

110TH CONGRESS  
2D SESSION

# S. 3616

To amend title 31, United States Code, to provide for the licensing of  
Internet skill game facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Mr. MENENDEZ introduced the following bill; which was read twice and  
referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend title 31, United States Code, to provide for the  
licensing of Internet skill game facilities, and for other  
purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Internet Skill Game  
5       Licensing and Control Act of 2008”.

6       **SEC. 2. FEDERAL LICENSING REQUIREMENT FOR INTER-**  
7       **NET GAMBLING OPERATIONS.**

8       (a) IN GENERAL.—Chapter 53 of title 31, United  
9       States Code, is amended by adding at the end the fol-  
10      lowing:

1 “SUBCHAPTER V—REGULATION OF INTERNET  
2 SKILL GAME FACILITIES

3 “§ 5381. Definitions

4 “In this subchapter:

5 “(1) BET OR WAGER.—The term ‘bet or wager’  
6 has the meaning given the term in section 5362.

7 “(2) INDIAN LANDS AND INDIAN TRIBE.—The  
8 terms ‘Indian lands’ and ‘Indian tribe’ have the  
9 meaning given such terms in section 4 of the Indian  
10 Gaming Regulatory Act (25 U.S.C. 2703).

11 “(3) INTERNET.—The term ‘Internet’ has the  
12 meaning given the term in section 5362.

13 “(4) INTERNET SKILL GAME.—The term ‘Inter-  
14 net skill game’ means an Internet-based game that  
15 uses simulated cards, dice, or tiles in which success  
16 is predominantly determined by the skill of the play-  
17 ers, including poker, bridge, and mahjong.

18 “(5) INTERNET SKILL GAME FACILITY.—The  
19 term ‘Internet skill game facility’ means an Internet  
20 site through which a permitted bet or wager is  
21 placed, accepted, or otherwise made, whether trans-  
22 mitted by telephone, Internet, or other electronic  
23 communication.

24 “(6) LICENSEE.—The term ‘licensee’ means a  
25 person that operates an Internet skill game facility

1 under a license issued by the Secretary under this  
 2 subchapter.

3 “(7) NON-HOUSE-BANKED GAME.—The term  
 4 ‘non-house-banked game’ means a game—

5 “(A) that—

6 “(i) consists of players playing against  
 7 each other and not against the operator of  
 8 the game; and

9 “(ii) provides for payouts, if any, that  
 10 are drawn from the players’ pool and not  
 11 from the operator of the game; and

12 “(B) may be operated by an Internet skill  
 13 game facility in which the operator retains a  
 14 percentage of the players’ pool or receives a  
 15 fixed fee as compensation.

16 “(8) OPERATES AN INTERNET SKILL GAME FA-  
 17 CILITY.—The term ‘operates an Internet skill game  
 18 facility’ means directs, manages, supervises, or con-  
 19 trols an Internet skill game facility.

20 “(9) PERMITTED BET OR WAGER.—The term  
 21 ‘permitted bet or wager’ means a bet or wager made  
 22 with respect to the outcome of an Internet skill  
 23 game that is a non-house-banked game.

24 “(10) SECRETARY.—The term ‘Secretary’  
 25 means the Secretary of the Treasury.

1           “(11) STATE.—The term ‘State’ means any  
 2           State of the United States, the District of Columbia,  
 3           or any commonwealth, territory, or other possession  
 4           of the United States.

5   **“§ 5382. Establishment and administration of licens-**  
 6           **ing program**

7           “(a) LICENSE REQUIRED.—Beginning 6 months  
 8           after the issuance of the first license under this sub-  
 9           chapter, it shall be unlawful for a person to operate an  
 10          Internet skill game facility in interstate or foreign com-  
 11          merce without a license issued to such person by the Sec-  
 12          retary under this subchapter.

13          “(b) APPLICATIONS FOR LICENSE.—

14               “(1) APPLICATION.—A person seeking a license  
 15               to operate an Internet skill game facility in inter-  
 16               state or foreign commerce shall submit to the Sec-  
 17               retary an application therefore in such form and in  
 18               such manner as the Secretary considers appropriate.

19               “(2) ELEMENTS.—Each application submitted  
 20               under paragraph (1) shall include such information  
 21               as the Secretary considers appropriate, including the  
 22               following:

23                       “(A) Complete financial information about  
 24                       the applicant.

1           “(B) Documentation showing the corporate  
2           structure of the applicant and all related busi-  
3           nesses and affiliates.

4           “(C) The names of all persons directly or  
5           indirectly interested in the business of the ap-  
6           plicant and the nature of such interest.

7           “(D) A certification by the applicant,  
8           agreeing to be subject to United States jurisdic-  
9           tion and all applicable United States laws relat-  
10          ing to Internet skill games or gambling activi-  
11          ties.

12          “(3) WAIVER OF PRIVILEGE.—Any applicant  
13          may claim any privilege afforded by the Constitution  
14          of the United States in refusing to answer questions  
15          by the Secretary. A claim of privilege with respect  
16          to any testimony or evidence pertaining to an appli-  
17          cation may constitute sufficient grounds for denial  
18          of a license under this subchapter.

19          “(c) REVIEW OF APPLICANTS AND LICENSEES.—

20               “(1) IN GENERAL.—The Secretary may not  
21               issue a license to an applicant under this subchapter  
22               unless the Secretary has determined, after evalu-  
23               ating the factors described in paragraph (2), that  
24               the applicant is qualified for such license.

1           “(2) FACTORS.—The factors to be evaluated by  
2           the Secretary under paragraph (1) shall include the  
3           following:

4                   “(A) The honesty and integrity of the ap-  
5                   plicant.

6                   “(B) The business probity and relevant ex-  
7                   perience of the applicant.

8                   “(C) The financial condition of the appli-  
9                   cant.

10                  “(D) Whether the applicant has adequate  
11                  financial capabilities from suitable sources.

12                  “(E) The applicant’s record of compliance  
13                  with laws and requirements related to Internet  
14                  skill gaming in foreign jurisdictions.

15           “(3) BACKGROUND CHECKS.—In evaluating an  
16           applicant under paragraph (1), the Secretary shall—

17                   “(A) if the applicant is an individual, carry  
18                   out a background check to determine if the in-  
19                   dividual has a criminal record; and

20                   “(B) if the applicant is a corporation, part-  
21                   nership, or other business entity, carry out a  
22                   background check to determine if the president  
23                   or other chief executive of the applicant and  
24                   other partners or senior executives and direc-

1           tors of the applicant, as determined appropriate  
 2           by the Secretary, have a criminal record.

3           “(4) MONITORING.—The Secretary shall mon-  
 4           itor continuously each licensee and all other persons  
 5           having a material involvement directly or indirectly  
 6           with the operation of the Internet skill gaming facil-  
 7           ity of such licensee to ensure that—

8                   “(A) a license issued under this subchapter  
 9           is held only by a person whom the Secretary  
 10          considers qualified to operate an Internet skill  
 11          game facility; and

12                   “(B) the operation of an Internet skill  
 13          game facility by a licensee has no material in-  
 14          volvement of any person whom the Secretary  
 15          considers unqualified or unsuitable for such op-  
 16          eration.

17          “(d) APPROVAL OF LICENSE.—

18                   “(1) IN GENERAL.—The Secretary shall issue a  
 19          license under this subchapter to an applicant if the  
 20          Secretary determines, after considering the factors  
 21          described in subsection (c)(2), that the applicant is  
 22          qualified to operate an Internet skill gaming facility.

23                   “(2) BURDEN OF PROOF.—An applicant for a  
 24          license under this subchapter has the burden of

1       proving that the applicant is qualified and suitable  
2       for such license.

3       “(e) DENIAL, RESTRICTION, OR REVOCATION OF LI-  
4       CENSES.—

5               “(1) DENIAL.—The Secretary may not issue a  
6       license under this subchapter to an applicant who  
7       has been convicted under the laws of any foreign  
8       country, the United States, or any State for any  
9       criminal violation involving gambling laws, laws re-  
10      lating to financial markets, or financial laws, includ-  
11      ing any provisions of law relating to money laun-  
12      dering, fraud, privacy, or information security.

13              “(2) CONDITIONS, LIMITATIONS, AND RESTRIC-  
14      TIONS.—The Secretary may provide any condition,  
15      limitation, or restriction on a license issued under  
16      this subchapter that the Secretary considers reason-  
17      able to ensure the integrity and fairness of Internet  
18      skill game facilities.

19              “(3) REVOCATION.—The Secretary shall termi-  
20      nate or revoke a license issued to a licensee under  
21      this subchapter if the licensee—

22                      “(A) fails to comply with any provision of  
23                      this subchapter; or

24                      “(B) is convicted of a crime involving the  
25                      payments system, financial markets, or Internet



1 gambling laws of the United States or of the ju-  
 2 risdiction in which the licensee is located.

3 “(4) APPLICABILITY TO BUSINESS ENTITIES.—

4 If a licensee or applicant for a license under this  
 5 subchapter is a corporation, partnership, or other  
 6 business entity, paragraphs (1) and (3) shall apply  
 7 with respect to each partner, officer, or director of  
 8 such corporation, partnership, or entity.

9 “(5) FINAL ACTION.—An action by the Sec-  
 10 retary under this subsection shall be treated as a  
 11 final action by the Secretary.

12 “(f) TERM AND RENEWAL OF LICENSE.—

13 “(1) TERM.—Each license issued by the Sec-  
 14 retary under this subchapter shall be issued for a 1-  
 15 year term beginning on the date of issuance.

16 “(2) RENEWAL.—The Secretary may renew a  
 17 license issued under this subchapter in accordance  
 18 with such requirements as the Secretary shall pre-  
 19 scribe to ensure the continued compliance of licens-  
 20 ees with the provisions of this subchapter.

21 “(g) SAFEGUARDS AND REQUIREMENTS.—

22 “(1) SAFEGUARDS.—No person shall receive or  
 23 retain a license under this subchapter unless the  
 24 person implements and maintains the following safe-

1       guards and mechanisms with respect to any per-  
2       mitted bet or wager:

3               “(A) Reasonable safeguards to ensure that  
4       each individual placing a permitted bet or  
5       wager is 18 years of age or older.

6               “(B) Reasonable safeguards to ensure that  
7       each individual placing a permitted bet or  
8       wager is physically located in a jurisdiction that  
9       permits the operation of an Internet skill game  
10      facility at the time the permitted bet or wager  
11      is placed.

12              “(C) Reasonable mechanisms to ensure  
13      that all taxes relating to Internet skill games  
14      payable to Federal and State governments and  
15      to Indian tribes from persons engaged in Inter-  
16      net skill games are collected at the time of any  
17      payment of any proceeds of Internet skill  
18      games.

19              “(D) Reasonable mechanisms to ensure  
20      that all taxes relating to Internet skill games  
21      payable to Federal and State governments and  
22      to Indian tribes are collected as required by  
23      law.

24              “(E) Reasonable safeguards to prevent  
25      fraud and money laundering as may be pre-

1           scribed by regulations promulgated by the Sec-  
2           retary.

3           “(F) Reasonable safeguards to prevent or  
4           mitigate social problems that some individuals  
5           may experience related to playing Internet skill  
6           games.

7           “(G) Reasonable safeguards to protect the  
8           privacy and security of any individual partici-  
9           pating in an Internet skill game.

10          “(H) Reasonable mechanisms to ensure  
11          that any assessment required under subsection  
12          (h) is paid to the Secretary.

13          “(I) Such other safeguards and mecha-  
14          nisms as the Secretary may establish by regula-  
15          tion or order.

16          “(2) REQUIREMENTS.—No person may receive  
17          or retain a license under this subchapter unless the  
18          person complies with anti-money laundering, anti-  
19          fraud, anti-terrorism, and such other regulations, re-  
20          quirements, and limitations as may be prescribed by  
21          the Secretary.

22          “(h) ASSESSMENTS FOR ADMINISTRATIVE EX-  
23          PENSES.—

24          “(1) IN GENERAL.—

1           “(A) COSTS.—The cost of administering  
2           this subchapter with respect to each licensee,  
3           including the cost of any review or examination  
4           of a licensee to ensure compliance with the  
5           terms of the license and this subchapter, shall  
6           be assessed by the Secretary against the respec-  
7           tive licensee by written notice in an amount ap-  
8           propriate to meet the expenses of the Secretary  
9           in carrying out such administration, review, or  
10          examination.

11          “(B) DISPOSITION.—Amounts assessed by  
12          the Secretary as user fees under subparagraph  
13          (A)—

14               “(i) shall be maintained by the Sec-  
15               retary solely for use in accordance with  
16               clause (ii);

17               “(ii) shall be available to the Sec-  
18               retary to cover all expenses incurred by the  
19               Secretary in carrying out this subchapter;  
20               and

21               “(iii) may not be construed to be Gov-  
22               ernment funds or appropriated monies, or  
23               subject to apportionment for the purposes  
24               of chapter 15 or any other authority.

1           “(C) HEARING.—Any licensee notified of  
 2           an assessment under this paragraph shall be  
 3           granted a hearing by the Secretary if the li-  
 4           censee submits a request for such hearing not  
 5           later than 20 days after the date on which the  
 6           notice of such assessment is issued.

7           “(D) COLLECTION.—

8           “(i) REFERRAL.—If the licensee fails  
 9           to pay an assessment under this paragraph  
 10          after the assessment has become final, the  
 11          Secretary shall recover the amount as-  
 12          sessed by action in an appropriate United  
 13          States district court.

14          “(ii) APPROPRIATENESS OF ASSESS-  
 15          MENT NOT REVIEWABLE.—In any civil ac-  
 16          tion under clause (i), the validity and ap-  
 17          propriateness of the assessment shall not  
 18          be subject to review.

19          “(2) DIRECT AND EXCLUSIVE OBLIGATION OF  
 20          LICENSEE.—An assessment on a licensee under  
 21          paragraph (1)—

22                 “(A) shall be the direct and exclusive obli-  
 23                 gation of the licensee; and

1           “(B) may not be deducted from amounts  
2           available as deposits to any person placing a  
3           permitted bet or wager.

4           “(i) REGULATIONS.—

5           “(1) IN GENERAL.—Not later than 180 days  
6           after the date of the enactment of this subchapter,  
7           the Secretary shall prescribe such regulations, safe-  
8           guards, and testing mechanisms as may be necessary  
9           to administer and enforce the provisions of this sub-  
10          chapter.

11          “(2) CHANGES.—The Secretary may revise or  
12          repeal the regulations prescribed under this sub-  
13          section as the Secretary determines necessary to en-  
14          sure the integrity and fairness of Internet skill game  
15          facilities.

16          “(j) ADMINISTRATIVE PROVISIONS.—

17          “(1) GENERAL POWERS OF SECRETARY.—The  
18          Secretary may—

19                 “(A) require a class of licensees to main-  
20                 tain appropriate procedures to ensure compli-  
21                 ance with this subchapter and regulations pre-  
22                 scribed under this subchapter;

23                 “(B) examine any licensee and any books,  
24                 papers, records, or other data of licensees rel-  
25                 evant to any recordkeeping or reporting require-

1           ments imposed by the Secretary under this sub-  
2           chapter; and

3           “(C) summon a licensee or an applicant  
4           for a license, an officer or employee of a li-  
5           censee or any such applicant (including a  
6           former officer or employee), or any person hav-  
7           ing possession, custody, or care of the reports  
8           and records required by the Secretary under  
9           this subchapter to appear before the Secretary  
10          or a designee of the Secretary at a time and  
11          place named in the summons and to produce  
12          such books, papers, records, or other data, and  
13          to give testimony, under oath, as may be rel-  
14          evant or material to any investigation in con-  
15          nection with the enforcement of this subchapter  
16          or any application for a license under this sub-  
17          chapter.

18          “(2) ADMINISTRATIVE ASPECTS OF SUM-  
19          MONS.—

20          “(A) PRODUCTION AT DESIGNATED  
21          SITE.—A summons issued pursuant to this sub-  
22          section may require that books, papers, records,  
23          or other data stored or maintained at any place  
24          be produced at any business location of a li-  
25          censee or applicant for a license or any des-

1           ignated location in any State or in any territory  
2           or other place subject to the jurisdiction of the  
3           United States not more than 500 miles distant  
4           from any place where the licensee or applicant  
5           for a license operates or conducts business in  
6           the United States.

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

12          “(C) SERVICE OF SUMMONS.—Service of a  
13          summons issued under this subsection may be  
14          by registered mail or in such other manner cal-  
15          culated to give actual notice as the Secretary  
16          may prescribe by regulation.

17          “(3) CONTUMACY OR REFUSAL.—

18          “(A) REFERRAL TO ATTORNEY GEN-  
19          ERAL.—In case of contumacy by a person  
20          issued a summons under this subsection or a  
21          refusal by such person to obey such summons  
22          or to allow the Secretary to conduct an exam-  
23          ination, the Secretary shall refer the matter to  
24          the Attorney General.



1           “(B) JURISDICTION OF COURT.—The At-  
2           torney General may invoke the aid of any court  
3           of the United States within the jurisdiction of  
4           which—

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

8                   “(ii) the person summoned is an in-  
9                   habitant; or

10                   “(iii) the person summoned carries on  
11                   business or may be found,  
12           to compel compliance with the summons.

13           “(C) COURT ORDER.—The court may issue  
14           an order requiring the person summoned to ap-  
15           pear before the Secretary or a delegate of the  
16           Secretary to produce books, papers, records,  
17           and other data, to give testimony as may be  
18           necessary to explain how such material was  
19           compiled and maintained, to allow the Secretary  
20           to examine the business of a licensee, and to  
21           pay the costs of the proceeding.

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

1           “(E) SERVICE OF PROCESS.—All process  
 2           in any case under this subsection may be served  
 3           in any judicial district in which such person  
 4           may be found.

5   **“§ 5383. Financial institutions**

6           “(a) INVESTMENT BANKING.—A person may not be  
 7           held liable for engaging in investment banking activities  
 8           involving a licensee if such activities are performed in com-  
 9           pliance with—

10           “(1) the provisions of this subchapter;

11           “(2) the provisions of the Sarbanes-Oxley Act  
 12           of 2002 (15 U.S.C. 7201 et seq.);

13           “(3) the provisions of the Securities Act of  
 14           1933 (15 U.S.C. 77a et seq.);

15           “(4) the provisions of the Securities Exchange  
 16           Act of 1934 (15 U.S.C. 78a et seq.); and

17           “(5) any other applicable provision of law that  
 18           governs securities.

19           “(b) PAYMENT AND TRANSACTION PROCESSING.—A  
 20           person may not be held liable for engaging in payments  
 21           processing activities involving a licensee if such activities  
 22           are performed in compliance with the provisions of this  
 23           subchapter.

24           “(c) FINANCIAL INSTITUTIONS.—A financial institu-  
 25           tion may not be held liable for engaging in financial activi-

1 ties and transactions involving a licensee if such activities  
 2 are performed in compliance with—

3 “(1) the provisions of this subchapter; and

4 “(2) applicable provisions of Federal, State, and  
 5 foreign banking laws.

6 **“§ 5384. Prohibition and limitation of licenses in**  
 7 **States and on Indian lands**

8 “(a) STATE AND INDIAN TRIBE OPT OUT.—

9 “(1) IN GENERAL.—A licensee may not accept  
 10 a permitted bet or wager from an individual phys-  
 11 ically located in any State or on tribal lands of any  
 12 Indian tribe that prohibits permitted bets or wagers  
 13 within such State or tribal lands if the Governor, or  
 14 other chief executive officer of such State, or head  
 15 of the tribal government of such Indian tribe in-  
 16 forms the Secretary of such prohibition before the  
 17 end of the 90-day period beginning on the date of  
 18 the enactment of the Internet Skill Game Licensing  
 19 and Control Act of 2008, or in accordance with  
 20 paragraph (3), until such time as any notice of any  
 21 subsequent repeal of such prohibition becomes effec-  
 22 tive under paragraph (3).

23 “(2) LIMITATIONS IMPOSED BY STATES OR IN-  
 24 DIAN TRIBES.—A licensee may not accept a per-  
 25 mitted bet or wager with respect to a particular type

1 of Internet skill game in any State or tribal lands  
2 of any Indian tribe that prohibits such permitted bet  
3 or wager with respect to such particular type of  
4 Internet skill game if the Governor, or other chief  
5 executive officer of such State, or head of the tribal  
6 government of such Indian tribe informs the Sec-  
7 retary of such prohibition, in a manner that clearly  
8 identifies the nature and extent of such prohibition,  
9 before the end of the 90-day period beginning on the  
10 date of the enactment of the Internet Skill Game Li-  
11 censing and Control Act of 2008, or in accordance  
12 with paragraph (3), until such time as any notice of  
13 any amendment or repeal of such specific prohibition  
14 becomes effective under paragraph (3).

15 “(3) CHANGES TO STATE OR INDIAN TRIBE  
16 LIMITATIONS.—The establishment, repeal, or amend-  
17 ment by any State or Indian tribe of any prohibition  
18 or limitation referred to in paragraph (1) or (2)  
19 after the end of the 90-day period beginning on the  
20 date of the enactment of the Internet Skill Game Li-  
21 censing and Control Act of 2008 shall apply, for  
22 purposes of this subchapter, with respect to oper-  
23 ating an Internet skill game facility in such State or  
24 on the tribal lands of such Indian tribe by any li-  
25 censee beginning on the first January 1 that occurs

1 after the end of the 30-day period beginning on the  
 2 later of—

3 “(A) the date on which written notice of  
 4 such establishment, repeal, or amendment is  
 5 provided to the Secretary by the Governor, or  
 6 other chief executive officer of such State, or  
 7 the head of the tribal government of such In-  
 8 dian tribe; or

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

11 “(b) REGULATION OF INTERNET SKILL GAMING BY  
 12 STATES AND INDIAN TRIBES.—

13 “(1) IN GENERAL.—A State or Indian tribe  
 14 may establish a requirement relating to the regula-  
 15 tion of an Internet skill game facility if such require-  
 16 ment—

17 “(A) applies only to the people in such  
 18 State or on the tribal lands of such Indian  
 19 tribe; and

20 “(B) such requirement provides protection  
 21 for players of Internet skill games that exceeds  
 22 the protection provided such players under this  
 23 subchapter.

24 “(2) ADDITIONAL LIMITATIONS IMPOSED BY  
 25 STATES OR INDIAN TRIBES.—No licensee may accept

1 a permitted bet or wager from an individual phys-  
2 ically located in any State or tribal lands of any In-  
3 dian tribe unless the licensee adheres to those the  
4 requirements established by such State or Indian  
5 tribe under paragraph (1).

6 “(3) CHANGES TO STATE OR INDIAN TRIBE  
7 LIMITATIONS.—The establishment, repeal, or amend-  
8 ment of any requirement referred to in paragraph  
9 (1) by any State or any Indian tribe after the end  
10 of the 90-day period beginning on the date of the  
11 enactment of the Internet Skill Game Licensing and  
12 Control Act of 2008 shall apply, for purposes of this  
13 subchapter, with respect to offering an Internet skill  
14 game facility in such State or Indian tribe by any  
15 licensee beginning on the first January 1 that occurs  
16 after the end of the 30-day period beginning on the  
17 later of—

18 “(A) the date a notice of such establish-  
19 ment, repeal, or amendment is provided by the  
20 Governor, or other chief executive officer of  
21 such State, or head of the tribal government of  
22 such Indian tribe in writing to the Secretary; or

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

1       “(c) ENFORCING STATE AND INDIAN TRIBE LIMITA-  
2 TIONS.—

3               “(1) IN GENERAL.—The Secretary shall take  
4 effective measures to ensure that each licensee com-  
5 plies, as a condition of the license, with any limita-  
6 tion or prohibition imposed by any State or Indian  
7 tribe to which the licensee is subject under sub-  
8 sections (a) and (b).

9               “(2) VIOLATIONS.—It shall be a violation of  
10 this subchapter for a licensee to accept knowingly a  
11 permitted bet or wager from an individual physically  
12 located in a State or in the tribal lands of an Indian  
13 tribe for which a notice is in effect under subsection  
14 (a) or (b) without complying with all of the prohibi-  
15 tions, limitations, and requirements imposed by such  
16 State or Indian tribe under such subsections.

17       “(d) INTERMEDIATE ROUTING.—The intermediate  
18 routing of electronic data shall not determine the location  
19 or locations in which a permitted bet or wager is initiated,  
20 received, or otherwise made.

21       **“§ 5385. Sporting events or contests**

22       “(a) CONSTRUCTION.—No provision of this sub-  
23 chapter may be construed to permit a bet or wager in con-  
24 nection with a sporting event or contest of a sporting  
25 league.

1       “(b) PROHIBITION ON FACILITATION BY LICENSEES  
 2 OF BETS OR WAGERS RELATING TO SPORTING  
 3 EVENTS.—

4           “(1) PROHIBITION.—A licensee may not, as a  
 5 condition of its license, facilitate a bet or wager in  
 6 connection with a sporting event or contest of a  
 7 sporting league.

8           “(2) ENFORCEMENT.—The Secretary shall take  
 9 effective measures to enforce the provisions of para-  
 10 graph (1).

11 **“§ 5386. Safe harbor**

12       “‘It shall be a defense against any prosecution or en-  
 13 forcement action under any Federal or State law against  
 14 a licensee that the activity for which the defendant is being  
 15 prosecuted is authorized under, and has been carried out  
 16 in accordance with, the provisions of this subchapter.

17 **“§ 5387. Criminal penalties**

18       “(a) IN GENERAL.—Any person who knowingly vio-  
 19 lates any provision of this subchapter shall be fined under  
 20 title 18, imprisoned for not more than 5 years, or both.

21       “(b) PERMANENT INJUNCTION.—Upon conviction of  
 22 a person under this section, the court may permanently  
 23 enjoin such person from operating an Internet skill game  
 24 facility.



1 **“§ 5388. Rules of construction**

2 “(a) NO EFFECT ON PRIOR LAW.—No provision of  
3 this subchapter may be construed as altering or limiting  
4 any Federal or State law or Tribal-State compact that  
5 permitted or regulated Internet skill gaming in the United  
6 States before the date of the enactment of the Internet  
7 Skill Game Licensing and Control Act of 2008.

8 “(b) COORDINATION WITH CERTAIN GAMBLING  
9 LAWS.—No provision of this subchapter may be construed  
10 as permitting any bet or wager that would otherwise vio-  
11 late any provision of—

12 “(1) the Interstate Horse Racing Act of 1978  
13 (15 U.S.C. 3001 et seq.);

14 “(2) chapter 178 of title 28;

15 “(3) the Gambling Devices Transportation Act  
16 (15 U.S.C. 1171 et seq.); or

17 “(4) the Indian Gaming Regulatory Act (25  
18 U.S.C. 2701 et seq.).

19 **“§ 5389. Periodic reports by licensees**

20 “(a) IN GENERAL.—Each licensee shall submit to the  
21 Secretary, at intervals prescribed by the Secretary, a re-  
22 port on the operations of the licensee for the most recent  
23 period for which such report is submitted.

24 “(b) CONTENTS.—Each report submitted by a li-  
25 censee under subsection (a) shall include, for the most re-

1 cent period for which the report is submitted to the Sec-  
 2 retary, the following:

3           “(1) A comprehensive statement describing the  
 4           limitations imposed on the licensee by any State, In-  
 5           dian tribe, or sporting league.

6           “(2) Such other information as the Secretary  
 7           considers appropriate.

8           “(c) STANDARDIZATION OF REPORTING.—The Sec-  
 9           retary shall prescribe, with respect to reports required  
 10          under subsection (a)—

11           “(1) standard forms for reporting financial con-  
 12           dition, results of operations, and other relevant fi-  
 13           nancial information about licensees;

14           “(2) a uniform code of accounts and accounting  
 15           classifications to assure consistency, comparability,  
 16           and effective disclosure of financial information; and

17           “(3) the intervals at which licensees shall sub-  
 18           mit such reports.

19 **“§ 5390. Annual reports by Secretary**

20           “(a) IN GENERAL.—Not later than 18 months after  
 21           the date of the issuance of the first license under this sub-  
 22           chapter and annually thereafter, the Secretary shall sub-  
 23           mit to Congress a report on the licensing and regulation  
 24           of operators of Internet skill game facilities.

1       “(b) CONTENTS.—Each report required by sub-  
 2 section (a) shall include, for the 1-year period ending on  
 3 the date on which such report is submitted to Congress,  
 4 the following:

5           “(1) Relevant statistical information on applica-  
 6 tions for licenses under this subchapter and licenses  
 7 issued under this subchapter.

8           “(2) The amounts collected from licensees  
 9 under section 5382(h).

10          “(3) Information on regulatory or enforcement  
 11 actions undertaken by the Secretary.

12          “(4) Such other information as may be useful  
 13 to Congress in evaluating the effectiveness of the  
 14 provisions of this subchapter, including the effective-  
 15 ness of such provisions in—

16           “(A) protecting against underage gam-  
 17 bling, social problems that some players may  
 18 experience related to Internet skill game play,  
 19 money laundering, and fraud; and

20           “(B) preventing tax avoidance related to  
 21 online activities.”.

22       (b) CONFORMING AMENDMENT.—Section 1084(a) of  
 23 title 18, United States Code, is amended—

1           (1) by striking “Whoever” and inserting “(1)  
 2       Except as provided in paragraph (2), any person  
 3       who”; and

4           (2) by adding at the end the following:

5       “(2)(A) The provisions of paragraph (1) shall not  
 6       apply to a permitted bet or wager with respect to a li-  
 7       censee who operates an Internet skill game facility.

8       “(B) In this paragraph, the terms ‘licensee’, ‘operates  
 9       an Internet skill game facility’, and ‘permitted bet or  
 10       wager’ have the meaning given such terms in section 5381  
 11       of title 31.”.

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

“SUBCHAPTER V—REGULATION OF INTERNET SKILL GAME FACILITIES

“Sec. 5381. Definitions.

“Sec. 5382. Establishment and administration of licensing program.

“Sec. 5383. Financial institutions.

“Sec. 5384. Prohibition and limitation of licenses in States and on Indian  
   lands.

“Sec. 5385. Sporting events or contests.

“Sec. 5386. Safe harbor.

“Sec. 5387. Criminal penalties.

“Sec. 5388. Rules of construction.

“Sec. 5389. Periodic reports by licensees.

“Sec. 5390. Annual reports by Secretary.”.

