

112TH CONGRESS
1ST SESSION

H. R. 2366

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

Mr. BARTON of Texas (for himself, Mr. CAMPBELL, Ms. BERKLEY, Mr. HONDA, Mr. COHEN, Ms. LINDA T. SÁNCHEZ of California, Mr. PERLMUTTER, Mr. KING of New York, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. PAUL, and Mr. GRIMM) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Internet Gambling Prohibition, Poker Consumer Protec-
6 tion, and Strengthening UIGEA Act of 2011”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

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

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

Sec. 101. Definitions.
 Sec. 102. Prohibition on unlicensed Internet gambling.
 Sec. 103. Department of Commerce qualification and oversight of State agencies.
 Sec. 104. Licensing by qualified State agencies.
 Sec. 105. Enforcement.
 Sec. 106. Compulsive gaming, responsible gaming, and self-exclusion program requirements.
 Sec. 107. Prohibitions and restrictions.
 Sec. 108. Safe harbor.
 Sec. 109. Relation to subchapter IV of chapter 53 of title 31, United States Code.
 Sec. 110. Cheating and other fraud.
 Sec. 111. Inapplicability of certain provisions to interstate off-track wagers.
 Sec. 112. Construction and relation to other law.
 Sec. 113. Regulations.
 Sec. 114. Annual reports.
 Sec. 115. Effective date.

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

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

3 **SEC. 2. FINDINGS.**

4 Congress finds the following:

5 (1) Since the development of the Internet, on-
 6 line Web sites offering Internet gambling have raised
 7 numerous policy, consumer protection, and enforce-
 8 ment concerns for Federal and State governments as
 9 such Web sites are run by operators located in many
 10 different countries and have sought to attract cus-
 11 tomers from the United States.

1 (2) The Unlawful Internet Gambling Enforce-
2 ment Act of 2006 (title VIII of Public Law 109–
3 347; 120 Stat. 1952) was intended to aid enforce-
4 ment efforts against unlawful Internet operators and
5 to limit unlawful Internet gaming involving United
6 States persons. However, that Act has only been
7 partially successful in doing so.

8 (3) There is uncertainty about the laws of the
9 United States governing Internet gambling and
10 Internet poker, though not about laws governing
11 Internet sports betting. The Department of Justice
12 has maintained that a broad range of activity is ille-
13 gal, including activity that Congress intended to le-
14 galize under the Interstate Horseracing Act of 1978.
15 Certain court decisions have used logic not con-
16 sistent with aspects of the position of the Depart-
17 ment of Justice. Enforcement efforts would be aided
18 by bringing greater clarity to this area.

19 (4) Additional tools to assist law enforcement in
20 the prevention of unlawful Internet gaming activities
21 would be important and beneficial. Maintenance of a
22 list of unlicensed Internet gambling enterprises and
23 the owners, operators, and key personnel of such en-
24 terprises (as well as entities and related personnel
25 found unsuitable) would aid those law enforcement

1 efforts and would make the Unlawful Internet Gam-
2 bling Enforcement Act more effective.

3 (5) Poker is distinct from the class of games of
4 chance traditionally defined as gambling in that,
5 players compete against each other, and not the per-
6 son or entity hosting the game (sometimes called
7 “the house”), and that over any significant interval,
8 the outcome of a poker game is predominantly deter-
9 mined by the skill of the participants.

10 (6) United States consumers would benefit from
11 a program of Internet poker regulation which recog-
12 nizes the interstate nature of the Internet, but nev-
13 ertheless preserves the prerogatives of States. Such
14 a system would require strict licensing of Internet
15 poker providers and would require licensee operators
16 to—

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

19 (B) identify and help treat problem gam-
20 blers; to ensure that games are fair;

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

23 (D) prevent money laundering.

24 (7) Such a program would create a new indus-
25 try within the United States creating thousands of

1 jobs and substantial tax revenue for Federal and
2 State governments.

3 **TITLE I—PROHIBITION ON UNLI-**
4 **CENSED INTERNET GAM-**
5 **BLING AND INTERNET POKER**
6 **CONSUMER PROTECTION**

7 **SEC. 101. DEFINITIONS.**

8 As used in this title, the following definitions apply:

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

12 (2) **BET OR WAGER.**—

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

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

19 (i) **INTERSTATE HORSERACING.**—A
20 bet or wager that is permissible under the
21 Interstate Horseracing Act of 1978 (15
22 U.S.C. 3001 et seq.).

23 (ii) **CERTAIN INTRASTATE TRANS-**
24 **ACTIONS.**—Placing, receiving, or otherwise
25 transmitting a bet or wager—

1 (I) as described in subparagraph
2 (B) of section 5362(10) of title 31,
3 United States Code, and clarified by
4 subparagraph (E) of such section; and

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

9 (iii) INTRASTATE LOTTERY TRANS-
10 ACTIONS.—A bet or wager that is—

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

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

21 (iv) INTRATRIBAL TRANSACTIONS.—
22 Placing, receiving, or otherwise transmit-
23 ting a bet or wager as described in sub-
24 paragraph (C) of such section 5362(10), as
25 clarified by such subparagraph (E).

1 (3) CASINO GAMING.—

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

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

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

20 (5) GAMING DEVICE.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), the term “gaming device”
23 means any computer-based gambling machine,
24 including slot machines and video lottery termi-

1 nals that have been approved by a gaming regu-
2 latory authority of a State or Indian tribe.

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

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

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

13 (8) INTERNET GAMBLING FACILITY.—The term
14 “Internet gambling facility” means an Internet Web
15 site, or similar communications facility in which
16 transmissions may cross State boundaries, through
17 which a bet or wager is initiated, received, or other-
18 wise made, whether transmitted by telephone, Inter-
19 net, satellite, or other wire or wireless communica-
20 tion facility, service, or medium.

21 (9) INTERNET POKER.—The term “Internet
22 poker” means a poker game, hand, tournament, or
23 other contest of poker offered through the use of an
24 Internet poker facility.

1 (10) INTERNET POKER FACILITY.—The term
2 “Internet poker facility” means a type of Internet
3 gambling facility that provides bets or wagers only
4 with respect to a game, hand, tournament, or other
5 contest of poker.

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

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

15 (13) OPERATE AN INTERNET GAMBLING FACIL-
16 ITY.—The term “operate an Internet gambling facil-
17 ity” means to conduct, direct, manage, own, super-
18 vise, or control an Internet gambling facility.

19 (14) OPERATE AN INTERNET POKER FACIL-
20 ITY.—The term “operate an Internet poker facility”
21 means to conduct, direct, manage, own, supervise, or
22 control an Internet poker facility.

23 (15) POKER.—The term “poker” means any of
24 several card games in which players compete against
25 each other, and not the person or entity hosting the

1 game (sometimes called “the house”), and that over
2 any significant interval, the outcome of a poker
3 game is predominantly determined by the skill of the
4 participants.

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

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

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

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

19 (18) QUALIFIED MOBILE GAMING SYSTEM.—
20 The term “qualified mobile gaming system” means
21 a system for the conduct of casino gaming through
22 communications devices or gaming devices operated
23 at a casino gaming facility by the use of communica-
24 tion technology that allows a person to transmit
25 wirelessly information to a computer to assist in the

1 placing of a bet or wager and corresponding infor-
2 mation related to the display of the game, game out-
3 comes, or other similar information and which is li-
4 censed for operation at a casino gaming facility by
5 a State or Indian tribe.

6 (19) QUALIFIED RACE TRACK.—The term
7 “qualified race track” means a race track or other
8 pari-mutuel wagering facility that—

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

12 (B) has—

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

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

19 (20) REMOTE GAMING EQUIPMENT.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), the term “remote gaming
22 equipment” means electronic or other equip-
23 ment principally used by or on behalf of an op-
24 erator of an Internet poker facility, including by
25 any significant vendor to such operator, to—

1 (i) register a person's participation in
2 Internet poker and to store information re-
3 lating thereto;

4 (ii) present to persons who are partici-
5 pating or who may participate in Internet
6 poker the game that is to be played;

7 (iii) determine all or part of, or the ef-
8 fect of, a result relevant to a game, hand,
9 tournament, or other contest of Internet
10 poker and to store information relating
11 thereto;

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

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

16 (B) EXCEPTION.—The term “remote gam-
17 ing equipment” does not include the following:

18 (i) Equipment used for business con-
19 tinuity, back-up, excess capacity, or other
20 secondary use.

21 (ii) A computer which is used by a
22 person to participate in Internet poker un-
23 less the computer is provided by or on be-
24 half of the person who is conducting or
25 providing the facilities for the game.

1 (iii) Equipment operated in the ordi-
2 nary course of providing banking, tele-
3 communications, or payment processing
4 services.

5 (iv) Such other equipment that pro-
6 vides ancillary services as the Secretary
7 considers appropriate.

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

10 (22) SIGNIFICANT VENDOR.—The term “signifi-
11 cant vendor” means a person who—

12 (A) on behalf of a licensee, knowingly man-
13 ages, administers, or controls bets or wagers
14 that are initiated, received, or otherwise made
15 within the United States;

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

19 (C) on behalf of a licensee, develops, main-
20 tains, or operates the software or other system
21 programs or hardware on which the games or
22 the bets or wagers are managed, administered,
23 or controlled;

24 (D) provides the trademarks, trade names,
25 service marks, or similar intellectual property

1 under which a licensee identifies its Internet
2 poker facility to its customers in the United
3 States;

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

8 (F) provides any products, services, or as-
9 sets to a licensee and is paid a percentage of
10 gaming revenue or Internet poker commission
11 fees by the licensee (not including fees to finan-
12 cial institutions and payment providers for fa-
13 cilitating a deposit by a customer); or

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

18 (23) SPORTING EVENT.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), the term “sporting event”
21 means any athletic competition, whether profes-
22 sional, scholastic, or amateur or any perform-
23 ance of any athlete in such competitions.

24 (B) EXCEPTION.—The term “sporting
25 event” does not include any activity described

1 in section 3704(a)(4) of title 28, United States
2 Code.

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

7 **SEC. 102. PROHIBITION ON UNLICENSED INTERNET GAM-**
8 **BLING.**

9 (a) PROHIBITION.—

10 (1) IN GENERAL.—It shall be unlawful for a
11 person to operate an Internet gambling facility with-
12 out a license in good standing issued to such person
13 by a qualified State or tribal agency under this title.

14 (2) EXCEPTION.—Paragraph (1) shall not
15 apply to the operation of an Internet gambling facil-
16 ity by a person located outside the United States in
17 which bets or wagers are initiated, received, or oth-
18 erwise made by individuals located outside the
19 United States.

20 (b) CRIMINAL PENALTIES.—Any person who violates
21 this section shall be fined under title 18, United States
22 Code, imprisoned for not more than 5 years, or both.

1 **SEC. 103. DEPARTMENT OF COMMERCE QUALIFICATION**
2 **AND OVERSIGHT OF STATE AGENCIES.**

3 (a) **COMMERCE RESPONSIBILITIES AND POWERS.—**

4 The Secretary shall have responsibility and authority for
5 the following activities:

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

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

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

12 (B) carry out their regulatory and enforce-
13 ment functions under this title with appropriate
14 diligence.

15 (3) Investigating and taking appropriate reme-
16 dial action with respect to any qualified State agen-
17 cy.

18 (4) Prescribing such regulations as may be nec-
19 essary to administer and enforce the provisions of
20 this title.

21 (b) **OFFICE OF INTERNET POKER OVERSIGHT.—**

22 (1) **ESTABLISHMENT.**—The Secretary shall es-
23 tablish an office in the Department of Commerce, to
24 be known as the “Office of Internet Poker Over-
25 sight” (in this subsection referred to as the “office”)

1 to exercise the functions of the Secretary set out in
2 this title.

3 (2) DIRECTOR AND DELEGATION OF AUTHOR-
4 ITY.—The Secretary shall appoint a Director of the
5 office from among individuals who have dem-
6 onstrated experience and expertise in regulating
7 gaming activities and may delegate to the Director
8 any authority, duty, or responsibility conferred upon
9 the Secretary by this title.

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

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

20 (2) MINIMUM STANDARDS FOR QUALIFIED
21 STATE AGENCIES.—The Secretary shall prescribe
22 minimum standards for qualifying a State agency
23 under this subsection, including minimum stand-
24 ards—

1 (A) relating to the size and qualification of
2 staff of the agency to ensure a sufficient num-
3 ber of enforcement agents with experience in
4 gaming regulatory enforcement areas to dis-
5 charge its intended functions and that the ap-
6 plicant have the sophistication and resources
7 necessary to evaluate issues unique to the Inter-
8 net environment;

9 (B) relating to the length of time the ap-
10 plicant has regulated other forms of gaming to
11 ensure designations of only those applicants
12 that have a history of demonstrated regulatory
13 enforcement and oversight commensurate with
14 the responsibilities imposed under this title;

15 (C) for assessing the applicant's experience
16 and willingness to work with Federal authori-
17 ties, including the Financial Crimes Enforce-
18 ment Network;

19 (D) prohibiting conflicts of interest to en-
20 sure that qualified State agencies are not con-
21 trolled, directly or indirectly, by persons that
22 have any significant ownership interest in enti-
23 ties regulated under this title;

1 (E) for the capacity and experience of a
2 qualified State agency in conducting rigorous
3 suitability reviews;

4 (F) for the enforcement and regulatory au-
5 thorities provided to the applicant under the
6 law of the applicable State or Indian tribe, in-
7 cluding investigative authority, authority to im-
8 pose requirements on licensees, and authority to
9 impose civil or other penalties; and

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

13 (3) WITHDRAWAL OF QUALIFICATION.—

14 (A) IN GENERAL.—Beginning on the date
15 that is 1 year after the date on which the Sec-
16 retary prescribes final regulations under this
17 title, the Secretary may, after providing 60
18 days notice to a qualified State agency, with-
19 draw the qualification of such agency under this
20 section if the Secretary determines that the
21 agency is not in compliance with the minimum
22 standards set established under paragraph (2)
23 or other requirements of this title.

24 (B) OPPORTUNITY TO COMPLY.—The Sec-
25 retary may provide a State agency who receives

1 notice under subparagraph (A) with an oppor-
2 tunity to come into compliance for a period of
3 not more than 180 days. The Secretary may ex-
4 tend such period by not more than 180 addi-
5 tional days if the State agency has made sub-
6 stantial progress toward compliance as of the
7 expiration of the first 180-day period.

8 (C) EFFECT OF NOTICE.—A State agency
9 that receives notice under subparagraph (A)
10 may not issue any new licenses under this title
11 until the Secretary determines that the quali-
12 fied State agency is in compliance with the re-
13 quirements of this title and regulations pre-
14 scribed thereunder.

15 (D) RIGHT TO APPEAL.—A State agency
16 that has had its qualification withdrawn under
17 this paragraph may appeal to the United States
18 District Court for the District of Columbia that
19 such withdrawal was an abuse of discretion.

20 (4) ACTION UPON WITHDRAWAL OF QUALIFICA-
21 TION.—

22 (A) IN GENERAL.—Except as provided in
23 subparagraph (B), not later than 30 days after
24 the date on which the Secretary withdraws the
25 qualification of a State agency under paragraph

(3), each person with a license issued by the State agency shall—

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

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

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

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

(C) INTERIM REGULATORY OVERSIGHT.—Until final action is taken under subparagraph (B) with respect to a person, the Secretary

1 shall have enforcement and regulatory authority
2 over the licensed activities of such person.

3 (d) OVERSIGHT OF QUALIFIED STATE AGENCIES.—

4 The Secretary may investigate and take such action as the
5 Secretary considers appropriate with respect to any quali-
6 fied State agency that appears, based upon the Secretary's
7 own inquiry or based upon credible information provided
8 by other persons, including licensees or law enforcement
9 officials, to be deficient or substantially less rigorous than
10 other qualified State agencies in the discharge of its re-
11 sponsibilities under this title.

12 (e) CONSULTATION WITH INDIAN TRIBES.—In im-
13 plementing this title, the Secretary shall conduct meaning-
14 ful consultation with Indian tribes regarding all aspects
15 of this title which affect Indian tribes.

16 **SEC. 104. LICENSING BY QUALIFIED STATE AGENCIES.**

17 (a) INTERNET POKER FACILITY LICENSING PRO-
18 GRAM.—

19 (1) AUTHORITY TO OPERATE INTERNET POKER
20 FACILITY UNDER VALID LICENSE.—Notwithstanding
21 any other provision of law and subject to the provi-
22 sions of this title, a licensee may accept a bet or
23 wager with respect to Internet poker from an indi-
24 vidual located in the United States and may offer re-

1 lated services so long as the license of the licensee
2 issued under this title remains in good standing.

3 (2) SIGNIFICANT VENDORS.—If a person seeks
4 a certificate of suitability from a qualified State
5 agency to provide services to a licensee or applicant
6 as a significant vendor with respect to an Internet
7 poker facility, such person shall not be required to
8 obtain a license under this title to provide such serv-
9 ices with respect to that Internet poker facility.

10 (3) LIMITATIONS IMPOSED BY STATES AND IN-
11 DIAN TRIBES.—

12 (A) ACTION BY A STATE.—No licensee
13 may engage, under any license issued under
14 this title, in the operation of an Internet poker
15 facility that knowingly accepts bets or wagers
16 initiated by persons who reside in any State
17 which provides notice that it will limit such bets
18 or wagers, if the Governor or other chief execu-
19 tive officer of such State informs the Secretary
20 of such limitation, in a manner which clearly
21 identifies the nature and extent of such limita-
22 tion.

23 (B) CHANGES TO STATE LIMITATIONS.—

24 The establishment, repeal, or amendment by a
25 State of any limitation described in subpara-

graph (A) shall apply, for purposes of this title, beginning on the day that occurs after the end of the 60-day period beginning on the later of—

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

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

(C) APPLICATION OF STATE ACTION TO TRIBAL LANDS OF INDIAN TRIBES.—Any State limitation described in subparagraph (A) shall not apply to the acceptance by a licensee of bets or wagers from persons located within the tribal lands of an Indian tribe that—

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

(ii) would be entitled pursuant to other applicable law to permit such bets or wagers to be initiated and received within its territory without use of the Internet.

1 (D) ACTIONS BY AN INDIAN TRIBE.—No
2 Internet gambling licensee knowingly may ac-
3 cept a bet or wager from a person located in
4 the tribal lands of any Indian tribe which limits
5 such gambling activities or other contests if the
6 principal chief or other chief executive officer of
7 such Indian tribe informs the Secretary of such
8 limitation, in a manner which clearly identifies
9 the nature and extent of such limitation.

10 (E) CHANGES TO STATE LIMITATIONS.—
11 The establishment, repeal, or amendment by
12 any Indian tribe of any limitation referred to in
13 subparagraph (D) shall apply, for purposes of
14 this title, beginning on the day that occurs after
15 the end of the 60-day period beginning on the
16 later of—

17 (i) the date a notice of such establish-
18 ment, repeal, or amendment is provided by
19 the principal chief or other chief executive
20 officer of such Indian tribe in writing to
21 the Secretary; or

22 (ii) the effective date of such estab-
23 lishment, repeal, or amendment.

24 (F) NOTIFICATION AND ENFORCEMENT OF
25 STATE AND TRIBE LIMITATIONS.—

1 (i) NOTIFICATION AND MEASURES TO
2 ENSURE COMPLIANCE.—The Secretary
3 shall notify all licensees and applicants of
4 all States and Indian tribes that have pro-
5 vided notice pursuant to subparagraph
6 (A)(ii) of (C)(ii), as the case may be,
7 promptly upon receipt of such notice and
8 in no event fewer than 30 days before the
9 effective date of such notice. The Secretary
10 shall take effective measures to ensure that
11 any licensee under this subchapter, as a
12 condition of the license, complies with any
13 limitation or prohibition imposed by any
14 State or Indian tribe to which the licensee
15 is subject.

16 (ii) VIOLATIONS.—A violation of sub-
17 paragraph (A) of (C) shall be a violation of
18 this title enforceable under section 105.

19 (b) APPLICATION FOR LICENSE.—

20 (1) APPLICATION.—Except as provided in sub-
21 paragraph (B), a person seeking to operate an Inter-
22 net poker facility under this title shall submit to the
23 qualified State agency of the State where servers for
24 such Internet poker facility are located an applica-
25 tion for a license at such time, in such form, and in

1 such manner as the qualified State agency considers
2 appropriate, including at a minimum the following:

3 (A) Complete financial information about
4 the applicant.

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

8 (C) The criminal and financial history of—

9 (i) the applicant;

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

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

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

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

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

24 (F) A detailed description of the appli-
25 cant's plan for complying with all applicable re-

1 quirements and regulations prescribed pursuant
2 to this title.

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

5 (i) jurisdiction in United States Fed-
6 eral courts and in the courts of the State
7 or Indian tribe of the qualified State agen-
8 cy to which the applicant has applied; and

9 (ii) all applicable provisions of United
10 States law.

11 (2) NOTICE TO THE SECRETARY.—Each quali-
12 fied State agency shall report all applicants for li-
13 censure and the dispositions of their applications to
14 the Secretary promptly upon disposition of each ap-
15 plication or in such intervals as the Secretary may
16 prescribe. Such report shall include such information
17 or documentation as the Secretary may require.

18 (c) STANDARDS FOR LICENSE ISSUANCE; SUI-
19 TABILITY QUALIFICATIONS AND DISQUALIFICATION
20 STANDARDS.—

21 (1) SUITABILITY FOR LICENSING.—No appli-
22 cant shall be eligible to obtain a license under this
23 title unless a qualified State agency, with whom the
24 applicant has filed an application for a license, has
25 determined, upon completion of a background check

1 and investigation, that the applicant, any person
2 deemed to be in control of the applicant, all signifi-
3 cant vendors of the applicant, and any other person
4 determined by the qualified State agency as having
5 significant influence on the applicant are suitable for
6 licensing or for receiving a certificate of suitability
7 as applicable.

8 (2) INVESTIGATION.—

9 (A) DETERMINATION OF SUITABILITY.—

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

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

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

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

23 (II) create or enhance the dan-
24 gers of unsuitable, unfair, or illegal
25 practices, methods, and activities in

1 the conduct of Internet poker facilities
2 or the carrying on of the business and
3 financial arrangements incidental to
4 such facilities;

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

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

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

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

24 (B) UNSUITABLE.—An applicant or any
25 other person may not be determined to be suit-

1 able under this subsection if the applicant or
2 such person—

3 (i) has failed to provide information
4 and documentation material to a deter-
5 mination of suitability for licensing under
6 paragraph (1);

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

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

13 (iv) is delinquent in the payment of
14 any applicable Federal or State tax, tax
15 penalty, addition to tax, or interest owed
16 to a jurisdiction in which the applicant or
17 person operates or does business, unless
18 such payment has been extended or is the
19 subject of a pending judicial or administra-
20 tive dispute;

21 (v) has not certified in writing that
22 the person submits to personal jurisdiction
23 in the United States; or

1 (vi) fails to comply with such other
2 standard as the applicable qualified State
3 agency considers appropriate.

4 (C) CONSIDERATION OF PREVIOUS OPER-
5 ATION OF INTERNET GAMBLING FACILITY.—In
6 carrying out a suitability analysis of a person
7 under this subsection, a qualified State agency
8 shall consider whether such person operated an
9 Internet gambling facility before the date of the
10 enactment of this Act and the scope of such
11 person's activities with respect to such oper-
12 ation.

13 (3) ONGOING REQUIREMENT.—A licensee (and
14 any other person who is required to be determined
15 to be suitable for licensing in connection with such
16 licensee) shall meet the standards necessary to be
17 suitable for licensing or to receive a certificate of
18 suitability, as the case may be, throughout the term
19 of the license.

20 (4) CERTIFICATE OF SUITABILITY FOR SIGNIFI-
21 CANT VENDORS.—

22 (A) IN GENERAL.—If a qualifying body de-
23 termines under paragraph (1) that a significant
24 vendor of an applicant is suitable under such
25 paragraph, the qualifying body shall issue a cer-

1 tificate to such vendor that certifies the suit-
2 ability of such vendor.

3 (B) REVOCATION OF CERTIFICATE.—A
4 qualified State agency that issues a certificate
5 to a significant vendor under subparagraph (A)
6 shall revoke the certificate if at any time the
7 significant vendor no longer meets the stand-
8 ards necessary for a determination of suit-
9 ability.

10 (D) CERTIFICATES ISSUED BY OTHER
11 QUALIFIED STATE AGENCY.—A qualified State
12 agency may, but need not, accept a certificate
13 issued to a significant vendor by another quali-
14 fied State agency as evidence of the suitability
15 of the significant vendor.

16 (5) OTHER VENDORS.—

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

21 (i) direct, provide, or solicit customers
22 to or for the licensee’s Internet poker facil-
23 ity, or materially assist in any of those
24 tasks, in return for a commission or other
25 fee;

1 (ii) hold themselves out to the public
2 as offering bets or wagers on licensee's be-
3 half;

4 (iii) offer bets or wagers under their
5 own names or brands but using and rely-
6 ing on licensee's Internet poker facilities;

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

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

13 (B) SUITABILITY OF OTHER VENDORS AND
14 PERSONS.—A qualified State agency that re-
15 views an application of an applicant for a li-
16 cense or issues a license to a licensee may, at
17 the sole discretion of the qualified State agency
18 and on a case-by-case basis, require as a condi-
19 tion of such license that a person meet suit-
20 ability requirements under paragraph (1) if the
21 person—

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

24 (ii) provides services to an applicant
25 or licensee and the qualified State agency

determines that with respect to such services, there is a substantial risk of circumvention of the suitability requirements applicable to significant vendors; or

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

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

(6) ENFORCEMENT ACTIONS.—

(A) IN GENERAL.—If the Secretary or the qualified State agency that issued a license to a licensee finds that the licensee, or any other person that is subject to a required determination of suitability in connection with such licensee, fails to meet the suitability requirements of this subsection at any time during the

1 tenure of the license, the Secretary or the quali-
2 fied State agency may take action to protect the
3 public interest, including, if the Secretary or
4 qualified State agency considers necessary, the
5 suspension or termination of the license.

6 (B) IMPOSITION OF CONDITIONS INCLUD-
7 ING REMOVAL OF PARTIES.—Notwithstanding a
8 determination under subparagraph (A), the
9 Secretary or the qualified State agency that
10 issued a license to a licensee may allow the li-
11 censee to continue engaging in licensed activi-
12 ties by imposing conditions on the person to
13 which subparagraph (A) is applicable under
14 penalty of revocation or suspension of a license
15 or certificate of suitability, including—

16 (i) the identification of any person de-
17 termined to be unsuitable; and

18 (ii) the establishment of appropriate
19 safeguards to ensure such person is ex-
20 cluded from any management or involve-
21 ment in operation of the licensed activities.

22 (7) ADMINISTRATIVE PROVISIONS.—

23 (A) BACKGROUND CHECK AND INVESTIGA-
24 TION.—Each qualified State agency shall estab-
25 lish standards and procedures for conducting

1 background checks and investigations for pur-
2 poses of this subsection.

3 (B) PRIVILEGE.—Any written or oral
4 statement made in the course of an official pro-
5 ceeding of the Secretary or a qualified State
6 agency, by any member thereof, or any witness
7 testifying under oath which is relevant to the
8 purpose of the proceeding and relates to the re-
9 view of an application for a license under this
10 title, is privileged and shall not give rise to li-
11 ability for defamation or relief in any civil ac-
12 tion.

13 (C) ADDITIONAL PRIVILEGE.—Notwith-
14 standing section 552 of title 5, United States
15 Code, or any other Federal, State, or tribal law
16 to the contrary, any communication or docu-
17 ment of an applicant, licensee, significant ven-
18 dor, or affiliate thereof, which is made or trans-
19 mitted pursuant to this title to the Secretary or
20 a qualified State agency or any of their agents
21 or employees, except information that is already
22 public, shall be privileged and shall not be dis-
23 closed by the Secretary or the qualified State
24 agency without the prior written consent of the
25 applicant, licensee, significant vendor, or affil-

1 iate thereof (as applicable), or pursuant to a
2 lawful court order, grand jury subpoena, or
3 similar procedure. To the extent practicable, the
4 Secretary or qualified State agency shall pro-
5 vide timely notice of the proceedings to the ap-
6 plicant, licensee, significant vendor, or affiliate
7 thereof (as applicable).

8 (D) PRESERVATION OF PRIVILEGE RECOG-
9 NIZED UNDER OTHER PROVISIONS OF LAW.—

10 Any privilege recognized under any other appli-
11 cable provision of Federal, State, or tribal law,
12 including attorney-client, physician-patient, and
13 accountant-client privileges, shall not be waived
14 or lost because a document or communication
15 otherwise protected by the privilege is disclosed
16 to the Secretary or a qualified State agency.

17 (E) CONFIDENTIALITY.—Any communica-
18 tion or document, except information that is al-
19 ready public, shall be treated as confidential
20 and may not be disclosed, in whole or part, by
21 the Secretary or a qualified State agency with-
22 out a lawful court order or as otherwise ex-
23 pressly required by law, if the communication
24 or document is—

1 (i) required by the Secretary or quali-
2 fied State agency to be disclosed by the ap-
3 plicant, licensee, or significant vendor, in-
4 cluding applications, financial or earnings
5 information, and criminal records, whether
6 of the applicant or licensee or of any affil-
7 iate, employee, officer, director or signifi-
8 cant vendor thereof, or of any other third
9 party; or

10 (ii) prepared or obtained by an agent
11 or employee of the Secretary or qualified
12 State agency that contains information de-
13 scribed in clause (i).

14 (d) ADDITIONAL REQUIREMENTS FOR A LICENSE.—

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

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

24 (2) ensure, to a reasonable degree of certainty,
25 that the individual placing a bet or wager is phys-

1 ically located in a jurisdiction that has not prohib-
2 ited such bets or wagers at the time the bet or
3 wager is placed;

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

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

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

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

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

23 (8) ensure that any user fee required under
24 subsection (e) is paid to the qualified State agency;

1 (9) ensure, to a reasonable degree of certainty,
2 that Internet poker games are fair and honest, and
3 to prevent, to a reasonable degree of certainty,
4 cheating, including collusion, and use of cheating de-
5 vices, including use of software programs (sometimes
6 referred to as “bots”) that make bets or wagers ac-
7 cording to algorithms; and

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

10 (e) FEES FOR ADMINISTRATIVE EXPENSES.—

11 (1) USER FEES.—

12 (A) IN GENERAL.—The cost of admin-
13 istering this title with respect to each applicant,
14 licensee, and significant vendor, including the
15 cost of any review or examination of a licensee
16 or its significant vendors to ensure compliance
17 with the terms of the license and this title, shall
18 be assessed by the qualified State agency receiv-
19 ing an application or issuing a license against
20 the applicant, licensee, or significant vendor, as
21 the case may be, by written notice in an
22 amount that the qualified State agency deter-
23 mines is necessary to—

1 (i) meet the qualified State agency's
2 expenses in carrying out such administra-
3 tion, review, or examination; and

4 (ii) to cover the qualified State agen-
5 cy's share of the amount determined by the
6 Secretary under paragraph (3) to cover the
7 expenses incurred by the Secretary in car-
8 rying out the provisions of this title.

9 (B) EXPENSES FOR REVIEW OR EXAMINA-
10 TION.—Expenses that are attributable to review
11 or examination of a particular applicant, li-
12 censee, or significant vendor shall be assessed
13 under subparagraph (A) against that applicant,
14 licensee, or significant vendor.

15 (C) EXPENSES FOR GENERAL ADMINISTRA-
16 TION.—Expenses for general administration
17 shall be assessed against all licensees equally.

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

21 (i) be remitted to the Secretary, in the
22 amount of that State's share as deter-
23 mined under paragraph (3) for deposit in
24 the Treasury in accordance with subpara-
25 graph (B) of such paragraph; and

1 (ii)(I) be available to the qualified
2 State agency to cover expenses incurred by
3 the qualified State agency in carrying out
4 the provisions of this title; and

5 (II) not be construed to be Govern-
6 ment funds or appropriated monies, or
7 subject to apportionment for the purposes
8 of any other provision of law.

9 (F) COLLECTION.—

10 (i) REFERRAL.—If a licensee or sig-
11 nificant vendor fails to pay a user fee to a
12 qualified State agency under this para-
13 graph after the assessment of the fee has
14 become final—

15 (I) the qualified State agency
16 may recover the amount assessed by
17 action in a court of the State or In-
18 dian tribe of the qualified State agen-
19 cy or in the appropriate United States
20 district court, along with any costs of
21 collection and attorney fees; and

22 (II) such failure may be grounds
23 for denial of an application for a li-
24 cense under this title or revocation of

1 a license or certificate of suitability
2 under this title.

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

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

12 (2) DIRECT AND EXCLUSIVE OBLIGATION OF
13 LICENSEE.—With respect to a licensee, a user fee
14 shall be the direct and exclusive obligation of the li-
15 censee and may not be deducted from amounts avail-
16 able as deposits to any person placing a bet or wager
17 with the licensee.

18 (3) USER FEES ESTABLISHED BY SEC-
19 RETARY.—

20 (A) IN GENERAL.—The Secretary shall de-
21 termine the funding requirements necessary to
22 meet the Secretary's cost of administering this
23 title and notify each qualified State agency of
24 its proportional share to be collected by such
25 agency under paragraph (1)(A).

1 (B) DISPOSITION OF USER FEES.—

2 Amounts remitted to the Secretary under para-
3 graph (1)(D)(i) shall—

4 (i) be deposited into a separate ac-
5 count in the Treasury to be known as the
6 “Internet Poker Oversight Fund”; and

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

11 (f) APPROVAL OF LICENSE.—

12 (1) IN GENERAL.—A qualified State agency
13 may issue licenses under this title for the operation
14 of an Internet poker facility to any applicant that—

15 (A) owns or controls a company that oper-
16 ates a casino gaming facility, qualified race
17 track, or qualified card room and owned or con-
18 trolled such facility, race track, or card room on
19 the date that is 10 days before the date of the
20 enactment of this Act;

21 (B) for the duration of the 5-year period
22 ending on the date on which the applicant sub-
23 mits an application under subsection (b)(1),
24 owned or controlled a casino gaming facility,
25 qualified race track, or qualified card room;

1 (C) is owned or controlled by a person
2 who—

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

10 (ii) for the duration of the 5-year pe-
11 riod ending on the date on which the appli-
12 cant submits an application under sub-
13 section (b)(1), owned or controlled a casino
14 gaming facility, qualified race track, or
15 qualified card room;

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

22 (i) not fewer than 500 slot machines;

23 or

24 (ii) qualified mobile gaming systems;

25 and

1 (E) meets other criteria established by the
2 Secretary or by the qualified State agency
3 under this title.

4 (3) EXPANSION OF LICENSEES ONLY IF NO
5 RISK TO PUBLIC.—Beginning on the date that is 2
6 years after the date of first issuance specified in sec-
7 tion 115(b), the Secretary may, by rule, authorize
8 the issuance of licenses to applicants other than
9 those described in paragraph (2) if the Secretary de-
10 termines, after providing the public with notice and
11 an opportunity to comment, that such authorization
12 will not significantly increase the risk that the
13 standards described in subsection (d) will not be sat-
14 isfied by licensees.

15 (4) AUTHORITY OF SECRETARY TO REVOKE LI-
16 CENSES.—Notwithstanding any certificate of suit-
17 ability or license issued by a qualified State agency,
18 the Secretary may suspend or revoke such certificate
19 or license if the Secretary has reason to believe that
20 the recipient does not meet the suitability require-
21 ments established under subsection (c) or, as appli-
22 cable, any other requirement imposed on a licensee
23 under this title. The Secretary may not overturn a
24 decision by a qualified State agency to deny or to

1 terminate a license or to deny or revoke a certificate
2 of suitability.

3 (5) CONFLICTS BETWEEN QUALIFIED STATE
4 AGENCIES.—If a qualified State agency denies a li-
5 cense, terminates a license, denies a certificate of
6 suitability, or revokes a certificate of suitability to a
7 person and within 12 months of such denial, termi-
8 nation, or revocation another qualified State agency
9 grants such person a license or certificate of suit-
10 ability, the Secretary shall—

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

13 (B) not later than 90 days after such com-
14 mencement, determine whether to act under
15 paragraph (4).

16 (6) CONTROL DEFINED.—In this subsection,
17 the term “control” means, with respect to a person,
18 the possession, directly or indirectly, of the power to
19 direct or influence the direction of the management
20 or policies of the person, whether through the owner-
21 ship of voting securities, through a management, ex-
22 ecutive officer, or board position, by shareholders or
23 similar agreement, or otherwise.

24 (g) LOCATION OF REMOTE GAMING EQUIPMENT.—

25 A licensee shall maintain its remote gaming equipment

1 within the territory of the United States throughout the
2 term of its license. A qualified State agency may require
3 applicants that seek a license from such qualified State
4 agency to locate that equipment within the territory of the
5 State or Indian tribe of the qualified State agency if the
6 qualified State agency determines that such requirement
7 will advance the regulatory interests of this title.

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

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

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

24 (2) TRANSFER.—A transfer of a license, change
25 of control of a licensee, or change in significant ven-

1 dor shall require prior approval by the qualified
2 State agency that issued the license. The qualified
3 State agency shall at a minimum ensure the suit-
4 ability requirements of subsection (c) continue to be
5 satisfied before approving any such transfer or
6 change.

7 (j) ADMINISTRATIVE PROVISIONS.—

8 (1) DETERMINATION OF INTERNET POKER.—

9 (A) INITIAL DETERMINATION BY QUALI-
10 FIED STATE AGENCY.—A determination of
11 whether a game, hand, tournament, or other
12 contest of a licensee is Internet poker shall be
13 made in the first instance by the qualified State
14 agency that issued the license to such licensee
15 under this title.

16 (B) CHALLENGES.—

17 (i) CHALLENGE MADE WITH SEC-
18 RETARY.—A licensee or qualified State
19 agency may file a challenge with the Sec-
20 retary regarding any determination of the
21 State agency under subparagraph (A) that
22 a game, hand, tournament, or other con-
23 test of another licensee is Internet poker.

24 (ii) DETERMINATION MADE BY SEC-
25 RETARY WITHIN 30 DAYS.—If a challenge

1 is made under clause (i), the Secretary
2 shall make a determination of whether the
3 game, hand, tournament, or other contest
4 is Internet poker not later than 30 days
5 after the date on which the challenge is
6 made.

7 (iii) OPERATION UNTIL DETERMINA-
8 TION.—A licensee that offers a game,
9 hand, tournament, or other contest that is
10 challenged under clause (i) may continue
11 to offer such game, hand, tournament, or
12 other contest until the Secretary makes a
13 determination under clause (iii).

14 (C) APPEALS.—Not later than 30 days
15 after the date on which the Secretary makes a
16 determination under subparagraph (B)(iii), a li-
17 censee or a qualified State agency may appeal
18 such determination to the United States Dis-
19 trict Court for the District of Columbia. Such
20 court shall set aside the Secretary's determina-
21 tion if the court determines that the Secretary's
22 determination was—

23 (i) arbitrary, capricious, an abuse of
24 discretion, or otherwise not consistent with
25 law; or

1 (ii) without observance of procedure
2 required by law.

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

10 (3) SUMMONS.—

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

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

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

22 (ii) designated location in the State or
23 Indian lands of the applicable qualified
24 State agency; or

1 (iii) designated location in the District
2 of Columbia.

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

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

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

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

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

23 (iii) the person summoned carries on
24 business or may be found.

1 (F) POWER OF COURTS TO COMPEL AP-
 2 PEARANCE.—The court may issue an order re-
 3 quiring the person summoned to appear before
 4 the Secretary—

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

7 (ii) to give testimony as may be nec-
 8 essary to explain how such material was
 9 compiled and maintained;

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

12 (iv) to pay the costs of the proceeding.

13 (G) CONTUMACY OR REFUSAL.—Any fail-
 14 ure to obey the order of the court under this
 15 paragraph may be punished by the court as a
 16 contempt thereof. All process in any case under
 17 this subsection may be served in any judicial
 18 district in which such person may be found.

19 **SEC. 105. ENFORCEMENT.**

20 (a) DISCIPLINARY ACTION.—

21 (1) IN GENERAL.—A licensee may be subject to
 22 disciplinary action, including suspension or revoca-
 23 tion of its license, by a qualified State agency that
 24 issued a license to the licensee or by the Secretary
 25 if the licensee fails to comply with any provision of

1 this title, any regulation prescribed thereunder, or
2 any other applicable provision of State or tribal law.

3 (2) INITIATING AGENCY.—Only the Secretary
4 or the qualified State agency which granted the li-
5 cense may initiate disciplinary action under this
6 title.

7 (3) SAVINGS PROVISION.—Nothing in this sub-
8 section shall be construed to prohibit a law enforce-
9 ment authority or regulatory body that has authority
10 over a licensee or an affiliated person, independent
11 from this title, from taking action under the law of
12 that law enforcement authority or regulatory body.

13 (4) DISCIPLINARY PROCEDURES.—

14 (A) IN GENERAL.—A qualified State agen-
15 cy shall commence disciplinary action under this
16 subsection against a licensee upon service of a
17 formal written complaint upon the licensee,
18 with a copy forwarded to the Secretary, that
19 sets forth the grounds for the disciplinary ac-
20 tion and the proposed penalty that is being
21 sought, which may include any or all of the im-
22 position of a fine as provided pursuant to sub-
23 section (m)(1) or limitation, condition, suspen-
24 sion or revocation of the license.

1 (B) IN ACCORDANCE WITH LAW OF JURIS-
2 DICTION OF QUALIFIED STATE AGENCY.—The
3 disciplinary process shall proceed according to
4 the law of the jurisdiction of the applicable
5 qualified State agency.

6 (5) FINALITY OF ACTION AND APPEALS.—

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

9 (B) ACTION BY QUALIFIED STATE AGEN-
10 CIES.—A licensee aggrieved by disciplinary ac-
11 tion by a qualified State agency may file an ap-
12 peal in the jurisdiction where the qualified
13 State agency taking such action is located only
14 to the extent permitted by the law of such juris-
15 diction.

16 (C) ACTION BY SECRETARY.—A licensee
17 aggrieved by disciplinary action by the Sec-
18 retary may file an appeal in the United States
19 District Court for the District of Columbia.
20 Such court shall set aside the action if it deter-
21 mines that the action was—

22 (i) arbitrary, capricious, an abuse of
23 discretion, or otherwise not consistent with
24 law; or

1 (ii) without observance of procedure
2 required by law.

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

11 (A) the appellant has a reasonable likeli-
12 hood of success on the merits; and

13 (B) allowing the appellant to continue of-
14 fering bets and wagers while the appeal is pend-
15 ing will not threaten the public interest.

16 (7) RETURN OF CUSTOMER FUNDS.—If a li-
17 censee's license is revoked and no appeal pursuant
18 to paragraph (5) is pending, the licensee shall—

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

22 (B) place in escrow those sums return of
23 which to United States customers is not feasible
24 due to change in customer address, bank de-
25 tails, or similar difficulty, in an account with a

1 financial institution in the United States for
2 safekeeping and orderly disposition by the Sec-
3 retary.

4 (8) REFERRAL TO ATTORNEY GENERAL.—If, in
5 the course of carrying out the provisions of this title,
6 the Secretary or a qualified State agency finds a
7 substantial basis to believe that a person has vio-
8 lated section 103, the Secretary or qualified State
9 agency shall refer such matter to the Attorney Gen-
10 eral.

11 (b) CIVIL MONEY PENALTIES.—

12 (1) IN GENERAL.—

13 (A) PENALTIES ASSESSED BY QUALIFIED
14 STATE AGENCIES.—A qualified State agency
15 may assess upon any licensee or other person
16 subject to the requirements of this title for each
17 violation of this title or any regulation pre-
18 scribed or order issued under this title, a civil
19 penalty of not more than the greater of—

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

22 (ii) \$250,000 for an individual and
23 \$750,000 for a corporation; or

1 (iii) such other amount as provided
2 under the applicable State or tribal law of
3 the qualified State agency.

4 (B) PENALTIES ASSESSED BY SEC-
5 RETARY.—The Secretary may assess upon any
6 licensee or other person subject to the require-
7 ments of this title for each violation of this title
8 or any regulation prescribed or order issued
9 under this title, a civil penalty of not more than
10 the greater of—

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

13 (ii) \$250,000 for an individual and
14 \$750,000 for a corporation.

15 (C) NOT CUMULATIVE.—

16 (i) IN GENERAL.—The penalties au-
17 thorized under subparagraphs (A) and (B)
18 shall not be cumulative and only one such
19 penalty may be assessed per violation.

20 (ii) CONSTRUCTION.—Clause (i) shall
21 not be construed to limit the authority of
22 a qualifying body or the Secretary, as the
23 case may be, to pursue a civil penalty for
24 each violation of a related series of viola-
25 tions.

(D) FAILURE TO OBTAIN A LICENSE.—

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

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

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

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

(2) ASSESSMENT.—

(A) ENFORCEMENT BY QUALIFIED STATE AGENCIES.—Qualified State agencies and such other entities as are authorized by applicable State law shall enforce the provisions of this

1 title under the law of the applicable State or In-
2 dian tribe, and penalties shall be determined,
3 reviewable, collectable, and disposed of as pro-
4 vided under such law.

5 (B) ENFORCEMENT BY SECRETARY.—

6 (i) WRITTEN NOTICE.—Any penalty
7 imposed under paragraph (1)(B) shall be
8 assessed and collected by the Secretary by
9 written notice.

10 (ii) FINALITY OF ASSESSMENT.—If,
11 with respect to any assessment under para-
12 graph (1)(B), a hearing is not requested
13 pursuant to clause (v) within the period of
14 time allowed under such clause, the assess-
15 ment shall constitute a final agency order.

16 (iii) AUTHORITY TO MODIFY OR
17 REMIT PENALTY.—The Secretary may
18 compromise, modify, or remit any penalty
19 which the Secretary may assess or has al-
20 ready assessed under paragraph (1)(B).

21 (iv) MITIGATING FACTORS.—In deter-
22 mining the amount of any penalty imposed
23 under paragraph (1)(B), the Secretary
24 shall take into account the appropriateness

1 of the penalty with respect to the fol-
2 lowing:

3 (I) The size of the financial re-
4 sources and the good faith of the per-
5 son against whom the penalty is as-
6 sessed.

7 (II) The gravity of the violation.

8 (III) The history of previous vio-
9 lations.

10 (IV) Such other matters as jus-
11 tice may require.

12 (v) HEARING.—The person against
13 whom any penalty is assessed under para-
14 graph (1)(B) shall be afforded an agency
15 hearing if such person submits a request
16 for such hearing not later than 20 days
17 after the date of the issuance of the notice
18 of assessment.

19 (vi) COLLECTION.—

20 (I) REFERRAL.—If any person
21 fails to pay an assessment after any
22 penalty assessed under this subpara-
23 graph has become final, the Secretary
24 shall recover the amount assessed by

1 action in the appropriate United
2 States district court.

3 (II) SCOPE OF REVIEW.—In any
4 civil action under subclause (I), the
5 validity and appropriateness of the
6 penalty shall be subject to review for
7 abuse of agency discretion.

8 (vii) DISBURSEMENT.—All penalties
9 collected under authority of paragraph
10 (1)(B) shall be deposited into the Treasury
11 of the United States.

12 (3) CONDITION FOR LICENSURE.—Payment by
13 a licensee of any civil penalty assessed under this
14 subsection that has become final shall be a require-
15 ment for the retention of its license.

16 **SEC. 106. COMPULSIVE GAMING, RESPONSIBLE GAMING,**
17 **AND SELF-EXCLUSION PROGRAM REQUIRE-**
18 **MENTS.**

19 (a) REGULATIONS REQUIRED.—Each qualified State
20 agency shall, before issuing any licenses under this title,
21 establish requirements for the development of a Compul-
22 sive Gaming, Responsible Gaming, and Self-Exclusion
23 Program that each licensee of that qualified State agency
24 shall implement as a condition of licensure. Such require-
25 ments shall also provide for the establishment of a pro-

1 gram to alert the public to the existence, consequences,
2 and availability of the self-exclusion list established under
3 subsection (c).

4 (b) MINIMUM REQUIREMENTS.—At a minimum, each
5 qualified State agency shall require that licensees—

6 (1) provide informational materials written in
7 plain language about responsible gaming, including
8 information about the self-exclusion list established
9 under subsection (c) and how a player may request
10 placement on the list, each time a player signs in to
11 make a bet or wager, which materials shall be pro-
12 vided via a prominently displayed hyperlink or com-
13 parable mechanism;

14 (2) provide informational materials about re-
15 sponsible gaming to any player that requests such
16 materials;

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

24 (4) ensure to a reasonable degree of certainty
25 that persons on the list of self-excluded persons es-

1 tablished pursuant to subsection (c) are prevented
2 from initiating any bets or wagers within the scope
3 of this title; and

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

9 (c) LIST OF PERSONS SELF-EXCLUDED.—

10 (1) ESTABLISHMENT.—

11 (A) LISTS MAINTAINED BY QUALIFIED
12 STATE AGENCIES.—Each qualified State agency
13 shall establish and maintain a list of persons
14 self-excluded from playing Internet poker
15 through Internet poker facilities licensed by the
16 qualified State agency. Each week, each quali-
17 fied State agency shall submit to the Secretary
18 a current copy of the list.

19 (B) MASTER LIST MAINTAINED BY SEC-
20 RETARY.—The Secretary shall establish and
21 maintain a master list of all persons self-ex-
22 cluded from playing Internet poker through
23 Internet poker facilities licensed under this title.
24 Such list shall consist of all persons submitted
25 under subparagraph (A). The Secretary shall

1 make the master list available to all qualified
2 State agencies and licensees.

3 (C) PLACEMENT REQUEST.—Any person
4 may request placement on the list of self-ex-
5 cluded persons by—

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

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

16 (2) LIMITATION ON LIABILITY.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), the United States, the Sec-
19 retary, a qualified State agency, the State or
20 Indian tribe in which that qualified State agen-
21 cy is located, an enforcement agent, licensee, or
22 any employee or agent thereof, shall not be lia-
23 ble to any self-excluded person or to any other
24 party in any judicial or administrative pro-

ceeding for any harm, monetary or otherwise,
which may arise as a result of—

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

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

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

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

(C) RULE OF CONSTRUCTION.—Nothing in
this paragraph shall be construed to prevent the
Secretary or a qualified State agency from as-
sessing a regulatory sanction against a licensee
or person for failing to comply with a provision
of this section or a regulation prescribed there-

1 under or for misuse of any list of self-excluded
2 persons for purposes not authorized under this
3 section.

4 (3) DISCLOSURE PROVISIONS.—

5 (A) IN GENERAL.—Notwithstanding any
6 other provision of Federal, State, or tribal law,
7 the list of self-excluded persons shall not be
8 open to public inspection.

9 (B) AFFILIATE DISCLOSURE.—If necessary
10 to effectuate the self-exclusion purposes of this
11 subsection, any licensee may disclose the identi-
12 ties of persons on the self-excluded list to any
13 significant vendor, service provider, or affiliated
14 company to the extent that the significant ven-
15 dor, service provider, or affiliated company
16 maintains such information under confiden-
17 tiality provisions comparable to those in this
18 subsection.

19 (d) GAMING BY PROHIBITED PERSONS.—

20 (1) PROHIBITION ON BENEFITTING FROM PRO-
21 HIBITED GAMING ACTIVITY.—A person who is pro-
22 hibited from gaming with a licensee by law, or by
23 order of the Secretary, a qualified State agency, or
24 any court of competent jurisdiction, including any
25 person on the self-exclusion list under subsection (c),

1 shall not collect, in any manner or proceeding, any
2 winnings or recover any losses arising as a result of
3 any prohibited gaming activity.

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

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

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

20 (1) IN GENERAL.—When it is made known to
21 the Secretary or a qualified State agency by a Fed-
22 eral or State court or a competent State agency in-
23 volved with the administration or enforcement of a
24 court-ordered child support payment that a par-
25 ticular individual is delinquent with respect to court-

1 ordered child support payments, the Secretary shall
2 include that individual on the list established under
3 subsection (c).

4 (2) REMOVAL FROM LIST.—Individuals placed
5 on the list pursuant to paragraph (1) shall be re-
6 moved from such list if the court or agency that
7 made such individual's delinquency known to the
8 Secretary notifies the Secretary that such individual
9 is no longer delinquent.

10 (f) ADMINISTRATIVE PROVISIONS.—

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

17 (2) NO CAUSE OF ACTION.—The Secretary, a
18 qualified State agency, a licensee, and any employee
19 or agent thereof, shall not be liable to any person in
20 any proceeding for losses or other damages of any
21 kind arising out of that person's gaming activities
22 based on a claim that the person was a compulsive,
23 problem, or pathological player.

1 **SEC. 107. PROHIBITIONS AND RESTRICTIONS.**

2 (a) PROHIBITION ON BETS OR WAGERS ON SPORT-
3 ING EVENTS AND GAMES OTHER THAN INTERNET
4 POKER.—

5 (1) IN GENERAL.—No provision of this title
6 shall be construed to authorize any licensee to accept
7 a bet or wager on—

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

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

12 (2) CONSTRUCTION.—Nothing in this title shall
13 be construed to repeal or to amend any provision of
14 Federal or State law prohibiting, restricting, or oth-
15 erwise addressing bets or wagers on sporting events,
16 including provisions of Federal and State law that
17 permit participation in any fantasy or simulation
18 sports games.

19 (b) PROHIBITION ON THE USE OF CREDIT CARDS
20 FOR INTERNET GAMBLING.—

21 (1) IN GENERAL.—No licensee, no person oper-
22 ating on behalf of a licensee, and no person accept-
23 ing payment for or settlement of a bet or wager who
24 intends to transmit such payment to a person li-
25 censee, may accept a bet or wager or payment for
26 or settlement of a bet or wager that is transmitted

1 or otherwise facilitated with a credit card (as defined
2 in section 5362(11) of title 31, United States Code).

3 (2) EXCEPTION.—

4 (A) CLARIFICATION AND SCOPE.—For any
5 person licensed to take bets or wagers in ac-
6 cordance with the Interstate Horseracing Act of
7 1978, the prohibition in paragraph (1) shall
8 only apply to those activities conducted pursu-
9 ant to a license under this title.

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

16 (c) PUBLIC INTERNET POKER PARLORS PROHIB-
17 ITED.—

18 (1) IN GENERAL.—It shall be considered a vio-
19 lation of this title to operate a place of public accom-
20 modation, club (including a club or association lim-
21 ited to dues-paying members or similar restricted
22 groups), or similar establishment in which computer
23 terminals or similar access devices are made avail-
24 able to be used principally for the purpose of access-
25 ing Internet gambling facilities.

1 (2) CRIMINAL PENALTIES.—Any person who
2 violates subsection (a) shall be fined under title 18,
3 United States Code, imprisoned for not more than
4 5 years, or both.

5 (3) CONSTRUCTION.—Nothing in this title shall
6 be construed to authorize or otherwise to permit the
7 operation of places of public accommodation, clubs
8 (including clubs or associations limited to dues-pay-
9 ing members or similar restricted groups) and simi-
10 lar establishments that permit access to Internet
11 gambling facilities.

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

19 **SEC. 108. SAFE HARBOR.**

20 It shall be an affirmative defense to any prosecution
21 or enforcement action under any provision of Federal,
22 State, or tribal law that the activity forming the basis of
23 such prosecution or enforcement action is authorized
24 under and has been carried out lawfully in accordance with
25 and under the terms of—

1 (1) this title; or

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

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

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

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

10 (2) that is permissible under the Interstate
11 Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

12 **SEC. 110. CHEATING AND OTHER FRAUD.**

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

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

24 (2) CHEATING DEVICES.—Except as provided in
25 paragraph (3), no person initiating, receiving, or

1 otherwise making a bet or wager with a licensee, or
2 sending, receiving, or inviting information assisting
3 with a bet or wager with a licensee shall knowingly
4 use, possess, or assist another in the use of, an elec-
5 tronic, electrical, or mechanical device or software or
6 other program or tool which is designed, con-
7 structed, or programmed specifically for use in ob-
8 taining an advantage in any game authorized under
9 this title, where such advantage is prohibited or oth-
10 erwise violates the rules of play established by the li-
11 censee.

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

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

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

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

23 (4) DISCLOSURE TO PUBLIC NOT REQUIRED.—
24 Notwithstanding any other provision of law, a reg-

1 istration under paragraph (3)(C) is not required to
2 be made available to the public.

3 (b) ADDITIONAL OFFENSE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (3), no person initiating, receiving, or other-
6 wise making a bet or wager with a licensee, or send-
7 ing, receiving, or inviting information assisting with
8 a bet or wager with a licensee, shall knowingly use,
9 possess, or assist another in the use of any cheating
10 device with intent to cheat or defraud any licensee
11 or other persons placing bets or wagers with such li-
12 censee.

13 (2) BOTS.—A software program that makes
14 bets or wagers according to an algorithm shall con-
15 stitute a type of cheating device under this sub-
16 section.

17 (3) PERMISSIBLE USES.—It shall not be a vio-
18 lation of this subsection for a licensee, its agents, a
19 qualified State agency, or its agent to use or posses
20 a device described in paragraph (1) or (2) if—

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

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

1 (C) such device is registered with the
2 qualified State agency that issued the applicable
3 license.

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

8 (c) PERMANENT INJUNCTION.—Upon conviction of a
9 person for violation of this section, the court may enter
10 a permanent injunction enjoining such person from initi-
11 ating, receiving, or otherwise making bets or wagers or
12 sending, receiving, or inviting information assisting in the
13 placing of bets or wagers.

14 (d) CRIMINAL PENALTY.—Whoever violates sub-
15 section (a) or (b) shall be fined under title 18, United
16 States Code, or imprisoned for not more than 3 years, or
17 both.

18 (e) REPORTS.—

19 (1) RECOMMENDED MINIMUM STANDARDS.—
20 Not later than 180 days after the date of the enact-
21 ment of this Act, the Secretary shall submit to Con-
22 gress a report containing the recommendations of
23 the Secretary on what minimum standards quali-
24 fying bodies should adopt to carry out the require-
25 ments of subsection (a).

1 (2) IDENTIFICATION OF THREATS TO OPER-
2 ATION OF INTERNET POKER FACILITIES.—Not later
3 than 1 year after the date that licenses are first
4 issued under section 118(a), the Director of the Na-
5 tional Institute of Standards and Technology shall
6 submit to Congress a report that identifies threats
7 to the integrity of Internet poker facilities operated
8 by licensees, including identification of technologies
9 that could be used to hack computer networks, fa-
10 cilitate cheating, or otherwise place consumers at
11 risk of fraud or monetary loss.

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

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

1 wire or wireless communication facility, service, or me-
2 dium.

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

4 (a) NO IMPACT ON EXISTING LAWFUL GAMES.—

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

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

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

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

20 (b) NO EFFECT ON EXISTING LAW.—Nothing in this
21 section shall be construed to repeal, to amend, or to affect
22 the interpretation of any provision of Federal or State law
23 that was in effect before the date of the enactment of this
24 Act that—

1 (1) prohibits, restricts, or otherwise addresses
2 bets or wagers; or

3 (2) prohibits fraud, unfair or deceptive acts or
4 practices, or other criminal activity.

5 (c) PREEMPTION OF STATE AND TRIBAL LAWS.—

6 (1) IN GENERAL.—Except as otherwise ex-
7 pressly provided in this title, the provisions of this
8 title shall supersede any provisions of the law of any
9 State or Indian tribe expressly relating to the per-
10 mitting, prohibiting, licensing, or regulating of Inter-
11 net gambling facilities, including Internet poker fa-
12 cilities, and the law of any State or Indian tribe ex-
13 pressly relating to the permitting, prohibiting, licens-
14 ing, or regulation of gambling, except to the extent
15 such State or tribal laws are not inconsistent with
16 this title.

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

22 (3) SAVINGS PROVISION.—Nothing in this title
23 may be construed to limit the applicability or en-
24 forcement of any State or tribal consumer protection

1 law or preempt the applicability of State or tribal
2 trespass, contract, or tort law.

3 (d) RELATION TO GAMBLING DEVICES TRANSPOR-
4 TATION ACT.—Equipment used by a licensee or significant
5 vendor in the furtherance of licensed activities pursuant
6 to this title (but not to the extent it is used for other pur-
7 poses) shall not be considered a gambling device within
8 the meaning of section 1 of the Act of January 2, 1951,
9 prohibiting the transportation of gambling devices in
10 interstate and foreign commerce (15 U.S.C. 1171).

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

14 “(f) This section, subchapter IV of chapter 53 of title
15 31, and any other provision of Federal law that establishes
16 criminal penalties for any activity involved in placing, re-
17 ceiving, or otherwise transmitting a bet or wager, informa-
18 tion assisting in the placing of bets or wagers, or a com-
19 munication which entitles the recipient to receive money
20 or credit as a result of bets or wagers, shall not apply
21 to any activity that is permissible under the Interstate
22 Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) or title
23 I of the Internet Gambling Prohibition, Poker Consumer
24 Protection, and Strengthening UIGEA Act of 2011.”.

1 (f) NO IMPACT ON INDIAN GAMING REGULATORY
2 ACT.—

3 (1) IN GENERAL.—No provision of this title or
4 decision or action taken by an Indian tribe or State
5 pursuant to this title shall have any effect on non-
6 Internet gaming activities within the scope of section
7 of the Indian Gaming Regulatory Act (25 U.S.C.
8 2710) or any successor provisions or on any Tribal-
9 State compacts or authorities pursuant thereto.

10 (2) TRIBAL STATUS OR CATEGORY NOT AF-
11 FECTED.—Tribal operation of Internet poker facili-
12 ties under this title shall not be considered class II
13 or class III gaming under such section, and an In-
14 dian tribe's status, category, or class under such sec-
15 tion shall not impact its status or ability to offer
16 bets or wagers pursuant to this title.

17 (3) NEW NEGOTIATIONS NOT REQUIRED.—

18 (A) INDIAN TRIBES.—The fact that an In-
19 dian tribe is operating under a license issued
20 pursuant to this title or that a tribal regulatory
21 body is acting as a qualified body pursuant to
22 this title shall not require an Indian tribe to ne-
23 gotiate a new agreement, limitation, or other
24 provision of tribal-State compact, agreement, or
25 other understanding with respect to gaming or

1 revenue-sharing, with regard to any bet or
2 wager occurring pursuant to a license issued
3 under this title.

4 (B) STATES.—The fact that a State has
5 prohibited or limited Internet bets or wagers
6 under section 104(a)(3) or that a State regu-
7 latory body is acting as a qualified body pursu-
8 ant to this title shall not require the State to
9 negotiate a new agreement, limitation, or other
10 provision of tribal-State compact, agreement, or
11 other understanding with respect to gaming or
12 revenue-sharing, with regard to any bet or
13 wager occurring pursuant to a license issued
14 under this title.

15 **SEC. 113. REGULATIONS.**

16 Not later than 180 days after the date of the enact-
17 ment of this Act, the Secretary shall prescribe such regula-
18 tions as the Secretary considers necessary and where ex-
19 pressly required or authorized to carry out this title.

20 **SEC. 114. ANNUAL REPORTS.**

21 (a) LICENSING AND REGULATION OF INTERNET
22 POKER FACILITIES.—Not later than 1 year after the date
23 that licenses first issue under this title and annually there-
24 after, the Secretary shall transmit to Congress a report

1 on the licensing and regulation of Internet poker facilities
2 under this title, including—

3 (1) the amount of fees collected under section
4 104(e) and, in cooperation with the Secretary of
5 Treasury, an estimate of the amount of income tax
6 revenue that is attributable to the operation of
7 Internet poker facilities during the period covered by
8 the report;

9 (2) a list of qualified State agencies, the num-
10 ber of licensees reviewed by the qualified State agen-
11 cies under this title, and the outcomes of such re-
12 views;

13 (3) a description of the efforts the Secretary
14 has undertaken to ensure that qualified State agen-
15 cies are properly issuing licenses and regulating li-
16 censees under this title;

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

20 (5) any other information the Secretary deter-
21 mines may be useful to Congress.

22 (c) CONSUMER PROTECTION.—Not later than 1 year
23 after the date that licenses first issue under this title and
24 annually thereafter, the Secretary shall transmit to the
25 Committee on Energy and Commerce of the House of

1 Representatives and the Committee on Commerce,
2 Science, and Transportation of the Senate a report on
3 commercial and regulatory practices carried out to protect
4 consumers with respect to Internet poker, including the
5 practices carried out pursuant to the requirements of sec-
6 tion 106 and the regulations prescribed pursuant to such
7 section. Such report shall include—

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

12 (2) a description of the practices that the Sec-
13 retary recommends qualified State agency to adopt
14 to protect consumers;

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

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

21 **SEC. 115. EFFECTIVE DATE.**

22 (a) IN GENERAL.—Except as otherwise provided in
23 this title, the provisions of this title shall take effect on
24 the date that is 30 days after the date of the enactment
25 of this Act.

(b) REGULATIONS REQUIRED BEFORE ISSUING LICENSES.—Notwithstanding any other provision of this title, a qualified State agency may not issue a license under this title before the later of—

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

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

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

TITLE II—STRENGTHENING OF UNLAWFUL INTERNET GAM- BLING ENFORCEMENT ACT OF 2006

SEC. 201. FINANCIAL TRANSACTION PROVIDERS.

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

1 **“§ 5368. Liability of financial transaction providers**

2 “(a) LIABILITY FOR CERTAIN FINANCIAL ACTIVITIES
3 AND TRANSACTIONS.—A financial transaction provider
4 shall not be held liable for engaging in a financial activity
5 or transaction, including a payments processing activity,
6 in connection with a bet or wager permitted by the Inter-
7 net Gambling Prohibition, Poker Consumer Protection,
8 and Strengthening UIGEA Act of 2011 or the Interstate
9 Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) unless
10 the financial transaction provider has actual knowledge
11 that the financial activity or transaction was conducted
12 in violation of either such Act or any other applicable pro-
13 vision of Federal or State law.

14 “(b) NO LIABILITY FOR BLOCKING OR REFUSING TO
15 HONOR CERTAIN TRANSACTIONS.—

16 “(1) IN GENERAL.—A financial transaction pro-
17 vider that takes an action described in paragraph
18 (2) with respect to a transaction shall not be liable
19 to any party for that action if the financial trans-
20 action provider takes the action because the origi-
21 nator of the transaction or a party to the trans-
22 action is—

23 “(A) a person or entity that is included in
24 the list of unlicensed Internet gambling enter-
25 prises required by section 5369(a);

1 “(B) a person or entity that the financial
2 transaction provider reasonably believes is in-
3 cluded in that list;

4 “(C) a person or entity that is included in
5 a list of unlicensed Internet gambling enter-
6 prises made available to the financial trans-
7 action provider by the Secretary under section
8 5369(a)(3);

9 “(D) a person or entity that the financial
10 transaction provider reasonably believes is in-
11 cluded in a list described in subparagraph (C);

12 “(E) a person or entity that is dem-
13 onstrated to be an unlicensed Internet gambling
14 enterprise based on information, other than a
15 list described in subparagraph (C), that is made
16 available to the financial transaction provider;
17 or

18 “(F) a person or entity that the financial
19 transaction provider reasonably believes is dem-
20 onstrated to be an unlicensed Internet gambling
21 enterprise based on information described in
22 subparagraph (E).

23 “(2) ACTIONS DESCRIBED.—A financial trans-
24 action provider takes an action described in this
25 paragraph if the financial transaction provider—

1 “(A) identifies and blocks a transaction;

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

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

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

“5368. Liability of financial transaction providers.”.

11 (c) TECHNICAL CORRECTION.—Section
12 5362(11)(B)(i) of title 31, United States Code, is amend-
13 ed by striking “section 903(6)(E)” and inserting “section
14 903(7)(E)”.

15 **SEC. 202. LIST OF UNLICENSED INTERNET GAMBLING EN-**
16 **TERPRISES.**

17 (a) IN GENERAL.—Subchapter IV of chapter 53 of
18 title 31, United States Code, as amended by section
19 201(a), is further amended by adding at the end the fol-
20 lowing:

21 **“§ 5369. List of unlicensed Internet gambling enter-**
22 **prises**

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

25 “(1) IN GENERAL.—The Director shall—

1 “(A) identify unlicensed Internet gambling
2 enterprises in accordance with the procedures
3 described in subsection (b);

4 “(B) not later than 120 days after the
5 date of the enactment of the Internet Gambling
6 Prohibition, Poker Consumer Protection, and
7 Strengthening UIGEA Act of 2011, submit to
8 the Secretary a list of unlicensed Internet gam-
9 bling enterprises that includes the information
10 described in paragraph (2); and

11 “(C) not less frequently than every 60 days
12 thereafter, submit to the Secretary an updated
13 list that reflects the results of subsequent inves-
14 tigations carried out under this section.

15 “(2) INFORMATION REQUIRED.—The informa-
16 tion described in this paragraph is, with respect to
17 each unlicensed Internet gambling enterprise in-
18 cluded on the list required by paragraph (1), the fol-
19 lowing:

20 “(A) All known Internet Web site address-
21 es of the enterprise.

22 “(B) The name of any person who con-
23 trols, finances, manages, supervises, directs, or
24 owns all or part of the enterprise (as such
25 terms are used in section 1955 of title 18).

1 “(C) To the extent known, information
2 identifying the financial agents and account
3 numbers of the enterprise and the persons de-
4 scribed in subparagraph (B).

5 “(3) DISTRIBUTION OF LIST.—Not later than
6 10 days after receiving the list or an updated version
7 of the list required by paragraph (1) from the Direc-
8 tor, the Secretary shall—

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

13 “(B) provide to each person that is re-
14 quired to comply with the regulations pre-
15 scribed pursuant to section 5364 a copy of the
16 information included with the list required by
17 paragraph (1) in an electronic format compat-
18 ible with the list of Specially Designated Na-
19 tionals and Blocked Persons maintained by the
20 Office of Foreign Assets Control.

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

23 “(1) INVESTIGATIONS.—

24 “(A) INITIAL INVESTIGATION.—Not later
25 than the date that is 60 days after the date of

1 the enactment of the Internet Gambling Prohibi-
2 tion, Poker Consumer Protection, and Strength-
3 ening UIGEA Act of 2011, the Director shall
4 complete an initial investigation of entities that
5 appear to be unlicensed Internet gambling en-
6 terprises.

7 “(B) SUBSEQUENT INVESTIGATIONS.—
8 After completing the initial investigation re-
9 quired by subparagraph (A), the Director shall
10 regularly investigate entities that appear to be
11 unlicensed Internet gambling enterprises.

12 “(2) REQUESTS.—

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

23 “(B) DETERMINATIONS; NOTICE TO PER-
24 SON THAT SUBMITTED A REQUEST.—Not later

1 than 30 days after receiving a request under
2 subparagraph (A), the Director shall—

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

7 “(ii) notify the person that submitted
8 the request of the determination of the Di-
9 rector.

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

16 “(4) OPPORTUNITY TO CONTEST.—

17 “(A) IN GENERAL.—A person that receives
18 notice under paragraph (3) that the Director
19 has determined to include the person in the list
20 of unlicensed Internet gambling enterprises re-
21 quired by subsection (a) may, not later than 30
22 days after receiving the notice, contest the de-
23 termination—

24 “(i) by submitting a written appeal to
25 the Director; and

1 “(ii) by agreeing in the written appeal
2 to submit to the jurisdiction of the United
3 States.

4 “(B) EFFECT OF NOT CONTESTING.—If a
5 person described in subparagraph (A) does not
6 contest the determination of the Director to in-
7 clude the person in the list of unlicensed Inter-
8 net gambling enterprises required by subsection
9 (a) in accordance with subparagraph (A), the
10 Director shall include the person in the list.

11 “(5) OPPORTUNITY FOR HEARING.—The Direc-
12 tor—

13 “(A) may not include a person that sub-
14 mits a written appeal pursuant to paragraph
15 (4) in the list of unlicensed Internet gambling
16 enterprises required by subsection (a) until the
17 Director provides the person with an oppor-
18 tunity for a hearing; and

19 “(B) shall provide the person the oppor-
20 tunity for a hearing not later than 30 days
21 after receiving the written appeal from the per-
22 son.

23 “(6) DETERMINATIONS AFTER HEARING.—Not
24 later than 10 days after the date of a hearing pro-
25 vided for a person under paragraph (5) (without re-

1 gard to whether the person appears at the hearing),
2 the Director shall—

3 “(A) determine if the person should be in-
4 cluded in the list of unlicensed Internet gam-
5 bling enterprises required by subsection (a);
6 and

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

10 “(7) INJUNCTIVE RELIEF.—

11 “(A) IN GENERAL.—A person described in
12 subparagraph (B) may petition for injunctive
13 relief in the United States District Court for
14 the District of Columbia, which shall have ex-
15 clusive jurisdiction to hear cases arising under
16 this section.

17 “(B) PERSON DESCRIBED.—A person de-
18 scribed in this subparagraph is a person that
19 the Director determines to include in the list of
20 unlicensed Internet gambling enterprises re-
21 quired by subsection (a)—

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

24 “(ii) that did not receive the notice re-
25 quired by paragraph (3).

1 “(C) BURDEN OF PROOF.—The petitioner
2 shall have the burden of establishing that the
3 person should not be included in the list of unli-
4 censed Internet gambling enterprises required
5 by subsection (a).

6 “(D) STANDING.—Only persons that the
7 Director determines to include in the list of un-
8 licensed Internet gambling enterprises required
9 by subsection (a) and owners or operators of
10 such enterprises shall have standing to contest
11 the determination of the Director.

12 “(E) AVAILABLE RELIEF.—The court may
13 direct the Director and the Secretary not to
14 add, or to remove, the petitioner from the list
15 of unlicensed Internet gambling enterprises.

16 “(F) UNAVAILABILITY OF OTHER REM-
17 EDIES.—There shall be no judicial review of a
18 determination under this section other than
19 pursuant to this paragraph.

20 “(c) EFFECT OF LIST.—A financial transaction pro-
21 vider shall be deemed to have actual knowledge that a per-
22 son or entity is an unlicensed Internet gambling enterprise
23 if—

1 “(1) the person or entity is included in the list
2 of unlicensed Internet gambling enterprises required
3 by subsection (a); or

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

8 “(B) information in addition to the list de-
9 scribed in subparagraph (A) is available to the fi-
10 nancial transaction provider that demonstrates that
11 the person or entity is an unlicensed Internet gam-
12 bling enterprise.

13 “(d) DEFINITIONS.—In this section:

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

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

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

1 hibition, Poker Consumer Protection, and Strength-
2 ening UIGEA Act of 2011—

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

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

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of such chapter 53, as amended by sec-
8 tion 201(b), is further amended by adding at the end the
9 following:

 “5369. Unlicensed Internet gambling enterprises.”.

10 **SEC. 203. REGULATIONS.**

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

14 (1) prescribe regulations to carry out sections
15 5368 and 5369 of title 31, United States Code, as
16 added by sections 201(a) and 202(a), and publish
17 such regulations in final form in the Federal Reg-
18 ister; and

19 (2) prescribe such regulations as the Secretary
20 of the Treasury considers necessary to ensure com-
21 pliance with chapter 2 of title I of Public Law 91–
22 508 (12 U.S.C. 1951 et seq.) and subchapter II of
23 chapter 53 of title 31, United States Code (com-
24 monly known, collectively, as the “Bank Secrecy
25 Act”), by licensees, significant vendors to such li-

1 censees, and financial service providers to such li-
2 censees (as such terms are defined in section 102).

3 (b) EXCLUSION OF BOARD OF GOVERNORS OF THE
4 FEDERAL RESERVE SYSTEM FROM REQUIREMENT TO
5 PRESCRIBE REGULATIONS CONCERNING PREVENTION OF
6 RESTRICTED TRANSACTIONS.—Subsection (a) of section
7 5364 of title 31, United States Code, is amended by strik-
8 ing “Before the end of the 270-day period beginning on
9 the date of the enactment of this subchapter, the Sec-
10 retary and the Board of Governors of the Federal Reserve
11 System, in consultation with the Attorney General, shall
12 prescribe regulations (which the Secretary and the Board
13 jointly determine to be appropriate)” and inserting “The
14 Secretary shall prescribe regulations”.

15 (c) TEMPORARY SUSPENSION OF CERTAIN REGULA-
16 TIONS.—

17 (1) IN GENERAL.—Subject to paragraph (2),
18 during the period beginning on the date of the en-
19 actment of this Act and ending on the date set forth
20 in subsection (d), part 233 of title 12, Code of Fed-
21 eral Regulations, and part 132 of title 31, Code of
22 Federal Regulations, shall have no force or effect to
23 the extent that those regulations require or impose
24 any obligation that is inconsistent with the provi-
25 sions of title I.

1 (2) PREVIOUS VIOLATION.—Paragraph (1) shall
2 not apply with respect to any violation of a regula-
3 tion described in such paragraph that occurred be-
4 fore the date of the enactment of this Act.

5 (d) REVISION OF REGULATIONS.—Not later than 180
6 days after the date of the enactment of this Act, the Sec-
7 retary of the Treasury shall revise part 233 of title 12,
8 Code of Federal Regulations, and part 132 of title 31,
9 Code of Federal Regulations, to conform with the provi-
10 sions of title I.

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

17 (1) The size of the list.

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

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

23 **SEC. 204. CONFORMING AMENDMENTS.**

24 (a) DUTIES AND POWERS OF THE DIRECTOR OF THE
25 FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section

1 310(b)(2)(I) of title 31, United States Code, is amended
 2 by striking “subchapter II” and inserting “subchapters II
 3 and IV”.

4 (b) EXCLUSION OF LICENSED INTERNET POKER FA-
 5 CILITY OPERATIONS FROM DEFINITION OF UNLAWFUL
 6 INTERNET GAMBLING ENTERPRISE.—Section 5362(10)
 7 of such title is amended—

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

10 (2) by redesignating subparagraph (E) as sub-
 11 paragraph (F); and

12 (3) by inserting after subparagraph (D) the fol-
 13 lowing:

14 “(E) LICENSED INTERNET POKER FACILI-
 15 TIES.—The term ‘unlawful Internet gambling’
 16 does not include an activity carried out by an
 17 Internet poker facility, as such term is defined
 18 in section 102 of the Internet Gambling Prohi-
 19 bition, Poker Consumer Protection, and
 20 Strengthening UIGEA Act of 2011, operated by
 21 a person under a license provided under title I
 22 of such Act in accordance with the provisions of
 23 such title.”.

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