person were itself
12 a licensee.

13 “(2) SUITABILITY FOR LICENSING REQUIRE-
14 MENTS FOR CERTAIN SERVICE PROVIDERS.—Any
15 failure on the part of person described in any sub-
16 paragraph of paragraph (1) to remain suitable for li-
17 censing shall be grounds for revocation of the au-
18 thority of the licensee for whom such service is pro-
19 vided to operate an Internet gambling facility, in the
20 same manner and in accordance with subsection (i).

21 “(o) RELIANCE ON STATE AND TRIBAL REGULATORY
22 BODY CERTIFICATIONS OF SUITABILITY FOR APPLI-
23 CANTS.—

24 “(1) QUALIFICATION OF STATE AND TRIBAL
25 REGULATORY BODIES.—

1 “(A) APPLICATION FOR DETERMINA-
2 TION.—Any State or tribal regulatory body with
3 expertise in regulating gambling may—

4 “(i) notify the Secretary of its willing-
5 ness to review prospective applicants to
6 certify whether any such applicant meets
7 the qualifications established under this
8 subchapter; and

9 “(ii) provide the Secretary with such
10 documentation as the Secretary determines
11 necessary for the Secretary to determine
12 whether such State or tribal regulatory
13 body is qualified to conduct such review
14 and may be relied upon by the Secretary to
15 make any such certification.

16 “(B) DETERMINATION AND NOTICE.—
17 Within 60 days after receiving any notice under
18 subparagraph (A)(i), the Secretary shall—

19 “(i) make the determination as to
20 whether a State or tribal regulatory body
21 is qualified to conduct a review of prospec-
22 tive applicants and may be relied upon to
23 certify whether any such applicant meets
24 the qualifications established under this
25 subchapter; and

1 “(ii) notify the State or tribal regu-
2 latory body of such determination.

3 “(2) ACTIONS BY QUALIFIED AUTHORITIES.—
4 During the period that any determination of quali-
5 fication under paragraph (1)(B) is in effect with re-
6 spect to any such State or tribal regulatory body,
7 the State or tribal regulatory body—

8 “(A) may undertake reviews of any appli-
9 cant to determine whether the applicant or any
10 person associated with the applicant meets the
11 criteria for suitability for licensing established
12 under this subchapter;

13 “(B) may impose on each such applicant
14 an administrative fee or assessment for con-
15 ducting such review in an amount the regu-
16 latory body determines to be necessary to meet
17 its expenses in the conduct of such review; and

18 “(C) shall process and assess each appli-
19 cant fairly and equally based on objective cri-
20 teria, regardless of any prior licensing of an ap-
21 plicant by the State or tribal regulatory body.

22 “(3) RELIANCE ON STATE OR TRIBAL CERTIFI-
23 CATION.—Any applicant may provide a certification
24 of suitability for licensing made by any State or trib-
25 al regulatory body under paragraph (2), together

1 with all documentation the applicant has submitted
2 to any such State or tribal regulatory body, to the
3 Secretary, and any such certification and docu-
4 mentation shall be relied on by the Secretary as evi-
5 dence that an applicant has met the suitability for
6 licensing requirements under this section.

7 “(4) AUTHORITY OF SECRETARY TO REVIEW.—
8 Notwithstanding any certification of suitability for
9 licensing made by any State or tribal regulatory
10 body, the Secretary retains the authority to review,
11 withhold, or revoke any license if the Secretary has
12 reason to believe that any applicant or licensee does
13 not meet the suitability requirements for licensing
14 established under this section, or any other require-
15 ment of a licensee.

16 “(5) RELIANCE ON QUALIFIED REGULATORY
17 BODY FOR OTHER PURPOSES, INCLUDING EXAMINA-
18 TION AND ENFORCEMENT.—The Secretary shall rely
19 on any State and tribal regulatory body found quali-
20 fied under this subsection for such other regulatory
21 and enforcement activities as the Secretary finds to
22 be useful and appropriate to carry out the purposes
23 of this subchapter, including authority under para-
24 graph (6).

1 “(6) ADDITIONAL AUTHORITY OF QUALIFIED
2 STATE OR TRIBAL AUTHORITIES.—The qualified
3 state or tribal authorities may—

4 “(A) examine licensees who are licensed
5 under a State or tribal program referred to in
6 paragraph (1);

7 “(B) employ enforcement agents with suf-
8 ficient training and experience to administer the
9 requirements of this subchapter; and

10 “(C) enforce any requirement of this sub-
11 chapter that is within the jurisdiction of the
12 qualified state or tribal authority through all
13 appropriate means provided under this sub-
14 chapter and other provisions of law.

15 “(7) REVOCATION OF QUALIFICATION.—The
16 Secretary may revoke, at any time and for any rea-
17 son, the qualification of any State or tribal regu-
18 latory body to certify or to conduct any other regu-
19 latory or enforcement activity to carry out the pur-
20 poses of this subchapter.

21 “(p) PREVENTION OF MINORS FROM PLACING BETS
22 OR WAGERS.—The Secretary shall—

23 “(1) frequently monitor, evaluate, and measure
24 compliance effectiveness of each licensee’s software,
25 mechanisms, and other systems for preventing mi-

1 nors from placing bets or wagers through the Inter-
2 net site of the licensee; and

3 “(2) impose a sanction of either a fine, a rev-
4 ocation of license, or both, on a licensee whose minor
5 protection software, mechanisms, and other systems
6 are found to be insufficiently effective.

7 “(q) REQUIREMENTS WITH RESPECT TO CHILD SUP-
8 PORT DELINQUENTS.—

9 “(1) IN GENERAL.—When it is made known to
10 the Secretary by a Federal or State court or a com-
11 petent State agency involved with the administration
12 or enforcement of a court-ordered child support pay-
13 ment that a particular individual is delinquent with
14 respect to court-ordered child support payments, the
15 Secretary shall include that individual on the list es-
16 tablished under section 5384(e)(1)(A).

17 “(2) REMOVAL FROM LIST.—Individuals placed
18 on the list pursuant to paragraph (1) shall be re-
19 moved from such list if the court or agency that
20 made such individual’s delinquency known to the
21 Secretary notifies the Secretary that such individual
22 is no longer delinquent.

1 **“§ 5384. Problem Gambling, Responsible Gambling,**
2 **Consumer Safeguards, and Self-Exclusion**
3 **Program**

4 “(a) REGULATIONS REQUIRED.—The Secretary and
5 any State or tribal regulatory body that has been qualified
6 under subsection 5383(o) shall prescribe regulations for
7 the development of a Problem Gambling, Responsible
8 Gambling, Consumer Safeguards, and Self-Exclusion Pro-
9 gram on the basis of standards that each licensee shall
10 implement as a condition of licensure.

11 “(b) MINIMUM REQUIREMENTS.—

12 “(1) IN GENERAL.—Any application for a li-
13 cense shall include a submission to the Secretary or
14 qualified State or tribal regulatory body setting forth
15 a comprehensive program that is intended—

16 “(A) to verify the identity and age of each
17 customer through the use of commercially avail-
18 able data sources or any approved government
19 database that is available for access in real-time
20 through an automated process;

21 “(B) to ensure that no customers under
22 the legal age 21 may initiate or otherwise make
23 any bets or wagers for real money;

24 “(C) to verify the State or tribal land in
25 which the customer is located at the time the
26 customer attempts to initiate a bet or wager;

1 “(D) to ensure that no customer who is lo-
2 cated in a State or tribal land that opts out
3 pursuant to section 5387 can initiate or other-
4 wise make a bet or wager prohibited by such
5 opt-out;

6 “(E) to ensure that responsible gambling
7 materials including materials on problem gam-
8 bling, services and resources to address problem
9 gambling, descriptions of games offered by the
10 licensee, and when appropriate, odds of winning
11 or payout rates of games, and any other mate-
12 rials that the Secretary or qualified State or
13 tribal regulatory body may deem appropriate
14 are made available to customers;

15 “(F) to make available player-selectable re-
16 sponsible gambling options that may include, as
17 appropriate to specific gambling games, a stake
18 limit, loss limit, time-based loss limits, deposit
19 limit, session time limit, time-based exclusion
20 from all gambling and other similar options
21 that the Secretary or qualified State or tribal
22 regulatory body may deem appropriate and re-
23 quire to be made available;

24 “(G) to require each customer, before mak-
25 ing or placing any bet or wager, to establish

1 personal limits as a condition of play that apply
2 across all betting sites, which may be in hourly,
3 daily, weekly or monthly increments, at the dis-
4 cretion of the customer;

5 “(H) to protect the privacy and security of
6 any customer in connection with any lawful
7 Internet gambling activity;

8 “(I) to protect against fraud and to pro-
9 vide for dispute resolution relating to internet
10 gambling activity through programs to insure
11 the integrity and fairness of the games; and

12 “(J) to protect against money laundering
13 relating to Internet gambling activities.

14 “(2) REQUIREMENTS FOR PROGRAMS ENSURING
15 INTEGRITY AND FAIRNESS.—The programs referred
16 to in paragraph (1)(I) to insure the integrity and
17 fairness of the games shall include requirements
18 for—

19 “(A) real-time, multiparty cryptographic
20 protocols for random number generation where
21 one of the parties is the player;

22 “(B) secure audit trails;

23 “(C) detailed player betting logs that
24 record and store each wager placed by the play-
25 er;

1 “(D) real time confirmation of high value
2 bets or wagers, where appropriate; or

3 “(E) equally effective options that the Sec-
4 retary or qualified State or tribal regulatory of-
5 ficer or agency may determine to be appro-
6 priate.

7 “(c) PERIODIC REVIEW.—

8 “(1) IN GENERAL.—The Secretary shall, on a
9 regular basis, review the minimum requirements
10 under this section and may, based on the best avail-
11 able technology, update the standards that each li-
12 censee shall implement as a condition of licensure.

13 “(2) CONSULTATION.—In conducting the review
14 required under paragraph (1), the Secretary shall
15 consult with—

16 “(A) State and tribal gaming regulatory
17 officials;

18 “(B) law enforcement officials;

19 “(C) experts in underage and problem
20 gaming;

21 “(D) experts on individual privacy;

22 “(E) consumers;

23 “(F) on-line retailers of other age re-
24 stricted materials such as tobacco and alcohol
25 products;

1 “(G) licensees and other representatives of
2 the gaming industry;

3 “(H) software developers with expertise in
4 gaming, privacy, the payments systems avail-
5 able, and other relevant areas; and

6 “(I) such other relevant individuals as the
7 Secretary may determine to be appropriate.

8 “(d) LIST OF PERSONS SELF-EXCLUDED FROM
9 GAMBLING ACTIVITIES.—

10 “(1) ESTABLISHMENT.—

11 “(A) IN GENERAL.—The Secretary shall
12 provide by regulation for the establishment of a
13 list of persons self-excluded from gambling ac-
14 tivities at all licensee sites.

15 “(B) PLACEMENT REQUEST.—Any person
16 may request placement on the list of self-ex-
17 cluded persons by—

18 “(i) acknowledging in a manner to be
19 established by the Secretary that the per-
20 son wishes to be denied gambling privi-
21 leges; and

22 “(ii) agreeing that, during any period
23 of voluntary exclusion, the person may not
24 collect any winnings or recover any losses

1 resulting from any gambling activity at
2 any licensee sites.

3 “(2) PLACEMENT AND REMOVAL PROCE-
4 DURES.—The regulations prescribed by the Sec-
5 retary under paragraph (1)(A) shall establish proce-
6 dures for placements on, and removals from, the list
7 of self-excluded persons.

8 “(3) LIMITATION ON LIABILITY.—

9 “(A) IN GENERAL.—The United States,
10 the Secretary, an enforcement agent, or a li-
11 censee, or any employee or agent of the United
12 States, the Secretary, an enforcement agent, or
13 a licensee, shall not be liable to any self-ex-
14 cluded person or to any other party in any judi-
15 cial or administrative proceeding for any harm,
16 monetary or otherwise, which may arise as a re-
17 sult of—

18 “(i) any failure to withhold gambling
19 privileges from, or to restore gambling
20 privileges to, a self-excluded person; or

21 “(ii) otherwise permitting a self-ex-
22 cluded person to engage in gambling activ-
23 ity while on the list of self-excluded per-
24 sons.

1 “(B) RULE OF CONSTRUCTION.—No provi-
2 sion of subparagraph (A) shall be construed as
3 preventing the Director from assessing any reg-
4 ulatory sanction against a licensee for failing to
5 comply with the minimum standards prescribed
6 pursuant to this subsection.

7 “(4) DISCLOSURE PROVISIONS.—

8 “(A) IN GENERAL.—Notwithstanding any
9 other provision of Federal or State law, the list
10 of self-excluded persons shall not be open to
11 public inspection.

12 “(B) AFFILIATE DISCLOSURE.—Any li-
13 censees may disclose the identities of persons on
14 the self-excluded list to any affiliated company
15 or, where required to comply with this sub-
16 section, any service provider, to the extent that
17 the licensee ensures that any affiliated company
18 or service provider maintains such information
19 under confidentiality provisions comparable to
20 those in this subsection.

21 “(5) LIMITATION ON LIABILITY FOR DISCLO-
22 SURE.—A licensee or an employee, agent, or affiliate
23 of a licensee shall not be liable to any self-excluded
24 person or to any other party in any judicial pro-
25 ceeding for any harm, monetary or otherwise, which

1 may arise as a result of disclosure or publication in
2 any manner.

3 “(e) GAMBLING BY PROHIBITED PERSONS.—

4 “(1) PROHIBITION BENEFITTING FROM PRO-
5 HIBITED GAMBLING ACTIVITY.—A person who is
6 prohibited from gambling with a licensee by law, or
7 by order of the Secretary or any court of competent
8 jurisdiction, including any person on the self-exclu-
9 sion list as established in accordance with subsection
10 (d), shall not collect, in any manner or proceeding,
11 any winnings or recover any losses arising as a re-
12 sult of any prohibited gambling activity.

13 “(2) FORFEITURE.—In addition to any other
14 penalty provided by law, any money or thing of value
15 that has been obtained by, or is owed to, any prohib-
16 ited person by a licensee as a result of bets or wa-
17 gers made by a prohibited person shall be subject to
18 forfeiture by order of the Secretary, following notice
19 to the prohibited person and opportunity to be
20 heard.

21 “(3) DEPOSIT OF FORFEITED FUNDS.—Any
22 funds forfeited pursuant to this subsection shall be
23 deposited into the general fund of the Treasury.

1 “(4) PERSONS SELF-EXCLUDED.—Licensees
2 may not accept bets or wagers from persons on the
3 list established pursuant to subsection (d)(1)(A).

4 “(f) PROBLEM OR COMPULSIVE GAMBLERS NOT ON
5 THE LIST OF SELF-EXCLUDED PERSONS.—

6 “(1) PUBLIC AWARENESS PROGRAM.—

7 “(A) IN GENERAL.—The Secretary and
8 any State or tribal regulatory body that has
9 been qualified under subsection 5383(o) shall
10 provide by regulation for the establishment of a
11 program to alert the public to the existence,
12 consequences, and availability of the self-exclu-
13 sion list, and shall prepare and promulgate
14 written materials to be used in such a program.

15 “(B) LICENSEE-PROVIDED PUBLICITY.—
16 Regulations prescribed under subparagraph (A)
17 may require a licensee to make available lit-
18 erature or screen displays relating to the exist-
19 ence of the program.

20 “(2) RULE OF CONSTRUCTION.—No provision
21 of this subsection shall be construed as creating a
22 legal duty in the Secretary, a qualified State or trib-
23 al regulatory body, a licensee, or any representative
24 of a licensee to identify or to exclude problem or

1 compulsive gamblers not on the list of self-excluded
2 persons.

3 “(3) IMMUNITY.—The United States, the Sec-
4 retary, a qualified State or tribal regulatory body, a
5 licensee, and any employee or agent of a licensee,
6 shall not be liable to any person in any proceeding
7 for losses or other damages of any kind arising out
8 of that person’s gambling activities based on a claim
9 that the person was a compulsive, problem, or patho-
10 logical gambler.

11 **“§ 5385. Financial transaction providers**

12 “(a) IN GENERAL.—No financial transaction pro-
13 vider shall be held liable for engaging in financial activities
14 and transactions for or on behalf of a licensee or involving
15 a licensee, including payments processing activities, unless
16 such provider has knowledge that the specific financial ac-
17 tivities or transactions are conducted in violation of this
18 subchapter and with applicable Federal and State laws.

19 “(b) DEFINITIONS.—For purposes of this section, the
20 following definitions shall apply:

21 “(1) FINANCIAL TRANSACTION PROVIDER.—
22 The term ‘financial transaction provider’ means a
23 creditor, credit card issuer, financial institution, op-
24 erator of a terminal at which an electronic fund
25 transfer may be initiated, money transmitting busi-

1 ness, or international, national, regional, or local
2 payment network utilized to effect a credit trans-
3 action, electronic fund transfer, stored value product
4 transaction, or money transmitting service, or a par-
5 ticipant in such network, or other participant in a
6 payment system.

7 “(2) OTHER TERMS.—

8 “(A) CREDIT, CREDITOR, CREDIT CARD,
9 AND CARD ISSUER.—The terms ‘credit’, ‘cred-
10 itor’, ‘credit card’, and ‘card issuer’ have the
11 meanings given the terms in section 103 of the
12 Truth in Lending Act.

13 “(B) ELECTRONIC FUND TRANSFER.—The
14 term ‘electronic fund transfer’—

15 “(i) has the meaning given the term
16 in section 903 of the Electronic Fund
17 Transfer Act, except that the term includes
18 transfers that would otherwise be excluded
19 under section 903(6)(E) of such Act; and

20 “(ii) includes any fund transfer cov-
21 ered by Article 4A of the Uniform Com-
22 mercial Code, as in effect in any State.

23 “(C) FINANCIAL INSTITUTION.—The term
24 ‘financial institution’ has the meaning given the
25 term in section 903 of the Electronic Fund

1 Transfer Act, except that such term does not
2 include a casino, sports book, or other business
3 at or through which bets or wagers may be
4 placed or received.

5 “(D) INSURED DEPOSITORY INSTITU-
6 TION.—The term ‘insured depository institu-
7 tion’—

8 “(i) has the meaning given the term
9 in section 3(e) of the Federal Deposit In-
10 surance Act; and

11 “(ii) includes an insured credit union
12 (as defined in section 101 of the Federal
13 Credit Union Act).

14 “(E) MONEY TRANSMITTING BUSINESS
15 AND MONEY TRANSMITTING SERVICE.—The
16 terms ‘money transmitting business’ and
17 ‘money transmitting service’ have the meanings
18 given the terms in section 5330(d) (determined
19 without regard to any regulations prescribed by
20 the Secretary under such section).

21 **“§ 5386. List of unlawful Internet gambling enter-**
22 **prises**

23 “(a) DEFINITIONS.—For purposes of this section, the
24 following definitions shall apply:

1 “(1) UNLAWFUL INTERNET GAMBLING ENTER-
2 PRISE.—The term ‘unlawful Internet gambling en-
3 terprise’ means any person who, more than 10 days
4 after the date of the enactment of this section—

5 “(A) violates a provision of section 5363;

6 “(B) knowingly receives or transmits funds
7 intended primarily for a person described in
8 subparagraph (A); or

9 “(C) knowingly assists in the conduct of a
10 person described in subparagraph (A) or (B).

11 “(2) DIRECTOR.—The term ‘Director’ means
12 the Director of the Financial Crimes Enforcement
13 Network.

14 “(b) LIST OF UNLAWFUL INTERNET GAMBLING EN-
15 TERPRISES.—

16 “(1) IN GENERAL.—Not later than 120 days
17 after the date of the enactment of this section, the
18 Director shall submit to the Secretary a list of un-
19 lawful Internet gambling enterprises and shall regu-
20 larly update such list in accordance with the proce-
21 dures described in paragraph (3).

22 “(2) CONTENTS OF LIST.—The list prepared
23 under paragraph (1) shall include the following in-
24 formation for each such unlawful Internet gambling
25 enterprise:

1 “(A) All known Internet Web site address-
2 es of the enterprise.

3 “(B) The names of all known owners and
4 operators of the enterprise.

5 “(C) To the extent known, information
6 identifying the financial agents and account
7 numbers of the enterprise and the persons list-
8 ed under subparagraph (B).

9 “(3) DISTRIBUTION OF LIST BY SECRETARY.—
10 The Secretary shall make available—

11 “(A) a copy of the information provided
12 under subparagraphs (A) and (B) of paragraph
13 (2) on the Internet Web site of the Secretary of
14 the Treasury;

15 “(B) to all persons who are required to
16 comply with the regulations prescribed under
17 the authority provided in section 5364 a copy of
18 all the information provided under paragraph
19 (1) in an electronic format compatible with the
20 Specially Designated Nationals list maintained
21 by the Office of Foreign Assets Control; and

22 “(C) any information required under this
23 paragraph not later than 10 days after receiv-
24 ing any new or updated list from the Director.

1 “(4) PROCEDURES.—The procedures described
2 in this paragraph are the following:

3 “(A) INVESTIGATION.—The Director shall
4 investigate entities that appear to be unlawful
5 Internet gambling enterprises. An initial inves-
6 tigation shall be completed before the end of the
7 60-day period beginning on the date of enact-
8 ment of this section. After the initial investiga-
9 tion, the Director shall regularly investigate en-
10 tities that appear to be unlawful Internet gam-
11 bling enterprises. If the Director discovers evi-
12 dence sufficient to prove a prima facie case that
13 any person is an unlawful Internet gambling
14 enterprise, the Director shall provide the notice
15 required under subparagraph (C).

16 “(B) REQUESTS.—Any Federal, State,
17 tribal, or local law enforcement official, any af-
18 fected sports organization, any person directly
19 harmed by unlawful Internet gambling, any fi-
20 nancial transaction provider, and any inter-
21 active computer service (as such terms are de-
22 fined in section 5362) shall have the right, but
23 not the obligation, to make a written request to
24 the Director for the addition of any person to
25 the list of unlawful Internet gambling enter-

1 prises. If the Director determines that the evi-
2 dence submitted is sufficient to prove a prima
3 facie case that such person is an unlawful
4 Internet gambling enterprise, the Director shall
5 provide the notice required under subparagraph
6 (C) to each person identified as an alleged un-
7 lawful Internet gambling enterprise. The Direc-
8 tor also shall provide written notice of its deci-
9 sion under this subparagraph, including a deci-
10 sion not to add a person to the list required
11 under paragraph (1), to the requesting party no
12 later than 30 days after the request is received.

13 “(C) NOTICE.—Not fewer than 30 days
14 before adding an unlawful Internet gambling
15 enterprise, or an owner or operator thereof, to
16 the list required under paragraph (1), the Di-
17 rector shall provide written notice to such en-
18 terprise, owner, or operator. Any enterprise,
19 owner, or operator receiving such notice may
20 contest the Director’s determination by written
21 appeal to the Director not more than 30 days
22 after receiving notice.

23 “(D) OPPORTUNITY FOR HEARING.—If a
24 person properly submits a written appeal under
25 subparagraph (C), the Director shall not in-

1 clude such person in the list required under
2 paragraph (1) unless and until the Director
3 provides such person with an opportunity for a
4 hearing not more than 30 days after receiving
5 written notice of appeal. Not more than 10 days
6 after an opportunity for hearing is afforded,
7 whether or not the person requesting the hear-
8 ing appears at such hearing, the Director shall
9 proceed to add such person to the list of unlaw-
10 ful Internet gambling enterprises unless the Di-
11 rector determines, based on a preponderance of
12 the evidence, that such person is not an unlaw-
13 ful Internet gambling enterprise.

14 “(E) INJUNCTIVE RELIEF.—Any person
15 that the Director determines shall be included
16 in the list required under paragraph (1) after
17 such person appears at a hearing described in
18 subparagraph (D) and any person included in
19 such list who did not receive the notice required
20 under subparagraph (C), may petition for in-
21 junctive relief in the United States District
22 Court for the District of Columbia, which shall
23 have exclusive jurisdiction to hear challenges
24 pursuant to this section. The petitioner shall
25 have the burden of establishing by a preponder-

1 ance of the evidence that such person is not an
2 unlawful Internet gambling enterprise. Only
3 persons designated by the Director for inclusion
4 on the list of unlawful Internet gambling enter-
5 prises, and other owners or operators of an en-
6 terprise to be so listed, shall have standing to
7 contest the Director’s determination. The court
8 may enjoin the Director and the Secretary not
9 to add or remove the petitioner from the list of
10 unlawful Internet gambling enterprises, and no
11 other judicial recourse shall be permitted.

12 “(c) EFFECT OF LIST.—A financial transaction pro-
13 vider shall be deemed to have actual knowledge that a per-
14 son is an unlawful Internet gambling enterprise to the ex-
15 tent that such person is identified on the list available to
16 the public, or on a non-public list made available to such
17 financial transaction provider, by the Secretary as de-
18 scribed in subsection (b)(2), provided that the list shall
19 not be deemed to be the sole source of actual knowledge.

20 **“§ 5387. Limitation of licenses in States and Indian**
21 **lands**

22 “(a) STATE OPT-OUT EXERCISE.—

23 “(1) LIMITATIONS IMPOSED BY STATES.—

24 “(A) IN GENERAL.—No licensee may en-
25 gage, under any license issued under this sub-

1 chapter, in the operation of an Internet gam-
2 bling facility that knowingly accepts bets or wa-
3 gers initiated by persons who reside in any
4 State which provides notice that it will limit
5 such bets or wagers, if the Governor or other
6 chief executive officer of such State informs the
7 Director of such limitation, in a manner which
8 clearly identifies the nature and extent of such
9 limitation, before the end of the period begin-
10 ning on the date of the enactment of the Inter-
11 net Gambling Regulation, Consumer Protection,
12 and Enforcement Act and ending on the date
13 on which such State's legislature has conducted
14 one full general legislative session, where such
15 session began after the date of the enactment
16 of such Act, or in accordance with paragraph
17 (2), until such time as any notice of any
18 amendment or repeal of such specific limitation
19 becomes effective under paragraph (2).

20 “(B) COORDINATION BETWEEN STATE AND
21 TRIBAL OPT-OUT EXERCISES.—Any State limi-
22 tation under subparagraph (A) shall not apply
23 to the acceptance by a licensee of bets or wa-
24 gers from persons located within the tribal
25 lands of an Indian tribe that—

1 “(i) has itself opted out pursuant to
2 subsection (b) (in which case the tribal
3 opt-out exercise under such subsection
4 shall apply); or

5 “(ii) would be entitled pursuant to
6 other applicable law to permit such bets or
7 wagers to be initiated and received within
8 its territory without use of the Internet.

9 “(C) COORDINATION WITH INDIAN GAMING
10 REGULATORY ACT.—No decision by a State
11 under this subsection shall be considered in
12 making any determination with regard to the
13 ability of an Indian tribe to offer any class of
14 gambling activity pursuant to section 11 of the
15 Indian Gaming Regulatory Act.

16 “(D) TRIBAL STATUS OR CATEGORY NOT
17 IMPACTED.—Tribal operations of Internet gam-
18 bling facilities under this subchapter shall not
19 impact an Indian tribe’s status or category or
20 class under its land-based activities.

21 “(E) NEW NEGOTIATIONS NOT RE-
22 QUIRED.—Operating under a license issued pur-
23 suant to this subchapter shall not require, or
24 impose any requirement on, an Indian tribe to
25 negotiate a new agreement, or renegotiate any

1 existing agreement, limitation or other provision
2 of a tribal-State compact, agreement, or other
3 understanding with respect to gaming or rev-
4 enue-sharing, with regard to any Internet bet or
5 wager occurring pursuant to a license issued by
6 the Secretary under this subchapter.

7 “(2) CHANGES TO STATE LIMITATIONS.—The
8 establishment, repeal, or amendment by any State of
9 any limitation referred to in paragraph (1) after the
10 end of the period referred to in paragraph (1) shall
11 apply, for purposes of this subchapter, beginning on
12 the first January 1 that occurs after the end of the
13 60-day period beginning on the later of—

14 “(A) the date a notice of such establish-
15 ment, repeal, or amendment is provided by the
16 Governor or other chief executive officer of such
17 State in writing to the Secretary; or

18 “(B) the effective date of such establish-
19 ment, repeal, or amendment.

20 “(b) INDIAN TRIBE OPT-OUT EXERCISE.—

21 “(1) LIMITATIONS IMPOSED BY INDIAN
22 TRIBES.—No Internet gambling licensee knowingly
23 may accept a bet or wager from a person located in
24 the tribal lands of any Indian tribe which limits such
25 gambling activities or other contests if the principal

1 chief or other chief executive officer of such Indian
2 tribe informs the Secretary of such limitation, in a
3 manner which clearly identifies the nature and ex-
4 tent of such limitation, before the end of the 90-day
5 period beginning on the date of the enactment of the
6 Internet Gambling Regulation, Consumer Protection,
7 and Enforcement Act, or in accordance with para-
8 graph (2), until such time as any notice of any
9 amendment or repeal of such specific limitation be-
10 comes effective under paragraph (2).

11 “(2) CHANGES TO INDIAN TRIBE LIMITA-
12 TIONS.—The establishment, repeal, or amendment
13 by any Indian tribe of any limitation referred to in
14 paragraph (1) after the end of the 90-day period be-
15 ginning on the date of the enactment of this sub-
16 chapter shall apply, for purposes of this subchapter,
17 beginning on the first January 1 that occurs after
18 the end of the 60-day period beginning on the later
19 of—

20 “(A) the date a notice of such establish-
21 ment, repeal, or amendment is provided by the
22 principal chief or other chief executive officer of
23 such Indian tribe in writing to the Secretary; or

24 “(B) the effective date of such establish-
25 ment, repeal, or amendment.

1 “(c) NOTIFICATION AND ENFORCEMENT OF STATE
2 AND INDIAN TRIBE LIMITATIONS.—

3 “(1) IN GENERAL.—The Secretary shall notify
4 all licensees and applicants of all States and Indian
5 tribes that have provided notice pursuant to para-
6 graph (1) or (2) of subsection (a) or (b), as the case
7 may be, promptly upon receipt of such notice and in
8 no event fewer than 30 days before the effective date
9 of such notice.

10 “(2) COMPLIANCE.—The Secretary shall take
11 effective measures to ensure that any licensee under
12 this subchapter, as a condition of the license, com-
13 plies with any limitation or prohibition imposed by
14 any State or Indian tribe to which the licensee is
15 subject under subsection (a) or (b), as the case may
16 be.

17 “(3) VIOLATIONS.—It shall be a violation of
18 this subchapter for any licensee knowingly to accept
19 bets or wagers initiated or otherwise made by per-
20 sons located within any State or in the tribal lands
21 of any Indian tribe for which a notice is in effect
22 under subsection (a) or (b), as the case may be.

23 “(4) STATE ATTORNEY GENERAL ENFORCE-
24 MENT.—In any case in which the attorney general of
25 a State, or any State or local law enforcement agen-

1 cy authorized by the State attorney general or by
 2 State statute to prosecute violations of consumer
 3 protection law, has reason to believe that an interest
 4 of the residents of that State has been or is threat-
 5 ened or adversely affected by a violation by a li-
 6 censee pursuant to paragraph (2), the State, or the
 7 State or local law enforcement agency on behalf of
 8 the residents of the agency’s jurisdiction, may bring
 9 a civil action on behalf of the residents of that State
 10 or jurisdiction in a district court of the United
 11 States located therein, to—

12 “(A) enjoin that practice; or

13 “(B) enforce compliance with this sub-
 14 chapter.

15 **“§ 5388. Sports betting prohibited on Internet**

16 “No licensee under this subchapter shall accept Inter-
 17 net bets or wagers on sporting events, with the exception
 18 of pari-mutuel racing as permitted by law.

19 **“§ 5389. Prohibition on the use of credit cards for**
 20 **Internet gambling**

21 “(a) IN GENERAL.—No licensee, no person operating
 22 on behalf of a licensee, and no person accepting payment
 23 for or settlement of a bet or wager who intends to transmit
 24 such payment to a person licensee, may accept a bet or
 25 wager or payment for or settlement of a bet or wager that

1 is transmitted or otherwise facilitated with a credit card
2 (as defined in section 5362(11)).

3 “(b) EXCEPTION.—

4 “(1) CLARIFICATION OF SCOPE.—For any per-
5 son licensed to take bets or wagers in accordance
6 with the Interstate Horseracing Act of 1978, the
7 prohibition in subsection (a) shall only apply to
8 those activities conducted pursuant to a license
9 under this subchapter.

10 “(2) INTRASTATE ACTIVITIES.—For any person
11 involved in legal, land-based or State- or tribal-regu-
12 lated intrastate gambling, the prohibition in sub-
13 section (a) shall only apply to those activities con-
14 ducted pursuant to a license under this subchapter.

15 **“§ 5390. State and tribal lotteries**

16 “(a) IN GENERAL.—Notwithstanding any other pro-
17 vision of this subchapter, this subchapter shall not apply
18 to Internet gambling conducted by any State or tribal lot-
19 tery authority when conducted in accordance with sub-
20 paragraph (B) or (C) of section 5362(10), as clarified by
21 section 5362(10)(E).

22 “(b) RULE OF CONSTRUCTION.—For purposes of the
23 clarification made by subparagraph (E) of section
24 5362(10) to the meaning and intent of subparagraphs (B)
25 and (C) of such section, Internet gambling described in

1 subsection (a) is hereby expressly permitted, and operators
2 of any State or tribal lottery authority conducting Internet
3 gambling facilities operating in accordance with such sub-
4 paragraph (B) or (C), as clarified by such subparagraph
5 (E), and vendors, suppliers and service providers to such
6 State or tribal lottery authority, shall not be required to
7 be licensed under this subchapter.

8 “(c) APPLICABILITY OF OTHER PROVISIONS TO LOT-
9 TERY ACTIVITY.—To clarify existing law, section 1084 of
10 title 18 shall not apply to any of the following that occurs
11 in connection with any Internet gambling conducted by
12 any State or tribal lottery authority when conducted in
13 accordance with subparagraph (B) or (C) of section
14 5362(10), as clarified by section 5362(10)(E):

15 “(1) Any Internet bet or wager, including any
16 transmission thereof.

17 “(2) Any transmission of information assisting
18 in the placing of bets or wagers.

19 “(3) Any transmission entitling the recipient to
20 receive money or credit as a result of bets or wagers,
21 or for information assisting in the placing of bets or
22 wagers.

23 “(d) AUTHORIZATION OF SPONSOR.—No licensee
24 may offer services relating to any lottery sponsored by a

1 State, tribal, or other governmental body without the au-
2 thorization of the official sponsor.

3 **“§ 5391. Safe harbors**

4 “It shall be a complete defense against any prosecu-
5 tion or enforcement action under any Federal or State law
6 against any person possessing a valid license under this
7 subchapter that the activity is authorized under and has
8 been carried out lawfully under the terms of this sub-
9 chapter.

10 **“§ 5392. Relation to section 1084 of title 18 and the**
11 **Unlawful Internet Gambling Enforcement**
12 **Act**

13 “Section 1084 of title 18 and subchapter IV of this
14 chapter shall not apply to any Internet bet or wager occur-
15 ring pursuant to a license issued in accordance with this
16 subchapter.

17 **“§ 5393. Cheating and other fraud**

18 “(a) ELECTRONIC CHEATING DEVICES PROHIB-
19 ITED.—No person initiating, receiving, or otherwise mak-
20 ing a bet or wager with a licensee, or sending, receiving,
21 or inviting information assisting with a bet or wager with
22 a licensee, knowingly shall use, or assist another in the
23 use of, an electronic, electrical, or mechanical device which
24 is designed, constructed, or programmed specifically for
25 use in obtaining an advantage in any game authorized

1 under this subchapter, where such advantage is prohibited
2 or otherwise violates the rules of play established by the
3 licensee.

4 “(b) ADDITIONAL OFFENSE.—No person initiating,
5 receiving, or otherwise making a bet or wager with a li-
6 censee, or sending, receiving, or inviting information as-
7 sisting with a bet or wager with a licensee, knowingly shall
8 use or possess any cheating device with intent to cheat
9 or defraud any licensee or other persons placing bets or
10 wagers with such licensee.

11 “(c) PERMANENT INJUNCTION.—Upon conviction of
12 a person for violation of this section, the court may enter
13 a permanent injunction enjoining such person from initi-
14 ating, receiving, or otherwise making bets or wagers or
15 sending, receiving, or inviting information assisting in the
16 placing of bets or wagers.

17 “(d) CRIMINAL PENALTY.—Whoever violates sub-
18 section (a) or (b) of this section shall be fined under title
19 18 or imprisoned for not more than 5 years, or both.”.

20 (b) RULES OF CONSTRUCTION.—

21 (1) TECHNICAL AND CONFORMING AMEND-
22 MENT.—Section 310(b)(2) of title 31, United States
23 Code is amended—

24 (A) by redesignating subparagraph (J) as
25 subparagraph (K); and

1 (B) by inserting after subparagraph (I) the
2 following new subparagraph:

3 “(J) Administer the requirements of sub-
4 chapter V of chapter 53.”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for chapter 53 of title 31, United States Code, is amended
7 by adding at the end the following:

“SUBCHAPTER V—REGULATION OF LAWFUL INTERNET GAMBLING

“5381. Congressional findings.

“5382. Definitions.

“5383. Establishment and administration of licensing program.

“5384. Problem Gambling, Responsible Gambling, Consumer Safeguards, and
Self-Exclusion Program.

“5385. Financial transaction providers.

“5386. List of unlawful Internet gambling enterprises.

“5387. Limitation of licenses in States and Indian lands.

“5388. Sports betting prohibited on Internet.

“5389. Prohibition on the use of credit cards for Internet gambling.

“5390. State and tribal lotteries.

“5391. Safe harbors.

“5392. Relation to section 1084 of title 18 and the Unlawful Internet Gambling
Enforcement Act.

“5393. Cheating and other fraud.”.

8 **SEC. 3. REPORT REQUIRED.**

9 (a) IN GENERAL.—Before the end of the 1-year pe-
10 riod beginning on the effective date of the regulations pre-
11 scribed under section 5(a), and annually thereafter, the
12 Secretary shall submit a report to the Congress on the
13 licensing and regulation of Internet gambling operators.

14 (b) INFORMATION REQUIRED.—Each report sub-
15 mitted under subsection (a) shall include the following in-
16 formation:

1 (1) A comprehensive statement regarding the
2 prohibitions notified by the States and Indian tribes
3 pursuant to section 5387 of title 31, United States
4 Code.

5 (2) Relevant statistical information on appli-
6 cants and licenses.

7 (3) The amount of licensing and user fees col-
8 lected during the period covered by the report.

9 (4) Information on regulatory or enforcement
10 actions undertaken during the period.

11 (5) Any other information that may be useful
12 to the Congress in evaluating the effectiveness of the
13 Act in meeting its purpose, including the provision
14 of protections against underage gambling, compul-
15 sive gambling, money laundering, and fraud, and in
16 combating tax avoidance relating to Internet gam-
17 bling.

18 **SEC. 4. FEASIBILITY STUDY.**

19 The Secretary of the Treasury, in consultation with
20 appropriate State or tribal officers or agencies, shall con-
21 duct a feasibility study on safeguards to address gambling
22 while impaired through programs such as periodic notices,
23 periodic testing of individuals to establish cognitive com-
24 petence, and any other similar option that the Secretary

1 or appropriate State or tribal officers or agencies may de-
2 termine to be appropriate.

3 **SEC. 5. EFFECTIVE DATE.**

4 (a) REGULATIONS.—The Secretary of the Treasury
5 shall prescribe such regulations as the Secretary may de-
6 termine to be appropriate to implement subchapter V of
7 chapter 53 of title 31, United States Code (as added by
8 section 2(a) of this Act) and shall publish such regulations
9 in final form in the Federal Register before the end of
10 the 180-day period beginning on the date of enactment
11 of this Act.

12 (b) SCOPE OF APPLICATION.—The amendment made
13 by section 2(a) shall apply after the end of the 90-day
14 period beginning on the date of the publication of the reg-
15 ulations in final form in accordance with subsection (a).

○