H. R. 2366

To establish a program for State licensing of Internet poker, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

Mr. Barton of Texas (for himself, Mr. Campbell, Ms. Berkley, Mr. Honda, Mr. Cohen, Ms. Linda T. Sánchez of California, Mr. Permutter, Mr. King of New York, Mr. Conyers, Mr. Frank of Massachusetts, Mr. Paul, and Mr. Grimm) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services and the Judiciary, 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 establish a program for State licensing of Internet poker, 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; TABLE OF CONTENTS.
4 (a) Short Title.—This Act may be cited as the
5 “Internet Gambling Prohibition, Poker Consumer Protec-
6 tion, and Strengthening UIGEA Act of 2011”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—PROHIBITION ON UNLICENSED INTERNET GAMBLING AND INTERNET POKER CONSUMER PROTECTION

Sec. 101. Definitions.
Sec. 102. Prohibition on unlicensed Internet gambling.
Sec. 103. Department of Commerce qualification and oversight of State agencies.
Sec. 104. Licensing by qualified State agencies.
Sec. 105. Enforcement.
Sec. 106. Compulsive gaming, responsible gaming, and self-exclusion program requirements.
Sec. 107. Prohibitions and restrictions.
Sec. 108. Safe harbor.
Sec. 110. Cheating and other fraud.
Sec. 111. Inapplicability of certain provisions to interstate off-track wagers.
Sec. 112. Construction and relation to other law.
Sec. 113. Regulations.
Sec. 114. Annual reports.
Sec. 115. Effective date.

TITLE II—STRENGTHENING OF UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT OF 2006

Sec. 201. Financial transaction providers.
Sec. 202. List of unlicensed Internet gambling enterprises.
Sec. 203. Regulations.
Sec. 204. Conforming amendments.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since the development of the Internet, online Web sites offering Internet gambling have raised numerous policy, consumer protection, and enforcement concerns for Federal and State governments as such Web sites are run by operators located in many different countries and have sought to attract customers from the United States.
(2) The Unlawful Internet Gambling Enforcement Act of 2006 (title VIII of Public Law 109–347; 120 Stat. 1952) was intended to aid enforcement efforts against unlawful Internet operators and to limit unlawful Internet gaming involving United States persons. However, that Act has only been partially successful in doing so.

(3) There is uncertainty about the laws of the United States governing Internet gambling and Internet poker, though not about laws governing Internet sports betting. The Department of Justice has maintained that a broad range of activity is illegal, including activity that Congress intended to legalize under the Interstate Horseracing Act of 1978. Certain court decisions have used logic not consistent with aspects of the position of the Department of Justice. Enforcement efforts would be aided by bringing greater clarity to this area.

(4) Additional tools to assist law enforcement in the prevention of unlawful Internet gaming activities would be important and beneficial. Maintenance of a list of unlicensed Internet gambling enterprises and the owners, operators, and key personnel of such enterprises (as well as entities and related personnel found unsuitable) would aid those law enforcement
efforts and would make the Unlawful Internet Gambling Enforcement Act more effective.

(5) Poker is distinct from the class of games of chance traditionally defined as gambling in that, players compete against each other, and not the person or entity hosting the game (sometimes called “the house”), and that over any significant interval, the outcome of a poker game is predominantly determined by the skill of the participants.

(6) United States consumers would benefit from a program of Internet poker regulation which recognizes the interstate nature of the Internet, but nevertheless preserves the prerogatives of States. Such a system would require strict licensing of Internet poker providers and would require licensee operators to—

(A) have effective means to prevent minors from playing poker on-line;

(B) identify and help treat problem gamblers; to ensure that games are fair;

(C) allow players to self-exclude and limit losses; and

(D) prevent money laundering.

(7) Such a program would create a new industry within the United States creating thousands of
jobs and substantial tax revenue for Federal and State governments.

**TITLE I—PROHIBITION ON UNLICENSSED INTERNET GAMBLING AND INTERNET POKER CONSUMER PROTECTION**

**SEC. 101. DEFINITIONS.**

As used in this title, the following definitions apply:

(1) APPLICANT.—The term “applicant” means any person who has applied for a license pursuant to this title.

(2) BET OR WAGER.—

   (A) IN GENERAL.—Except as provided in subparagraph (B), the term “bet or wager” has the meaning given the term in section 5362 of title 31, United States Code.

   (B) EXCEPTION.—The term “bet or wager” does not include the following:

   (i) INTERSTATE HORSE RACING.—A bet or wager that is permissible under the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

   (ii) CERTAIN INTRASTATE TRANSACTIONS.—Placing, receiving, or otherwise transmitting a bet or wager—
(I) as described in subparagraph
(B) of section 5362(10) of title 31,
United States Code, and clarified by
subparagraph (E) of such section; and

   (II) authorized under a license
that was issued by a regulatory body
of a State or Indian tribe on or before
the date of the enactment of this Act.

(iii) INTRASTATE LOTTERY TRANSACTIONS.—A bet or wager that is—

   (I) a chance or opportunity to
win a lottery or other prize (which op-
portunity to win is predominantly sub-
ject to chance) authorized by a State
or Indian tribe; and

   (II) a placing, receiving, or trans-
mitting of a bet or wager as described
in such subparagraph (B) and clari-
fied by subparagraph (E) of such sec-
tion 5362(10).

(iv) INTRATRIBAL TRANSACTIONS.—
Placing, receiving, or otherwise transmitt-
ing a bet or wager as described in sub-
paragraph (C) of such section 5362(10), as
clarified by such subparagraph (E).
(3) CASINO GAMING.—

(A) IN GENERAL.—Except as provided in
subparagraph (B), the term “casino gaming”
means the full range of casino gaming activity
licensed by regulatory bodies of States or In-
dian tribes that would be qualified as class III
gaming under section 4 of the Indian Gaming
Regulatory Act (25 U.S.C. 2703), if that Act
were applicable to the gaming.

(B) EXCEPTION.—The term “casino gam-
ing” does not include lotteries of States or In-
dian tribes.

(4) CASINO GAMING FACILITIES.—The term
“casino gaming facility” means a facility that pro-
vides casino gaming on a riverboat, at a race track,
or in another facility that hosts 500 or more gaming
devices in 1 physical location pursuant to a duly au-
thorized license issued by a gaming regulatory au-
thority of a State or Indian tribe.

(5) GAMING DEVICE.—

(A) IN GENERAL.—Except as provided in
subparagraph (B), the term “gaming device”
means any computer-based gambling machine,
including slot machines and video lottery termi-
nals that have been approved by a gaming regulatory authority of a State or Indian tribe.

(B) EXCEPTION.—The term “gaming device” does not include machines that process bets or wagers for pari-mutuel betting pools.

(6) INDIAN LANDS AND INDIAN TRIBE.—The terms “Indian lands” and “Indian tribe” have the meaning given the terms in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

(7) INTERNET.—The term “Internet” has the meaning given the term in section 5362 of title 31, United States Code.

(8) INTERNET GAMBLING FACILITY.—The term “Internet gambling facility” means an Internet Web site, or similar communications facility in which transmissions may cross State boundaries, through which a bet or wager is initiated, received, or otherwise made, whether transmitted by telephone, Internet, satellite, or other wire or wireless communication facility, service, or medium.

(9) INTERNET POKER.—The term “Internet poker” means a poker game, hand, tournament, or other contest of poker offered through the use of an Internet poker facility.
(10) **INTERNET POKER FACILITY.**—The term “Internet poker facility” means a type of Internet gambling facility that provides bets or wagers only with respect to a game, hand, tournament, or other contest of poker.

(11) **LICENSEE.**—The term “licensee” means a person who operates an Internet poker facility under a license issued by a qualified State agency pursuant to this title.

(12) **LIVE RACING.**—The term “live racing” means, with respect to a qualified race track, the conduct of live thoroughbred horse races at such race track, but does not include any races simulcasted from a separate race track.

(13) **OPERATE AN INTERNET GAMBLING FACILITY.**—The term “operate an Internet gambling facility” means to conduct, direct, manage, own, supervise, or control an Internet gambling facility.

(14) **OPERATE AN INTERNET POKER FACILITY.**—The term “operate an Internet poker facility” means to conduct, direct, manage, own, supervise, or control an Internet poker facility.

(15) **POKER.**—The term “poker” means any of several card games in which players compete against each other, and not the person or entity hosting the
game (sometimes called “the house”), and that over any significant interval, the outcome of a poker game is predominantly determined by the skill of the participants.

(16) QUALIFIED STATE AGENCY.—The term “qualified State agency” means—

(A) a State agency or regulatory body of an Indian tribe that has been designated as a qualified body under paragraph (1) or (3) of section 105(a); or

(B) the Office of Internet Poker Oversight established under section 106(a) and designated under paragraph (2) of section 105(a).

(17) QUALIFIED CARD ROOM.—The term “qualified card room” means a facility that has been licensed by a State or Indian tribe to provide at least 250 tables in 1 physical facility for bets or wagers on poker.

(18) QUALIFIED MOBILE GAMING SYSTEM.—The term “qualified mobile gaming system” means a system for the conduct of casino gaming through communications devices or gaming devices operated at a casino gaming facility by the use of communication technology that allows a person to transmit wirelessly information to a computer to assist in the
placing of a bet or wager and corresponding information related to the display of the game, game outcomes, or other similar information and which is licensed for operation at a casino gaming facility by a State or Indian tribe.

(19) **Qualified Race Track.**—The term “qualified race track” means a race track or other pari-mutuel wagering facility that—

(A) has been licensed by a regulatory authority of a State or Indian tribe to accept pari-mutuel wagers on horse races; and

(B) has—

(i) at least 500 gaming devices at 1 physical location; or

(ii) processed at least $200,000,000 or more in gross wagering on horse racing during any 3 of the 5 years preceding the date of the enactment of this Act.

(20) **Remote Gaming Equipment.**—

(A) **In General.**—Except as provided in subparagraph (B), the term “remote gaming equipment” means electronic or other equipment principally used by or on behalf of an operator of an Internet poker facility, including by any significant vendor to such operator, to—
(i) register a person’s participation in Internet poker and to store information relating thereto;

(ii) present to persons who are participating or who may participate in Internet poker the game that is to be played;

(iii) determine all or part of, or the effect of, a result relevant to a game, hand, tournament, or other contest of Internet poker and to store information relating thereto;

(iv) accept payment with respect to Internet poker from the player; or

(v) authorize payment of any winnings in respect of Internet poker.

(B) EXCEPTION.—The term “remote gaming equipment” does not include the following:

(i) Equipment used for business continuity, back-up, excess capacity, or other secondary use.

(ii) A computer which is used by a person to participate in Internet poker unless the computer is provided by or on behalf of the person who is conducting or providing the facilities for the game.
(iii) Equipment operated in the ordinary course of providing banking, telecommunications, or payment processing services.

(iv) Such other equipment that provides ancillary services as the Secretary considers appropriate.

(21) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

(22) SIGNIFICANT VENDOR.—The term “significant vendor” means a person who—

(A) on behalf of a licensee, knowingly manages, administers, or controls bets or wagers that are initiated, received, or otherwise made within the United States;

(B) on behalf of a licensee, knowingly manages, administers, or controls the games with which such bets or wagers are associated;

(C) on behalf of a licensee, develops, maintains, or operates the software or other system programs or hardware on which the games or the bets or wagers are managed, administered, or controlled;

(D) provides the trademarks, trade names, service marks, or similar intellectual property
under which a licensee identifies its Internet poker facility to its customers in the United States;

(E) provides information on individuals in the United States that made bets or wagers with an Internet gambling facility not licensed under this title via a database or customer lists;

(F) provides any products, services, or assets to a licensee and is paid a percentage of gaming revenue or Internet poker commission fees by the licensee (not including fees to financial institutions and payment providers for facilitating a deposit by a customer); or

(G) with respect to an applicant, proposes to provide any of the activities, services, or items identified in subparagraphs (A) through (E).

(23) SPORTING EVENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “sporting event” means any athletic competition, whether professional, scholastic, or amateur or any performance of any athlete in such competitions.

(B) EXCEPTION.—The term “sporting event” does not include any activity described
in section 3704(a)(4) of title 28, United States Code.

(24) **State.**—The term “State” means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

**SEC. 102. PROHIBITION ON UNLICENSED INTERNET GAMBLING.**

(a) **Prohibition.**—

(1) **In general.**—It shall be unlawful for a person to operate an Internet gambling facility without a license in good standing issued to such person by a qualified State or tribal agency under this title.

(2) **Exception.**—Paragraph (1) shall not apply to the operation of an Internet gambling facility by a person located outside the United States in which bets or wagers are initiated, received, or otherwise made by individuals located outside the United States.

(b) **Criminal penalties.**—Any person who violates this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.
SEC. 103. DEPARTMENT OF COMMERCE QUALIFICATION AND OVERSIGHT OF STATE AGENCIES.

(a) COMMERCE RESPONSIBILITIES AND POWERS.— The Secretary shall have responsibility and authority for the following activities:

(1) Reviewing and qualifying State agencies to issue licenses under this title.

(2) Exercising oversight over qualified State agencies to ensure that such agencies—

(A) comply with the requirements of this title; and

(B) carry out their regulatory and enforcement functions under this title with appropriate diligence.

(3) Investigating and taking appropriate remedial action with respect to any qualified State agency.

(4) Prescribing such regulations as may be necessary to administer and enforce the provisions of this title.

(b) OFFICE OF INTERNET POKER OVERSIGHT.—

(1) ESTABLISHMENT.—The Secretary shall establish an office in the Department of Commerce, to be known as the “Office of Internet Poker Oversight” (in this subsection referred to as the “office”)

HR 2366 IH
to exercise the functions of the Secretary set out in
this title.

(2) DIRECTOR AND DELEGATION OF AUTHORITY.—The Secretary shall appoint a Director of the
office from among individuals who have demonstra-
ted experience and expertise in regulating
gaming activities and may delegate to the Director
any authority, duty, or responsibility conferred upon
the Secretary by this title.

(c) DESIGNATION OF QUALIFIED STATE AGEN-
CIES.—

(1) QUALIFICATION OF STATE AGENCIES.—The
Secretary shall qualify any State agency that is des-
ignated to the Secretary by a State that wishes to
participate in the licensing program to carry out the
licensing and other functions under this title if the
Secretary determines that such agency meets the
minimum standards for qualification prescribed
under paragraph (2).

(2) MINIMUM STANDARDS FOR QUALIFIED
STATE AGENCIES.—The Secretary shall prescribe
minimum standards for qualifying a State agency
under this subsection, including minimum stand-
ards—
(A) relating to the size and qualification of staff of the agency to ensure a sufficient number of enforcement agents with experience in gaming regulatory enforcement areas to discharge its intended functions and that the applicant have the sophistication and resources necessary to evaluate issues unique to the Internet environment;

(B) relating to the length of time the applicant has regulated other forms of gaming to ensure designations of only those applicants that have a history of demonstrated regulatory enforcement and oversight commensurate with the responsibilities imposed under this title;

(C) for assessing the applicant’s experience and willingness to work with Federal authorities, including the Financial Crimes Enforcement Network;

(D) prohibiting conflicts of interest to ensure that qualified State agencies are not controlled, directly or indirectly, by persons that have any significant ownership interest in entities regulated under this title;
(E) for the capacity and experience of a qualified State agency in conducting rigorous suitability reviews;

(F) for the enforcement and regulatory authorities provided to the applicant under the law of the applicable State or Indian tribe, including investigative authority, authority to impose requirements on licensees, and authority to impose civil or other penalties; and

(G) the Secretary considers relevant to the ability of an agency to serve as an effective qualified State agency.

(3) WITHDRAWAL OF QUALIFICATION.—

(A) IN GENERAL.—Beginning on the date that is 1 year after the date on which the Secretary prescribes final regulations under this title, the Secretary may, after providing 60 days notice to a qualified State agency, withdraw the qualification of such agency under this section if the Secretary determines that the agency is not in compliance with the minimum standards set established under paragraph (2) or other requirements of this title.

(B) OPPORTUNITY TO COMPLY.—The Secretary may provide a State agency who receives
notice under subparagraph (A) with an opportunity to come into compliance for a period of not more than 180 days. The Secretary may extend such period by not more than 180 additional days if the State agency has made substantial progress toward compliance as of the expiration of the first 180-day period.

(C) Effect of Notice.—A State agency that receives notice under subparagraph (A) may not issue any new licenses under this title until the Secretary determines that the qualified State agency is in compliance with the requirements of this title and regulations prescribed thereunder.

(D) Right to Appeal.—A State agency that has had its qualification withdrawn under this paragraph may appeal to the United States District Court for the District of Columbia that such withdrawal was an abuse of discretion.

(4) Action upon Withdrawal of Qualification.—

(A) In General.—Except as provided in subparagraph (B), not later than 30 days after the date on which the Secretary withdraws the qualification of a State agency under paragraph
(3), each person with a license issued by the State agency shall—

(i)(I) cease offering, accepting, and providing services with respect to bets or wagers from persons located in the United States under such license; and

(II) return all customer deposits or place those sums the return of which to United States customers is not feasible due to change in customer address, bank details, or similar difficulty, in escrow in an account with a financial institution in the United States for safekeeping and orderly disposition by the Secretary; or

(ii) apply for a new license from a different qualified State agency.

(B) INTERIM OPERATION.—If a person applies for a new license under clause (ii) of subparagraph (A), the person may continue the activities described in clause (i)(I) of such subparagraph until final action is taken on the license application by the qualified State agency.

(C) INTERIM REGULATORY OVERSIGHT.—Until final action is taken under subparagraph (B) with respect to a person, the Secretary
shall have enforcement and regulatory authority
over the licensed activities of such person.

(d) Oversight of Qualified State Agencies.—The Secretary may investigate and take such action as the Secretary considers appropriate with respect to any qualified State agency that appears, based upon the Secretary’s own inquiry or based upon credible information provided by other persons, including licensees or law enforcement officials, to be deficient or substantially less rigorous than other qualified State agencies in the discharge of its responsibilities under this title.

(e) Consultation With Indian Tribes.—In implementing this title, the Secretary shall conduct meaningful consultation with Indian tribes regarding all aspects of this title which affect Indian tribes.

SEC. 104. LICENSING BY QUALIFIED STATE AGENCIES.

(a) Internet Poker Facility Licensing Program.—

(1) Authority to operate Internet poker facility under valid license.—Notwithstanding any other provision of law and subject to the provisions of this title, a licensee may accept a bet or wager with respect to Internet poker from an individual located in the United States and may offer re-
lated services so long as the license of the licensee issued under this title remains in good standing.

(2) Significant Vendors.—If a person seeks a certificate of suitability from a qualified State agency to provide services to a licensee or applicant as a significant vendor with respect to an Internet poker facility, such person shall not be required to obtain a license under this title to provide such services with respect to that Internet poker facility.

(3) Limitations Imposed by States and Indian Tribes.—

(A) Action by a State.—No licensee may engage, under any license issued under this title, in the operation of an Internet poker facility that knowingly accepts bets or wagers initiated by persons who reside in any State which provides notice that it will limit such bets or wagers, if the Governor or other chief executive officer of such State informs the Secretary of such limitation, in a manner which clearly identifies the nature and extent of such limitation.

(B) Changes to State Limitations.—The establishment, repeal, or amendment by a State of any limitation described in subpara-
graph (A) shall apply, for purposes of this title, beginning on the day that occurs after the end of the 60-day period beginning on the later of—

(i) the date a notice of such establishment, repeal, or amendment is provided by the Governor or other chief executive officer of such State in writing to the Secretary; or

(ii) the effective date of such establishment, repeal, or amendment.

(C) Application of State Action to Tribal Lands of Indian Tribes.—Any State limitation described in subparagraph (A) shall not apply to the acceptance by a licensee of bets or wagers from persons located within the tribal lands of an Indian tribe that—

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

(ii) would be entitled pursuant to other applicable law to permit such bets or wagers to be initiated and received within its territory without use of the Internet.
(D) Actions by an Indian tribe.—No Internet gambling licensee knowingly may accept a bet or wager from a person located in the tribal lands of any Indian tribe which limits such gambling activities or other contests if the principal chief or other chief executive officer of such Indian tribe informs the Secretary of such limitation, in a manner which clearly identifies the nature and extent of such limitation.

(E) Changes to state limitations.—The establishment, repeal, or amendment by any Indian tribe of any limitation referred to in subparagraph (D) shall apply, for purposes of this title, beginning on the day that occurs after the end of the 60-day period beginning on the later of—

(i) the date a notice of such establishment, repeal, or amendment is provided by the principal chief or other chief executive officer of such Indian tribe in writing to the Secretary; or

(ii) the effective date of such establishment, repeal, or amendment.

(F) Notification and enforcement of state and tribe limitations.—
(i) Notification and Measures to Ensure Compliance.—The Secretary shall notify all licensees and applicants of all States and Indian tribes that have provided notice pursuant to subparagraph (A)(ii) of (C)(ii), as the case may be, promptly upon receipt of such notice and in no event fewer than 30 days before the effective date of such notice. The Secretary shall take effective measures to ensure that any licensee under this subchapter, as a condition of the license, complies with any limitation or prohibition imposed by any State or Indian tribe to which the licensee is subject.

(ii) Violations.—A violation of subparagraph (A) of (C) shall be a violation of this title enforceable under section 105.

(b) Application for License.—

(1) Application.—Except as provided in subparagraph (B), a person seeking to operate an Internet poker facility under this title shall submit to the qualified State agency of the State where servers for such Internet poker facility are located an application for a license at such time, in such form, and in
such manner as the qualified State agency considers
appropriate, including at a minimum the following:

(A) Complete financial information about
the applicant.

(B) Documentation showing the organiza-
tion of the applicant and all related businesses
and affiliates.

(C) The criminal and financial history of—

(i) the applicant;

(ii) each of the senior executives and
directors of the applicant;

(iii) any other person who is in control
of the applicant; and

(iv) such other persons as the quali-
fied State agency considers appropriate.

(D) Such other information as may be nec-
essary for the suitability analysis required
under subsection (c).

(E) Disclosure of all other applications for
licenses previously or simultaneously submitted
under this paragraph to other qualified State
agencies and whether those applications are
pending, were granted, or were denied.

(F) A detailed description of the appli-
cant’s plan for complying with all applicable re-
quirements and regulations prescribed pursuant to this title.

(G) A certification by the applicant that the applicant agrees to be subject to—

(i) jurisdiction in United States Federal courts and in the courts of the State or Indian tribe of the qualified State agency to which the applicant has applied; and

(ii) all applicable provisions of United States law.

(2) NOTICE TO THE SECRETARY.—Each qualified State agency shall report all applicants for licensure and the dispositions of their applications to the Secretary promptly upon disposition of each application or in such intervals as the Secretary may prescribe. Such report shall include such information or documentation as the Secretary may require.

(c) STANDARDS FOR LICENSE ISSUANCE; SUITABILITY QUALIFICATIONS AND DISQUALIFICATION STANDARDS.—

(1) SUITABILITY FOR LICENSING.—No applicant shall be eligible to obtain a license under this title unless a qualified State agency, with whom the applicant has filed an application for a license, has determined, upon completion of a background check
and investigation, that the applicant, any person
deemed to be in control of the applicant, all signifi-
cant vendors of the applicant, and any other person
determined by the qualified State agency as having
significant influence on the applicant are suitable for
licensing or for receiving a certificate of suitability
as applicable.

(2) INVESTIGATION.—

(A) DETERMINATION OF SUITABILITY.—

Prior to issuing a license under this section, a
qualified State agency shall conduct the inves-
tigation and analysis described in paragraph (1)
to determine whether the applicant or person—

(i) is a person of good character, hon-
esty, and integrity;

(ii) is a person whose prior activities,
criminal record, if any, reputation, habits,
and associations do not—

(I) pose a threat to the public in-
terest or to the effective regulation
and control of Internet poker facili-
ties; or

(II) create or enhance the dan-
gers of unsuitable, unfair, or illegal
practices, methods, and activities in
the conduct of Internet poker facilities
or the carrying on of the business and
financial arrangements incidental to
such facilities;

(iii) is capable of and likely to conduct
the activities for which the applicant is li-
censed or receives a certificate of suit-
ability in accordance with the provisions of
this title, any regulations prescribed under
this title, and all other applicable laws;

(iv) with respect to applicants, has or
guarantees acquisition of adequate busi-
ness competence and experience in the op-
eration of casino gaming facilities, Internet
poker facilities, or Internet gambling facili-
ties;

(v) with respect to applicants, has or
will obtain sufficient financing for the na-
ture of the proposed operation and from a
suitable source; and

(vi) has disclosed to the qualified
State agency all known affiliations or rela-
tionships, whether direct or indirect.

(B) UNSUITABLE.—An applicant or any
other person may not be determined to be suit-
able under this subsection if the applicant or such person—

(i) has failed to provide information and documentation material to a determination of suitability for licensing under paragraph (1);

(ii) has supplied information which is untrue or misleading as to a material fact pertaining to any such determination;

(iii) has been convicted of an offense that is punishable by imprisonment of more than 1 year;

(iv) is delinquent in the payment of any applicable Federal or State tax, tax penalty, addition to tax, or interest owed to a jurisdiction in which the applicant or person operates or does business, unless such payment has been extended or is the subject of a pending judicial or administrative dispute;

(v) has not certified in writing that the person submits to personal jurisdiction in the United States; or
(vi) fails to comply with such other standard as the applicable qualified State agency considers appropriate.

(C) Consideration of previous operation of Internet gambling facility.—In carrying out a suitability analysis of a person under this subsection, a qualified State agency shall consider whether such person operated an Internet gambling facility before the date of the enactment of this Act and the scope of such person’s activities with respect to such operation.

(3) Ongoing requirement.—A licensee (and any other person who is required to be determined to be suitable for licensing in connection with such licensee) shall meet the standards necessary to be suitable for licensing or to receive a certificate of suitability, as the case may be, throughout the term of the license.

(4) Certificate of suitability for significant vendors.—

(A) In general.—If a qualifying body determines under paragraph (1) that a significant vendor of an applicant is suitable under such paragraph, the qualifying body shall issue a cer-
tificate to such vendor that certifies the suit-
ability of such vendor.

(B) Revocation of Certificate.—A qualified State agency that issues a certificate to a significant vendor under subparagraph (A) shall revoke the certificate if at any time the significant vendor no longer meets the stand-
ards necessary for a determination of suit-
ability.

(D) Certificates Issued by Other Qualified State Agency.—A qualified State agency may, but need not, accept a certificate issued to a significant vendor by another qual-
ified State agency as evidence of the suitability of the significant vendor.

(5) Other Vendors.—

(A) Notice.—A licensee shall promptly notify the qualified State agency that issued the license to the licensee of all persons that are not significant vendors that—

(i) direct, provide, or solicit customers to or for the licensee’s Internet poker facil-
ity, or materially assist in any of those tasks, in return for a commission or other fee;
(ii) hold themselves out to the public as offering bets or wagers on licensee’s behalf;

(iii) offer bets or wagers under their own names or brands but using and relying on licensee’s Internet poker facilities;

(iv) license trademarks, trade names, service marks, or other similar intellectual property to the licensee; or

(v) own a substantial interest in or control a person described in clause (i), (ii), (iii), or (iv).

(B) SUITABILITY OF OTHER VENDORS AND PERSONS.—A qualified State agency that reviews an application of an applicant for a license or issues a license to a licensee may, at the sole discretion of the qualified State agency and on a case-by-case basis, require as a condition of such license that a person meet suitability requirements under paragraph (1) if the person—

(i) is described in subparagraph (A) with respect to the applicant or licensee;

(ii) provides services to an applicant or licensee and the qualified State agency
determines that with respect to such services, there is a substantial risk of circumvention of the suitability requirements applicable to significant vendors; or

(iii) is associated with the applicant or licensee or one of the significant vendors of the applicant or licensee and the qualified State agency determines such person may pose a threat to the integrity of Internet poker facilities operated by the applicant or licensee.

(C) INFORMATION.—A qualified State agency may require such information from an applicant, licensee, significant vendor or other person identified in this paragraph as the qualified State agency considers necessary to carry out this paragraph.

(6) ENFORCEMENT ACTIONS.—

(A) IN GENERAL.—If the Secretary or the qualified State agency that issued a license to a licensee finds that the licensee, or any other person that is subject to a required determination of suitability in connection with such licensee, fails to meet the suitability requirements of this subsection at any time during the
tenure of the license, the Secretary or the qualified State agency may take action to protect the public interest, including, if the Secretary or qualified State agency considers necessary, the suspension or termination of the license.

(B) Imposition of Conditions Including Removal of Parties.—Notwithstanding a determination under subparagraph (A), the Secretary or the qualified State agency that issued a license to a licensee may allow the licensee to continue engaging in licensed activities by imposing conditions on the person to which subparagraph (A) is applicable under penalty of revocation or suspension of a license or certificate of suitability, including—

(i) the identification of any person determined to be unsuitable; and

(ii) the establishment of appropriate safeguards to ensure such person is excluded from any management or involvement in operation of the licensed activities.

(7) Administrative Provisions.—

(A) Background Check and Investigation.—Each qualified State agency shall establish standards and procedures for conducting
background checks and investigations for purposes of this subsection.

(B) PRIVILEGE.—Any written or oral statement made in the course of an official proceeding of the Secretary or a qualified State agency, by any member thereof, or any witness testifying under oath which is relevant to the purpose of the proceeding and relates to the review of an application for a license under this title, is privileged and shall not give rise to liability for defamation or relief in any civil action.

(C) ADDITIONAL PRIVILEGE.—Notwithstanding section 552 of title 5, United States Code, or any other Federal, State, or tribal law to the contrary, any communication or document of an applicant, licensee, significant vendor, or affiliate thereof, which is made or transmitted pursuant to this title to the Secretary or a qualified State agency or any of their agents or employees, except information that is already public, shall be privileged and shall not be disclosed by the Secretary or the qualified State agency without the prior written consent of the applicant, licensee, significant vendor, or affil-
iate thereof (as applicable), or pursuant to a lawful court order, grand jury subpoena, or similar procedure. To the extent practicable, the Secretary or qualified State agency shall provide timely notice of the proceedings to the applicant, licensee, significant vendor, or affiliate thereof (as applicable).

(D) **Preservation of privilege recognized under other provisions of law.**—Any privilege recognized under any other applicable provision of Federal, State, or tribal law, including attorney-client, physician-patient, and accountant-client privileges, shall not be waived or lost because a document or communication otherwise protected by the privilege is disclosed to the Secretary or a qualified State agency.

(E) **Confidentiality.**—Any communication or document, except information that is already public, shall be treated as confidential and may not be disclosed, in whole or part, by the Secretary or a qualified State agency without a lawful court order or as otherwise expressly required by law, if the communication or document is—
(i) required by the Secretary or qualified State agency to be disclosed by the applicant, licensee, or significant vendor, including applications, financial or earnings information, and criminal records, whether of the applicant or licensee or of any affiliate, employee, officer, director or significant vendor thereof, or of any other third party; or

(ii) prepared or obtained by an agent or employee of the Secretary or qualified State agency that contains information described in clause (i).

(d) ADDITIONAL REQUIREMENTS FOR A LICENSE.—

In order to obtain a license under this section, an Internet poker facility shall demonstrate to the qualified State agency that such facility maintains appropriate safeguards and mechanisms, in accordance with standards established by the qualified State agency, including appropriate safeguards and mechanism to—

(1) ensure, to a reasonable degree of certainty, that the individual placing a bet or wager is not less than 21 years of age;

(2) ensure, to a reasonable degree of certainty, that the individual placing a bet or wager is phys-
ically located in a jurisdiction that has not prohib-
ited such bets or wagers at the time the bet or
wager is placed;

(3) ensure, to a reasonable degree of certainty,
that all taxes relating to Internet poker from per-
sons engaged in bets or wagers relating to such
Internet poker are collected or reported, as required
by law, at the time of any payment of proceeds of
such bets or wagers;

(4) ensure that all taxes relating to the oper-
ation of an Internet poker facility from any licensee
are collected and disbursed as required by law and
that adequate records to enable later audit or
verification are maintained;

(5) prevent, to a reasonable degree of certainty,
 fraud, money laundering, and terrorist financing;

(6) ensure, to a reasonable degree of certainty,
 compliance with the requirements of section 106;

(7) protect, to a reasonable degree of certainty,
 the privacy and online security of any person en-
gaged in bets or wagers with the licensee’s Internet
poker facility;

(8) ensure that any user fee required under
subsection (e) is paid to the qualified State agency;
(9) ensure, to a reasonable degree of certainty, that Internet poker games are fair and honest, and to prevent, to a reasonable degree of certainty, cheating, including collusion, and use of cheating devices, including use of software programs (sometimes referred to as “bots”) that make bets or wagers according to algorithms; and

(10) such other mechanisms and safeguards as the qualified State agency may establish.

(c) FEES FOR ADMINISTRATIVE EXPENSES.—

(1) USER FEES.—

(A) IN GENERAL.—The cost of administering this title with respect to each applicant, licensee, and significant vendor, including the cost of any review or examination of a licensee or its significant vendors to ensure compliance with the terms of the license and this title, shall be assessed by the qualified State agency receiving an application or issuing a license against the applicant, licensee, or significant vendor, as the case may be, by written notice in an amount that the qualified State agency determines is necessary to—
(i) meet the qualified State agency’s expenses in carrying out such administration, review, or examination; and

(ii) to cover the qualified State agency’s share of the amount determined by the Secretary under paragraph (3) to cover the expenses incurred by the Secretary in carrying out the provisions of this title.

(B) EXPENSES FOR REVIEW OR EXAMINATION.—Expenses that are attributable to review or examination of a particular applicant, licensee, or significant vendor shall be assessed under subparagraph (A) against that applicant, licensee, or significant vendor.

(C) EXPENSES FOR GENERAL ADMINISTRATION.—Expenses for general administration shall be assessed against all licensees equally.

(D) DISPOSITION OF USER FEES.—Amounts assessed by a qualified State agency as user fees under this paragraph shall—

(i) be remitted to the Secretary, in the amount of that State’s share as determined under paragraph (3) for deposit in the Treasury in accordance with subparagraph (B) of such paragraph; and
(ii)(I) be available to the qualified State agency to cover expenses incurred by the qualified State agency in carrying out the provisions of this title; and

   (II) not be construed to be Government funds or appropriated monies, or subject to apportionment for the purposes of any other provision of law.

(F) COLLECTION.—

   (i) REFERRAL.—If a licensee or significant vendor fails to pay a user fee to a qualified State agency under this paragraph after the assessment of the fee has become final—

   (I) the qualified State agency may recover the amount assessed by action in a court of the State or Indian tribe of the qualified State agency or in the appropriate United States district court, along with any costs of collection and attorney fees; and

   (II) such failure may be grounds for denial of an application for a license under this title or revocation of
a license or certificate of suitability under this title.

(ii) ASSSESSMENT REVIEWABLE.—In any civil action under clause (i), a court may review the validity and adjust the amount of the user fees.

(G) USER FEES OF SIGNIFICANT VENDORS MAY BE PAID BY APPLICANTS AND LICENSEES.—A user fee assessed against a significant vendor may be paid by an applicant or licensee on behalf of the significant vendor.

(2) DIRECT AND EXCLUSIVE OBLIGATION OF LICENSEE.—With respect to a licensee, a user fee shall be the direct and exclusive obligation of the licensee and may not be deducted from amounts available as deposits to any person placing a bet or wager with the licensee.

(3) USER FEES ESTABLISHED BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall determine the funding requirements necessary to meet the Secretary’s cost of administering this title and notify each qualified State agency of its proportional share to be collected by such agency under paragraph (1)(A).
(B) **Disposition of user fees.**—

Amounts remitted to the Secretary under paragraph (1)(D)(i) shall—

(i) be deposited into a separate account in the Treasury to be known as the “Internet Poker Oversight Fund”; and

(ii) be available to the Secretary in such amounts, subject to appropriations, to cover expenses incurred by the Secretary in carrying out the provisions of this title.

(f) **Approval of license.**—

(1) **In general.**—A qualified State agency may issue licenses under this title for the operation of an Internet poker facility to any applicant that—

(A) owns or controls a company that operates a casino gaming facility, qualified race track, or qualified card room and owned or controlled such facility, race track, or card room on the date that is 10 days before the date of the enactment of this Act;

(B) for the duration of the 5-year period ending on the date on which the applicant submits an application under subsection (b)(1), owned or controlled a casino gaming facility, qualified race track, or qualified card room;
(C) is owned or controlled by a person who—

(i) owns or controls a company that operates a casino gaming facility, qualified race track, or qualified card room and owned or controlled such facility, race track, or card room on the date that is 10 days before the date of the enactment of this Act; or

(ii) for the duration of the 5-year period ending on the date on which the applicant submits an application under subsection (b)(1), owned or controlled a casino gaming facility, qualified race track, or qualified card room;

(D) for the duration of the 5-year period ending on the date on which the applicant submits an application under subsection (b)(1), under license issued by a State or Indian tribe manufactured and supplied to casino gaming facilities with—

(i) not fewer than 500 slot machines;

or

(ii) qualified mobile gaming systems; and
(E) meets other criteria established by the Secretary or by the qualified State agency under this title.

(3) Expansion of licensees only if no risk to public.—Beginning on the date that is 2 years after the date of first issuance specified in section 115(b), the Secretary may, by rule, authorize the issuance of licenses to applicants other than those described in paragraph (2) if the Secretary determines, after providing the public with notice and an opportunity to comment, that such authorization will not significantly increase the risk that the standards described in subsection (d) will not be satisfied by licensees.

(4) Authority of secretary to revoke licenses.—Notwithstanding any certificate of suitability or license issued by a qualified State agency, the Secretary may suspend or revoke such certificate or license if the Secretary has reason to believe that the recipient does not meet the suitability requirements established under subsection (c) or, as applicable, any other requirement imposed on a licensee under this title. The Secretary may not overturn a decision by a qualified State agency to deny or to
terminate a license or to deny or revoke a certificate of suitability.

(5) CONFLICTS BETWEEN QUALIFIED STATE AGENCIES.—If a qualified State agency denies a license, terminates a license, denies a certificate of suitability, or revokes a certificate of suitability to a person and within 12 months of such denial, termination, or revocation another qualified State agency grants such person a license or certificate of suitability, the Secretary shall—

(A) commence a review of such license or certificate of suitability; and

(B) not later than 90 days after such commencement, determine whether to act under paragraph (4).

(6) CONTROL DEFINED.—In this subsection, the term “control” means, with respect to a person, the possession, directly or indirectly, of the power to direct or influence the direction of the management or policies of the person, whether through the ownership of voting securities, through a management, executive officer, or board position, by shareholders or similar agreement, or otherwise.

(g) LOCATION OF REMOTE GAMING EQUIPMENT.—A licensee shall maintain its remote gaming equipment
within the territory of the United States throughout the
term of its license. A qualified State agency may require
applicants that seek a license from such qualified State
tagency to locate that equipment within the territory of the
State or Indian tribe of the qualified State agency if the
qualified State agency determines that such requirement
will advance the regulatory interests of this title.

(h) LICENSE IS A PRIVILEGE NOT A RIGHT.—A deci-
sion by a qualified State agency not to grant a person
a license or certificate of suitability, or to terminate a li-
cense, or revoke a certificate of suitability, is not review-
able under Federal law or the law of any jurisdiction other
than the jurisdiction of the qualified State agency. The
State or Indian tribe of the jurisdiction of the qualified
State agency may, but need not, provide an opportunity
to appeal.

(i) TERM, RENEWAL, AND TRANSFER OF LICENSE.—

(1) TERM.—Any license issued under this title
shall be issued for a 5-year term beginning on the
date of issuance. A license may be renewed in ac-
cordance with requirements prescribed by the quali-
fied State agency that issued the license under this
title.

(2) TRANSFER.—A transfer of a license, change
of control of a licensee, or change in significant ven-
dor shall require prior approval by the qualified State agency that issued the license. The qualified State agency shall at a minimum ensure the suitability requirements of subsection (c) continue to be satisfied before approving any such transfer or change.

(j) Administrative Provisions.—

(1) Determination of Internet Poker.—

(A) Initial Determination by Qualified State Agency.—A determination of whether a game, hand, tournament, or other contest of a licensee is Internet poker shall be made in the first instance by the qualified State agency that issued the license to such licensee under this title.

(B) Challenges.—

(i) Challenge Made with Secretary.—A licensee or qualified State agency may file a challenge with the Secretary regarding any determination of the State agency under subparagraph (A) that a game, hand, tournament, or other contest of another licensee is Internet poker.

(ii) Determination Made by Secretary within 30 Days.—If a challenge
is made under clause (i), the Secretary shall make a determination of whether the game, hand, tournament, or other contest is Internet poker not later than 30 days after the date on which the challenge is made.

(iii) Operation until determination.—A licensee that offers a game, hand, tournament, or other contest that is challenged under clause (i) may continue to offer such game, hand, tournament, or other contest until the Secretary makes a determination under clause (iii).

(C) Appeals.—Not later than 30 days after the date on which the Secretary makes a determination under subparagraph (B)(iii), a licensee or a qualified State agency may appeal such determination to the United States District Court for the District of Columbia. Such court shall set aside the Secretary’s determination if the court determines that the Secretary’s determination was—

(i) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law; or
(ii) without observance of procedure required by law.

(2) CHALLENGES UNDER STATE LAW.—Except as provided in paragraph (1) and unless otherwise specifically provided in this title, actions taken by a qualified State agency may be challenged by applicants and licensees only as permitted under the law of the State or Indian tribe in which the qualified State agency is located.

(3) SUMMONS.—

(A) IN GENERAL.—The Secretary may issue a summons with respect to an applicant or licensee necessary to carry out the provisions of this title.

(B) PRODUCTION AT DESIGNATED SITE.—
A summons issued by the Secretary pursuant to this paragraph may require that books, papers, records, or other data stored or maintained at any place be produced at any—

(i) business location of a licensee or applicant for a license;

(ii) designated location in the State or Indian lands of the applicable qualified State agency; or
(iii) designated location in the District
of Columbia.

(C) NO LIABILITY FOR EXPENSES.—The Secretary shall not be liable for any expense in-
curred in connection with the production of books, papers, records, or other data under this paragraph.

(D) SERVICE OF SUMMONS.—Service of a summons issued under this subsection may be
by registered mail or in such other manner cal-
culated to give actual notice as determined by the Secretary.

(E) AUTHORIZATION TO INVOLVE AID OF COURTS.—The Secretary may invoke the aid of any court of the United States to compel com-
pliance with the summons within the jurisdic-
tion of which—

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

(ii) the person summoned is an inhab-
itant; or

(iii) the person summoned carries on
business or may be found.
(F) Power of courts to compel appearance.—The court may issue an order requiring the person summoned to appear before the Secretary—

(i) to produce books, papers, records, and other data;

(ii) to give testimony as may be necessary to explain how such material was compiled and maintained;

(iii) to allow the Secretary to examine the business of a licensee; and

(iv) to pay the costs of the proceeding.

(G) Contumacy or refusal.—Any failure to obey the order of the court under this paragraph may be punished by the court as a contempt thereof. All process in any case under this subsection may be served in any judicial district in which such person may be found.

SEC. 105. ENFORCEMENT.

(a) Disciplinary Action.—

(1) In general.—A licensee may be subject to disciplinary action, including suspension or revocation of its license, by a qualified State agency that issued a license to the licensee or by the Secretary if the licensee fails to comply with any provision of
this title, any regulation prescribed thereunder, or any other applicable provision of State or tribal law.

(2) INITIATING AGENCY.—Only the Secretary or the qualified State agency which granted the license may initiate disciplinary action under this title.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to prohibit a law enforcement authority or regulatory body that has authority over a licensee or an affiliated person, independent from this title, from taking action under the law of that law enforcement authority or regulatory body.

(4) DISCIPLINARY PROCEDURES.—

(A) IN GENERAL.—A qualified State agency shall commence disciplinary action under this subsection against a licensee upon service of a formal written complaint upon the licensee, with a copy forwarded to the Secretary, that sets forth the grounds for the disciplinary action and the proposed penalty that is being sought, which may include any or all of the imposition of a fine as provided pursuant to subsection (m)(1) or limitation, condition, suspension or revocation of the license.
(B) IN ACCORDANCE WITH LAW OF JURISDICTION OF QUALIFIED STATE AGENCY.—The disciplinary process shall proceed according to the law of the jurisdiction of the applicable qualified State agency.

(5) FINALITY OF ACTION AND APPEALS.—

(A) FINALITY.—Any disciplinary action shall be treated as a final action.

(B) ACTION BY QUALIFIED STATE AGENCIES.—A licensee aggrieved by disciplinary action by a qualified State agency may file an appeal in the jurisdiction where the qualified State agency taking such action is located only to the extent permitted by the law of such jurisdiction.

(C) ACTION BY SECRETARY.—A licensee aggrieved by disciplinary action by the Secretary may file an appeal in the United States District Court for the District of Columbia. Such court shall set aside the action if it determines that the action was—

(i) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law; or
(ii) without observance of procedure required by law.

(6) PENDING APPEAL.—During the period in which a suspension or revocation of an existing license is being challenged through a pending judicial proceeding, the court handling the challenge may allow the licensee to continue offering bets and wagers in full compliance with the terms of its existing license and any other conditions the court considers necessary, if the court determines that—

(A) the appellant has a reasonable likelihood of success on the merits; and

(B) allowing the appellant to continue offering bets and wagers while the appeal is pending will not threaten the public interest.

(7) RETURN OF CUSTOMER FUNDS.—If a licensee’s license is revoked and no appeal pursuant to paragraph (5) is pending, the licensee shall—

(A) return all customer funds in an orderly manner not later than 30 days after the date of the revocation of the license; or

(B) place in escrow those sums return of which to United States customers is not feasible due to change in customer address, bank details, or similar difficulty, in an account with a
financial institution in the United States for
safekeeping and orderly disposition by the Sec-
retary.

(8) Referral to Attorney General.—If, in
the course of carrying out the provisions of this title,
the Secretary or a qualified State agency finds a
substantial basis to believe that a person has vio-
lated section 103, the Secretary or qualified State
agency shall refer such matter to the Attorney Gen-
eral.

(b) Civil Money Penalties.—

(1) In general.—

(A) Penalties assessed by qualified
state agencies.—A qualified State agency
may assess upon any licensee or other person
subject to the requirements of this title for each
violation of this title or any regulation pre-
scribed or order issued under this title, a civil
penalty of not more than the greater of—

(i) the amount involved in the viola-
tion, if any;

(ii) $250,000 for an individual and
$750,000 for a corporation; or
(iii) such other amount as provided under the applicable State or tribal law of the qualified State agency.

(B) Penalties assessed by Secretary.—The Secretary may assess upon any licensee or other person subject to the requirements of this title for each violation of this title or any regulation prescribed or order issued under this title, a civil penalty of not more than the greater of—

(i) the amount involved in the violation, if any; or

(ii) $250,000 for an individual and $750,000 for a corporation.

(C) Not cumulative.—

(i) In general.—The penalties authorized under subparagraphs (A) and (B) shall not be cumulative and only one such penalty may be assessed per violation.

(ii) Construction.—Clause (i) shall not be construed to limit the authority of a qualifying body or the Secretary, as the case may be, to pursue a civil penalty for each violation of a related series of violations.
(D) Failure to Obtain a License.—

Notwithstanding any other provision of law, the Secretary may assess upon a person that is required to obtain a license under this title, but fails to obtain a license under this title, a civil penalty of not more than the greater of—

(i) the amount of bets or wagers taken by the person from players in the United States during the period that a license was needed but not held by the person; or

(ii) $1,000,000 per day that the person accepts bets or wagers from players in the United States during the period that a license was needed but not held by the person.

(E) Construction.—Nothing in this paragraph shall be construed to affect the ability of a law enforcement official to seek criminal penalties against a person.

(2) Assessment.—

(A) Enforcement by Qualified State Agencies.—Qualified State agencies and such other entities as are authorized by applicable State law shall enforce the provisions of this
title under the law of the applicable State or Indian tribe, and penalties shall be determined, reviewable, collectable, and disposed of as provided under such law.

(B) ENFORCEMENT BY SECRETARY.—

(i) Written notice.—Any penalty imposed under paragraph (1)(B) shall be assessed and collected by the Secretary by written notice.

(ii) Finality of assessment.—If, with respect to any assessment under paragraph (1)(B), a hearing is not requested pursuant to clause (v) within the period of time allowed under such clause, the assessment shall constitute a final agency order.

(iii) Authority to modify or remit penalty.—The Secretary may compromise, modify, or remit any penalty which the Secretary may assess or has already assessed under paragraph (1)(B).

(iv) Mitigating factors.—In determining the amount of any penalty imposed under paragraph (1)(B), the Secretary shall take into account the appropriateness
of the penalty with respect to the following:

(I) The size of the financial resources and the good faith of the person against whom the penalty is assessed.

(II) The gravity of the violation.

(III) The history of previous violations.

(IV) Such other matters as justice may require.

(v) HEARING.—The person against whom any penalty is assessed under paragraph (1)(B) shall be afforded an agency hearing if such person submits a request for such hearing not later than 20 days after the date of the issuance of the notice of assessment.

(vi) COLLECTION.—

(I) REFERRAL.—If any person fails to pay an assessment after any penalty assessed under this subparagraph has become final, the Secretary shall recover the amount assessed by
action in the appropriate United States district court.

(II) Scope of review.—In any civil action under subclause (I), the validity and appropriateness of the penalty shall be subject to review for abuse of agency discretion.

(vii) Disbursement.—All penalties collected under authority of paragraph (1)(B) shall be deposited into the Treasury of the United States.

(3) Condition for licensure.—Payment by a licensee of any civil penalty assessed under this subsection that has become final shall be a requirement for the retention of its license.

SEC. 106. COMPULSIVE GAMING, RESPONSIBLE GAMING, AND SELF-EXCLUSION PROGRAM REQUIREMENTS.

(a) Regulations Required.—Each qualified State agency shall, before issuing any licenses under this title, establish requirements for the development of a Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program that each licensee of that qualified State agency shall implement as a condition of licensure. Such requirements shall also provide for the establishment of a pro-
gram to alert the public to the existence, consequences, and availability of the self-exclusion list established under subsection (c).

(b) Minimum Requirements.—At a minimum, each qualified State agency shall require that licensees—

(1) provide informational materials written in plain language about responsible gaming, including information about the self-exclusion list established under subsection (c) and how a player may request placement on the list, each time a player signs in to make a bet or wager, which materials shall be provided via a prominently displayed hyperlink or comparable mechanism;

(2) provide informational materials about responsible gaming to any player that requests such materials;

(3) make continuously available individualized responsible gaming options that any customer may choose, including allowing customers to self-limit their access to the issuance of credit, check cashing, or direct mail marketing by the licensee, in each case as and to the extent that the qualified State agency may consider appropriate;

(4) ensure to a reasonable degree of certainty that persons on the list of self-excluded persons es-
established pursuant to subsection (c) are prevented from initiating any bets or wagers within the scope of this title; and

(5) ensure that the information required under this subsection is clearly and prominently made available by the licensee in each language in which services of the Internet poker facility of the licensee are offered.

(e) List of Persons Self-Excluded.—

(1) Establishment.—

(A) Lists Maintained by Qualified State Agencies.—Each qualified State agency shall establish and maintain a list of persons self-excluded from playing Internet poker through Internet poker facilities licensed by the qualified State agency. Each week, each qualified State agency shall submit to the Secretary a current copy of the list.

(B) Master List Maintained by Secretary.—The Secretary shall establish and maintain a master list of all persons self-excluded from playing Internet poker through Internet poker facilities licensed under this title. Such list shall consist of all persons submitted under subparagraph (A). The Secretary shall
make the master list available to all qualified State agencies and licensees.

(C) Placement Request.—Any person may request placement on the list of self-excluded persons by—

(i) acknowledging in a manner to be established by each qualified State agency with respect to its licensees that the person wishes to be denied gaming privileges within the scope of this title; and

(ii) agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at any Internet gambling facility of a licensee.

(2) Limitation on Liability.—

(A) In General.—Except as provided in subparagraph (B), the United States, the Secretary, a qualified State agency, the State or Indian tribe in which that qualified State agency is located, an enforcement agent, licensee, or any employee or agent thereof, shall not be liable to any self-excluded person or to any other party in any judicial or administrative pro-
ceeding for any harm, monetary or otherwise, which may arise as a result of—

(i) any failure to withhold gaming privileges from, or to restore gaming privileges to, a self-excluded person;

(ii) otherwise permitting a self-excluded person to engage in gaming activity while on the list of self-excluded persons; or

(iii) disclosure of information about individuals placed on the list of self-excluded persons.

(B) LICENSEES.—A licensee or employee or agent thereof may be liable to a self-excluded person in a judicial or administrative proceeding for a harm described in subparagraph (A) to the extent provided under the law of the State or Indian tribe of the qualified State agency that issued the license.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to prevent the Secretary or a qualified State agency from assessing a regulatory sanction against a licensee or person for failing to comply with a provision of this section or a regulation prescribed there-
under or for misuse of any list of self-excluded
persons for purposes not authorized under this
section.

(3) Disclosure provisions.—

(A) In general.—Notwithstanding any
other provision of Federal, State, or tribal law,
the list of self-excluded persons shall not be
open to public inspection.

(B) Affiliate disclosure.—If necessary
to effectuate the self-exclusion purposes of this
subsection, any licensee may disclose the identi-
ties of persons on the self-excluded list to any
significant vendor, service provider, or affiliated
cOMPANY TO THE EXTENT THAT THE SIGNIFICANT VENDOR, SERVICE PROVIDER, OR AFFILIATED COMPANY
maintains such information under confiden-
tiality provisions comparable to those in this
subsection.

(d) Gaming by Prohibited Persons.—

(1) Prohibition on benefitting from pro-
hibited gaming activity.—A person who is pro-
hibited from gaming with a licensee by law, or by
order of the Secretary, a qualified State agency, or
any court of competent jurisdiction, including any
person on the self-exclusion list under subsection (c),
shall not collect, in any manner or proceeding, any
winnings or recover any losses arising as a result of
any prohibited gaming activity.

(2) FORFEITURE.—In addition to any other
penalty provided by law, any money or thing of value
that has been obtained by, or is owed to, any prohib-
ited person by a licensee as a result of bets or wa-
gers made by a prohibited person after the applica-
ble prohibition has become effective shall be subject
to forfeiture by order of the Secretary or a qualified
State agency, following notice to the prohibited per-
son and opportunity to be heard.

(3) DEPOSIT OF FORFEITED FUNDS.—Any
funds forfeited pursuant to this subsection shall be
deposited into the Treasury of the United States, or,
in the case of a forfeiture to a qualified State agen-
cy, as provided by the applicable State or tribal law.

(e) REQUIREMENTS WITH RESPECT TO CHILD SUP-
PORT DELINQUENTS.—

(1) IN GENERAL.—When it is made known to
the Secretary or a qualified State agency by a Fed-
eral or State court or a competent State agency in-
volved with the administration or enforcement of a
court-ordered child support payment that a par-
ticular individual is delinquent with respect to court-
ordered child support payments, the Secretary shall include that individual on the list established under subsection (c).

(2) REMOVAL FROM LIST.—Individuals placed on the list pursuant to paragraph (1) shall be removed from such list if the court or agency that made such individual’s delinquency known to the Secretary notifies the Secretary that such individual is no longer delinquent.

(f) ADMINISTRATIVE PROVISIONS.—

(1) RULE OF CONSTRUCTION.—No provision of this section shall be construed as creating a legal duty in the Secretary, a qualified State agency, a licensee, or any employee or agent thereof to identify or to exclude compulsive players not on the list of self-excluded persons.

(2) NO CAUSE OF ACTION.—The Secretary, a qualified State agency, a licensee, and any employee or agent thereof, shall not be liable to any person in any proceeding for losses or other damages of any kind arising out of that person’s gaming activities based on a claim that the person was a compulsive, problem, or pathological player.
SEC. 107. PROHIBITIONS AND RESTRICTIONS.
(a) Prohibition on Bets or Wagers on Sporting Events and Games Other Than Internet Poker.—

(1) In general.—No provision of this title shall be construed to authorize any licensee to accept a bet or wager on—

(A) any game, event, or activity that is not Internet poker; or

(B) any sporting event in violation of any applicable provision of Federal or State law.

(2) Construction.—Nothing in this title shall be construed to repeal or to amend any provision of Federal or State law prohibiting, restricting, or otherwise addressing bets or wagers on sporting events, including provisions of Federal and State law that permit participation in any fantasy or simulation sports games.

(b) Prohibition on the Use of Credit Cards for Internet Gambling.—

(1) In general.—No licensee, no person operating on behalf of a licensee, and no person accepting payment for or settlement of a bet or wager who intends to transmit such payment to a person licensee, may accept a bet or wager or payment for or settlement of a bet or wager that is transmitted
or otherwise facilitated with a credit card (as defined
in section 5362(11) of title 31, United States Code).

(2) EXCEPTION.—

(A) CLARIFICATION AND SCOPE.—For any
person licensed to take bets or wagers in ac-
cordance with the Interstate Horseracing Act of
1978, the prohibition in paragraph (1) shall
only apply to those activities conducted pursuant
to a license under this title.

(B) INTRASTATE ACTIVITIES.—For any
person involved in legal, land-based or State- or
tribal-regulated intrastate gambling, the prohi-
bition in paragraph (1) shall only apply to those
activities conducted pursuant to a license under
this title.

(e) PUBLIC INTERNET POKER PARLORS PROHIB-
ITED.—

(1) IN GENERAL.—It shall be considered a vio-
lation of this title to operate a place of public accom-
modation, club (including a club or association lim-
ited to dues-paying members or similar restricted
groups), or similar establishment in which computer
terminals or similar access devices are made avail-
able to be used principally for the purpose of access-
ning Internet gambling facilities.
(2) **CRIMINAL PENALTIES.**—Any person who violates subsection (a) shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(3) **CONSTRUCTION.**—Nothing in this title shall be construed to authorize or otherwise to permit the operation of places of public accommodation, clubs (including clubs or associations limited to dues-paying members or similar restricted groups) and similar establishments that permit access to Internet gambling facilities.

(4) **RELATION TO STATE, LOCAL, AND TRIBAL LAW.**—Places of public accommodation, clubs, or similar establishments described in subsection (c) shall be subject to all otherwise applicable State, local, and tribal police, criminal, zoning, and other regulatory powers which are not intended to be limited in any way by this title.

**SEC. 108. SAFE HARBOR.**

It shall be an affirmative defense to any prosecution or enforcement action under any provision of Federal, State, or tribal law that the activity forming the basis of such prosecution or enforcement action is authorized under and has been carried out lawfully in accordance with and under the terms of—
(1) this title; or

(2) the Interstate Horseracing Act of 1978 (15
U.S.C. 3001 et seq.).

SEC. 109. RELATION TO SUBCHAPTER IV OF CHAPTER 53 OF
TITLE 31, UNITED STATES CODE.

Subchapter IV of chapter 53 of title 31, United
States Code, shall not apply to any bet or wager—

(1) occurring pursuant to a license issued under
this title, subject to section 109; or

(2) that is permissible under the Interstate

SEC. 110. CHEATING AND OTHER FRAUD.

(a) CHEATING AND CHEATING DEVICES PROHIB-
ITED.—

(1) CHEATING PROHIBITED.—No person initiating,
receiving, or otherwise making a bet or wager
with a licensee, or sending, receiving, or inviting in-
formation assisting with a bet or wager with a li-
censee shall knowingly violate, attempt to violate, or
assist another in violating the rules of play estab-
lished by the licensee for the purpose of obtaining
prohibited or unfair advantage in any game author-
ized under this title.

(2) CHEATING DEVICES.—Except as provided in
paragraph (3), no person initiating, receiving, or
otherwise making a bet or wager with a licensee, or
sending, receiving, or inviting information assisting
with a bet or wager with a licensee shall knowingly
use, possess, or assist another in the use of, an elec-
tronic, electrical, or mechanical device or software or
other program or tool which is designed, con-
structed, or programmed specifically for use in ob-
taining an advantage in any game authorized under
this title, where such advantage is prohibited or oth-
erwise violates the rules of play established by the li-
censee.

(3) **PERMISSIBLE USES.**—It shall not be a viol-
ation of this subsection for a licensee, its agents, a
qualified State agency, or its agent to use or posses
a device described in the preceding sentence if—

(A) such use or possession is solely for
purposes of testing an Internet poker facility;

(B) such device is not used in live play in-
volving actual bets or wagers; and

(C) such device is registered with the Sec-
retary and the qualified State agency that
issued the applicable license.

(4) **DISCLOSURE TO PUBLIC NOT REQUIRED.**—
Notwithstanding any other provision of law, a reg-
istration under paragraph (3)(C) is not required to be made available to the public.

(b) Additional Offense.—

(1) In general.—Except as provided in paragraph (3), no person initiating, receiving, or otherwise making a bet or wager with a licensee, or sending, receiving, or inviting information assisting with a bet or wager with a licensee, shall knowingly use, possess, or assist another in the use of any cheating device with intent to cheat or defraud any licensee or other persons placing bets or wagers with such licensee.

(2) Bots.—A software program that makes bets or wagers according to an algorithm shall constitute a type of cheating device under this subsection.

(3) Permissible Uses.—It shall not be a violation of this subsection for a licensee, its agents, a qualified State agency, or its agent to use or possess a device described in paragraph (1) or (2) if—

(A) such use or possession is solely for purposes of testing an Internet poker facility;

(B) such device is not used in live play involving actual bets or wagers; and
(C) such device is registered with the qualified State agency that issued the applicable license.

(4) Disclosure to public not required.—Notwithstanding any other provision of law, a registration under paragraph (3)(C) is not required to be made available to the public.

(c) Permanent Injunction.—Upon conviction of a person for violation of this section, the court may enter a permanent injunction enjoining such person from initiating, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

(d) Criminal Penalty.—Whoever violates subsection (a) or (b) shall be fined under title 18, United States Code, or imprisoned for not more than 3 years, or both.

(e) Reports.—

(1) Recommended minimum standards.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the recommendations of the Secretary on what minimum standards qualifying bodies should adopt to carry out the requirements of subsection (a).
(2) IDENTIFICATION OF THREATS TO OPERATION OF INTERNET POKER FACILITIES.—Not later than 1 year after the date that licenses are first issued under section 118(a), the Director of the National Institute of Standards and Technology shall submit to Congress a report that identifies threats to the integrity of Internet poker facilities operated by licensees, including identification of technologies that could be used to hack computer networks, facilitate cheating, or otherwise place consumers at risk of fraud or monetary loss.

SEC. 111. INAPPLICABILITY OF CERTAIN PROVISIONS TO INTERSTATE OFF-TRACK WAGERS.

The provisions of this title requiring a license and of subchapter IV of chapter 53 of title 31, United States Code, restricting acceptance of bets or wagers made by individuals located in the United States or requiring the blocking or other prevention of restricted transactions shall not apply with respect to the placing, transmitting, or receiving of interstate off-track wagers, as such term is defined in section 3 of the Interstate Horseracing Act of 1978 (15 U.S.C. 3002), that are permissible under such Act (15 U.S.C. 3001 et seq.), whether such off-track wager is made by telephone, Internet, satellite, or other
wire or wireless communication facility, service, or me-
dium.

3 SEC. 112. CONSTRUCTION AND RELATION TO OTHER LAW.

(a) No Impact on Existing Lawful Games.—

(1) In General.—If bets or wagers on certain
games of skill are not regarded as gambling under
all provisions of Federal, State, or tribal law in ef-
fect as of the date of enactment of this Act—

(A) nothing in this title shall be construed
to require licensing under this title with respect
to such games; and

(B) fees paid to participate in such games
shall not be regarded as bets or wagers for pur-
poses of this title.

(2) Reliance.—Nothing in this title may be
relied on as support for the legality or permissibility
of games described in paragraph (1) without compli-
ance with the licensing and other requirements of
this title

(b) No Effect on Existing Law.—Nothing in this
section shall be construed to repeal, to amend, or to affect
the interpretation of any provision of Federal or State law
that was in effect before the date of the enactment of this
Act that—
(1) prohibits, restricts, or otherwise addresses bets or wagers; or
(2) prohibits fraud, unfair or deceptive acts or practices, or other criminal activity.

(c) PREEMPTION OF STATE AND TRIBAL LAWS.—

(1) IN GENERAL.—Except as otherwise expressly provided in this title, the provisions of this title shall supersede any provisions of the law of any State or Indian tribe expressly relating to the permitting, prohibiting, licensing, or regulating of Internet gambling facilities, including Internet poker facilities, and the law of any State or Indian tribe expressly relating to the permitting, prohibiting, licensing, or regulation of gambling, except to the extent such State or tribal laws are not inconsistent with this title.

(2) LOTTERIES.—No provision of this title shall be construed to have any effect on the rights, privileges, or obligations of a State or tribal lottery as may be provided under other applicable Federal, State, or tribal law.

(3) SAVINGS PROVISION.—Nothing in this title may be construed to limit the applicability or enforcement of any State or tribal consumer protection
law or preempt the applicability of State or tribal
trespass, contract, or tort law.

(d) RELATION TO GAMBLING DEVICES TRANSPOR-
tATION ACT.—Equipment used by a licensee or significant
vendor in the furtherance of licensed activities pursuant
to this title (but not to the extent it is used for other pur-
poses) shall not be considered a gambling device within
the meaning of section 1 of the Act of January 2, 1951,
prohibiting the transportation of gambling devices in

(e) SCOPE OF WIRE ACT.—Section 1084 of title 18,
United States Code, is amended by adding at the end the
following new subsection:

“(f) This section, subchapter IV of chapter 53 of title
31, and any other provision of Federal law that establishes
criminal penalties for any activity involved in placing, re-
ceiving, or otherwise transmitting a bet or wager, informa-
tion assisting in the placing of bets or wagers, or a com-
munication which entitles the recipient to receive money
or credit as a result of bets or wagers, shall not apply
to any activity that is permissible under the Interstate
Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) or title
I of the Internet Gambling Prohibition, Poker Consumer
Protection, and Strengthening UIGEA Act of 2011.”.
(f) No Impact on Indian Gaming Regulatory Act.—

(1) In General.—No provision of this title or decision or action taken by an Indian tribe or State pursuant to this title shall have any effect on non-Internet gaming activities within the scope of section of the Indian Gaming Regulatory Act (25 U.S.C. 2710) or any successor provisions or on any Tribal-State compacts or authorities pursuant thereto.

(2) Tribal Status or Category Not Affected.—Tribal operation of Internet poker facilities under this title shall not be considered class II or class III gaming under such section, and an Indian tribe’s status, category, or class under such section shall not impact its status or ability to offer bets or wagers pursuant to this title.

(3) New Negotiations Not Required.—

(A) Indian Tribes.—The fact that an Indian tribe is operating under a license issued pursuant to this title or that a tribal regulatory body is acting as a qualified body pursuant to this title shall not require an Indian tribe to negotiate a new agreement, limitation, or other provision of tribal-State compact, agreement, or other understanding with respect to gaming or
revenue-sharing, with regard to any bet or wager occurring pursuant to a license issued under this title.

(B) States.—The fact that a State has prohibited or limited Internet bets or wagers under section 104(a)(3) or that a State regulatory body is acting as a qualified body pursuant to this title shall not require the State to negotiate a new agreement, limitation, or other provision of tribal-State compact, agreement, or other understanding with respect to gaming or revenue-sharing, with regard to any bet or wager occurring pursuant to a license issued under this title.

SEC. 113. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe such regulations as the Secretary considers necessary and where expressly required or authorized to carry out this title.

SEC. 114. ANNUAL REPORTS.

(a) Licensing and Regulation of Internet Poker Facilities.—Not later than 1 year after the date that licenses first issue under this title and annually thereafter, the Secretary shall transmit to Congress a report
on the licensing and regulation of Internet poker facilities under this title, including—

(1) the amount of fees collected under section 104(e) and, in cooperation with the Secretary of Treasury, an estimate of the amount of income tax revenue that is attributable to the operation of Internet poker facilities during the period covered by the report;

(2) a list of qualified State agencies, the number of licensees reviewed by the qualified State agencies under this title, and the outcomes of such reviews;

(3) a description of the efforts the Secretary has undertaken to ensure that qualified State agencies are properly issuing licenses and regulating licensees under this title;

(4) a detailed description of each type of game offered by licensees and how each type is consistent with the definition of poker under section 102; and

(5) any other information the Secretary determines may be useful to Congress.

(c) CONSUMER PROTECTION.—Not later than 1 year after the date that licenses first issue under this title and annually thereafter, the Secretary shall transmit to the Committee on Energy and Commerce of the House of
Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on commercial and regulatory practices carried out to protect consumers with respect to Internet poker, including the practices carried out pursuant to the requirements of section 106 and the regulations prescribed pursuant to such section. Such report shall include—

(1) a detailed description of the efforts of each qualified State agency to protect consumers from unfair or deceptive acts or practices, including deceptive advertising and marketing to minors;

(2) a description of the practices that the Secretary recommends qualified State agency to adopt to protect consumers;

(3) such recommendations as the Secretary may have for legislative action as the Secretary considers necessary to protect consumers with respect to Internet poker; and

(4) such other information as the Secretary considers appropriate.

SEC. 115. EFFECTIVE DATE.

(a) In general.—Except as otherwise provided in this title, the provisions of this title shall take effect on the date that is 30 days after the date of the enactment of this Act.
(b) Regulations Required Before Issuing Licenses.—Notwithstanding any other provision of this title, a qualified State agency may not issue a license under this title before the later of—

(1) the date on which the Secretary prescribes final regulations under section 113;

(2) the date on which the Secretary of the Treasury prescribes final regulations pursuant to subsections (a) and (d) of section 203; and

(3) the date on which the Director of the Financial Crimes Enforcement Network submits to the Secretary of the Treasury a list of unlicensed Internet gambling enterprises pursuant to section 5369(a)(1)(B) of title 31, United States Code, as added by section 202(a).

TITLE II—STRENGTHENING OF UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT OF 2006

SEC. 201. FINANCIAL TRANSACTION PROVIDERS.

(a) In General.—Subchapter IV of chapter 53 of title 31, United States Code, is amended by adding at the end the following:
§ 5368. Liability of financial transaction providers

(a) Liability for certain financial activities and transactions.—A financial transaction provider shall not be held liable for engaging in a financial activity or transaction, including a payments processing activity, in connection with a bet or wager permitted by the Internet Gambling Prohibition, Poker Consumer Protection, and Strengthening UIGEA Act of 2011 or the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) unless the financial transaction provider has actual knowledge that the financial activity or transaction was conducted in violation of either such Act or any other applicable provision of Federal or State law.

(b) No liability for blocking or refusing to honor certain transactions.—

(1) In general.—A financial transaction provider that takes an action described in paragraph (2) with respect to a transaction shall not be liable to any party for that action if the financial transaction provider takes the action because the originator of the transaction or a party to the transaction is—

(A) a person or entity that is included in the list of unlicensed Internet gambling enterprises required by section 5369(a);
“(B) a person or entity that the financial transaction provider reasonably believes is included in that list;

“(C) a person or entity that is included in a list of unlicensed Internet gambling enterprises made available to the financial transaction provider by the Secretary under section 5369(a)(3);

“(D) a person or entity that the financial transaction provider reasonably believes is included in a list described in subparagraph (C);

“(E) a person or entity that is demonstrated to be an unlicensed Internet gambling enterprise based on information, other than a list described in subparagraph (C), that is made available to the financial transaction provider; or

“(F) a person or entity that the financial transaction provider reasonably believes is demonstrated to be an unlicensed Internet gambling enterprise based on information described in subparagraph (E).

“(2) ACTIONS DESCRIBED.—A financial transaction provider takes an action described in this paragraph if the financial transaction provider—
“(A) identifies and blocks a transaction;

“(B) prevents or prohibits the acceptance of its products or service in connection with a transaction or otherwise refuses to honor a transaction; or

“(C) closes an account or ends a financial relationship.”.

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

“§ 5368. Liability of financial transaction providers.”.

(c) TECHNICAL CORRECTION.—Section 5362(11)(B)(i) of title 31, United States Code, is amended by striking “section 903(6)(E)” and inserting “section 903(7)(E)”.

SEC. 202. LIST OF UNLICENSED INTERNET GAMBLING ENTERPRISES.

(a) IN GENERAL.—Subchapter IV of chapter 53 of title 31, United States Code, as amended by section 201(a), is further amended by adding at the end the following:

“§ 5369. List of unlicensed Internet gambling enterprises

“(a) LIST OF UNLICENSED INTERNET GAMBLING ENTERPRISES.—

“(1) IN GENERAL.—The Director shall—
“(A) identify unlicensed Internet gambling enterprises in accordance with the procedures described in subsection (b);

“(B) not later than 120 days after the date of the enactment of the Internet Gambling Prohibition, Poker Consumer Protection, and Strengthening UIGEA Act of 2011, submit to the Secretary a list of unlicensed Internet gambling enterprises that includes the information described in paragraph (2); and

“(C) not less frequently than every 60 days thereafter, submit to the Secretary an updated list that reflects the results of subsequent investigations carried out under this section.

“(2) INFORMATION REQUIRED.—The information described in this paragraph is, with respect to each unlicensed Internet gambling enterprise included on the list required by paragraph (1), the following:

“(A) All known Internet Web site addresses of the enterprise.

“(B) The name of any person who controls, finances, manages, supervises, directs, or owns all or part of the enterprise (as such terms are used in section 1955 of title 18).
“(C) To the extent known, information identifying the financial agents and account numbers of the enterprise and the persons described in subparagraph (B).

“(3) DISTRIBUTION OF LIST.—Not later than 10 days after receiving the list or an updated version of the list required by paragraph (1) from the Director, the Secretary shall—

“(A) post the information provided under subparagraphs (A) and (B) of paragraph (2) on the Internet Web site of the Department of the Treasury; and

“(B) provide to each person that is required to comply with the regulations prescribed pursuant to section 5364 a copy of the information included with the list required by paragraph (1) in an electronic format compatible with the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control.

“(b) PROCEDURES FOR IDENTIFYING UNLICENSED INTERNET GAMBLING ENTERPRISES.—

“(1) INVESTIGATIONS.—

“(A) INITIAL INVESTIGATION.—Not later than the date that is 60 days after the date of
the enactment of the Interne Gambling Prohibi-
tion, Poker Consumer Protection, and Strength-
ening UIGEA Act of 2011, the Director shall
complete an initial investigation of entities that
appear to be unlicensed Internet gambling en-
terprises.

“(B) Subsequent Investigations.—
After completing the initial investigation re-
quired by subparagraph (A), the Director shall
regularly investigate entities that appear to be
unlicensed Internet gambling enterprises.

“(2) Requests.—

“(A) In General.—Any Federal, State,
tribal, or local law enforcement official, any af-
fected sports organization, any person directly
harmed by unlicensed Internet gaming, any fi-
nancial transaction provider, and any inter-
active computer service shall have the right, but
not the obligation, to make a written request to
the Director for the addition of any person to
the list of unlicensed Internet gambling enter-
prises required by subsection (a).

“(B) Determinations; Notice to Per-
son That Submitted a Request.—Not later
than 30 days after receiving a request under subparagraph (A), the Director shall—

“(i) determine if the request contains information sufficient to constitute a prima facie case that an entity is an unlicensed Internet gambling enterprise; and

“(ii) notify the person that submitted the request of the determination of the Director.

“(3) NOTICE.—Not later than 30 days before including a person in the list of unlicensed Internet gambling enterprises required by subsection (a), the Director shall provide written notice to the person of the determination of the Director to include the person in the list.

“(4) OPPORTUNITY TO CONTEST.—

“(A) IN GENERAL.—A person that receives notice under paragraph (3) that the Director has determined to include the person in the list of unlicensed Internet gambling enterprises required by subsection (a) may, not later than 30 days after receiving the notice, contest the determination—

“(i) by submitting a written appeal to the Director; and
“(ii) by agreeing in the written appeal to submit to the jurisdiction of the United States.

“(B) Effect of not contesting.—If a person described in subparagraph (A) does not contest the determination of the Director to include the person in the list of unlicensed Internet gambling enterprises required by subsection (a) in accordance with subparagraph (A), the Director shall include the person in the list.

“(5) Opportunity for hearing.—The Director—

“(A) may not include a person that submits a written appeal pursuant to paragraph (4) in the list of unlicensed Internet gambling enterprises required by subsection (a) until the Director provides the person with an opportunity for a hearing; and

“(B) shall provide the person the opportunity for a hearing not later than 30 days after receiving the written appeal from the person.

“(6) Determinations after hearing.—Not later than 10 days after the date of a hearing provided for a person under paragraph (5) (without re-
gard to whether the person appears at the hearing), the Director shall—

“(A) determine if the person should be included in the list of unlicensed Internet gambling enterprises required by subsection (a); and

“(B) if the Director determines that the person should be included in the list, add the person to the list.

“(7) INJUNCTIVE RELIEF.—

“(A) IN GENERAL.—A person described in subparagraph (B) may petition for injunctive relief in the United States District Court for the District of Columbia, which shall have exclusive jurisdiction to hear cases arising under this section.

“(B) PERSON DESCRIBED.—A person described in this subparagraph is a person that the Director determines to include in the list of unlicensed Internet gambling enterprises required by subsection (a)—

“(i) after the person appears at a hearing described in paragraph (5); or

“(ii) that did not receive the notice required by paragraph (3).
“(C) Burden of proof.—The petitioner shall have the burden of establishing that the person should not be included in the list of unlicensed Internet gambling enterprises required by subsection (a).

“(D) Standing.—Only persons that the Director determines to include in the list of unlicensed Internet gambling enterprises required by subsection (a) and owners or operators of such enterprises shall have standing to contest the determination of the Director.

“(E) Available relief.—The court may direct the Director and the Secretary not to add, or to remove, the petitioner from the list of unlicensed Internet gambling enterprises.

“(F) Unavailability of other remedies.—There shall be no judicial review of a determination under this section other than pursuant to this paragraph.

“(e) Effect of list.—A financial transaction provider shall be deemed to have actual knowledge that a person or entity is an unlicensed Internet gambling enterprise if—
“(1) the person or entity is included in the list of unlicensed Internet gambling enterprises required by subsection (a); or

“(2)(A) the person or entity is included in a list of unlicensed Internet gambling enterprises made available to the financial transaction provider by the Secretary under subsection (a)(3); and

“(B) information in addition to the list described in subparagraph (A) is available to the financial transaction provider that demonstrates that the person or entity is an unlicensed Internet gambling enterprise.

“(d) DEFINITIONS.—In this section:

“(1) DIRECTOR.—The term ‘Director’ means the Director of the Financial Crimes Enforcement Network appointed under section 310(b).

“(2) SPORTS ORGANIZATION.—The term ‘sports organization’ means an amateur sports organization or a professional sports organization (as those terms are defined in section 3701 of title 28).

“(3) UNLICENSED INTERNET GAMBLING ENTERPRISE.—The term ‘unlicensed Internet gambling enterprise’ means any person who, on or after the date of the enactment of the Internet Gambling Pro-

“(A) violates a provision of section 5363;

“(B) knowingly assists a person in conduct described in subparagraph (A).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 53, as amended by section 201(b), is further amended by adding at the end the following:

“5369. Unlicensed Internet gambling enterprises.”.

SEC. 203. REGULATIONS.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall—

(1) prescribe regulations to carry out sections 5368 and 5369 of title 31, United States Code, as added by sections 201(a) and 202(a), and publish such regulations in final form in the Federal Register; and

(2) prescribe such regulations as the Secretary of the Treasury considers necessary to ensure compliance with chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.) and subchapter II of chapter 53 of title 31, United States Code (commonly known, collectively, as the “Bank Secrecy Act”), by licensees, significant vendors to such li-
licensees, and financial service providers to such licensees (as such terms are defined in section 102).

(b) EXCLUSION OF BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FROM REQUIREMENT TO PRESCRIBE REGULATIONS CONCERNING PREVENTION OF RESTRICTED TRANSACTIONS.—Subsection (a) of section 5364 of title 31, United States Code, is amended by striking “Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate)” and inserting “The Secretary shall prescribe regulations”.

(c) TEMPORARY SUSPENSION OF CERTAIN REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), during the period beginning on the date of the enactment of this Act and ending on the date set forth in subsection (d), part 233 of title 12, Code of Federal Regulations, and part 132 of title 31, Code of Federal Regulations, shall have no force or effect to the extent that those regulations require or impose any obligation that is inconsistent with the provisions of title I.
(2) Previous violation.—Paragraph (1) shall not apply with respect to any violation of a regulation described in such paragraph that occurred before the date of the enactment of this Act.

(d) Revision of Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall revise part 233 of title 12, Code of Federal Regulations, and part 132 of title 31, Code of Federal Regulations, to conform with the provisions of title I.

(e) Annual Report.—Not later than 1 year after the date on which the Secretary of the Treasury prescribes regulations under this section, and annually thereafter, the Secretary shall submit to Congress a report on the list required by section 5369(a) of title 31, United States Code, as added by section 202(a), including the following:

(1) The size of the list.

(2) The number of persons and Web sites added to and removed from the list.

(3) The number and description of challenges to inclusion on the list and a description of how such challenges were resolved.

SEC. 204. CONFORMING AMENDMENTS.

(a) Duties and Powers of the Director of the Financial Crimes Enforcement Network.—Section
310(b)(2)(I) of title 31, United States Code, is amended by striking “subchapter II” and inserting “subchapters II and IV”.

(b) EXCLUSION OF LICENSED INTERNET POKER FACILITY OPERATIONS FROM DEFINITION OF UNLAWFUL INTERNET GAMBLING ENTERPRISE.—Section 5362(10) of such title is amended—

(1) in subparagraph (D), by striking clause (iii);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

“(E) LICENSED INTERNET POKER FACILITIES.—The term ‘unlawful Internet gambling’ does not include an activity carried out by an Internet poker facility, as such term is defined in section 102 of the Internet Gambling Prohibition, Poker Consumer Protection, and Strengthening UIGEA Act of 2011, operated by a person under a license provided under title I of such Act in accordance with the provisions of such title.”.