

# Union Calendar No. 267

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

# H. R. 4411

**[Report No. 109–412, Parts I and II]**

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2005

Mr. LEACH (for himself, Mr. PENCE, Mr. BACHUS, Mr. OSBORNE, Mr. PITTS, Mr. BOEHLERT, Mr. GILLMOR, Mr. GILCREST, Mr. ROGERS of Michigan, Mr. BASS, Mr. FORTENBERRY, Mr. EHLERS, Mr. KIRK, Mr. RAMSTAD, Mr. DENT, Mr. WALSH, Mr. MCCAUL of Texas, Mr. LATHAM, and Mr. AKIN) introduced the following bill; which was referred to the Committee on Financial Services

APRIL 6, 2006

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than May 26, 2006, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X

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

MAY 26, 2006

Additional sponsors: Mr. SHADEGG, Mr. KENNEDY of Minnesota, Mr. FRANKS of Arizona, Mr. TERRY, Ms. HOOLEY, Mr. WICKER, Mr. MCCOTTER, Mr. WILSON of South Carolina, Mr. UPTON, Mr. INGLIS of South Carolina, Mr. PETRI, Mr. BLUNT, Mr. SHAYS, Ms. WASSERMAN SCHULTZ, Ms. BORDALLO, Mr. BARRETT of South Carolina, and Mr. SOUDER

MAY 26, 2006

Reported from the Committee on the Judiciary with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on November 18, 2005]

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## A BILL

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

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

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Unlawful Internet Gam-*  
 5       *bling Enforcement Act of 2006”.*

6       **SEC. 2. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**

7                       **INSTRUMENT FOR UNLAWFUL INTERNET**  
 8                       **GAMBLING.**

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

12       **“SUBCHAPTER IV—PROHIBITION ON FUNDING**  
 13                       **OF UNLAWFUL INTERNET GAMBLING**

14       **“§ 5361. Congressional findings and purpose**

15       *“(a) FINDINGS.—The Congress finds the following:*

16                       *“(1) Internet gambling is primarily funded*  
 17       *through personal use of payment system instruments,*  
 18       *credit cards, and wire transfers.*

1           “(2) *The National Gambling Impact Study*  
2           *Commission in 1999 recommended the passage of leg-*  
3           *islation to prohibit wire transfers to Internet gam-*  
4           *bling sites or the banks which represent such sites.*

5           “(3) *Internet gambling is a growing cause of*  
6           *debt collection problems for insured depository insti-*  
7           *tutions and the consumer credit industry.*

8           “(4) *New mechanisms for enforcing gambling*  
9           *laws on the Internet are necessary because traditional*  
10          *law enforcement mechanisms are often inadequate for*  
11          *enforcing gambling prohibitions or regulations on the*  
12          *Internet, especially where such gambling crosses State*  
13          *or national borders.*

14          “(b) *RULE OF CONSTRUCTION.—No provision of this*  
15          *subchapter shall be construed as altering, limiting, or ex-*  
16          *tending any Federal or State law or Tribal-State compact*  
17          *prohibiting, permitting, or regulating gambling within the*  
18          *United States.*

19          “**§ 5362. Definitions**

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

22                  “(1) *BET OR WAGER.—The term ‘bet or wager’—*

23                          “(A) *means the staking or risking by any*  
24                          *person of something of value upon the outcome of*  
25                          *a contest of others, a sporting event, or a game*

1           *subject to chance, upon an agreement or under-*  
2           *standing that the person or another person will*  
3           *receive something of value in the event of a cer-*  
4           *tain outcome;*

5           *“(B) includes the purchase of a chance or*  
6           *opportunity to win a lottery or other prize*  
7           *(which opportunity to win is predominantly*  
8           *subject to chance);*

9           *“(C) includes any scheme of a type de-*  
10          *scribed in section 3702 of title 28;*

11          *“(D) includes any instructions or informa-*  
12          *tion pertaining to the establishment or movement*  
13          *of funds by the bettor or customer in, to, or from*  
14          *an account with the business of betting or wager-*  
15          *ing; and*

16          *“(E) does not include—*

17                 *“(i) any activity governed by the secu-*  
18                 *rities laws (as that term is defined in sec-*  
19                 *tion 3(a)(47) of the Securities Exchange Act*  
20                 *of 1934 for the purchase or sale of securities*  
21                 *(as that term is defined in section 3(a)(10)*  
22                 *of that Act);*

23                 *“(ii) any transaction conducted on or*  
24                 *subject to the rules of a registered entity or*

1 *exempt board of trade under the Commodity*  
2 *Exchange Act;*

3 “(iii) *any over-the-counter derivative*  
4 *instrument;*

5 “(iv) *any other transaction that—*

6 “(I) *is excluded or exempt from*  
7 *regulation under the Commodity Ex-*  
8 *change Act; or*

9 “(II) *is exempt from State gam-*  
10 *ing or bucket shop laws under section*  
11 *12(e) of the Commodity Exchange Act*  
12 *or section 28(a) of the Securities Ex-*  
13 *change Act of 1934;*

14 “(v) *any contract of indemnity or*  
15 *guarantee;*

16 “(vi) *any contract for insurance;*

17 “(vii) *any deposit or other transaction*  
18 *with an insured depository institution; or*

19 “(viii) *any participation in a fantasy*  
20 *or simulation sports game, an educational*  
21 *game, or a contest, that—*

22 “(I) *is not dependent solely on the*  
23 *outcome of any single sporting event or*  
24 *nonparticipant’s singular individual*

1 performance in any single sporting  
2 event;

3 “(II) has an outcome that reflects  
4 the relative knowledge of the partici-  
5 pants, or their skill at physical reac-  
6 tion or physical manipulation (but not  
7 chance), and, in the case of a fantasy  
8 or simulation sports game, has an out-  
9 come that is determined predominantly  
10 by accumulated statistical results of  
11 sporting events, including any non-  
12 participant’s individual performances  
13 in such sporting events; and

14 “(III) offers a prize or award to  
15 a participant that is established in ad-  
16 vance of the game or contest and is not  
17 determined by the number of partici-  
18 pants or the amount of any fees paid  
19 by those participants.

20 “(2) *BUSINESS OF BETTING OR WAGERING.*—The  
21 term ‘business of betting or wagering’ does not include  
22 the activities of a financial transaction provider, or  
23 any interactive computer service or telecommuni-  
24 cations service.

1           “(3) *DESIGNATED PAYMENT SYSTEM.*—*The term*  
2           *‘designated payment system’ means any system uti-*  
3           *lized by a financial transaction provider that the Sec-*  
4           *retary and the Board of Governors of the Federal Re-*  
5           *serve System, in consultation with the Attorney Gen-*  
6           *eral, jointly determine, by regulation or order, could*  
7           *be utilized in connection with, or to facilitate, any re-*  
8           *stricted transaction.*

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

20          “(5) *INTERNET.*—*The term ‘Internet’ means the*  
21          *international computer network of interoperable pack-*  
22          *et switched data networks.*

23          “(6) *INTERACTIVE COMPUTER SERVICE.*—*The*  
24          *term ‘interactive computer service’ has the same*

1        *meaning as in section 230(f) of the Communications*  
2        *Act of 1934.*

3            “(7) *RESTRICTED TRANSACTION.*—*The term ‘re-*  
4        *stricted transaction’ means any transaction or trans-*  
5        *mittal involving any credit, funds, instrument, or*  
6        *proceeds described in any paragraph of section 5363*  
7        *which the recipient is prohibited from accepting*  
8        *under section 5363.*

9            “(8) *SECRETARY.*—*The term ‘Secretary’ means*  
10        *the Secretary of the Treasury.*

11            “(9) *STATE.*—*The term ‘State’ means any State*  
12        *of the United States, the District of Columbia, or any*  
13        *commonwealth, territory, or other possession of the*  
14        *United States.*

15            “(10) *UNLAWFUL INTERNET GAMBLING.*—

16            “(A) *IN GENERAL.*—*The term ‘unlawful*  
17        *Internet gambling’ means to place, receive, or*  
18        *otherwise knowingly transmit a bet or wager by*  
19        *any means which involves the use, at least in*  
20        *part, of the Internet where such bet or wager is*  
21        *unlawful under any applicable Federal or State*  
22        *law in the State or Tribal lands in which the bet*  
23        *or wager is initiated, received, or otherwise*  
24        *made.*

1           “(B) *INTRASTATE TRANSACTIONS.*—*The*  
2 *term ‘unlawful Internet gambling’ shall not in-*  
3 *clude placing, receiving, or otherwise transmit-*  
4 *ting a bet or wager where—*

5                   “(i) *the bet or wager is initiated and*  
6 *received or otherwise made exclusively with-*  
7 *in a single State;*

8                   “(ii) *the bet or wager and the method*  
9 *by which the bet or wager is initiated and*  
10 *received or otherwise made is expressly au-*  
11 *thorized by and placed in accordance with*  
12 *the laws of such State, and the State law or*  
13 *regulations include—*

14                   “(I) *age and location verification*  
15 *requirements reasonably designed to*  
16 *block access to minors and persons lo-*  
17 *cated out of such State; and*

18                   “(II) *appropriate data security*  
19 *standards to prevent unauthorized ac-*  
20 *cess by any person whose age and cur-*  
21 *rent location has not been verified in*  
22 *accordance with such State’s law or*  
23 *regulations; and*

24                   “(iii) *the bet or wager does not violate*  
25 *any provision of the—*

- 1                   “(I) *Interstate Horseracing Act*;
- 2                   “(II) *Professional and Amateur*
- 3                   *Sports Protection Act*;
- 4                   “(III) *Gambling Devices Trans-*
- 5                   *portation Act*; or
- 6                   “(IV) *Indian Gaming Regulatory*
- 7                   *Act*.

8                   “(C) *INTRATRIBAL TRANSACTIONS.—The*

9                   *term ‘unlawful Internet gambling’ shall not in-*

10                   *clude placing, receiving, or otherwise transmit-*

11                   *ting a bet or wager where—*

12                   “(i) *the bet or wager is initiated and*

13                   *received or otherwise made exclusively—*

14                   “(I) *within the Indian lands of a*

15                   *single Indian tribe (as those terms are*

16                   *defined by the Indian Gaming Regu-*

17                   *latory Act); or*

18                   “(II) *between the Indian lands of*

19                   *2 or more Indian tribes to the extent*

20                   *that intertribal gaming is authorized*

21                   *by the Indian Gaming Regulatory Act;*

22                   “(ii) *the bet or wager and the method*

23                   *by which the bet or wager is initiated and*

24                   *received or otherwise made is expressly au-*

1 *thorized by and complies with the require-*  
2 *ments of—*

3 *“(I) the applicable tribal ordi-*  
4 *nance or resolution approved by the*  
5 *Chairman of the National Indian*  
6 *Gaming Commission; and*

7 *“(II) with respect to class III*  
8 *gaming, the applicable Tribal-State*  
9 *Compact;*

10 *“(iii) the applicable tribal ordinance*  
11 *or resolution or Tribal-State compact in-*  
12 *cludes—*

13 *“(I) age and location verification*  
14 *requirements reasonably designed to*  
15 *block access to minors and persons lo-*  
16 *cated out of the applicable Tribal*  
17 *lands; and*

18 *“(II) appropriate data security*  
19 *standards to prevent unauthorized ac-*  
20 *cess by any person whose age and cur-*  
21 *rent location has not been verified in*  
22 *accordance with the applicable tribal*  
23 *ordinance or resolution or Tribal-State*  
24 *Compact; and*

1                   “(iv) *the bet or wager does not violate*  
2                   *any provision of the—*

3                   “(I) *Interstate Horseracing Act;*

4                   “(II) *the Professional and Ama-*  
5                   *teur Sports Protection Act;*

6                   “(III) *the Gambling Devices*  
7                   *Transportation Act; or*

8                   “(IV) *the Indian Gaming Regu-*  
9                   *latory Act.*

10                  “(D) *INTERSTATE HORSERACING.—The*  
11                  *term ‘unlawful Internet gambling’ shall not in-*  
12                  *clude placing, receiving, or otherwise transmit-*  
13                  *ting a bet or wager that is governed by and com-*  
14                  *plies with the Interstate Horseracing Act of*  
15                  *1978.*

16                  “(E) *INTERMEDIATE ROUTING.—The inter-*  
17                  *mediate routing of electronic data shall not de-*  
18                  *termine the location or locations in which a bet*  
19                  *or wager is initiated, received, or otherwise*  
20                  *made.*

21                  “(11) *OTHER TERMS.—*

22                  “(A) *CREDIT; CREDITOR; CREDIT CARD; AND*  
23                  *CARD ISSUER.—The terms ‘credit’, ‘creditor’,*  
24                  *‘credit card’, and ‘card issuer’ have the same*

1           *meanings as in section 103 of the Truth in*  
2           *Lending Act.*

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

5                     *“(i) has the same meaning as in sec-*  
6                     *tion 903 of the Electronic Fund Transfer*  
7                     *Act, except that such term includes transfers*  
8                     *that would otherwise be excluded under sec-*  
9                     *tion 903(6)(E) of that Act; and*

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

13           “(C) *FINANCIAL INSTITUTION.*—*The term*  
14           *‘financial institution’ has the same meaning as*  
15           *in section 903 of the Electronic Fund Transfer*  
16           *Act, except that such term does not include a ca-*  
17           *sino, sports book, or other business at or through*  
18           *which bets or wagers may be placed or received.*

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

21                     *“(i) has the same meaning as in sec-*  
22                     *tion 3 of the Federal Deposit Insurance Act;*  
23                     *and*

1                   “(ii) includes an insured credit union  
2                   (as defined in section 101 of the Federal  
3                   Credit Union Act).

4                   “(E) MONEY TRANSMITTING BUSINESS AND  
5                   MONEY TRANSMITTING SERVICE.—The terms  
6                   ‘money transmitting business’ and ‘money trans-  
7                   mitting service’ have the same meanings as in  
8                   section 5330(d) (determined without regard to  
9                   any regulations prescribed by the Secretary  
10                  thereunder).

11                  “§ 5363. **Prohibition on acceptance of any financial**  
12   **instrument for unlawful Internet gam-**  
13   **bling**

14                  “*No person engaged in the business of betting or wager-*  
15                  *ing may knowingly accept, in connection with the partici-*  
16                  *pation of another person in unlawful Internet gambling—*

17                                   “(1) credit, or the proceeds of credit, extended to  
18                                   or on behalf of such other person (including credit ex-  
19                                   tended through the use of a credit card);

20                                   “(2) an electronic fund transfer, or funds trans-  
21                                   mitted by or through a money transmitting business,  
22                                   or the proceeds of an electronic fund transfer or  
23                                   money transmitting service, from or on behalf of such  
24                                   other person;

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

5           “(4) the proceeds of any other form of financial  
6           transaction, as the Secretary and the Board of Gov-  
7           ernors of the Federal Reserve System may jointly pre-  
8           scribe by regulation, which involves a financial insti-  
9           tution as a payor or financial intermediary on behalf  
10          of or for the benefit of such other person.

11       **“§ 5364. Policies and procedures to identify and pre-**  
12                               **vent restricted transactions**

13           “(a) REGULATIONS.—Before the end of the 270-day pe-  
14          riod beginning on the date of the enactment of this sub-  
15          chapter, the Secretary and the Board of Governors of the  
16          Federal Reserve System, in consultation with the Attorney  
17          General, shall prescribe regulations (which the Secretary  
18          and the Board jointly determine to be appropriate) requir-  
19          ing each designated payment system, and all participants  
20          therein, to identify and block or otherwise prevent or pro-  
21          hibit restricted transactions through the establishment of  
22          policies and procedures reasonably designed to identify and  
23          block or otherwise prevent or prohibit the acceptance of re-  
24          stricted transactions in any of the following ways:

1           “(1) *The establishment of policies and procedures*  
2     *that—*

3                     “(A) *allow the payment system and any*  
4                     *person involved in the payment system to iden-*  
5                     *tify restricted transactions by means of codes in*  
6                     *authorization messages or by other means; and*

7                     “(B) *block restricted transactions identified*  
8                     *as a result of the policies and procedures devel-*  
9                     *oped pursuant to subparagraph (A).*

10           “(2) *The establishment of policies and procedures*  
11     *that prevent or prohibit the acceptance of the products*  
12     *or services of the payment system in connection with*  
13     *a restricted transaction.*

14           “(b) *REQUIREMENTS FOR POLICIES AND PROCE-*  
15     *DURES.—In prescribing regulations under subsection (a),*  
16     *the Secretary and the Board of Governors of the Federal*  
17     *Reserve System shall—*

18                     “(1) *identify types of policies and procedures,*  
19                     *including nonexclusive examples, which would be*  
20                     *deemed, as applicable, to be reasonably designed to*  
21                     *identify and block or otherwise prevent or prohibit the*  
22                     *acceptance of the products or services with respect to*  
23                     *each type of restricted transaction;*

24                     “(2) *to the extent practical, permit any partici-*  
25                     *part in a payment system to choose among alter-*

1       *native means of identifying and blocking, or otherwise*  
2       *preventing or prohibiting the acceptance of the prod-*  
3       *ucts or services of the payment system or participant*  
4       *in connection with, restricted transactions; and*

5               *“(3) consider exempting certain restricted trans-*  
6       *actions or designated payment systems from any re-*  
7       *quirement imposed under such regulations, if the Sec-*  
8       *retary and the Board jointly find that it is not rea-*  
9       *sonably practical to identify and block, or otherwise*  
10       *prevent or prohibit the acceptance of, such trans-*  
11       *actions.*

12       *“(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES*  
13       *AND PROCEDURES.—A financial transaction provider shall*  
14       *be considered to be in compliance with the regulations pre-*  
15       *scribed under subsection (a), if—*

16               *“(1) such person relies on and complies with the*  
17       *policies and procedures of a designated payment sys-*  
18       *tem of which it is a member or participant to—*

19                       *“(A) identify and block restricted trans-*  
20       *actions; or*

21                       *“(B) otherwise prevent or prohibit the ac-*  
22       *ceptance of the products or services of the pay-*  
23       *ment system, member, or participant in connec-*  
24       *tion with restricted transactions; and*

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

4           “(d) *NO LIABILITY FOR BLOCKING OR REFUSING TO*  
5           *HONOR RESTRICTED TRANSACTIONS.*—A person that iden-  
6           tifies and blocks a transaction, prevents or prohibits the ac-  
7           ceptance of its products or services in connection with a  
8           transaction, or otherwise refuses to honor a transaction—

9           “(1) that is a restricted transaction;

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

12           “(3) as a designated payment system or a mem-  
13           ber of a designated payment system in reliance on the  
14           policies and procedures of the payment system, in an  
15           effort to comply with regulations prescribed under  
16           subsection (a),

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

18           “(e) *REGULATORY ENFORCEMENT.*—The requirements  
19           of this section shall be enforced exclusively by—

20           “(1) the Federal functional regulators, with re-  
21           spect to the designated payment systems and finan-  
22           cial transaction providers subject to the respective ju-  
23           risdiction of such regulators under section 505(a) of  
24           the Gramm-Leach-Bliley Act and section 5g of the  
25           Commodities Exchange Act; and

1           “(2) *the Federal Trade Commission, with respect*  
2           *to designated payment systems and financial trans-*  
3           *action providers not otherwise subject to the jurisdic-*  
4           *tion of any Federal functional regulators (including*  
5           *the Commission) as described in paragraph (1).*

6   **“§ 5365. Civil remedies**

7           “(a) *JURISDICTION.—The district courts of the United*  
8           *States shall have original and exclusive jurisdiction to pre-*  
9           *vent and restrain restricted transactions by issuing appro-*  
10           *priate orders in accordance with this section, regardless of*  
11           *whether a prosecution has been initiated under this sub-*  
12           *chapter.*

13           “(b) *PROCEEDINGS.—*

14           “(1) *INSTITUTION BY FEDERAL GOVERNMENT.—*

15           “(A) *IN GENERAL.—The United States, act-*  
16           *ing through the Attorney General, may institute*  
17           *proceedings under this section to prevent or re-*  
18           *strain a restricted transaction.*

19           “(B) *RELIEF.—Upon application of the*  
20           *United States under this paragraph, the district*  
21           *court may enter a temporary restraining order,*  
22           *a preliminary injunction, or an injunction*  
23           *against any person to prevent or restrain a re-*  
24           *stricted transaction, in accordance with rule 65*  
25           *of the Federal Rules of Civil Procedure.*

1           “(2) *INSTITUTION BY STATE ATTORNEY GEN-*  
2           *ERAL.*—

3           “(A) *IN GENERAL.*—*The attorney general*  
4           *(or other appropriate State official) of a State in*  
5           *which a restricted transaction allegedly has been*  
6           *or will be initiated, received, or otherwise made*  
7           *may institute proceedings under this section to*  
8           *prevent or restrain the violation or threatened*  
9           *violation.*

10           “(B) *RELIEF.*—*Upon application of the at-*  
11           *torney general (or other appropriate State offi-*  
12           *cial) of an affected State under this paragraph,*  
13           *the district court may enter a temporary re-*  
14           *straining order, a preliminary injunction, or an*  
15           *injunction against any person to prevent or re-*  
16           *strain a restricted transaction, in accordance*  
17           *with rule 65 of the Federal Rules of Civil Proce-*  
18           *dure.*

19           “(3) *INDIAN LANDS.*—

20           “(A) *IN GENERAL.*—*Notwithstanding para-*  
21           *graphs (1) and (2), for a restricted transaction*  
22           *that allegedly has been or will be initiated, re-*  
23           *ceived, or otherwise made on Indian lands (as*  
24           *that term is defined in section 4 of the Indian*  
25           *Gaming Regulatory Act)*—

1           “(i) the United States shall have the  
2           enforcement authority provided under para-  
3           graph (1); and

4           “(ii) the enforcement authorities speci-  
5           fied in an applicable Tribal-State compact  
6           negotiated under section 11 of the Indian  
7           Gaming Regulatory Act (25 U.S.C. 2710)  
8           shall be carried out in accordance with that  
9           compact.

10          “(B) *RULE OF CONSTRUCTION.*—No provi-  
11          sion of this section shall be construed as altering,  
12          superseding, or otherwise affecting the applica-  
13          tion of the Indian Gaming Regulatory Act.

14          “(c) *LIMITATION RELATING TO INTERACTIVE COM-*  
15          *PUTER SERVICES.*—

16                 “(1) *IN GENERAL.*—Relief granted under this  
17          section against an interactive computer service  
18          shall—

19                         “(A) be limited to the removal of, or dis-  
20                         abling of access to, an online site violating sec-  
21                         tion 5363, or a hypertext link to an online site  
22                         violating such section, that resides on a computer  
23                         server that such service controls or operates, ex-  
24                         cept that the limitation in this subparagraph

1           *shall not apply if the service is subject to liabil-*  
2           *ity under this section under section 5367;*

3           “(B) *be available only after notice to the*  
4           *interactive computer service and an opportunity*  
5           *for the service to appear are provided;*

6           “(C) *not impose any obligation on an inter-*  
7           *active computer service to monitor its service or*  
8           *to affirmatively seek facts indicating activity*  
9           *violating this subchapter;*

10          “(D) *specify the interactive computer serv-*  
11          *ice to which it applies; and*

12          “(E) *specifically identify the location of the*  
13          *online site or hypertext link to be removed or ac-*  
14          *cess to which is to be disabled.*

15          “(2) *COORDINATION WITH OTHER LAW.—An*  
16          *interactive computer service that does not violate this*  
17          *subchapter shall not be liable under section 1084(d) of*  
18          *title 18, except that the limitation in this paragraph*  
19          *shall not apply if an interactive computer service has*  
20          *actual knowledge and control of bets and wagers*  
21          *and—*

22                 “(A) *operates, manages, supervises, or di-*  
23                 *rects an Internet website at which unlawful bets*  
24                 *or wagers may be placed, received, or otherwise*

1           *made or at which unlawful bets or wagers are of-*  
2           *fered to be placed, received, or otherwise made; or*

3           “(B) *owns or controls, or is owned or con-*  
4           *trolled by, any person who operates, manages,*  
5           *supervises, or directs an Internet website at*  
6           *which unlawful bets or wagers may be placed, re-*  
7           *ceived, or otherwise made, or at which unlawful*  
8           *bets or wagers are offered to be placed, received,*  
9           *or otherwise made.*

10          “(d) *LIMITATION ON INJUNCTIONS AGAINST REGU-*  
11          *LATED PERSONS.—Notwithstanding any other provision of*  
12          *this section, and subject to section 5367, no provision of*  
13          *this subchapter shall be construed as authorizing the Attor-*  
14          *ney General of the United States, or the attorney general*  
15          *(or other appropriate State official) of any State to insti-*  
16          *tute proceedings to prevent or restrain a restricted trans-*  
17          *action against any financial transaction provider, to the*  
18          *extent that the person is acting as a financial transaction*  
19          *provider.*

20          “§ 5366. ***Criminal penalties***

21          “(a) *IN GENERAL.—Whoever violates section 5363*  
22          *shall be fined under title 18, or imprisoned for not more*  
23          *than 5 years, or both.*

24          “(b) *PERMANENT INJUNCTION.—Upon conviction of a*  
25          *person under this section, the court may enter a permanent*

1 *injunction enjoining such person from placing, receiving,*  
2 *or otherwise making bets or wagers or sending, receiving,*  
3 *or inviting information assisting in the placing of bets or*  
4 *wagers.*

5 **“§ 5367. Circumventions prohibited**

6 *“Notwithstanding section 5362(2), a financial trans-*  
7 *action provider, or any interactive computer service or tele-*  
8 *communications service, may be liable under this sub-*  
9 *chapter if such person has actual knowledge and control of*  
10 *bets and wagers, and—*

11 *“(1) operates, manages, supervises, or directs an*  
12 *Internet website at which unlawful bets or wagers*  
13 *may be placed, received, or otherwise made, or at*  
14 *which unlawful bets or wagers are offered to be*  
15 *placed, received, or otherwise made; or*

16 *“(2) owns or controls, or is owned or controlled*  
17 *by, any person who operates, manages, supervises, or*  
18 *directs an Internet website at which unlawful bets or*  
19 *wagers may be placed, received, or otherwise made, or*  
20 *at which unlawful bets or wagers are offered to be*  
21 *placed, received, or otherwise made.”.*

22 *(b) TECHNICAL AND CONFORMING AMENDMENT.—The*  
23 *table of sections for chapter 53 of title 31, United States*  
24 *Code, is amended by adding at the end the following:*

“SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET  
GAMBLING

“5361. Congressional findings and purpose.

“5362. Definitions.

“5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling.

“5364. Policies and procedures to identify and prevent restricted transactions.

“5365. Civil remedies.

“5366. Criminal penalties.

“5367. Circumventions prohibited.”.

1 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JU-**  
2 **RISDICTIONS.**

3 (a) *IN GENERAL.*—*In deliberations between the United*  
4 *States Government and any other country on money laun-*  
5 *dering, corruption, and crime issues, the United States Gov-*  
6 *ernment should—*

7 (1) *encourage cooperation by foreign govern-*  
8 *ments and relevant international fora in identifying*  
9 *whether Internet gambling operations are being used*  
10 *for money laundering, corruption, or other crimes;*

11 (2) *advance policies that promote the cooperation*  
12 *of foreign governments, through information sharing*  
13 *or other measures, in the enforcement of this Act; and*

14 (3) *encourage the Financial Action Task Force*  
15 *on Money Laundering, in its annual report on money*  
16 *laundering typologies, to study the extent to which*  
17 *Internet gambling operations are being used for*  
18 *money laundering purposes.*

19 (b) *REPORT REQUIRED.*—*The Secretary of the Treas-*  
20 *ury shall submit an annual report to the Congress on any*

1 *deliberations between the United States and other countries*  
2 *on issues relating to Internet gambling.*

3 **SECTION 1. SHORT TITLE.**

4 **This Act may be cited as the “Unlawful**  
5 **Internet Gambling Enforcement Act of 2006”.**

6 **SEC. 2. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**  
7 **INSTRUMENT FOR UNLAWFUL INTERNET**  
8 **GAMBLING.**

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

12 **“SUBCHAPTER IV—PROHIBITION ON**  
13 **FUNDING OF UNLAWFUL INTERNET**  
14 **GAMBLING**

15 **“§ 5361. Congressional findings and purpose**

16 **“(a) FINDINGS.—The Congress finds the fol-**  
17 **lowing:**

18 **“(1) Internet gambling is primarily**  
19 **funded through personal use of payment**  
20 **system instruments, credit cards, and**  
21 **wire transfers.**

22 **“(2) The National Gambling Impact**  
23 **Study Commission in 1999 recommended**  
24 **the passage of legislation to prohibit wire**

1 transfers to Internet gambling sites or  
2 the banks which represent such sites.

3 “(3) Internet gambling is a growing  
4 cause of debt collection problems for in-  
5 sured depository institutions and the  
6 consumer credit industry.

7 “(4) New mechanisms for enforcing  
8 gambling laws on the Internet are nec-  
9 essary because traditional law enforce-  
10 ment mechanisms are often inadequate  
11 for enforcing gambling prohibitions or  
12 regulations on the Internet, especially  
13 where such gambling crosses State or na-  
14 tional borders.

15 “(b) RULE OF CONSTRUCTION.—No provi-  
16 sion of this subchapter shall be construed as  
17 altering, limiting, or extending any Federal or  
18 State law or Tribal-State compact prohibiting,  
19 permitting, or regulating gambling within the  
20 United States.

21 “§ 5362. Definitions

22 “For purposes of this subchapter, the fol-  
23 lowing definitions shall apply:

24 “(1) BET OR WAGER.—The term ‘bet or  
25 wager’—

1           “(A) means the staking or risking  
2 by any person of something of value  
3 upon the outcome of a contest of oth-  
4 ers, a sporting event, or a game sub-  
5 ject to chance, upon an agreement or  
6 understanding that the person or an-  
7 other person will receive something  
8 of value in the event of a certain out-  
9 come;

10           “(B) includes the purchase of a  
11 chance or opportunity to win a lot-  
12 tery or other prize (which oppor-  
13 tunity to win is predominantly sub-  
14 ject to chance);

15           “(C) includes any scheme of a  
16 type described in section 3702 of title  
17 28;

18           “(D) includes any instructions or  
19 information pertaining to the estab-  
20 lishment or movement of funds by the  
21 bettor or customer in, to, or from an  
22 account with the business of betting  
23 or wagering; and

24           “(E) does not include—

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

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

13          “(iii) any over-the-counter de-  
14          rivative instrument;

15          “(iv) any other transaction  
16          that—

17                  “(I) is excluded or exempt  
18                  from regulation under the  
19                  Commodity Exchange Act; or

20                  “(II) is exempt from State  
21                  gaming or bucket shop laws  
22                  under section 12(e) of the  
23                  Commodity Exchange Act or  
24                  section 28(a) of the Securities  
25                  Exchange Act of 1934;

1           **“(v) any contract of indemnity**  
2           **or guarantee;**

3           **“(vi) any contract for insur-**  
4           **ance;**

5           **“(vii) any deposit or other**  
6           **transaction with an insured de-**  
7           **pository institution; or**

8           **“(viii) any participation in a**  
9           **fantasy or simulation sports**  
10           **game, an educational game, or a**  
11           **contest, that—**

12                   **“(I) is not dependent sole-**  
13                   **ly on the outcome of any sin-**  
14                   **gle sporting event or non-**  
15                   **participant’s singular indi-**  
16                   **vidual performance in any**  
17                   **single sporting event;**

18                   **“(II) has an outcome that**  
19                   **reflects the relative knowl-**  
20                   **edge of the participants, or**  
21                   **their skill at physical reaction**  
22                   **or physical manipulation (but**  
23                   **not chance), and, in the case**  
24                   **of a fantasy or simulation**  
25                   **sports game, has an outcome**

1 that is determined predomi-  
2 nantly by accumulated statis-  
3 tical results of sporting  
4 events, including any non-  
5 participant's individual per-  
6 formances in such sporting  
7 events; and

8 “(III) offers a prize or  
9 award to a participant that is  
10 established in advance of the  
11 game or contest and is not de-  
12 termined by the number of  
13 participants or the amount of  
14 any fees paid by those partici-  
15 pants.

16 “(2) BUSINESS OF BETTING OR WAGER-  
17 ING.—The term ‘business of betting or wa-  
18 gering’ does not include the activities of  
19 a financial transaction provider, or any  
20 interactive computer service or tele-  
21 communications service.

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

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

7 “(4) FINANCIAL TRANSACTION PRO-  
8 VIDER.—The term ‘financial transaction  
9 provider’ means a creditor, credit card  
10 issuer, financial institution, operator of a  
11 terminal at which an electronic fund  
12 transfer may be initiated, money trans-  
13 mitting business, or international, na-  
14 tional, regional, or local payment net-  
15 work utilized to effect a credit trans-  
16 action, electronic fund transfer, stored  
17 value product transaction, or money  
18 transmitting service, or a participant in  
19 such network, or other participant in a  
20 designated payment system.

21 “(5) INTERNET.—The term ‘Internet’  
22 means the international computer net-  
23 work of interoperable packet switched  
24 data networks.

1           **“(6) INTERACTIVE COMPUTER SERVICE.—**  
2           **The term ‘interactive computer service’**  
3           **has the same meaning as in section 230(f)**  
4           **of the Communications Act of 1934.**

5           **“(7) RESTRICTED TRANSACTION.—The**  
6           **term ‘restricted transaction’ means any**  
7           **transaction or transmittal involving any**  
8           **credit, funds, instrument, or proceeds de-**  
9           **scribed in any paragraph of section 5363**  
10           **which the recipient is prohibited from ac-**  
11           **cepting under section 5363.**

12           **“(8) SECRETARY.—The term ‘Secretary’**  
13           **means the Secretary of the Treasury.**

14           **“(9) STATE.—The term ‘State’ means**  
15           **any State of the United States, the Dis-**  
16           **trict of Columbia, or any commonwealth,**  
17           **territory, or other possession of the**  
18           **United States.**

19           **“(10) UNLAWFUL INTERNET GAMBLING.—**

20           **“(A) IN GENERAL.—The term ‘un-**  
21           **lawful Internet gambling’ means to**  
22           **place, receive, or otherwise know-**  
23           **ingly transmit a bet or wager by any**  
24           **means which involves the use, at**  
25           **least in part, of the Internet where**

1           **such bet or wager is unlawful under**  
2           **any applicable Federal or State law**  
3           **in the State or Tribal lands in which**  
4           **the bet or wager is initiated, re-**  
5           **ceived, or otherwise made.**

6           **“(B) INTRASTATE TRANSACTIONS.—**

7           **The term ‘unlawful Internet gam-**  
8           **bling’ shall not include placing, re-**  
9           **ceiving, or otherwise transmitting a**  
10          **bet or wager where—**

11           **“(i) the bet or wager is initi-**  
12           **ated and received or otherwise**  
13           **made exclusively within a single**  
14           **State;**

15           **“(ii) the bet or wager and the**  
16           **method by which the bet or**  
17           **wager is initiated and received or**  
18           **otherwise made is expressly au-**  
19           **thorized by and placed in accord-**  
20           **ance with the laws of such State,**  
21           **and the State law or regulations**  
22           **include—**

23           **“(I) age and location**  
24           **verification requirements rea-**  
25           **sonably designed to block ac-**

1           **cess to minors and persons lo-**  
2           **cated out of such State; and**

3           **“(II) appropriate data se-**  
4           **curity standards to prevent**  
5           **unauthorized access by any**  
6           **person whose age and current**  
7           **location has not been verified**  
8           **in accordance with such**  
9           **State’s law or regulations; and**

10           **“(iii) the bet or wager does**  
11           **not violate any provision of the—**

12           **“(I) Interstate Horseracing**  
13           **Act;**

14           **“(II) Professional and**  
15           **Amateur Sports Protection**  
16           **Act;**

17           **“(III) Gambling Devices**  
18           **Transportation Act; or**

19           **“(IV) Indian Gaming Reg-**  
20           **ulatory Act.**

21           **“(C) INTRATRIBAL TRANSACTIONS.—**

22           **The term ‘unlawful Internet gam-**  
23           **bling’ shall not include placing, re-**  
24           **ceiving, or otherwise transmitting a**  
25           **bet or wager where—**

1           “(i) the bet or wager is initi-  
2 ated and received or otherwise  
3 made exclusively—

4                   “(I) within the Indian  
5 lands of a single Indian tribe  
6 (as those terms are defined by  
7 the Indian Gaming Regu-  
8 latory Act); or

9                   “(II) between the Indian  
10 lands of 2 or more Indian  
11 tribes to the extent that inter-  
12 tribal gaming is authorized by  
13 the Indian Gaming Regu-  
14 latory Act;

15           “(ii) the bet or wager and the  
16 method by which the bet or  
17 wager is initiated and received or  
18 otherwise made is expressly au-  
19 thorized by and complies with the  
20 requirements of—

21                   “(I) the applicable tribal  
22 ordinance or resolution ap-  
23 proved by the Chairman of  
24 the National Indian Gaming  
25 Commission; and

1           **“(II) with respect to class**  
2           **III gaming, the applicable**  
3           **Tribal-State Compact;**

4           **“(iii) the applicable tribal or-**  
5           **dinance or resolution or Tribal-**  
6           **State compact includes—**

7                   **“(I) age and location**  
8                   **verification requirements rea-**  
9                   **sonably designed to block ac-**  
10                  **cess to minors and persons lo-**  
11                  **cated out of the applicable**  
12                  **Tribal lands; and**

13                   **“(II) appropriate data se-**  
14                   **curity standards to prevent**  
15                   **unauthorized access by any**  
16                   **person whose age and current**  
17                   **location has not been verified**  
18                   **in accordance with the appli-**  
19                   **cable tribal ordinance or reso-**  
20                   **lution or Tribal-State Com-**  
21                   **pact; and**

22                   **“(iv) the bet or wager does not**  
23           **violate any provision of the—**

24                   **“(I) Interstate Horseracing**  
25           **Act;**

1                   **“(II) the Professional and**  
2                   **Amateur Sports Protection**  
3                   **Act;**

4                   **“(III) the Gambling De-**  
5                   **VICES Transportation Act; or**

6                   **“(IV) the Indian Gaming**  
7                   **Regulatory Act.**

8                   **“(D) INTERSTATE HORSERACING.—**  
9                   **The term ‘unlawful Internet gam-**  
10                   **bling’ shall not include placing, re-**  
11                   **ceiving, or otherwise transmitting a**  
12                   **bet or wager that is governed by and**  
13                   **complies with the Interstate Horse-**  
14                   **racing Act of 1978.**

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

21                   **“(11) OTHER TERMS.—**

22                   **“(A) CREDIT; CREDITOR; CREDIT**  
23                   **CARD; AND CARD ISSUER.—The terms**  
24                   **‘credit’, ‘creditor’, ‘credit card’, and**  
25                   **‘card issuer’ have the same meanings**

1 as in section 103 of the Truth in  
2 Lending Act.

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

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

12 “(ii) includes any fund trans-  
13 fer covered by Article 4A of the  
14 Uniform Commercial Code, as in  
15 effect in any State.

16 “(C) FINANCIAL INSTITUTION.—The  
17 term ‘financial institution’ has the  
18 same meaning as in section 903 of the  
19 Electronic Fund Transfer Act, except  
20 that such term does not include a ca-  
21 sino, sports book, or other business at  
22 or through which bets or wagers may  
23 be placed or received.

1           **“(D) INSURED DEPOSITORY INSTITU-**  
2           **TION.—The term ‘insured depository**  
3           **institution’—**

4                   **“(i) has the same meaning as**  
5                   **in section 3 of the Federal De-**  
6                   **posit Insurance Act; and**

7                   **“(ii) includes an insured cred-**  
8                   **it union (as defined in section 101**  
9                   **of the Federal Credit Union Act).**

10           **“(E) MONEY TRANSMITTING BUSI-**  
11           **NESS AND MONEY TRANSMITTING SERV-**  
12           **ICE.—The terms ‘money transmitting**  
13           **business’ and ‘money transmitting**  
14           **service’ have the same meanings as in**  
15           **section 5330(d) (determined without**  
16           **regard to any regulations prescribed**  
17           **by the Secretary thereunder).**

18   **“§ 5363. Prohibition on acceptance of any financial**  
19                   **instrument for unlawful Internet gam-**  
20                   **bling**

21           **“No person engaged in the business of bet-**  
22   **ting or wagering may knowingly accept, in**  
23   **connection with the participation of another**  
24   **person in unlawful Internet gambling—**

1           “(1) credit, or the proceeds of credit,  
2           extended to or on behalf of such other  
3           person (including credit extended  
4           through the use of a credit card);

5           “(2) an electronic fund transfer, or  
6           funds transmitted by or through a money  
7           transmitting business, or the proceeds of  
8           an electronic fund transfer or money  
9           transmitting service, from or on behalf of  
10          such other person;

11          “(3) any check, draft, or similar in-  
12          strument which is drawn by or on behalf  
13          of such other person and is drawn on or  
14          payable at or through any financial insti-  
15          tution; or

16          “(4) the proceeds of any other form of  
17          financial transaction, as the Secretary  
18          and the Board of Governors of the Fed-  
19          eral Reserve System may jointly pre-  
20          scribe by regulation, which involves a fi-  
21          nancial institution as a payor or financial  
22          intermediary on behalf of or for the ben-  
23          efit of such other person.

1 **“§ 5364. Policies and procedures to identify and pre-**  
2 **vent restricted transactions**

3 **“(a) REGULATIONS.—Before the end of the**  
4 **270-day period beginning on the date of the**  
5 **enactment of this subchapter, the Secretary**  
6 **and the Board of Governors of the Federal Re-**  
7 **serve System, in consultation with the Attor-**  
8 **ney General, shall prescribe regulations**  
9 **(which the Secretary and the Board jointly**  
10 **determine to be appropriate) requiring each**  
11 **designated payment system, and all partici-**  
12 **pants therein, to identify and block or other-**  
13 **wise prevent or prohibit restricted trans-**  
14 **actions through the establishment of policies**  
15 **and procedures reasonably designed to iden-**  
16 **tify and block or otherwise prevent or pro-**  
17 **hibit the acceptance of restricted transactions**  
18 **in any of the following ways:**

19 **“(1) The establishment of policies and**  
20 **procedures that—**

21 **“(A) allow the payment system**  
22 **and any person involved in the pay-**  
23 **ment system to identify restricted**  
24 **transactions by means of codes in au-**  
25 **thorization messages or by other**  
26 **means;**

1           **“(B) block restricted transactions**  
2           **identified as a result of the policies**  
3           **and procedures developed pursuant**  
4           **to subparagraph (A); and**

5           **“(C) block transactions that are in**  
6           **violation of section 1084 of title 18.**

7           **“(2) The establishment of policies and**  
8           **procedures that prevent or prohibit the**  
9           **acceptance of the products or services of**  
10          **the payment system in connection with a**  
11          **restricted transaction.**

12          **“(b) REQUIREMENTS FOR POLICIES AND PRO-**  
13          **CEDURES.—In prescribing regulations under**  
14          **subsection (a), the Secretary and the Board of**  
15          **Governors of the Federal Reserve System**  
16          **shall—**

17               **“(1) identify types of policies and pro-**  
18               **cedures, including nonexclusive exam-**  
19               **ples, which would be deemed, as applica-**  
20               **ble, to be reasonably designed to identify**  
21               **and block or otherwise prevent or pro-**  
22               **hibit the acceptance of the products or**  
23               **services with respect to each type of re-**  
24               **stricted transaction;**

1           “(2) to the extent practical, permit  
2           any participant in a payment system to  
3           choose among alternative means of iden-  
4           tifying and blocking, or otherwise pre-  
5           venting or prohibiting the acceptance of  
6           the products or services of the payment  
7           system or participant in connection with,  
8           restricted transactions; and

9           “(3) consider exempting certain re-  
10          stricted transactions or designated pay-  
11          ment systems from any requirement im-  
12          posed under such regulations, if the Sec-  
13          retary and the Board jointly find that it  
14          is not reasonably practical to identify  
15          and block, or otherwise prevent or pro-  
16          hibit the acceptance of, such trans-  
17          actions.

18          “(c) COMPLIANCE WITH PAYMENT SYSTEM  
19          POLICIES AND PROCEDURES.—A financial trans-  
20          action provider shall be considered to be in  
21          compliance with the regulations prescribed  
22          under subsection (a), if—

23                 “(1) such person relies on and com-  
24                 plies with the policies and procedures of

1       **a designated payment system of which it**  
2       **is a member or participant to—**

3               **“(A) identify and block restricted**  
4               **transactions; or**

5               **“(B) otherwise prevent or prohibit**  
6               **the acceptance of the products or**  
7               **services of the payment system, mem-**  
8               **ber, or participant in connection with**  
9               **restricted transactions; and**

10              **“(2) such policies and procedures of**  
11              **the designated payment system comply**  
12              **with the requirements of regulations pre-**  
13              **scribed under subsection (a).**

14              **“(d) NO LIABILITY FOR BLOCKING OR REFUS-**  
15              **ING TO HONOR RESTRICTED TRANSACTIONS.—A**  
16              **person that identifies and blocks a trans-**  
17              **action, prevents or prohibits the acceptance**  
18              **of its products or services in connection with**  
19              **a transaction, or otherwise refuses to honor**  
20              **a transaction—**

21                      **“(1) that is a restricted transaction;**

22                      **“(2) that such person reasonably be-**  
23                      **lieves to be a restricted transaction; or**

24                      **“(3) as a designated payment system**  
25                      **or a member of a designated payment**

1 system in reliance on the policies and  
2 procedures of the payment system, in an  
3 effort to comply with regulations pre-  
4 scribed under subsection (a),  
5 shall not be liable to any party for such ac-  
6 tion.

7 “(e) REGULATORY ENFORCEMENT.—The re-  
8 quirements of this section shall be enforced  
9 exclusively by—

10 “(1) the Federal functional regulators,  
11 with respect to the designated payment  
12 systems and financial transaction pro-  
13 viders subject to the respective jurisdic-  
14 tion of such regulators under section  
15 505(a) of the Gramm-Leach-Bliley Act and  
16 section 5g of the Commodities Exchange  
17 Act; and

18 “(2) the Federal Trade Commission,  
19 with respect to designated payment sys-  
20 tems and financial transaction providers  
21 not otherwise subject to the jurisdiction  
22 of any Federal functional regulators (in-  
23 cluding the Commission) as described in  
24 paragraph (1).

1 **“§ 5365. Civil remedies**

2 **“(a) JURISDICTION.—The district courts of**  
3 **the United States shall have original and ex-**  
4 **clusive jurisdiction to prevent and restrain**  
5 **restricted transactions by issuing appropriate**  
6 **orders in accordance with this section, re-**  
7 **gardless of whether a prosecution has been**  
8 **initiated under this subchapter.**

9 **“(b) PROCEEDINGS.—**

10 **“(1) INSTITUTION BY FEDERAL GOVERN-**  
11 **MENT.—**

12 **“(A) IN GENERAL.—The United**  
13 **States, acting through the Attorney**  
14 **General, may institute proceedings**  
15 **under this section to prevent or re-**  
16 **strain a restricted transaction.**

17 **“(B) RELIEF.—Upon application of**  
18 **the United States under this para-**  
19 **graph, the district court may enter a**  
20 **temporary restraining order, a pre-**  
21 **liminary injunction, or an injunction**  
22 **against any person to prevent or re-**  
23 **strain a restricted transaction, in ac-**  
24 **cordance with rule 65 of the Federal**  
25 **Rules of Civil Procedure.**

1           **“(2) INSTITUTION BY STATE ATTORNEY**  
2           **GENERAL.—**

3           **“(A) IN GENERAL.—The attorney**  
4           **general (or other appropriate State**  
5           **official) of a State in which a re-**  
6           **stricted transaction allegedly has**  
7           **been or will be initiated, received, or**  
8           **otherwise made may institute pro-**  
9           **ceedings under this section to pre-**  
10           **vent or restrain the violation or**  
11           **threatened violation.**

12           **“(B) RELIEF.—Upon application of**  
13           **the attorney general (or other appro-**  
14           **priate State official) of an affected**  
15           **State under this paragraph, the dis-**  
16           **trict court may enter a temporary re-**  
17           **straining order, a preliminary injunc-**  
18           **tion, or an injunction against any**  
19           **person to prevent or restrain a re-**  
20           **stricted transaction, in accordance**  
21           **with rule 65 of the Federal Rules of**  
22           **Civil Procedure.**

23           **“(3) INDIAN LANDS.—**

24           **“(A) IN GENERAL.—Notwith-**  
25           **standing paragraphs (1) and (2), for a**

1           **restricted transaction that allegedly**  
2           **has been or will be initiated, re-**  
3           **ceived, or otherwise made on Indian**  
4           **lands (as that term is defined in sec-**  
5           **tion 4 of the Indian Gaming Regu-**  
6           **latory Act)—**

7                   **“(i) the United States shall**  
8                   **have the enforcement authority**  
9                   **provided under paragraph (1);**  
10                   **and**

11                   **“(ii) the enforcement authori-**  
12                   **ties specified in an applicable**  
13                   **Tribal-State compact negotiated**  
14                   **under section 11 of the Indian**  
15                   **Gaming Regulatory Act (25 U.S.C.**  
16                   **2710) shall be carried out in ac-**  
17                   **cordance with that compact.**

18                   **“(B) RULE OF CONSTRUCTION.—No**  
19                   **provision of this section shall be con-**  
20                   **strued as altering, superseding, or**  
21                   **otherwise affecting the application of**  
22                   **the Indian Gaming Regulatory Act.**

23                   **“(c) LIMITATION RELATING TO INTERACTIVE**  
24                   **COMPUTER SERVICES.—**

1           **“(1) IN GENERAL.—Relief granted**  
2           **under this section against an interactive**  
3           **computer service shall—**

4                   **“(A) be limited to the removal of,**  
5                   **or disabling of access to, an online**  
6                   **site violating section 5363, or a hyper-**  
7                   **text link to an online site violating**  
8                   **such section, that resides on a com-**  
9                   **puter server that such service con-**  
10                   **trols or operates, except that the limi-**  
11                   **tation in this subparagraph shall not**  
12                   **apply if the service is subject to li-**  
13                   **ability under this section under sec-**  
14                   **tion 5367;**

15                   **“(B) be available only after notice**  
16                   **to the interactive computer service**  
17                   **and an opportunity for the service to**  
18                   **appear are provided;**

19                   **“(C) not impose any obligation on**  
20                   **an interactive computer service to**  
21                   **monitor its service or to affirmatively**  
22                   **seek facts indicating activity vio-**  
23                   **lating this subchapter;**

24                   **“(D) specify the interactive com-**  
25                   **puter service to which it applies; and**

1           **“(E) specifically identify the loca-**  
2           **tion of the online site or hypertext**  
3           **link to be removed or access to which**  
4           **is to be disabled.**

5           **“(2) COORDINATION WITH OTHER LAW.—**  
6           **An interactive computer service that**  
7           **does not violate this subchapter shall not**  
8           **be liable under section 1084(d) of title 18,**  
9           **except that the limitation in this para-**  
10          **graph shall not apply if an interactive**  
11          **computer service has actual knowledge**  
12          **and control of bets and wagers and—**

13           **“(A) operates, manages, super-**  
14           **vises, or directs an Internet website**  
15           **at which unlawful bets or wagers**  
16           **may be placed, received, or otherwise**  
17           **made or at which unlawful bets or**  
18           **wagers are offered to be placed, re-**  
19           **ceived, or otherwise made; or**

20           **“(B) owns or controls, or is owned**  
21           **or controlled by, any person who op-**  
22           **erates, manages, supervises, or di-**  
23           **rects an Internet website at which**  
24           **unlawful bets or wagers may be**  
25           **placed, received, or otherwise made,**

1           or at which unlawful bets or wagers  
2           are offered to be placed, received, or  
3           otherwise made.

4           “(d) **LIMITATION ON INJUNCTIONS AGAINST**  
5 **REGULATED PERSONS.**—Notwithstanding any  
6 other provision of this section, and subject to  
7 section 5367, no provision of this subchapter  
8 shall be construed as authorizing the Attor-  
9 ney General of the United States, or the attor-  
10 ney general (or other appropriate State offi-  
11 cial) of any State to institute proceedings to  
12 prevent or restrain a restricted transaction  
13 against any financial transaction provider, to  
14 the extent that the person is acting as a finan-  
15 cial transaction provider.

16 “§ 5366. Criminal penalties

17           “(a) **IN GENERAL.**—Whoever violates sec-  
18 tion 5363 shall be fined under title 18, or im-  
19 prisoned for not more than 5 years, or both.

20           “(b) **PERMANENT INJUNCTION.**—Upon con-  
21 viction of a person under this section, the  
22 court may enter a permanent injunction en-  
23 joining such person from placing, receiving,  
24 or otherwise making bets or wagers or send-

1 ing, receiving, or inviting information assist-  
2 ing in the placing of bets or wagers.

3 “§ 5367. Circumventions prohibited

4 “Notwithstanding section 5362(2), a finan-  
5 cial transaction provider, or any interactive  
6 computer service or telecommunications serv-  
7 ice, may be liable under this subchapter if  
8 such person has actual knowledge and con-  
9 trol of bets and wagers, and—

10 “(1) operates, manages, supervises, or  
11 directs an Internet website at which un-  
12 lawful bets or wagers may be placed, re-  
13 ceived, or otherwise made, or at which  
14 unlawful bets or wagers are offered to be  
15 placed, received, or otherwise made; or

16 “(2) owns or controls, or is owned or  
17 controlled by, any person who operates,  
18 manages, supervises, or directs an Inter-  
19 net website at which unlawful bets or wa-  
20 gers may be placed, received, or other-  
21 wise made, or at which unlawful bets or  
22 wagers are offered to be placed, received,  
23 or otherwise made.”.

24 (b) TECHNICAL AND CONFORMING AMEND-  
25 MENT.—The table of sections for chapter 53 of

1 **title 31, United States Code, is amended by**  
2 **adding at the end the following:**

**“SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL  
INTERNET GAMBLING**

**“5361. Congressional findings and purpose.**

**“5362. Definitions.**

**“5363. Prohibition on acceptance of any financial instrument  
for unlawful Internet gambling.**

**“5364. Policies and procedures to identify and prevent re-  
stricted transactions.**

**“5365. Civil remedies.**

**“5366. Criminal penalties.**

**“5367. Circumventions prohibited.”.**

3 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN**  
4 **JURISDICTIONS.**

5 **(a) IN GENERAL.—In deliberations between**  
6 **the United States Government and any other**  
7 **country on money laundering, corruption,**  
8 **and crime issues, the United States Govern-**  
9 **ment should—**

10 **(1) encourage cooperation by foreign**  
11 **governments and relevant international**  
12 **fora in identifying whether Internet gam-**  
13 **bling operations are being used for**  
14 **money laundering, corruption, or other**  
15 **crimes;**

16 **(2) advance policies that promote the**  
17 **cooperation of foreign governments,**  
18 **through information sharing or other**

1       **measures, in the enforcement of this Act;**  
2       **and**

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

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

Union Calendar No. 267

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

**H. R. 4411**

[Report No. 109-412, Parts I and II]

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## **A BILL**

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

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MAY 26, 2006

Reported from the Committee on the Judiciary with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed