

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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**H. R. 4411**

**AN ACT**

To prevent the use of certain payment instruments,  
credit cards, and fund transfers for unlawful  
Internet gambling, and for other purposes.



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## AN ACT

To prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful Internet gambling, 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,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Internet Gambling Prohibition and Enforcement Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents is  
5 as follows:

Sec. 1. Short title and table of contents.

**TITLE I—MODERNIZATION OF THE WIRE ACT OF 1961**

Sec. 101. Definitions.  
Sec. 102. Modification of existing prohibition.  
Sec. 103. Authorization of civil enforcement.  
Sec. 104. Authorization of appropriations.  
Sec. 105. Rules of construction.  
Sec. 106. Sense of Congress.

**TITLE II—POLICIES AND PROCEDURES REQUIRED TO PREVENT  
PAYMENTS FOR UNLAWFUL GAMBLING**

Sec. 201. Policies and procedures required to prevent payments for unlawful  
gambling.  
Sec. 202. Technical and conforming amendment.

**TITLE III—INTERNET GAMBLING IN OR THROUGH FOREIGN  
JURISDICTIONS**

Sec. 301. Internet gambling in or through foreign jurisdictions.

6 **TITLE I—MODERNIZATION OF**  
7 **THE WIRE ACT OF 1961**

8 **SEC. 101. DEFINITIONS.**

9 Section 1081 of title 18, United States Code, is  
10 amended—

11 (1) by designating the five undesignated para-  
12 graphs that begin with “The term” as paragraphs  
13 (1) through (5), respectively;

14 (2) by amending paragraph (5), as so des-  
15 ignated, to read as follows:

1           “(5) The term ‘communication facility’ means  
2           any and all instrumentalities, personnel, and services  
3           (among other things, the receipt, forwarding, or de-  
4           livery of communications) used or useful in the  
5           transmission of writings, signs, pictures, and sounds  
6           of all kinds by aid of wire, cable, radio, or an elec-  
7           tromagnetic, photoelectronic or photooptical system,  
8           or other like connection (whether fixed or mobile)  
9           between the points of origin and reception of such  
10          transmission.”; and

11           (3) by adding at the end the following:

12           “(6) The term ‘bets or wagers’—

13                   “(A) means the staking or risking by any  
14                   person of something of value upon the outcome  
15                   of a contest of others, a sporting event, or a  
16                   game predominantly subject to chance, upon an  
17                   agreement or understanding that the person or  
18                   another person will receive something of value  
19                   in the event of a certain outcome;

20                   “(B) includes the purchase of a chance or  
21                   opportunity to win a lottery or other prize  
22                   (which opportunity to win is predominantly sub-  
23                   ject to chance);

24                   “(C) includes any scheme of a type de-  
25                   scribed in section 3702 of title 28; and

1 “(D) does not include—

2 “(i) any activity governed by the secu-  
3 rities laws (as that term is defined in sec-  
4 tion 3(a)(47) of the Securities Exchange  
5 Act of 1934) for the purchase or sale of se-  
6 curities (as that term is defined in section  
7 3(a)(10) of that Act);

8 “(ii) any transaction conducted on or  
9 subject to the rules of a registered entity  
10 or exempt board of trade under the Com-  
11 modity Exchange Act;

12 “(iii) any over-the-counter derivative  
13 instrument;

14 “(iv) any other transaction that—

15 “(I) is excluded or exempt from  
16 regulation under the Commodity Ex-  
17 change Act; or

18 “(II) is exempt from State gam-  
19 ing or bucket shop laws under section  
20 12(e) of the Commodity Exchange Act  
21 or section 28(a) of the Securities Ex-  
22 change Act of 1934;

23 “(v) any contract of indemnity or  
24 guarantee;

25 “(vi) any contract for insurance;

1           “(vii) any deposit or other transaction  
2 with an insured depository institution;

3           “(viii) participation in any game or  
4 contest in which participants do not stake  
5 or risk anything of value other than—

6                 “(I) personal efforts of the par-  
7 ticipants in playing the game or con-  
8 test or obtaining access to the Inter-  
9 net; or

10                “(II) points or credits that the  
11 sponsor of the game or contest pro-  
12 vides to participants free of charge  
13 and that can be used or redeemed  
14 only for participation in games or con-  
15 tests offered by the sponsor; or

16                “(ix) participation in any fantasy or  
17 simulation sports game or educational  
18 game or contest in which (if the game or  
19 contest involves a team or teams) no fan-  
20 tasy or simulation sports team is based on  
21 the current membership of an actual team  
22 that is a member of an amateur or profes-  
23 sional sports organization (as those terms  
24 are defined in section 3701 of title 28) and  
25 that meets the following conditions:

1           “(I) All prizes and awards of-  
2           ferred to winning participants are es-  
3           tablished and made known to the par-  
4           ticipants in advance of the game or  
5           contest and their value is not deter-  
6           mined by the number of participants  
7           or the amount of any fees paid by  
8           those participants.

9           “(II) All winning outcomes re-  
10          flect the relative knowledge and skill  
11          of the participants and are determined  
12          predominantly by accumulated statis-  
13          tical results of the performance of in-  
14          dividuals (athletes in the case of  
15          sports events) in multiple real-world  
16          sporting or other events.

17          “(III) No winning outcome is  
18          based—

19                 “(aa) on the score, point-  
20                 spread, or any performance or  
21                 performances of any single real-  
22                 world team or any combination of  
23                 such teams; or

24                 “(bb) solely on any single  
25                 performance of an individual ath-

1                   lete in any single real-world  
2                   sporting or other event.

3                   “(7) The terms ‘credit’, ‘creditor’, ‘credit card’,  
4                   and ‘card issuer’ have the same meanings as in sec-  
5                   tion 103 of the Truth in Lending Act.

6                   “(8) The term ‘electronic fund transfer’—

7                   “(A) has the same meaning as in section  
8                   903 of the Electronic Fund Transfer Act, ex-  
9                   cept that such term includes transfers that  
10                  would otherwise be excluded under section  
11                  903(6)(E) of that Act; and

12                  “(B) includes any fund transfer covered by  
13                  Article 4A of the Uniform Commercial Code, as  
14                  in effect in any State.

15                  “(9) The term ‘financial institution’ has the  
16                  same meaning as in section 903 of the Electronic  
17                  Fund Transfer Act, except that such term does not  
18                  include a casino, sports book, or other business at or  
19                  through which bets or wagers may be placed or re-  
20                  ceived.

21                  “(10) The term ‘financial transaction provider’  
22                  has the same meaning as in section 5361 of title 31  
23                  (as added by title II of this Act).

1           “(11) The term ‘foreign jurisdiction’ means a  
2 jurisdiction of a foreign country or political subdivi-  
3 sion thereof.

4           “(12) The term ‘gambling business’ means a  
5 business of betting or wagering.

6           “(13) The term ‘information assisting in the  
7 placing of bets or wagers’ means information know-  
8 ingly transmitted by an individual in a gambling  
9 business that enables or facilitates a bet or wager  
10 and does not include—

11                   “(A) any posting or reporting of any edu-  
12 cational information on how to make a legal bet  
13 or wager or the nature of betting or wagering,  
14 as long as such posting or reporting does not  
15 solicit or provide information for the purpose of  
16 facilitating or enabling the placing or receipt of  
17 bets or wagers in a jurisdiction where such bet-  
18 ting is illegal; or

19                   “(B) advertising relating to betting or wa-  
20 gering in a jurisdiction where such betting or  
21 wagering is legal, as long as such advertising  
22 does not solicit or provide information for the  
23 purpose of facilitating or enabling the placing  
24 or receipt of bets or wagers in a jurisdiction  
25 where such betting is illegal.

1           “(14) The term ‘insured depository institu-  
2           tion’—

3                   “(A) has the same meaning as in section  
4                   3 of the Federal Deposit Insurance Act; and

5                   “(B) includes an insured credit union (as  
6                   defined in section 101 of the Federal Credit  
7                   Union Act).

8           “(15) The term ‘interactive computer service’  
9           has the same meaning as in section 230(f) of the  
10           Communications Act of 1934.

11           “(16) The terms ‘money transmitting business’  
12           and ‘money transmitting service’ have the same  
13           meanings as in section 5330(d) (determined without  
14           regard to any regulations prescribed by the Sec-  
15           retary thereunder).

16           “(17) The terms ‘own or control’ and to be  
17           ‘owned or controlled’ include circumstances within  
18           the meaning of section 2(a)(2) of the Bank Holding  
19           Company Act of 1956.

20           “(18) The term ‘person’ includes a government  
21           (including any governmental entity (as defined in  
22           section 3701(2) of title 28)).

23           “(19) The term ‘State’ means a State of the  
24           United States, the District of Columbia, or a com-

1 monwealth, territory, or possession of the United  
2 States.

3 “(20) The term ‘tribe’ or ‘tribal’ means an In-  
4 dian tribe, as defined under section 4(5) of the In-  
5 dian Gaming Regulatory Act of 1988).

6 “(21) For purposes of Section 1085(b), the  
7 term ‘account’ means—

8 “(A) the unpaid balance of money or its  
9 equivalent received or held by an insured depos-  
10 itory institution in the usual course of business  
11 and for which it has given or is obligated to  
12 give credit, either conditionally or uncondition-  
13 ally, to an account, including interest credited,  
14 or which is evidenced by an instrument on  
15 which the depository institution is primarily lia-  
16 ble; and

17 “(B) money received or held by an insured  
18 depository institution, or the credit given for  
19 money or its equivalent received or held by the  
20 insured depository institution in the usual  
21 course of business for a special or specific pur-  
22 pose, regardless of the legal relationships estab-  
23 lished thereby, including escrow funds, funds  
24 held as security for securities loaned by the de-  
25 pository institution, funds deposited as advance

1 payment on subscriptions to United States Gov-  
2 ernment securities, and funds held to meet its  
3 acceptances.”.

4 **SEC. 102. MODIFICATION OF EXISTING PROHIBITION.**

5 Section 1084 of title 18, United States Code, is  
6 amended to read as follows:

7 **“§ 1084. Use of a communication facility to transmit**  
8 **bets or wagers; criminal penalties**

9 “(a) Except as otherwise provided in this section,  
10 whoever, being engaged in a gambling business, know-  
11 ingly—

12 “(1) uses a communication facility for the  
13 transmission in interstate or foreign commerce,  
14 within the special maritime and territorial jurisdic-  
15 tion of the United States, or to or from any place  
16 outside the jurisdiction of any nation with respect to  
17 any transmission to or from the United States, of—

18 “(A) bets or wagers;

19 “(B) information assisting in the placing  
20 of bets or wagers; or

21 “(C) a communication, which entitles the  
22 recipient to receive money or credit as a result  
23 of bets or wagers, or for information assisting  
24 in the placing of bets or wagers; or

1           “(2) accepts, in connection with the trans-  
2 mission of a communication in interstate or foreign  
3 commerce, within the special maritime and terri-  
4 torial jurisdiction of the United States, or to or from  
5 any place outside the jurisdiction of any nation with  
6 respect to any transmission to or from the United  
7 States of bets or wagers or information assisting in  
8 the placing of bets or wagers—

9           “(A) credit, or the proceeds of credit, ex-  
10 tended to or on behalf of another (including  
11 credit extended through the use of a credit  
12 card);

13           “(B) an electronic fund transfer or funds  
14 transmitted by or through a money transmit-  
15 ting business, or the proceeds of an electronic  
16 fund transfer or money transmitting service,  
17 from or on behalf of the other person;

18           “(C) any check, draft, or similar instru-  
19 ment which is drawn by or on behalf of the  
20 other person and is drawn on or payable  
21 through any financial institution; or

22           “(D) the proceeds of any other form of fi-  
23 nancial transaction as the Secretary of the  
24 Treasury and the Board of Governors of the  
25 Federal Reserve System may prescribe by regu-

1           lation which involves a financial institution as a  
2           payor or financial intermediary on behalf of or  
3           for the benefit of the other person,  
4 shall be fined under this title or imprisoned not more than  
5 five years, or both.

6           “(b) Nothing in this section prohibits—

7           “(1) the transmission of information assisting  
8           in the placing of bets or wagers for use in news re-  
9           porting if such transmission does not solicit or pro-  
10          vide information for the purpose of facilitating or  
11          enabling the placing or receipt of bets or wagers in  
12          a jurisdiction where such betting is illegal;

13          “(2) the transmission of information assisting  
14          in the placing of bets or wagers from a State or for-  
15          eign country where such betting or wagering is per-  
16          mitted under Federal, State, tribal, or local law into  
17          a State or foreign country in which such betting on  
18          the same event is permitted under Federal, State,  
19          tribal, or local law; or

20          “(3) the interstate transmission of information  
21          relating to a State-specific lottery between a State or  
22          foreign country where such betting or wagering is  
23          permitted under Federal, State, tribal, or local law  
24          and an out-of-State data center for the purposes of

1 assisting in the operation of such State-specific lot-  
2 tery.

3 “(c) Nothing in this section prohibits the use of a  
4 communication facility for the transmission of bets or wa-  
5 gers or information assisting in the placing of bets or wa-  
6 gers, if—

7 “(1) at the time the transmission occurs, the  
8 individual or entity placing the bets or wagers or in-  
9 formation assisting in the placing of bets or wagers,  
10 the gambling business, and, subject to section  
11 1084(b)(3), any individual or entity acting in con-  
12 cert with a gambling business to process the bets or  
13 wagers are physically located in the same State, and  
14 for class II or class III gaming under the Indian  
15 Gaming Regulatory Act, are physically located on  
16 Indian lands within that State;

17 “(2) the State or tribe has explicitly authorized  
18 such bets and wagers, the State or tribal law re-  
19 quires a secure and effective location and age  
20 verification system to assure compliance with age  
21 and location requirements, and the gambling busi-  
22 ness and any individual or entity acting in concert  
23 with a gambling business to process the bets or wa-  
24 gers complies with such law;

1           “(3) the State has explicitly authorized and li-  
2           censed the operation of the gambling business and  
3           any individual or entity acting in concert with a  
4           gambling business to process the bets and wagers  
5           within its borders or the tribe has explicitly author-  
6           ized and licensed the operation of the gambling busi-  
7           ness and any individual or entity acting in concert  
8           with a gambling business to process the bets and  
9           wagers, on Indian lands within its jurisdiction;

10           “(4) with respect to class II or class III gam-  
11           ing, the game and gambling business complies with  
12           the requirements of the Indian Gaming Regulatory  
13           Act; and

14           “(5) with respect to class III gaming under the  
15           Indian Gaming Regulatory Act, the game is author-  
16           ized under, and is conducted in accordance with, the  
17           respective Tribal-State compact of the Tribe having  
18           jurisdiction over the Indian lands where the indi-  
19           vidual or entity placing the bets or wagers or infor-  
20           mation assisting in the placing of bets or wagers, the  
21           gambling business, and any individual or entity act-  
22           ing in concert with a gambling business to process  
23           those bets or wagers are physically located, and such  
24           Tribal-State compact expressly provides that the  
25           game may be conducted using a communication fa-

1           cility to transmit bets or wagers or information as-  
2           sisting in the placing of bets or wagers.

3 For purposes of this subsection, the intermediate routing  
4 of electronic data constituting or containing all or part of  
5 a bet or wager, or all or part of information assisting in  
6 the placing of bets or wagers, shall not determine the loca-  
7 tion or locations in which a bet or wager is transmitted,  
8 initiated, received or otherwise made; or from or to which  
9 a bet or wager, or information assisting in the placing of  
10 bets or wagers, is transmitted.

11           “(d) Nothing in this section creates immunity from  
12 criminal prosecution under any laws of any State or tribe.

13           “(e) Nothing in this section authorizes activity that  
14 is prohibited under chapter 178 of title 28, United States  
15 Code.

16           “(f) When any common carrier, subject to the juris-  
17 diction of the Federal Communications Commission, is no-  
18 tified in writing by a Federal, State, tribal, or local law  
19 enforcement agency, acting within its jurisdiction, that  
20 any communication facility furnished by it is being used  
21 or will be used by its subscriber for the purpose of trans-  
22 mitting or receiving gambling information in interstate or  
23 foreign commerce, within the special maritime and terri-  
24 torial jurisdiction of the United States, or to or from any  
25 place outside the jurisdiction of any nation with respect

1 to any transmission to or from the United States in viola-  
2 tion of Federal, State, tribal, or local law, it shall dis-  
3 continue or refuse, the leasing, furnishing, or maintaining  
4 of such facility, after reasonable notice to the subscriber,  
5 but no damages, penalty or forfeiture, civil or criminal,  
6 shall be found against any common carrier for any act  
7 done in compliance with any notice received from a law  
8 enforcement agency. Nothing in this section shall be  
9 deemed to prejudice the right of any person affected there-  
10 by to secure an appropriate determination, as otherwise  
11 provided by law, in a Federal court or in a State, tribal,  
12 or local tribunal or agency, that such facility should not  
13 be discontinued or removed, or should be restored.”.

14 **SEC. 103. AUTHORIZATION OF CIVIL ENFORCEMENT.**

15 Chapter 50 of title 18, United States Code, is amend-  
16 ed by adding at the end the following new section:

17 **“§ 1085. Civil remedies**

18 “(a) JURISDICTION.—The district courts of the  
19 United States (in addition to any other remedies under  
20 current law) shall have original and exclusive jurisdiction  
21 to prevent and restrain violations of section 1084 by  
22 issuing appropriate orders in accordance with this section,  
23 regardless of whether a prosecution has been initiated  
24 under section 1084.

25 “(b) PROCEEDINGS.—

1           “(1) The United States may institute pro-  
2           ceedings under this section—

3                   “(A) to obtain injunctive or declarative re-  
4           lief, including but not limited to a temporary  
5           restraining order and a preliminary injunction,  
6           against any person (other than a financial  
7           transaction provider) to prevent or restrain a  
8           violation or a threatened violation of section  
9           1084;

10                   “(B) in the case of an insured depository  
11           institution that is a financial transaction pro-  
12           vider, to—

13                           “(i) restrain an account maintained at  
14                           such insured depository institution if such  
15                           account is—

16                                   “(I) owned or controlled by a  
17                                   gambling business; and

18                                   “(II) includes proceeds of, or is  
19                                   used to facilitate a violation of, sec-  
20                                   tion 1084; or

21                           “(ii) seize funds in an account de-  
22                           scribed in subparagraph (i) if such funds—

23                                   “(I) are owned or controlled by a  
24                                   gambling business; and

1                   “(II) constitute the proceeds of,  
2                   were derived from, or facilitated, a  
3                   violation of section 1084.

4                   “(C) The limitation in subparagraph (A)  
5                   shall not apply if the financial transaction pro-  
6                   vider is a gambling business within the meaning  
7                   of section 1081(12), in which case such finan-  
8                   cial transaction provider shall be subject to the  
9                   enforcement provisions under subparagraph  
10                  (A).

11                  “(2) The attorney general (or other appropriate  
12                  State official) of a State in which a communication  
13                  in violation of section 1084 allegedly has been or will  
14                  be initiated or received may institute proceedings  
15                  under this section to obtain injunctive or declarative  
16                  relief to prevent or restrain the violation or threat-  
17                  ened violation. Upon application of the attorney gen-  
18                  eral (or other appropriate State official) of an af-  
19                  fected State under this paragraph, the district court  
20                  may enter a temporary restraining order, a prelimi-  
21                  nary injunction, an injunction, or declaratory relief  
22                  against any person (other than a financial trans-  
23                  action provider) to prevent or restrain a violation or  
24                  threatened violation of section 1084, in accordance  
25                  with rule 65 of the Federal Rules of Civil Procedure.

1           “(3) Notwithstanding paragraphs (1) and (2),  
2           for a communication in violation of section 1084  
3           that allegedly has been or will be initiated or re-  
4           ceived on Indian lands (as that term is defined in  
5           section 4 of the Indian Gaming Regulatory Act)—

6                   “(A) the United States shall have the en-  
7                   forcement authority provided under paragraph  
8                   (1);

9                   “(B) the enforcement authorities specified  
10                  in an applicable Tribal-State compact nego-  
11                  tiated under section 11 of the Indian Gaming  
12                  Regulatory Act (25 U.S.C. 2710) shall be car-  
13                  ried out in accordance with that compact; and

14                  “(C) if there is no applicable Tribal-State  
15                  compact, an appropriate tribal official may in-  
16                  stitute proceedings in the same manner as an  
17                  attorney general of a State.

18           No provision of this section shall be construed as al-  
19           tering, superseding, or otherwise affecting the appli-  
20           cation of the Indian Gaming Regulatory Act.

21           “(4) Notwithstanding paragraph (3), no relief  
22           shall be granted under this section against a finan-  
23           cial transaction provider except as provided in para-  
24           graph (1).

1       “(c) No damages, penalty, or forfeiture, civil or crimi-  
2 nal, shall be found against any person or entity for any  
3 act done in compliance with any notice received from a  
4 law enforcement agency.

5       “(d) Relief granted under this section against an  
6 interactive computer service (as defined in section 230(f)  
7 of the Communications Act of 1934) shall—

8               “(1) be limited to the removal of, or disabling  
9 of access to, an online site violating section 1084, or  
10 a hypertext link to an online site violating such sec-  
11 tion, that resides on a computer server that such  
12 service controls or operates; except this limitation  
13 shall not apply if the service is violating section  
14 1084 or is in active concert with a person who is vio-  
15 lating section 1084 and receives actual notice of the  
16 relief;

17               “(2) be available only after notice to the inter-  
18 active computer service and an opportunity for the  
19 service to appear are provided;

20               “(3) not impose any obligation on an interactive  
21 computer service to monitor its service or to affirma-  
22 tively seek facts indicating activity violating section  
23 1084;

24               “(4) specify the interactive computer service to  
25 which it applies; and

1           “(5) specifically identify the location of the on-  
2           line site or hypertext link to be removed or access  
3           to which is to be disabled.”.

4   **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

5           In addition to any other sums authorized to be appro-  
6           priated for this purpose, there are authorized to be appro-  
7           priated to the Department of Justice for each of fiscal  
8           years 2007 through 2010 \$10,000,000 for investigations  
9           and prosecutions of violations of section 1084 of title 18,  
10          United States Code.

11   **SEC. 105. RULES OF CONSTRUCTION.**

12          (a) Nothing in this Act may be construed to prohibit  
13          any activity that is allowed under Public Law 95–515 as  
14          amended (15 U.S.C. 3001 et seq.).

15          (b) Nothing in this Act may be construed to preempt  
16          State law prohibiting gambling.

17   **SEC. 106. SENSE OF CONGRESS.**

18          It is the sense of Congress that this Act does not  
19          change which activities related to horse racing may or may  
20          not be allowed under Federal law. Section 105 is intended  
21          to address concerns that this Act could have the effect  
22          of changing the existing relationship between the Inter-  
23          state Horseracing Act (15 U.S.C. 3001 et seq.), and other  
24          Federal statutes that were in effect at the time of this  
25          Act’s consideration; this Act is not intended to change that

1 relationship; and this Act is not intended to resolve any  
 2 existing disagreements over how to interpret the relation-  
 3 ship between the Interstate Horseracing Act and other  
 4 Federal statutes.

5 **TITLE II—POLICIES AND PROCE-**  
 6 **DURES REQUIRED TO PRE-**  
 7 **VENT PAYMENTS FOR UNLAW-**  
 8 **FUL GAMBLING**

9 **SEC. 201. POLICIES AND PROCEDURES REQUIRED TO PRE-**  
 10 **VENT PAYMENTS FOR UNLAWFUL GAMBLING.**

11 Chapter 53 of title 31, United States Code, is amend-  
 12 ed by adding at the end the following new subchapter:

13 **“SUBCHAPTER IV—POLICIES AND PROCEDURES**  
 14 **REQUIRED TO PREVENT PAYMENTS FOR**  
 15 **UNLAWFUL GAMBLING**

16 **“§ 5361. Definitions**

17 “For purposes of this subchapter, the following defi-  
 18 nitions shall apply:

19 “(1) CREDIT; CREDITOR; CREDIT CARD; AND  
 20 CARD ISSUER.—The terms ‘credit’, ‘creditor’, ‘credit  
 21 card’, and ‘card issuer’ have the same meanings as  
 22 in section 103 of the Truth in Lending Act.

23 “(2) DESIGNATED PAYMENT SYSTEM.—The  
 24 term ‘designated payment system’ means any system  
 25 utilized by a financial transaction provider that the

1 Secretary and the Board of Governors of the Fed-  
2 eral Reserve System, in consultation with the Attor-  
3 ney General, jointly determine, by regulation or  
4 order, could be utilized in connection with, or to fa-  
5 cilitate, any restricted transaction.

6 “(3) ELECTRONIC FUND TRANSFER.—The term  
7 ‘electronic fund transfer’—

8 “(A) has the same meaning as in section  
9 903 of the Electronic Fund Transfer Act, ex-  
10 cept that such term includes transfers that  
11 would otherwise be excluded under section  
12 903(6)(E) of that Act; and

13 “(B) includes any fund transfer covered by  
14 Article 4A of the Uniform Commercial Code, as  
15 in effect in any State.

16 “(4) FINANCIAL INSTITUTION.—The term ‘fi-  
17 nancial institution’ has the same meaning as in sec-  
18 tion 903 of the Electronic Fund Transfer Act, ex-  
19 cept that such term does not include a casino, sports  
20 book, or other business at or through which bets or  
21 wagers may be placed or received.

22 “(5) FINANCIAL TRANSACTION PROVIDER.—  
23 The term ‘financial transaction provider’ means a  
24 creditor, credit card issuer, financial institution, op-  
25 erator of a terminal at which an electronic fund

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

8 “(6) INSURED DEPOSITORY INSTITUTION.—The  
9 term ‘insured depository institution’—

10 “(A) has the same meaning as in section  
11 3 of the Federal Deposit Insurance Act; and

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

15 “(7) MONEY TRANSMITTING BUSINESS AND  
16 MONEY TRANSMITTING SERVICE.—The terms ‘money  
17 transmitting business’ and ‘money transmitting serv-  
18 ice’ have the same meanings as in section 5330(d)  
19 (determined without regard to any regulations pre-  
20 scribed by the Secretary thereunder).

21 “(8) RESTRICTED TRANSACTION.—The term  
22 ‘restricted transaction’ means any transaction or  
23 transmittal involving any credit, funds, instrument,  
24 or proceeds described in any paragraph of section

1 5362 which the recipient is prohibited from accept-  
2 ing under such section.

3 “(9) SECRETARY.—The term ‘Secretary’ means  
4 the Secretary of the Treasury.

5 “(10) UNLAWFUL GAMBLING.—

6 “(A) IN GENERAL.—The term ‘unlawful  
7 gambling’ means to place, receive, or otherwise  
8 knowingly transmit a bet or wager by any  
9 means which involves the use of a communica-  
10 tion facility where such bet or wager is unlawful  
11 under any applicable Federal or State law in  
12 the State or tribal lands in which the bet or  
13 wager is initiated, received, or otherwise made.

14 “(B) EXCLUSION OF CERTAIN AUTHOR-  
15 IZED TRANSACTIONS.—The term ‘unlawful  
16 gambling’ does not include any intrastate or  
17 intratribal transactions authorized under sec-  
18 tion 1084(e) of title 18, United States Code.

19 “(C) INTERMEDIATE ROUTING.—With re-  
20 spect to section 5362, the intermediate routing  
21 of electronic data shall not determine the loca-  
22 tion or locations in which a bet or wager is ini-  
23 tiated, received, or otherwise made.

24 “(11) OTHER TERMS.—The terms ‘bet or  
25 wager’, ‘communication facility’, ‘gambling business’,

1 'own and control', 'person', 'State', and 'tribal' have  
2 the same meanings as in section 1081 of title 18.

3 **“§ 5362. Prohibition on acceptance of any financial**  
4 **instrument for unlawful gambling**

5 “No person engaged in a gambling business may  
6 knowingly accept, in connection with the participation of  
7 another person in unlawful gambling—

8 “(1) credit, or the proceeds of credit, extended  
9 to or on behalf of such other person (including credit  
10 extended through the use of a credit card);

11 “(2) an electronic fund transfer, or funds trans-  
12 mitted by or through a money transmitting business,  
13 or the proceeds of an electronic fund transfer or  
14 money transmitting service, from or on behalf of  
15 such other person;

16 “(3) any check, draft, or similar instrument  
17 which is drawn by or on behalf of such other person  
18 and is drawn on or payable at or through any finan-  
19 cial institution; or

20 “(4) the proceeds of any other form of financial  
21 transaction, as the Secretary and the Board of Gov-  
22 ernors of the Federal Reserve System may jointly  
23 prescribe by regulation, which involves a financial in-  
24 stitution as a payor or financial intermediary on be-  
25 half of or for the benefit of such other person.

1 **“§ 5363. Policies and procedures to identify and pre-**  
2 **vent restricted transactions**

3 “(a) REGULATIONS.—Before the end of the 270-day  
4 period beginning on the date of the enactment of this sub-  
5 chapter, the Secretary and the Board of Governors of the  
6 Federal Reserve System, in consultation with the Attorney  
7 General, shall prescribe regulations (which the Secretary  
8 and the Board jointly determine to be appropriate) requir-  
9 ing each designated payment system, and all participants  
10 therein, to identify and block or otherwise prevent or pro-  
11 hibit restricted transactions through the establishment of  
12 policies and procedures reasonably designed to identify  
13 and block or otherwise prevent or prohibit the acceptance  
14 of restricted transactions in any of the following ways:

15 “(1) The establishment of policies and proce-  
16 dures that—

17 “(A) allow the payment system and any  
18 person involved in the payment system to iden-  
19 tify restricted transactions by means of codes in  
20 authorization messages or by other means; and

21 “(B) block restricted transactions identi-  
22 fied as a result of the policies and procedures  
23 developed pursuant to subparagraph (A).

24 “(2) The establishment of policies and proce-  
25 dures that prevent or prohibit the acceptance of the

1 products or services of the payment system in con-  
2 nection with a restricted transaction.

3 “(b) REQUIREMENTS FOR POLICIES AND PROCE-  
4 DURES.—In prescribing regulations under subsection (a),  
5 the Secretary and the Board of Governors of the Federal  
6 Reserve System shall—

7 “(1) identify types of policies and procedures,  
8 including nonexclusive examples, which would be  
9 deemed, as applicable, to be reasonably designed to  
10 identify and block or otherwise prevent or prohibit  
11 the acceptance of the products or services with re-  
12 spect to each type of restricted transaction;

13 “(2) to the extent practical, permit any partici-  
14 pant in a payment system to choose among alter-  
15 native means of identifying and blocking, or other-  
16 wise preventing or prohibiting the acceptance of the  
17 products or services of the payment system or par-  
18 ticipant in connection with, restricted transactions;  
19 and

20 “(3) consider exempting certain restricted  
21 transactions or designated payment systems from  
22 any requirement imposed under such regulations, if  
23 the Secretary and the Board jointly find that it is  
24 not reasonably practical to identify and block, or

1 otherwise prevent or prohibit the acceptance of, such  
2 transactions.

3 “(c) COMPLIANCE WITH PAYMENT SYSTEM POLI-  
4 CIES AND PROCEDURES.—A financial transaction provider  
5 shall be considered to be in compliance with the regula-  
6 tions prescribed under subsection (a), if—

7 “(1) such person relies on and complies with  
8 the policies and procedures of a designated payment  
9 system of which it is a member or participant to—

10 “(A) identify and block restricted trans-  
11 actions; or

12 “(B) otherwise prevent or prohibit the ac-  
13 ceptance of the products or services of the pay-  
14 ment system, member, or participant in connec-  
15 tion with restricted transactions; and

16 “(2) such policies and procedures of the des-  
17 ignated payment system comply with the require-  
18 ments of regulations prescribed under subsection  
19 (a).

20 “(d) NO LIABILITY FOR BLOCKING OR REFUSING TO  
21 HONOR RESTRICTED TRANSACTIONS.—A person that  
22 identifies and blocks a transaction, prevents or prohibits  
23 the acceptance of its products or services in connection  
24 with a transaction, or otherwise refuses to honor a trans-  
25 action—

1           “(1) that is a restricted transaction;

2           “(2) that such person reasonably believes to be  
3 a restricted transaction; or

4           “(3) as a designated payment system or a mem-  
5 ber of a designated payment system in reliance on  
6 the policies and procedures of the payment system,  
7 in an effort to comply with regulations prescribed  
8 under subsection (a),

9 shall not be liable to any party for such action.

10          “(e) REGULATORY ENFORCEMENT.—The require-  
11 ments of this subchapter shall be enforced exclusively by—

12           “(1) the Federal functional regulators, with re-  
13 spect to the designated payment systems and finan-  
14 cial transaction providers subject to the respective  
15 jurisdiction of such regulators under section 505(a)  
16 of the Gramm-Leach-Bliley Act and section 5g of  
17 the Commodities Exchange Act; and

18           “(2) the Federal Trade Commission, with re-  
19 spect to designated payment systems and financial  
20 transaction providers not otherwise subject to the ju-  
21 risdiction of any Federal functional regulators (in-  
22 cluding the Commission) as described in paragraph  
23 (1).”.

1 **SEC. 202. TECHNICAL AND CONFORMING AMENDMENT.**

2 The table of sections for chapter 53 of title 31,  
3 United States Code, is amended by adding at the end the  
4 following:

“SUBCHAPTER IV—POLICIES AND PROCEDURES REQUIRED TO PREVENT  
PAYMENTS FOR UNLAWFUL GAMBLING

“5361. Definitions.

“5362. Prohibition on acceptance of any financial instrument for unlawful gam-  
bling.

“5363. Policies and procedures to identify and prevent restricted transactions.”.

5 **TITLE III—INTERNET GAMBLING**  
6 **IN OR THROUGH FOREIGN JU-**  
7 **RISDICTIONS**

8 **SEC. 301. INTERNET GAMBLING IN OR THROUGH FOREIGN**  
9 **JURISDICTIONS.**

10 (a) **IN GENERAL.**—In deliberations between the  
11 United States Government and any other country on  
12 money laundering, corruption, and crime issues, the  
13 United States Government should—

14 (1) encourage cooperation by foreign govern-  
15 ments and relevant international fora in identifying  
16 whether Internet gambling operations are being used  
17 for money laundering, corruption, or other crimes;

18 (2) advance policies that promote the coopera-  
19 tion of foreign governments, through information  
20 sharing or other measures, in the enforcement of  
21 this Act; and

1           (3) encourage the Financial Action Task Force  
2           on Money Laundering, in its annual report on  
3           money laundering typologies, to study the extent to  
4           which Internet gambling operations are being used  
5           for money laundering purposes.

6           (b) REPORT REQUIRED.—The Secretary of the  
7           Treasury shall submit an annual report to the Congress  
8           on any deliberations between the United States and other  
9           countries on issues relating to Internet gambling.

          Passed the House of Representatives July 11, 2006.

Attest:

*Clerk.*