

Union Calendar No. 398

111TH CONGRESS
2^D SESSION

H. R. 2267

[Report No. 111–656, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2009

Mr. FRANK of Massachusetts (for himself, Mr. PAUL, Mr. GUTIERREZ, Mr. KING of New York, Mr. WATT, Mr. ACKERMAN, Mr. CAPUANO, Mr. CARSON of Indiana, Mr. McDERMOTT, Mr. DELAHUNT, Mr. McGOVERN, Mr. WEXLER, Ms. BERKLEY, Mr. COHEN, Mr. PERRIELLO, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Energy and Commerce 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

SEPTEMBER 29, 2010

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 29, 2010

Referral to the Committees on Energy and Commerce and the Judiciary
extended for a period not to exceed November 19, 2010

NOVEMBER 19, 2010

Committee on the Judiciary discharged; referral to the Committee on Energy
and Commerce extended for a period not to exceed November 30, 2010

NOVEMBER 30, 2010

Additional sponsors: Mr. HASTINGS of Florida, Mr. GEORGE MILLER of California, Mr. BISHOP of New York, Mr. SCOTT of Virginia, Mr. CROWLEY, Mr. McMAHON, Mr. ROTHMAN of New Jersey, Mr. FILNER, Mrs. MCCARTHY of New York, Mr. RANGEL, Mr. MORAN of Virginia, Mr. DRIEHAUS, Mr. POLIS of Colorado, Mr. GRIJALVA, Mr. ISRAEL, Mr. RODRIGUEZ, Mr. HONDA, Mr. ANDREWS, Mr. PERLMUTTER, Mr. YOUNG of Alaska, Mr. FOSTER, Mr. BLUMENAUER, Mr. ABERCROMBIE, Mr. RYAN of Ohio, Mr. NADLER of New York, Mr. HODES, Mr. TOWNS, Mr. COURTNEY, Mr. TONKO, Mr. LoBIONDO, Mr. ADLER of New Jersey, Mr. MINNICK, Ms. LINDA T. SÁNCHEZ of California, Mr. CONYERS, Mr. THOMPSON of California, Mr. MAFFEI, Ms. MARKEY of Colorado, Mr. CARNAHAN, Mr. PASCRELL, Ms. WOOLSEY, Mr. MURPHY of Connecticut, Mr. CLAY, Mr. SCHIFF, Mr. THOMPSON of Mississippi, Mr. SMITH of Washington, Mr. LARSON of Connecticut, Mr. WELCH, Mr. WEINER, Mr. MELANCON, Mr. ENGEL, Mr. WILSON of Ohio, Ms. TITUS, Mr. OWENS, Mr. MURPHY of New York, and Mr. CAMPBELL

NOVEMBER 30, 2010

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 6, 2009]

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Internet Gambling Reg-*
 5 *ulation, Consumer Protection, and Enforcement Act”.*

6 **SEC. 2. FEDERAL LICENSING REQUIREMENT FOR INTERNET**
 7 **GAMBLING OPERATORS.**

8 *(a) IN GENERAL.—Chapter 53 of title 31, United*
 9 *States Code, is amended by adding at the end the following*
 10 *new subchapter:*

11 **“SUBCHAPTER V—REGULATION OF LAWFUL**
 12 **INTERNET GAMBLING**

13 **“§ 5381. Congressional findings**

14 *“The Congress finds the following:*

15 *“(1) Since the development of the Internet, mil-*
 16 *lions of people have chosen to gamble online, and*
 17 *today Internet gambling is offered by operators lo-*
 18 *cated in many different countries under a variety of*
 19 *licensing and regulatory regimes.*

20 *“(2) Despite the increasing use of the Internet*
 21 *for gambling by persons in the United States, there*
 22 *is no Federal or State regulatory regime in place to*
 23 *protect United States citizens who choose to engage in*
 24 *this interstate activity, or to oversee operators to es-*

1 *tablish and enforce standards of integrity and fair-*
2 *ness.*

3 *“(3) In the United States, gambling activities,*
4 *equipment, and operations have been subject to var-*
5 *ious forms of Federal and State control, regulation,*
6 *and enforcement, with some form of gambling being*
7 *permitted in nearly every State and by many Indian*
8 *tribes.*

9 *“(4) Internet gambling in the United States*
10 *should be controlled by a strict Federal, State, and*
11 *tribal licensing and regulatory framework to protect*
12 *underage and otherwise vulnerable individuals, to en-*
13 *sure the games are fair, to address the concerns of law*
14 *enforcement, and to enforce any limitations on the ac-*
15 *tivity established by the States and Indian tribes.*

16 *“(5) An effective Federal, State, and tribal li-*
17 *censing system would ensure that licenses are issued*
18 *only to Internet gambling operators which meet strict*
19 *criteria to protect consumers, and which—*

20 *“(A) are in good financial and legal stand-*
21 *ing, and of good character, honesty, and integ-*
22 *rity;*

23 *“(B) utilize appropriate technology to deter-*
24 *mine the age and location of users;*

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

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

6 “(E) have in place risk-based methods to
7 identify and combat money laundering and
8 fraud relating to Internet gambling, and to pro-
9 tect the privacy and security of users.

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

18 **“§ 5382. Definitions**

19 “For purposes of this subchapter, the following defini-
20 tions shall apply:

21 “(1) *APPLICANT*.—The term ‘applicant’ means
22 any person who has applied for a license pursuant to
23 this subchapter.

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

1 “(3) *ENFORCEMENT AGENT.*—*The term ‘enforce-*
2 *ment agent’ means any individual authorized by the*
3 *Secretary to enforce the provisions of this subchapter*
4 *and regulations prescribed under this subchapter.*

5 “(4) *INDIAN LANDS AND INDIAN TRIBE.*—*The*
6 *terms ‘Indian lands’ and ‘Indian tribe’ have the same*
7 *meanings as in section 4 of the Indian Gaming Regu-*
8 *latory Act.*

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

11 “(6) *LICENSEE.*—*The term ‘licensee’ means an*
12 *entity authorized to operate an Internet gambling fa-*
13 *cility in accordance with this subchapter.*

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

22 “(8) *SECRETARY.*—*The term ‘Secretary’ means*
23 *the Secretary of the Treasury, or any person des-*
24 *ignated by the Secretary.*

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

5 “(10) *SPORTING EVENT*.—The term ‘sporting
6 event’ means any athletic competition, whether profes-
7 sional, scholastic, or amateur.

8 **“§ 5383. Establishment and administration of licens-**
9 **ing program**

10 “(a) *TREASURY RESPONSIBILITIES*.—The Secretary
11 shall have responsibility for the following activities:

12 “(1) *Exercising full regulatory jurisdiction*
13 *over—*

14 “(A) *the operation of Internet gambling fa-*
15 *cilities by licensees; and*

16 “(B) *the licensure and regulation of all ap-*
17 *plicants, except to the extent that powers have*
18 *been delegated to qualified State and tribal regu-*
19 *latory bodies pursuant to this subchapter.*

20 “(2) *Prescribing such regulations as may be nec-*
21 *essary to administer and enforce the requirements of*
22 *this subchapter.*

23 “(3) *Employing enforcement agents with suffi-*
24 *cient training and experience to administer the re-*

1 *quirements of this subchapter and the regulations pre-*
 2 *scribed under this subchapter.*

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

6 *“(b) INTERNET GAMBLING LICENSING PROGRAM.—*

7 *“(1) LICENSING REQUIRED FOR CERTAIN INTER-*
 8 *NET GAMBLING.—No person may operate an Internet*
 9 *gambling facility that knowingly accepts bets or wa-*
 10 *gers from persons located in the United States with-*
 11 *out a license issued by the Secretary in accordance*
 12 *with this subchapter.*

13 *“(2) AUTHORITY UNDER VALID LICENSE.—A li-*
 14 *censee may accept bets or wagers from persons located*
 15 *in the United States, subject to the limitations set*
 16 *forth in this subchapter, so long as its license remains*
 17 *in good standing.*

18 *“(c) APPLICATION FOR LICENSE.—*

19 *“(1) IN GENERAL.—Any person seeking author-*
 20 *ity to operate an Internet gambling facility offering*
 21 *services to persons in the United States may apply*
 22 *for a license issued by the Secretary.*

23 *“(2) INFORMATION REQUIRED.—Any application*
 24 *for a license under this subchapter shall contain such*

1 *information as may be required by the Secretary, in-*
2 *cluding the following:*

3 *“(A) The criminal and credit history of the*
4 *applicant, any senior executive and director of*
5 *the applicant, and any person deemed to be in*
6 *control of the applicant.*

7 *“(B) The financial statements of the appli-*
8 *cant.*

9 *“(C) Documentation showing the corporate*
10 *structure of the applicant and all related busi-*
11 *nesses and affiliates.*

12 *“(D) Documentation containing detailed*
13 *evidence of the applicant’s plan for complying*
14 *with all applicable regulations should a license*
15 *be issued, with particular emphasis on the appli-*
16 *cant’s ability to—*

17 *“(i) protect underage and problem*
18 *gamblers;*

19 *“(ii) ensure games are being operated*
20 *fairly; and*

21 *“(iii) comply with and address the*
22 *concerns of law enforcement.*

23 *“(E) Certification that the applicant agrees*
24 *to submit to United States jurisdiction and all*
25 *applicable United States laws relating to accept-*

1 *ance by the applicant of bets or wagers over the*
 2 *Internet from persons located in the United*
 3 *States and all associated activities.*

4 “(F) *Certification that the applicant has es-*
 5 *tablished a corporate entity or other separate*
 6 *business entity in the United States, a majority*
 7 *of whose officers are United States persons and,*
 8 *if there is a board of directors, that the board is*
 9 *majority-controlled by directors who are United*
 10 *States persons.*

11 “(d) *STANDARDS FOR LICENSE ISSUANCE; SUIT-*
 12 *ABILITY QUALIFICATIONS AND DISQUALIFICATION STAND-*
 13 *ARDS.—*

14 “(1) *SUITABILITY FOR LICENSING STANDARDS.—*

15 “(A) *IN GENERAL.—No person shall be eli-*
 16 *gible to obtain a license unless the Secretary or*
 17 *an appropriate State officer or agency has deter-*
 18 *mined, upon completion of a background check*
 19 *and investigation, that the applicant, and any*
 20 *person deemed to be in control of the applicant,*
 21 *is suitable for licensing.*

22 “(B) *ASSOCIATES OF APPLICANTS.—If the*
 23 *applicant is a corporation, partnership, or other*
 24 *business entity, a background check and inves-*
 25 *tigation shall occur with respect to the president*

1 *or other chief executive of the corporation, part-*
2 *nership, or other business entity and other part-*
3 *ners or senior executives and directors of the cor-*
4 *poration, partnership, or entity, as determined*
5 *appropriate by the Secretary or any appropriate*
6 *State or tribal officer or agency.*

7 *“(C) BACKGROUND CHECK AND INVESTIGA-*
8 *TION.—The Secretary shall establish standards*
9 *and procedures for conducting background checks*
10 *and investigations for purposes of this sub-*
11 *section.*

12 *“(2) SUITABILITY FOR LICENSING STANDARDS*
13 *DESCRIBED.—For purposes of this subchapter, an ap-*
14 *plicant and any other person associated with the ap-*
15 *plicant, as applicable, is suitable for licensing if the*
16 *applicant demonstrates to the Secretary or appro-*
17 *priate State or tribal officer or agency by clear and*
18 *convincing evidence that the applicant (or individual*
19 *associated with the applicant, as applicable)—*

20 *“(A) is a person of good character, honesty,*
21 *and integrity;*

22 *“(B) is a person whose prior activities, rep-*
23 *utation, habits, and associations do not—*

1 “(i) pose a threat to the public interest
2 or to the effective regulation and control of
3 the licensed activities; or

4 “(ii) create or enhance the dangers of
5 unsuitable, unfair, or illegal practices,
6 methods, and activities in the conduct of the
7 licensed activities or the carrying on of the
8 business and financial arrangements inci-
9 dental to such activities;

10 “(C) is capable of and likely to conduct the
11 activities for which the applicant is licensed in
12 accordance with the provisions of this subchapter
13 and any regulations prescribed under this sub-
14 chapter;

15 “(D) has or guarantees acquisition of ade-
16 quate business competence and experience in the
17 operation of Internet gambling facilities; and

18 “(E) has or will obtain sufficient financing
19 for the nature of the proposed operation and
20 from a suitable source.

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

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

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

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

9 “(D) is delinquent in filing any applicable
10 Federal or State tax returns or in the payment
11 of any taxes, penalties, additions to tax, or inter-
12 est owed to a State or the United States;

13 “(E) has, on or after the date of the enact-
14 ment of the Unlawful Internet Gambling En-
15 forcement Act of 2006—

16 “(i) knowingly participated in, or
17 should have known they were participating
18 in, any illegal Internet gambling activity,
19 including the taking of an illegal Internet
20 wager, the payment of winnings on an ille-
21 gal Internet wager, the promotion through
22 advertising of any illegal Internet gambling
23 website or service, or the collection of any
24 payments to an entity operating an illegal
25 Internet gambling website; or

1 “(ii) knowingly been owned, operated,
2 managed, or employed by, or should have
3 known they were owned, operated, managed,
4 or employed by, any person who was know-
5 ingly participating in, or should have
6 known they were participating in, any ille-
7 gal Internet gambling activity, including
8 the taking of an illegal Internet wager, the
9 payment of winnings on an illegal Internet
10 wager, the promotion through advertising of
11 any illegal Internet gambling website or
12 service, or the collection of any payments to
13 an entity operating an illegal Internet gam-
14 bling website;

15 “(F) has—

16 “(i) received any assistance, financial
17 or otherwise, from any person who has, be-
18 fore the date of the enactment of the Inter-
19 net Gambling Regulation, Consumer Protec-
20 tion, and Enforcement Act, knowingly ac-
21 cepted bets or wagers from a person located
22 in the United States in violation of Federal
23 or State law; or

24 “(ii) provided any assistance, financial
25 or otherwise, to any person who has, before

1 *the date of the enactment of the Internet*
2 *Gambling Regulation, Consumer Protection,*
3 *and Enforcement Act, knowingly accepted*
4 *bets or wagers from a person located in the*
5 *United States in violation of Federal or*
6 *State law;*

7 “(G) *with respect to another entity that has*
8 *accepted a bet or wager from any individual in*
9 *violation of United States law, has purchased or*
10 *otherwise obtained—*

11 “(i) *such entity;*

12 “(ii) *a list of the customers of such en-*
13 *tity; or*

14 “(iii) *any other part of the equipment*
15 *or operations of such entity;*

16 “(H) *is listed on a State gambling excluded*
17 *persons list; or*

18 “(I) *fails to certify in writing, under pen-*
19 *alty of perjury, that the applicant or other such*
20 *person, and all affiliated business entities (in-*
21 *cluding all entities under common control), has*
22 *through its entire history—*

23 “(i) *not committed an intentional fel-*
24 *ony violation of Federal or State gambling*
25 *laws; and*

1 “(ii) *used diligence to prevent any*
2 *United States person from placing a bet on*
3 *an Internet site in violation of Federal or*
4 *State gambling laws.*

5 “(4) *APPEAL OF DETERMINATION.*—*With respect*
6 *to any applicant or other person that the Secretary*
7 *determines is not suitable for licensing within the*
8 *meaning of this subchapter by reason of subpara-*
9 *graph (E) or (F) of paragraph (3), and where the*
10 *Secretary has not determined that such applicant or*
11 *person was acting in their capacity as a managerial*
12 *employee of an Internet gambling website, the Sec-*
13 *retary shall establish an appeals process by which*
14 *such applicant or person may appeal the Secretary’s*
15 *determination.*

16 “(5) *ONGOING REQUIREMENT.*—*A licensee (and*
17 *any other person who is required to be determined to*
18 *be suitable for licensing in connection with such li-*
19 *censee) shall meet the standards necessary to be suit-*
20 *able for licensing throughout the term of the license.*

21 “(6) *PROTECTION OF THE PUBLIC TRUST.*—*The*
22 *Secretary may take such action as is necessary to*
23 *protect the public trust, including the implementation*
24 *of such safeguards as may be necessary to ensure the*
25 *operation of an Internet gambling facility licensed*

1 *under this subchapter is controlled only by persons*
2 *who are suitable for licensing.*

3 “(7) *ENFORCEMENT ACTIONS.*—

4 “(A) *DETERMINATION OF UNSUITABILITY*
5 *FOR CONTINUED LICENSURE.*—*If the Secretary*
6 *finds that an individual owner or holder of a se-*
7 *curity of a licensee, or of a holding or inter-*
8 *mediary company of a licensee or any person*
9 *with an economic interest in a licensee or a di-*
10 *rector, partner, or officer of a licensee is not suit-*
11 *able for licensing, the Secretary may determine*
12 *that the licensee is not qualified to continue as*
13 *a licensee.*

14 “(B) *ACTION TO PROTECT THE PUBLIC IN-*
15 *TEREST, INCLUDING SUSPENSION.*—*If the Sec-*
16 *retary may determine that the licensee is not*
17 *qualified to continue as a licensee, the Secretary*
18 *shall propose action necessary to protect the pub-*
19 *lic interest, including, if deemed necessary, the*
20 *suspension of the authority of the licensee to en-*
21 *gage in licensed activities.*

22 “(C) *IMPOSITION OF CONDITIONS INCLUD-*
23 *ING REMOVAL OF PARTIES.*—*Notwithstanding a*
24 *determination under subparagraph (A), the Sec-*
25 *retary may allow a licensee to continue engaging*

1 *in licensed activities by imposing conditions on*
 2 *the licensee under penalty of revocation or sus-*
 3 *pension of the authority of the licensee to engage*
 4 *in licensed activities, including—*

5 “(i) *the identification of any person*
 6 *determined to be unsuitable for licensing;*
 7 *and*

8 “(ii) *the establishment of appropriate*
 9 *safeguards to ensure such person is excluded*
 10 *from any interest in the licensed activities.*

11 “(e) *ASSESSMENTS FOR ADMINISTRATIVE EX-*
 12 *PENSES.—*

13 “(1) *USER FEES.—*

14 “(A) *IN GENERAL.—The cost of admin-*
 15 *istering this subchapter with respect to each li-*
 16 *cence, including the cost of any review or exam-*
 17 *ination of a licensee to ensure compliance with*
 18 *the terms of the license and this subchapter, shall*
 19 *be assessed by the Secretary against the licensee*
 20 *institution by written notice in an amount ap-*
 21 *propriate to meet the Secretary’s expenses in car-*
 22 *rying out such administration, review, or exam-*
 23 *ination.*

1 “(B) *DISPOSITION.*—Amounts assessed by
2 the Secretary as user fees under subparagraph
3 (A) shall—

4 “(i) be maintained by the Secretary
5 solely for use in accordance with clause (ii);

6 “(ii) be available to the Secretary to
7 cover all expenses incurred by the Secretary
8 in carrying out this subchapter; and

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

13 “(C) *HEARING.*—Any licensee against
14 whom an assessment is assessed under this para-
15 graph shall be afforded an agency hearing if
16 such person submits a request for such hearing
17 within 20 days after the issuance of the notice of
18 assessment.

19 “(D) *COLLECTION.*—

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

1 “(i) *APPROPRIATENESS OF ASSESS-*
 2 *MENT NOT REVIEWABLE.*—*In any civil ac-*
 3 *tion under clause (i), the validity and ap-*
 4 *propriateness of the assessment shall not be*
 5 *subject to review.*

6 “(2) *DIRECT AND EXCLUSIVE OBLIGATION OF LI-*
 7 *CENSEE.*—*The user fee shall be the direct and exclu-*
 8 *sive obligation of the licensee and may not be de-*
 9 *ducted from amounts available as deposits to any per-*
 10 *son placing a bet.*

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

15 “(g) *SAFEGUARDS REQUIRED OF LICENSEE.*—*No per-*
 16 *son may operate an Internet gambling facility in accord-*
 17 *ance with this subchapter unless the person maintains or*
 18 *requires mechanisms so that the following requirements,*
 19 *and the standards established under section 5384, are met*
 20 *with respect to any Internet bet or wager:*

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

1 “(2) *PERMISSIBLE LOCATION.*—*Appropriate*
2 *safeguards to ensure that the individual placing a bet*
3 *or wager is physically located in a jurisdiction that*
4 *permits Internet gambling at the time the bet or*
5 *wager is placed.*

6 “(3) *COLLECTION OF CUSTOMER TAXES.*—*Appro-*
7 *priate mechanisms to ensure that all taxes relating to*
8 *Internet gambling from persons engaged in Internet*
9 *gambling are collected at the time of any payment of*
10 *any proceeds of Internet gambling.*

11 “(4) *COLLECTION OF TAXES OF LICENSEE.*—*Ap-*
12 *propriate mechanisms to ensure that all taxes relating*
13 *to Internet gambling from any licensee are collected*
14 *and disbursed as required by law, and that adequate*
15 *records to enable later audit or verification are main-*
16 *tained.*

17 “(5) *SAFEGUARDS AGAINST FINANCIAL CRIME.*—
18 *Appropriate safeguards to combat fraud, money laun-*
19 *dering, and terrorist finance.*

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

23 “(7) *PRIVACY SAFEGUARDS.*—*Appropriate safe-*
24 *guards to protect the privacy and security of any per-*
25 *son engaged in Internet gambling.*

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

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

7 “(h) *TERM AND RENEWAL OF LICENSE.*—

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

11 “(2) *RENEWAL.*—*Licenses may be renewed in ac-*
 12 *cordance with the requirements prescribed by the Sec-*
 13 *retary pursuant to this subchapter.*

14 “(i) *REVOCATION OF LICENSE.*—

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

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

19 “(B) *the licensee is determined to be unsuit-*
 20 *able for licensing, within the meaning of this*
 21 *subchapter; or*

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

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

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

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

9 “(1) *safeguards required for licensees under sub-*
 10 *section (g); and*

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

14 “(k) *ADMINISTRATIVE PROVISIONS.*—

15 “(1) *GENERAL POWERS OF SECRETARY.*—

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

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

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

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

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

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

18 “(vi) *Examine any licensee and any*
19 *books, papers, records, or other data of li-*
20 *cencees relevant to any recordkeeping or re-*
21 *porting requirements imposed by the Sec-*
22 *retary under this subchapter.*

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

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

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

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

1 “(x) Conduct continuing reviews of ap-
2 plicants and licensees and the operation of
3 Internet gambling facilities by use of tech-
4 nological means, onsite observation of facili-
5 ties, including servers, or other reasonable
6 means to assure compliance with this sub-
7 chapter and any regulations promulgated
8 hereunder.

9 “(xi) Prohibit inappropriate adver-
10 tising practices by licensees, including unso-
11 licited emails targeting members of vulner-
12 able populations, including problem gam-
13 blers and minors, or Internet advertising
14 linked to search terms associated with chil-
15 dren, problem gamblers, or other topics
16 deemed inappropriate.

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

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

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

5 “(3) *ADMINISTRATIVE ASPECTS OF SUMMONS.—*

6 “(A) *PRODUCTION AT DESIGNATED SITE.—*

7 *A summons issued pursuant to this subsection*
8 *may require that books, papers, records, or other*
9 *data stored or maintained at any place be pro-*
10 *duced at any business location of a licensee or*
11 *applicant for a license or any designated loca-*
12 *tion in any State or in any territory or other*
13 *place subject to the jurisdiction of the United*
14 *States not more than 500 miles distant from any*
15 *place where the licensee or applicant for a license*
16 *operates or conducts business in the United*
17 *States.*

18 “(B) *NO LIABILITY FOR EXPENSES.—The*

19 *United States shall not be liable for any expense*
20 *incurred in connection with the production of*
21 *books, papers, records, or other data under this*
22 *subsection.*

23 “(C) *SERVICE OF SUMMONS.—Service of a*

24 *summons issued under this subsection may be by*
25 *registered mail or in such other manner cal-*

1 *culated to give actual notice as the Secretary*
 2 *may prescribe by regulation.*

3 “(4) *CONTUMACY OR REFUSAL.*—

4 “(A) *REFERRAL TO ATTORNEY GENERAL.*—

5 *In case of contumacy by a person issued a sum-*
 6 *mons under this subsection or a refusal by such*
 7 *person to obey such summons or to allow the*
 8 *Secretary to conduct an examination, the Sec-*
 9 *retary shall refer the matter to the Secretary of*
 10 *the Treasury for referral to the Attorney General.*

11 “(B) *JURISDICTION OF COURT.*—*The Attor-*
 12 *ney General may invoke the aid of any court of*
 13 *the United States to compel compliance with the*
 14 *summons within the jurisdiction of which—*

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

18 “(ii) *the person summoned is an in-*
 19 *habitant; or*

20 “(iii) *the person summoned carries on*
 21 *business or may be found.*

22 “(C) *COURT ORDER.*—*The court may issue*
 23 *an order requiring the person summoned to ap-*
 24 *pear before the Secretary or a delegate of the Sec-*
 25 *retary to produce books, papers, records, and*

1 *other data, to give testimony as may be nec-*
 2 *essary to explain how such material was com-*
 3 *plied and maintained, to allow the Secretary to*
 4 *examine the business of a licensee, and to pay*
 5 *the costs of the proceeding.*

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

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

13 “(5) *COMPILATION OF DATASETS ON PLAYER BE-*
 14 *HAVIOR.—*

15 “(A) *IN GENERAL.—The Secretary shall*
 16 *compile and make available to the public, on the*
 17 *website of the Secretary, datasets on player be-*
 18 *havior.*

19 “(B) *REGULATIONS REQUIRING SUBMISSION*
 20 *OF INFORMATION.—The Secretary shall prescribe*
 21 *regulations to require licensees under this sub-*
 22 *chapter to provide information on player behav-*
 23 *ior that the Secretary determines is appropriate*
 24 *for the datasets under subparagraph (A).*

“(C) *INFORMATION REQUIRED TO BE INCLUDED.—*Datasets prepared under this paragraph shall include information on any individual player, if requested by the Secretary, including but not limited to information concerning gambling frequency, gaming duration, the amount wagered, the number of bets placed, and net losses, provided that such request complies with the provisions of subparagraph (D).

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

“(l) *CIVIL MONEY PENALTIES.—*

“(1) *IN GENERAL.—*The Secretary may assess upon any licensee or other person subject to the requirements of this subchapter for any willful violation of this subchapter or any regulation prescribed or order issued under this subchapter, a civil penalty of not more than the greater of—

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

“(B) \$25,000.

1 “(2) *ASSESSMENT.*—

2 “(A) *WRITTEN NOTICE.*—*Any penalty im-*
3 *posed under paragraph (1) may be assessed and*
4 *collected by the Secretary by written notice.*

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

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

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

21 “(i) *the size of the financial resources*
22 *and the good faith of the person against*
23 *whom the penalty is assessed;*

24 “(ii) *the gravity of the violation;*

1 “(iii) the history of previous violations;
2 and

3 “(iv) such other matters as justice may
4 require.

5 “(E) HEARING.—The person against whom
6 any penalty is assessed under paragraph (1)
7 shall be afforded an agency hearing if such per-
8 son submits a request for such hearing within 20
9 days after the issuance of the notice of assess-
10 ment.

11 “(F) COLLECTION.—

12 “(i) REFERRAL.—If any person fails
13 to pay an assessment after any penalty as-
14 sessed under this paragraph has become
15 final, the Secretary shall recover the amount
16 assessed by action in the appropriate
17 United States district court.

18 “(ii) APPROPRIATENESS OF PENALTY
19 NOT REVIEWABLE.—In any civil action
20 under clause (i), the validity and appro-
21 priateness of the penalty shall not be subject
22 to review.

23 “(G) DISBURSEMENT.—All penalties col-
24 lected under authority of this subsection shall be
25 deposited into the Treasury.

1 “(3) *CONDITION FOR LICENSURE.—Payment by*
 2 *a licensee of any civil penalty assessed under this sub-*
 3 *section that has become final shall be a requirement*
 4 *for the retention of its license.*

5 “(m) *TREATMENT OF RECORDS.—In light of business*
 6 *competition, confidentiality, and privacy concerns, the Sec-*
 7 *retary shall protect from disclosure information submitted*
 8 *in support of a license application under this subchapter*
 9 *and information collected in the course of regulating licens-*
 10 *ees to the full extent permitted by sections 552 and 552a*
 11 *of title 5.*

12 “(n) *SUITABILITY FOR LICENSING REQUIREMENTS*
 13 *FOR CERTAIN SERVICE PROVIDERS.—*

14 “(1) *IN GENERAL.—Any person that know-*
 15 *ingly—*

16 “(A) *manages, administers, or controls bets*
 17 *or wagers that are initiated, received, or other-*
 18 *wise made within the United States,*

19 “(B) *otherwise manages or administers the*
 20 *games with which such bets or wagers are associ-*
 21 *ated, or*

22 “(C) *develops, maintains or operates, or*
 23 *distributes or makes available for downloading*
 24 *software, other system programs or hardware*

1 *that create, operate, or otherwise affect the out-*
 2 *come of a game,*
 3 *shall meet all of the suitability for licensing criteria*
 4 *established under this section in the same manner*
 5 *and to the same extent as if that person were itself*
 6 *a licensee.*

7 “(2) *SUITABILITY FOR LICENSING REQUIRE-*
 8 *MENTS FOR CERTAIN SERVICE PROVIDERS.—Any fail-*
 9 *ure on the part of person described in any subpara-*
 10 *graph of paragraph (1) to remain suitable for licens-*
 11 *ing shall be grounds for revocation of the authority of*
 12 *the licensee for whom such service is provided to oper-*
 13 *ate an Internet gambling facility, in the same man-*
 14 *ner and in accordance with subsection (i).*

15 “(o) *RELIANCE ON STATE AND TRIBAL REGULATORY*
 16 *BODY CERTIFICATIONS OF SUITABILITY FOR APPLI-*
 17 *CANTS.—*

18 “(1) *QUALIFICATION OF STATE AND TRIBAL REG-*
 19 *ULATORY BODIES.—*

20 “(A) *APPLICATION FOR DETERMINATION.—*
 21 *Any State or tribal regulatory body with exper-*
 22 *tise in regulating gambling may—*

23 “(i) *notify the Secretary of its willing-*
 24 *ness to review prospective applicants to cer-*
 25 *tify whether any such applicant meets the*

1 *qualifications established under this sub-*
2 *chapter; and*

3 “(ii) *provide the Secretary with such*
4 *documentation as the Secretary determines*
5 *necessary for the Secretary to determine*
6 *whether such State or tribal regulatory body*
7 *is qualified to conduct such review and may*
8 *be relied upon by the Secretary to make any*
9 *such certification.*

10 “(B) *DETERMINATION AND NOTICE.—With-*
11 *in 60 days after receiving any notice under sub-*
12 *paragraph(A)(i), the Secretary shall—*

13 “(i) *make the determination as to*
14 *whether a State or tribal regulatory body is*
15 *qualified to conduct a review of prospective*
16 *applicants and may be relied upon to cer-*
17 *tify whether any such applicant meets the*
18 *qualifications established under this sub-*
19 *chapter; and*

20 “(ii) *notify the State or tribal regu-*
21 *latory body of such determination.*

22 “(2) *ACTIONS BY QUALIFIED AUTHORITIES.—*
23 *During the period that any determination of quali-*
24 *fication under paragraph (1)(B) is in effect with re-*

1 *spect to any such State or tribal regulatory body, the*
2 *State or tribal regulatory body—*

3 *“(A) may undertake reviews of any appli-*
4 *cant to determine whether the applicant or any*
5 *person associated with the applicant meets the*
6 *criteria for suitability for licensing established*
7 *under this subchapter;*

8 *“(B) may impose on each such applicant*
9 *an administrative fee or assessment for con-*
10 *ducting such review in an amount the regulatory*
11 *body determines to be necessary to meet its ex-*
12 *penses in the conduct of such review; and*

13 *“(C) shall process and assess each applicant*
14 *fairly and equally based on objective criteria, re-*
15 *gardless of any prior licensing of an applicant*
16 *by the State or tribal regulatory body.*

17 *“(3) RELIANCE ON STATE OR TRIBAL CERTIFI-*
18 *CATION.—Any applicant may provide a certification*
19 *of suitability for licensing made by any State or trib-*
20 *al regulatory body under paragraph (2), together with*
21 *all documentation the applicant has submitted to any*
22 *such State or tribal regulatory body, to the Secretary,*
23 *and any such certification and documentation shall*
24 *be relied on by the Secretary as evidence that an ap-*

1 *plicant has met the suitability for licensing require-*
2 *ments under this section.*

3 “(4) *AUTHORITY OF SECRETARY TO REVIEW.—*
4 *Notwithstanding any certification of suitability for li-*
5 *ensing made by any State or tribal regulatory body,*
6 *the Secretary retains the authority to review, with-*
7 *hold, or revoke any license if the Secretary has reason*
8 *to believe that any applicant or licensee does not meet*
9 *the suitability requirements for licensing established*
10 *under this section, or any other requirement of a li-*
11 *censee.*

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

21 “(6) *ADDITIONAL AUTHORITY OF QUALIFIED*
22 *STATE OR TRIBAL AUTHORITIES.—The qualified state*
23 *or tribal authorities may—*

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

4 “(B) employ enforcement agents with suffi-
5 cient training and experience to administer the
6 requirements of this subchapter; and

7 “(C) enforce any requirement of this sub-
8 chapter that is within the jurisdiction of the
9 qualified state or tribal authority through all ap-
10 propriate means provided under this subchapter
11 and other provisions of law.

12 “(7) REVOCATION OF QUALIFICATION.—The Sec-
13 retary may revoke, at any time and for any reason,
14 the qualification of any State or tribal regulatory
15 body to certify or to conduct any other regulatory or
16 enforcement activity to carry out the purposes of this
17 subchapter.

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

20 “(1) frequently monitor, evaluate, and measure
21 compliance effectiveness of each licensee’s software,
22 mechanisms, and other systems for preventing minors
23 from placing bets or wagers through the Internet site
24 of the licensee; and

1 “(2) impose a sanction of either a fine, a revoca-
 2 tion of license, or both, on a licensee whose minor pro-
 3 tection software, mechanisms, and other systems are
 4 found to be insufficiently effective.

5 “(q) *REQUIREMENTS WITH RESPECT TO CHILD SUP-*
 6 *PORT DELINQUENTS.*—

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

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

21 **“§5384. Problem Gambling, Responsible Gambling,**
 22 **Consumer Safeguards, and Self-Exclusion**
 23 **Program**

24 “(a) *REGULATIONS REQUIRED.*—The Secretary and
 25 any State or tribal regulatory body that has been qualified

1 *under subsection 5383(o) shall prescribe regulations for the*
 2 *development of a Problem Gambling, Responsible Gam-*
 3 *bling, Consumer Safeguards, and Self-Exclusion Program*
 4 *on the basis of standards that each licensee shall implement*
 5 *as a condition of licensure.*

6 “(b) *MINIMUM REQUIREMENTS.*—

7 “(1) *IN GENERAL.*—*Any application for a license*
 8 *shall include a submission to the Secretary or quali-*
 9 *fied State or tribal regulatory body setting forth a*
 10 *comprehensive program that is intended—*

11 “(A) *to verify the identity and age of each*
 12 *customer through the use of commercially avail-*
 13 *able data sources or any approved government*
 14 *database that is available for access in real-time*
 15 *through an automated process;*

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

19 “(C) *to verify the State or tribal land in*
 20 *which the customer is located at the time the cus-*
 21 *tomers attempts to initiate a bet or wager;*

22 “(D) *to ensure that no customer who is lo-*
 23 *cated in a State or tribal land that opts out pur-*
 24 *suant to section 5387 can initiate or otherwise*
 25 *make a bet or wager prohibited by such opt-out;*

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

10 “(F) to make available player-selectable re-
11 sponsible gambling options that may include, as
12 appropriate to specific gambling games, a stake
13 limit, loss limit, time-based loss limits, deposit
14 limit, session time limit, time-based exclusion
15 from all gambling and other similar options that
16 the Secretary or qualified State or tribal regu-
17 latory body may deem appropriate and require
18 to be made available;

19 “(G) to require each customer, before mak-
20 ing or placing any bet or wager, to establish per-
21 sonal limits as a condition of play that apply
22 across all betting sites, which may be in hourly,
23 daily, weekly or monthly increments, at the dis-
24 cretion of the customer;

1 “(H) to protect the privacy and security of
2 any customer in connection with any lawful
3 Internet gambling activity;

4 “(I) to protect against fraud and to provide
5 for dispute resolution relating to internet gam-
6 bling activity through programs to insure the in-
7 tegrity and fairness of the games; and

8 “(J) to protect against money laundering
9 relating to Internet gambling activities.

10 “(2) *REQUIREMENTS FOR PROGRAMS ENSURING*
11 *INTEGRITY AND FAIRNESS.*—*The programs referred to*
12 *in paragraph (1)(I) to insure the integrity and fair-*
13 *ness of the games shall include requirements for—*

14 “(A) *real-time, multiparty cryptographic*
15 *protocols for random number generation where 1*
16 *of the parties is the player;*

17 “(B) *secure audit trails;*

18 “(C) *detailed player betting logs that record*
19 *and store each wager placed by the player;*

20 “(D) *real time confirmation of high value*
21 *bets or wagers, where appropriate; or*

22 “(E) *equally effective options that the Sec-*
23 *retary or qualified State or tribal regulatory of-*
24 *ficer or agency may determine to be appropriate.*

25 “(c) *PERIODIC REVIEW.*—

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

6 “(2) *CONSULTATION.*—*In conducting the review*
7 *required under paragraph (1), the Secretary shall*
8 *consult with—*

9 “(A) *State and tribal gaming regulatory of-*
10 *icials;*

11 “(B) *law enforcement officials;*

12 “(C) *experts in underage and problem gam-*
13 *ing;*

14 “(D) *experts on individual privacy;*

15 “(E) *consumers;*

16 “(F) *on-line retailers of other age restricted*
17 *materials such as tobacco and alcohol products;*

18 “(G) *licensees and other representatives of*
19 *the gaming industry;*

20 “(H) *software developers with expertise in*
21 *gaming, privacy, the payments systems avail-*
22 *able, and other relevant areas; and*

23 “(I) *such other relevant individuals as the*
24 *Secretary may determine to be appropriate.*

1 “(d) *LIST OF PERSONS SELF-EXCLUDED FROM GAM-*
2 *BLING ACTIVITIES.*—

3 “(1) *ESTABLISHMENT.*—

4 “(A) *IN GENERAL.*—*The Secretary shall*
5 *provide by regulation for the establishment of a*
6 *list of persons self-excluded from gambling ac-*
7 *tivities at all licensee sites.*

8 “(B) *PLACEMENT REQUEST.*—*Any person*
9 *may request placement on the list of self-excluded*
10 *persons by—*

11 “(i) *acknowledging in a manner to be*
12 *established by the Secretary that the person*
13 *wishes to be denied gambling privileges; and*

14 “(ii) *agreeing that, during any period*
15 *of voluntary exclusion, the person may not*
16 *collect any winnings or recover any losses*
17 *resulting from any gambling activity at*
18 *any licensee sites.*

19 “(2) *PLACEMENT AND REMOVAL PROCEDURES.*—
20 *The regulations prescribed by the Secretary under*
21 *paragraph (1)(A) shall establish procedures for place-*
22 *ments on, and removals from, the list of self-excluded*
23 *persons.*

24 “(3) *LIMITATION ON LIABILITY.*—

1 “(A) *IN GENERAL.*—*The United States, the*
 2 *Secretary, an enforcement agent, or a licensee, or*
 3 *any employee or agent of the United States, the*
 4 *Secretary, an enforcement agent, or a licensee,*
 5 *shall not be liable to any self-excluded person or*
 6 *to any other party in any judicial or adminis-*
 7 *trative proceeding for any harm, monetary or*
 8 *otherwise, which may arise as a result of—*

9 “(i) *any failure to withhold gambling*
 10 *privileges from, or to restore gambling*
 11 *privileges to, a self-excluded person; or*

12 “(ii) *otherwise permitting a self-ex-*
 13 *cluded person to engage in gambling activ-*
 14 *ity while on the list of self-excluded persons.*

15 “(B) *RULE OF CONSTRUCTION.*—*No provi-*
 16 *sion of subparagraph (A) shall be construed as*
 17 *preventing the Director from assessing any regu-*
 18 *latory sanction against a licensee for failing to*
 19 *comply with the minimum standards prescribed*
 20 *pursuant to this subsection.*

21 “(4) *DISCLOSURE PROVISIONS.*—

22 “(A) *IN GENERAL.*—*Notwithstanding any*
 23 *other provision of Federal or State law, the list*
 24 *of self-excluded persons shall not be open to pub-*
 25 *lic inspection.*

1 “(B) *AFFILIATE DISCLOSURE.*—Any licens-
 2 ees may disclose the identities of persons on the
 3 self-excluded list to any affiliated company or,
 4 where required to comply with this subsection,
 5 any service provider, to the extent that the li-
 6 censee ensures that any affiliated company or
 7 service provider maintains such information
 8 under confidentiality provisions comparable to
 9 those in this subsection.

10 “(5) *LIMITATION ON LIABILITY FOR DISCLO-*
 11 *SURE.*—A licensee or an employee, agent, or affiliate
 12 of a licensee shall not be liable to any self-excluded
 13 person or to any other party in any judicial pro-
 14 ceeding for any harm, monetary or otherwise, which
 15 may arise as a result of disclosure or publication in
 16 any manner.

17 “(e) *GAMBLING BY PROHIBITED PERSONS.*—

18 “(1) *PROHIBITION BENEFITTING FROM PROHIB-*
 19 *ITED GAMBLING ACTIVITY.*—A person who is prohib-
 20 ited from gambling with a licensee by law, or by
 21 order of the Secretary or any court of competent ju-
 22 risdiction, including any person on the self-exclusion
 23 list as established in accordance with subsection (d),
 24 shall not collect, in any manner or proceeding, any

1 *winnings or recover any losses arising as a result of*
 2 *any prohibited gambling activity.*

3 “(2) *FORFEITURE.—In addition to any other*
 4 *penalty provided by law, any money or thing of value*
 5 *that has been obtained by, or is owed to, any prohib-*
 6 *ited person by a licensee as a result of bets or wagers*
 7 *made by a prohibited person shall be subject to for-*
 8 *feiture by order of the Secretary, following notice to*
 9 *the prohibited person and opportunity to be heard.*

10 “(3) *DEPOSIT OF FORFEITED FUNDS.—Any*
 11 *funds forfeited pursuant to this subsection shall be de-*
 12 *posited into the general fund of the Treasury.*

13 “(4) *PERSONS SELF-EXCLUDED.—Licensees may*
 14 *not accept bets or wagers from persons on the list es-*
 15 *tablished pursuant to subsection (d)(1)(A).*

16 “(f) *PROBLEM OR COMPULSIVE GAMBLERS NOT ON*
 17 *THE LIST OF SELF-EXCLUDED PERSONS.—*

18 “(1) *PUBLIC AWARENESS PROGRAM.—*

19 “(A) *IN GENERAL.—The Secretary and any*
 20 *State or tribal regulatory body that has been*
 21 *qualified under subsection 5383(o) shall provide*
 22 *by regulation for the establishment of a program*
 23 *to alert the public to the existence, consequences,*
 24 *and availability of the self-exclusion list, and*

1 *shall prepare and promulgate written materials*
 2 *to be used in such a program.*

3 “(B) *LICENSEE-PROVIDED PUBLICITY.—*
 4 *Regulations prescribed under subparagraph (A)*
 5 *may require a licensee to make available lit-*
 6 *erature or screen displays relating to the exist-*
 7 *ence of the program.*

8 “(2) *RULE OF CONSTRUCTION.—No provision of*
 9 *this subsection shall be construed as creating a legal*
 10 *duty in the Secretary, a qualified State or tribal reg-*
 11 *ulatory body, a licensee, or any representative of a li-*
 12 *cencee to identify or to exclude problem or compulsive*
 13 *gamblers not on the list of self-excluded persons.*

14 “(3) *IMMUNITY.—The United States, the Sec-*
 15 *retary, a qualified State or tribal regulatory body, a*
 16 *licensee, and any employee or agent of a licensee,*
 17 *shall not be liable to any person in any proceeding*
 18 *for losses or other damages of any kind arising out*
 19 *of that person’s gambling activities based on a claim*
 20 *that the person was a compulsive, problem, or patho-*
 21 *logical gambler.*

22 **“§ 5385. Financial transaction providers**

23 “(a) *IN GENERAL.—No financial transaction provider*
 24 *shall be held liable for engaging in financial activities and*
 25 *transactions for or on behalf of a licensee or involving a*

1 *licensee, including payments processing activities, unless*
 2 *such provider has knowledge that the specific financial ac-*
 3 *tivities or transactions are conducted in violation of this*
 4 *subchapter and with applicable Federal and State laws.*

5 “(b) *DEFINITIONS.—For purposes of this section, the*
 6 *following definitions shall apply:*

7 “(1) *FINANCIAL TRANSACTION PROVIDER.—The*
 8 *term ‘financial transaction provider’ means a cred-*
 9 *itor, credit card issuer, financial institution, operator*
 10 *of a terminal at which an electronic fund transfer*
 11 *may be initiated, money transmitting business, or*
 12 *international, national, regional, or local payment*
 13 *network utilized to effect a credit transaction, elec-*
 14 *tronic fund transfer, stored value product transaction,*
 15 *or money transmitting service, or a participant in*
 16 *such network, or other participant in a payment sys-*
 17 *tem.*

18 “(2) *OTHER TERMS.—*

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

24 “(B) *ELECTRONIC FUND TRANSFER.—The*
 25 *term ‘electronic fund transfer’—*

1 “(i) *has the meaning given the term in*
 2 *section 903 of the Electronic Fund Transfer*
 3 *Act, except that the term includes transfers*
 4 *that would otherwise be excluded under sec-*
 5 *tion 903(6)(E) of such Act; and*

6 “(ii) *includes any fund transfer cov-*
 7 *ered by Article 4A of the Uniform Commer-*
 8 *cial Code, as in effect in any State.*

9 “(C) *FINANCIAL INSTITUTION.—The term*
 10 *‘financial institution’ has the meaning given the*
 11 *term in section 903 of the Electronic Fund*
 12 *Transfer Act, except that such term does not in-*
 13 *clude a casino, sports book, or other business at*
 14 *or through which bets or wagers may be placed*
 15 *or received.*

16 “(D) *INSURED DEPOSITORY INSTITUTION.—*
 17 *The term ‘insured depository institution’—*

18 “(i) *has the meaning given the term in*
 19 *section 3(c) of the Federal Deposit Insur-*
 20 *ance Act; and*

21 “(ii) *includes an insured credit union*
 22 *(as defined in section 101 of the Federal*
 23 *Credit Union Act).*

24 “(E) *MONEY TRANSMITTING BUSINESS AND*
 25 *MONEY TRANSMITTING SERVICE.—The terms*

1 ‘money transmitting business’ and ‘money trans-
 2 mitting service’ have the meanings given the
 3 terms in section 5330(d) (determined without re-
 4 gard to any regulations prescribed by the Sec-
 5 retary under such section).

6 **“§5386. List of unlawful Internet gambling enter-
 7 prises**

8 “(a) *DEFINITIONS.*—For purposes of this section, the
 9 following definitions shall apply:

10 “(1) *UNLAWFUL INTERNET GAMBLING ENTER-
 11 PRISE.*—The term ‘unlawful Internet gambling enter-
 12 prise’ means any person who, more than 10 days
 13 after the date of the enactment of this section—

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

15 “(B) knowingly receives or transmits funds
 16 intended primarily for a person described in
 17 subparagraph (A); or

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

20 “(2) *DIRECTOR.*—The term ‘Director’ means the
 21 Director of the Financial Crimes Enforcement Net-
 22 work.

23 “(b) *LIST OF UNLAWFUL INTERNET GAMBLING EN-
 24 TERPRISES.*—

1 “(1) *IN GENERAL.*—Not later than 120 days
2 after the date of the enactment of this section, the Di-
3 rector shall submit to the Secretary a list of unlawful
4 Internet gambling enterprises and shall regularly up-
5 date such list in accordance with the procedures de-
6 scribed in paragraph (3).

7 “(2) *CONTENTS OF LIST.*—The list prepared
8 under paragraph (1) shall include the following infor-
9 mation for each such unlawful Internet gambling en-
10 terprise:

11 “(A) *All known Internet website addresses*
12 *of the enterprise.*

13 “(B) *The names of all known owners and*
14 *operators of the enterprise.*

15 “(C) *To the extent known, information*
16 *identifying the financial agents and account*
17 *numbers of the enterprise and the persons listed*
18 *under subparagraph (B).*

19 “(3) *DISTRIBUTION OF LIST BY SECRETARY.*—
20 *The Secretary shall make available—*

21 “(A) *a copy of the information provided*
22 *under subparagraphs (A) and (B) of paragraph*
23 *(2) on the Internet website of the Secretary of the*
24 *Treasury;*

1 “(B) to all persons who are required to com-
2 ply with the regulations prescribed under the au-
3 thority provided in section 5364 a copy of all the
4 information provided under paragraph (1) in an
5 electronic format compatible with the Specially
6 Designated Nationals list maintained by the Of-
7 fice of Foreign Assets Control; and

8 “(C) any information required under this
9 paragraph not later than 10 days after receiving
10 any new or updated list from the Director.

11 “(4) *PROCEDURES.*—The procedures described in
12 this paragraph are the following:

13 “(A) *INVESTIGATION.*—The Director shall
14 investigate entities that appear to be unlawful
15 Internet gambling enterprises. An initial inves-
16 tigation shall be completed before the end of the
17 60-day period beginning on the date of enact-
18 ment of this section. After the initial investiga-
19 tion, the Director shall regularly investigate enti-
20 ties that appear to be unlawful Internet gam-
21 bling enterprises. If the Director discovers evi-
22 dence sufficient to prove a *prima facie* case that
23 any person is an unlawful Internet gambling en-
24 terprise, the Director shall provide the notice re-
25 quired under subparagraph (C).

1 “(B) REQUESTS.—Any Federal, State, trib-
2 al, or local law enforcement official, any affected
3 sports organization, any person directly harmed
4 by unlawful Internet gambling, any financial
5 transaction provider, and any interactive com-
6 puter service (as such terms are defined in sec-
7 tion 5362) shall have the right, but not the obli-
8 gation, to make a written request to the Director
9 for the addition of any person to the list of un-
10 lawful Internet gambling enterprises. If the Di-
11 rector determines that the evidence submitted is
12 sufficient to prove a prima facie case that such
13 person is an unlawful Internet gambling enter-
14 prise, the Director shall provide the notice re-
15 quired under subparagraph (C) to each person
16 identified as an alleged unlawful Internet gam-
17 bling enterprise. The Director also shall provide
18 written notice of its decision under this subpara-
19 graph, including a decision not to add a person
20 to the list required under paragraph (1), to the
21 requesting party no later than 30 days after the
22 request is received.

23 “(C) NOTICE.—Not fewer than 30 days be-
24 fore adding an unlawful Internet gambling en-
25 terprise, or an owner or operator thereof, to the

1 *list required under paragraph (1), the Director*
2 *shall provide written notice to such enterprise,*
3 *owner, or operator. Any enterprise, owner, or op-*
4 *erator receiving such notice may contest the Di-*
5 *rector's determination by written appeal to the*
6 *Director not more than 30 days after receiving*
7 *notice.*

8 *“(D) OPPORTUNITY FOR HEARING.—If a*
9 *person properly submits a written appeal under*
10 *subparagraph (C), the Director shall not include*
11 *such person in the list required under paragraph*
12 *(1) unless and until the Director provides such*
13 *person with an opportunity for a hearing not*
14 *more than 30 days after receiving written notice*
15 *of appeal. Not more than 10 days after an op-*
16 *portunity for hearing is afforded, whether or not*
17 *the person requesting the hearing appears at*
18 *such hearing, the Director shall proceed to add*
19 *such person to the list of unlawful Internet gam-*
20 *bling enterprises unless the Director determines,*
21 *based on a preponderance of the evidence, that*
22 *such person is not an unlawful Internet gam-*
23 *bling enterprise.*

24 *“(E) INJUNCTIVE RELIEF.—Any person*
25 *that the Director determines shall be included in*

1 *the list required under paragraph (1) after such*
2 *person appears at a hearing described in sub-*
3 *paragraph (D) and any person included in such*
4 *list who did not receive the notice required under*
5 *subparagraph (C), may petition for injunctive*
6 *relief in the United States District Court for the*
7 *District of Columbia, which shall have exclusive*
8 *jurisdiction to hear challenges pursuant to this*
9 *section. The petitioner shall have the burden of*
10 *establishing by a preponderance of the evidence*
11 *that such person is not an unlawful Internet*
12 *gambling enterprise. Only persons designated by*
13 *the Director for inclusion on the list of unlawful*
14 *Internet gambling enterprises, and other owners*
15 *or operators of an enterprise to be so listed, shall*
16 *have standing to contest the Director's deter-*
17 *mination. The court may enjoin the Director*
18 *and the Secretary not to add or remove the peti-*
19 *tioner from the list of unlawful Internet gam-*
20 *bling enterprises, and no other judicial recourse*
21 *shall be permitted.*

22 “(c) *EFFECT OF LIST.*—*A financial transaction pro-*
23 *vider shall be deemed to have actual knowledge that a per-*
24 *son is an unlawful Internet gambling enterprise to the ex-*
25 *tent that such person is identified on the list available to*

1 *the public, or on a non-public list made available to such*
 2 *financial transaction provider, by the Secretary as de-*
 3 *scribed in subsection (b)(2), provided that the list shall not*
 4 *be deemed to be the sole source of actual knowledge.*

5 **“§5387. Limitation of licenses in States and Indian**
 6 **lands**

7 “(a) *STATE OPT-OUT EXERCISE.*—

8 “(1) *LIMITATIONS IMPOSED BY STATES.*—

9 “(A) *IN GENERAL.*—No licensee may en-
 10 *gage, under any license issued under this sub-*
 11 *chapter, in the operation of an Internet gam-*
 12 *bling facility that knowingly accepts bets or wa-*
 13 *gers initiated by persons who reside in any State*
 14 *which provides notice that it will limit such bets*
 15 *or wagers, if the Governor or other chief execu-*
 16 *tive officer of such State informs the Director of*
 17 *such limitation, in a manner which clearly iden-*
 18 *tifies the nature and extent of such limitation,*
 19 *before the end of the period beginning on the date*
 20 *of the enactment of the Internet Gambling Regu-*
 21 *lation, Consumer Protection, and Enforcement*
 22 *Act and ending on the date on which such*
 23 *State’s legislature has conducted one full general*
 24 *legislative session, where such session began after*
 25 *the date of the enactment of such Act, or in ac-*

cordance with paragraph (2), until such time as any notice of any amendment or repeal of such specific limitation becomes effective under paragraph (2).

“(B) *COORDINATION BETWEEN STATE AND TRIBAL OPT-OUT EXERCISES.*—Any State limitation under 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.

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

1 “(D) *TRIBAL STATUS OR CATEGORY NOT IM-*
 2 *PACTED.—Tribal operations of Internet gam-*
 3 *bling facilities under this subchapter shall not*
 4 *impact an Indian tribe’s status or category or*
 5 *class under its land-based activities.*

6 “(E) *NEW NEGOTIATIONS NOT REQUIRED.—*
 7 *Operating under a license issued pursuant to*
 8 *this subchapter shall not require, or impose any*
 9 *requirement on, an Indian tribe to negotiate a*
 10 *new agreement, or renegotiate any existing*
 11 *agreement, limitation or other provision of a*
 12 *tribal-State compact, agreement, or other under-*
 13 *standing with respect to gaming or revenue-shar-*
 14 *ing, with regard to any Internet bet or wager oc-*
 15 *curring pursuant to a license issued by the Sec-*
 16 *retary under this subchapter.*

17 “(2) *CHANGES TO STATE LIMITATIONS.—The es-*
 18 *tablishment, repeal, or amendment by any State of*
 19 *any limitation referred to in paragraph (1) after the*
 20 *end of the period referred to in paragraph (1) shall*
 21 *apply, for purposes of this subchapter, beginning on*
 22 *the first January 1 that occurs after the end of the*
 23 *60-day period beginning on the later of—*

24 “(A) *the date a notice of such establishment,*
 25 *repeal, or amendment is provided by the Gov-*

1 *ernor or other chief executive officer of such State*
 2 *in writing to the Secretary; or*

3 *“(B) the effective date of such establishment,*
 4 *repeal, or amendment.*

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

6 *“(1) LIMITATIONS IMPOSED BY INDIAN*
 7 *TRIBES.—No Internet gambling licensee knowingly*
 8 *may accept a bet or wager from a person located in*
 9 *the tribal lands of any Indian tribe which limits such*
 10 *gambling activities or other contests if the principal*
 11 *chief or other chief executive officer of such Indian*
 12 *tribe informs the Secretary of such limitation, in a*
 13 *manner which clearly identifies the nature and extent*
 14 *of such limitation, before the end of the 90-day period*
 15 *beginning on the date of the enactment of the Internet*
 16 *Gambling Regulation, Consumer Protection, and En-*
 17 *forcement Act, or in accordance with paragraph (2),*
 18 *until such time as any notice of any amendment or*
 19 *repeal of such specific limitation becomes effective*
 20 *under paragraph (2).*

21 *“(2) CHANGES TO INDIAN TRIBE LIMITATIONS.—*

22 *The establishment, repeal, or amendment by any In-*
 23 *Indian tribe of any limitation referred to in paragraph*
 24 *(1) after the end of the 90-day period beginning on*
 25 *the date of the enactment of this subchapter shall*

1 *apply, for purposes of this subchapter, beginning on*
2 *the first January 1 that occurs after the end of the*
3 *60-day period beginning on the later of—*

4 “(A) *the date a notice of such establishment,*
5 *repeal, or amendment is provided by the prin-*
6 *cipal chief or other chief executive officer of such*
7 *Indian tribe in writing to the Secretary; or*

8 “(B) *the effective date of such establishment,*
9 *repeal, or amendment.*

10 “(c) *NOTIFICATION AND ENFORCEMENT OF STATE AND*
11 *INDIAN TRIBE LIMITATIONS.—*

12 “(1) *IN GENERAL.—The Secretary shall notify*
13 *all licensees and applicants of all States and Indian*
14 *tribes that have provided notice pursuant to para-*
15 *graph (1) or (2) of subsection (a) or (b), as the case*
16 *may be, promptly upon receipt of such notice and in*
17 *no event fewer than 30 days before the effective date*
18 *of such notice.*

19 “(2) *COMPLIANCE.—The Secretary shall take ef-*
20 *fective measures to ensure that any licensee under this*
21 *subchapter, as a condition of the license, complies*
22 *with any limitation or prohibition imposed by any*
23 *State or Indian tribe to which the licensee is subject*
24 *under subsection (a) or (b), as the case may be.*

1 “(3) *VIOLATIONS.—It shall be a violation of this*
2 *subchapter for any licensee knowingly to accept bets*
3 *or wagers initiated or otherwise made by persons lo-*
4 *cated within any State or in the tribal lands of any*
5 *Indian tribe for which a notice is in effect under sub-*
6 *section (a) or (b), as the case may be.*

7 “(4) *STATE ATTORNEY GENERAL ENFORCE-*
8 *MENT.—In any case in which the attorney general of*
9 *a State, or any State or local law enforcement agency*
10 *authorized by the State attorney general or by State*
11 *statute to prosecute violations of consumer protection*
12 *law, has reason to believe that an interest of the resi-*
13 *dents of that State has been or is threatened or ad-*
14 *versely affected by a violation by a licensee pursuant*
15 *to paragraph (2), the State, or the State or local law*
16 *enforcement agency on behalf of the residents of the*
17 *agency’s jurisdiction, may bring a civil action on be-*
18 *half of the residents of that State or jurisdiction in*
19 *a district court of the United States located therein,*
20 *to—*

21 “(A) *enjoin that practice; or*

22 “(B) *enforce compliance with this sub-*
23 *chapter.*

1 **“§ 5388. Sports betting prohibited on Internet**

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

5 **“§ 5389. Prohibition on the use of credit cards for**
 6 ***Internet gambling***

7 *“(a) IN GENERAL.—No licensee, no person operating*
 8 *on behalf of a licensee, and no person accepting payment*
 9 *for or settlement of a bet or wager who intends to transmit*
 10 *such payment to a person licensee, may accept a bet or*
 11 *wager or payment for or settlement of a bet or wager that*
 12 *is transmitted or otherwise facilitated with a credit card*
 13 *(as defined in section 5362(11)).*

14 *“(b) EXCEPTION.—*

15 *“(1) CLARIFICATION OF SCOPE.—For any person*
 16 *licensed to take bets or wagers in accordance with the*
 17 *Interstate Horseracing Act of 1978, the prohibition in*
 18 *subsection (a) shall only apply to those activities con-*
 19 *ducted pursuant to a license under this subchapter.*

20 *“(2) INTRASTATE ACTIVITIES.—For any person*
 21 *involved in legal, land-based or State- or tribal-regu-*
 22 *lated intrastate gambling, the prohibition in sub-*
 23 *section (a) shall only apply to those activities con-*
 24 *ducted pursuant to a license under this subchapter.*

1 **“§ 5390. State and tribal lotteries**

2 “(a) *IN GENERAL.*—Notwithstanding any other provi-
3 sion of this subchapter, this subchapter shall not apply to
4 Internet gambling conducted by any State or tribal lottery
5 authority when conducted in accordance with subparagraph
6 (B) or (C) of section 5362(10), as clarified by section
7 5362(10)(E).

8 “(b) *RULE OF CONSTRUCTION.*—For purposes of the
9 clarification made by subparagraph (E) of section 5362(10)
10 to the meaning and intent of subparagraphs (B) and (C)
11 of such section, Internet gambling described in subsection
12 (a) is hereby expressly permitted, and operators of any
13 State or tribal lottery authority conducting Internet gam-
14 bling facilities operating in accordance with such subpara-
15 graph (B) or (C), as clarified by such subparagraph (E),
16 and vendors, suppliers and service providers to such State
17 or tribal lottery authority, shall not be required to be li-
18 censed under this subchapter.

19 “(c) *APPLICABILITY OF OTHER PROVISIONS TO LOT-*
20 *TERY ACTIVITY.*—To clarify existing law, section 1084 of
21 title 18 shall not apply to any of the following that occurs
22 in connection with any Internet gambling conducted by any
23 State or tribal lottery authority when conducted in accord-
24 ance with subparagraph (B) or (C) of section 5362(10), as
25 clarified by section 5362(10)(E):

1 “(1) *Any Internet bet or wager, including any*
2 *transmission thereof.*

3 “(2) *Any transmission of information assisting*
4 *in the placing of bets or wagers.*

5 “(3) *any transmission entitling the recipient to*
6 *receive money or credit as a result of bets or wagers,*
7 *or for information assisting in the placing of bets or*
8 *wagers.*

9 “(d) *AUTHORIZATION OF SPONSOR.—No licensee may*
10 *offer services relating to any lottery sponsored by a State,*
11 *tribal, or other governmental body without the authoriza-*
12 *tion of the official sponsor.*

13 **“§5391. Safe harbors**

14 *“It shall be a complete defense against any prosecution*
15 *or enforcement action under any Federal or State law*
16 *against any person possessing a valid license under this*
17 *subchapter that the activity is authorized under and has*
18 *been carried out lawfully under the terms of this subchapter.*

19 **“§5392. Relation to section 1084 of title 18 and the**
20 ***Unlawful Internet Gambling Enforcement***
21 ***Act***

22 *“Section 1084 of title 18 and subchapter IV of this*
23 *chapter shall not apply to any Internet bet or wager occur-*
24 *ring pursuant to a license issued in accordance with this*
25 *subchapter.*

1 **“§ 5393. Cheating and other fraud**

2 “(a) *ELECTRONIC CHEATING DEVICES PROHIBITED.*—

3 *No person initiating, receiving, or otherwise making a bet*
4 *or wager with a licensee, or sending, receiving, or inviting*
5 *information assisting with a bet or wager with a licensee,*
6 *knowingly shall use, or assist another in the use of, an elec-*
7 *tronic, electrical, or mechanical device which is designed,*
8 *constructed, or programmed specifically for use in obtain-*
9 *ing an advantage in any game authorized under this sub-*
10 *chapter, where such advantage is prohibited or otherwise*
11 *violates the rules of play established by the licensee.*

12 “(b) *ADDITIONAL OFFENSE.*—*No person initiating, re-*
13 *ceiving, or otherwise making a bet or wager with a licensee,*
14 *or sending, receiving, or inviting information assisting*
15 *with a bet or wager with a licensee, knowingly shall use*
16 *or possess any cheating device with intent to cheat or de-*
17 *fraud any licensee or other persons placing bets or wagers*
18 *with such licensee.*

19 “(c) *PERMANENT INJUNCTION.*—*Upon conviction of a*
20 *person for violation of this section, the court may enter a*
21 *permanent injunction enjoining such person from initi-*
22 *ating, receiving, or otherwise making bets or wagers or*
23 *sending, receiving, or inviting information assisting in the*
24 *placing of bets or wagers.*

1 “(d) *CRIMINAL PENALTY.*—Whoever violates subsection
 2 (a) or (b) of this section shall be fined under title 18 or
 3 imprisoned for not more than 5 years, or both.”.

4 (b) *RULES OF CONSTRUCTION.*—

5 (1) *TECHNICAL AND CONFORMING AMEND-*
 6 *MENT.*—Section 310(b)(2) of title 31, United States
 7 Code is amended—

8 (A) by redesignating subparagraph (J) as
 9 subparagraph (K); and

10 (B) by inserting after subparagraph (I) the
 11 following new subparagraph:

12 “(J) Administer the requirements of sub-
 13 chapter V of chapter 53.”.

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

“SUBCHAPTER V—REGULATION OF LAWFUL INTERNET GAMBLING

“5381. Congressional findings.

“5382. Definitions.

“5383. Establishment and administration of licensing program.

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

“5385. Financial transaction providers.

“5386. List of unlawful Internet gambling enterprises.

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

“5388. Sports betting prohibited on Internet.

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

“5390. State and tribal lotteries.

“5391. Safe harbors.

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

“5393. Cheating and other fraud.”.

1 **SEC. 3. REPORT REQUIRED.**

2 (a) *IN GENERAL.*—Before the end of the 1-year period
3 beginning on the effective date of the regulations prescribed
4 under section 5(a), and annually thereafter, the Secretary
5 shall submit a report to the Congress on the licensing and
6 regulation of Internet gambling operators.

7 (b) *INFORMATION REQUIRED.*—Each report submitted
8 under subsection (a) shall include the following informa-
9 tion:

10 (1) *A comprehensive statement regarding the*
11 *prohibitions notified by the States and Indian tribes*
12 *pursuant to section 5387 of title 31, United States*
13 *Code.*

14 (2) *Relevant statistical information on appli-*
15 *cants and licenses.*

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

18 (4) *Information on regulatory or enforcement ac-*
19 *tions undertaken during the period.*

20 (5) *Any other information that may be useful to*
21 *the Congress in evaluating the effectiveness of the Act*
22 *in meeting its purpose, including the provision of*
23 *protections against underage gambling, compulsive*
24 *gambling, money laundering, and fraud, and in com-*
25 *bating tax avoidance relating to Internet gambling.*

1 **SEC. 4. FEASIBILITY STUDY.**

2 *The Secretary of the Treasury, in consultation with*
3 *appropriate State or tribal officers or agencies, shall con-*
4 *duct a feasibility study on safeguards to address gambling*
5 *while impaired through programs such as periodic notices,*
6 *periodic testing of individuals to establish cognitive com-*
7 *petence, and any other similar option that the Secretary*
8 *or appropriate State or tribal officers or agencies may de-*
9 *termine to be appropriate.*

10 **SEC. 5. EFFECTIVE DATE.**

11 *(a) REGULATIONS.—The Secretary of the Treasury*
12 *shall prescribe such regulations as the Secretary may deter-*
13 *mine to be appropriate to implement subchapter V of chap-*
14 *ter 53 of title 31, United States Code (as added by section*
15 *2(a) of this Act) and shall publish such regulations in final*
16 *form in the Federal Register before the end of the 180-day*
17 *period beginning on the date of the enactment of this Act.*

18 *(b) SCOPE OF APPLICATION.—The amendment made*
19 *by section 2(a) shall apply after the end of the 90-day pe-*
20 *riod beginning on the date of the publication of the regula-*
21 *tions in final form in accordance with subsection (a).*

Union Calendar No. 398

11TH CONGRESS
2^D Session

H. R. 2267

[Report No. 111-656, Part I]

A BILL

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

NOVEMBER 30, 2010

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed