

111TH CONGRESS
2D SESSION

S. _____

To prohibit Internet gambling, to regulate Internet poker, to provide consumer protections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To prohibit Internet gambling, to regulate Internet poker,
to provide consumer protections, 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 “Prohibition of Internet Gambling, Internet Poker Regu-
6 lation, and Strengthening UIGEA Act of 2010”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITION ON UNLICENSED INTERNET GAMBLING
AND REGULATION OF INTERNET POKER

- Sec. 101. Findings.
- Sec. 102. Definitions.
- Sec. 103. Prohibition on unlicensed Internet gambling.
- Sec. 104. Establishment of licensing program only for Internet poker.
- Sec. 105. Qualified bodies.
- Sec. 106. Office of Internet Poker Oversight.
- Sec. 107. Compulsive gaming, responsible gaming, and self-exclusion program requirements.
- Sec. 108. Prohibition on use of licenses in certain States and Indian lands.
- Sec. 109. Prohibition on bets or wagers on games of chance and sporting events.
- Sec. 110. Public gaming facilities prohibited.
- Sec. 111. Safe harbor.
- Sec. 112. Relation to subchapter IV of chapter 53 of title 31, United States Code.
- Sec. 113. Cheating and other fraud.
- Sec. 114. Inapplicability of certain provisions to interstate off-track wagers.
- Sec. 115. Construction and relation to other law.
- Sec. 116. Regulations.
- Sec. 117. Annual report.
- Sec. 118. Orderly transition.
- Sec. 119. 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.

TITLE III—INTERNET POKER REVENUE PROVISIONS

- Sec. 301. Amendment of 1986 Code.
- Sec. 302. Tax on internet poker; licensee information reporting.
- Sec. 303. Withholding from certain internet poker winnings.
- Sec. 304. Withholding of tax on nonresident aliens.
- Sec. 305. Provisions for State and tribal tax.
- Sec. 306. Foreign licensees subject to United States Federal income tax.
- Sec. 307. No excise tax on internet poker wagering.
- Sec. 308. Elimination of withholding requirement for proceeds from parimutuel pool wagers.
- Sec. 309. Information at source; parimutuel wagers.

TITLE IV—STUDY AND PREVENTION OF PROBLEM AND PATHOLOGICAL GAMBLING

- Sec. 401. State and tribal support for public awareness, research, and treatment programs for problem and pathological gambling.

TITLE V—RESOLUTION OF INTERNATIONAL DISPUTES

- Sec. 501. Resolution of international dispute over Internet gambling.

TITLE VI—SEVERABILITY

- Sec. 601. Severability.

1 **TITLE I—PROHIBITION ON UNLI-**
2 **CENSED INTERNET GAM-**
3 **BLING AND REGULATION OF**
4 **INTERNET POKER**

5 **SEC. 101. FINDINGS.**

6 Congress makes the following findings:

7 (1) Since the development of the Internet, on-
8 line websites offering Internet poker and similar
9 games have raised numerous policy, consumer pro-
10 tection, and enforcement concerns for Federal and
11 State governments as such websites are run by oper-
12 ators located in many different countries and have
13 sought to attract customers from the United States.

14 (2) The Unlawful Internet Gambling Enforce-
15 ment Act of 2006 was intended to aid enforcement
16 efforts against unlawful Internet operators and to
17 limit unlawful Internet gaming involving United
18 States persons.

19 (3) Longstanding Federal policy against gam-
20 bling on professional, scholastic, or amateur sporting
21 events as embodied in the Professional and Amateur
22 Sports Protection Act (28 U.S.C. 3701 et seq.), and
23 all criminal laws prohibiting such gaming, are cru-
24 cial to ensuring the integrity of athletic competition
25 and should remain in full force and effect.

1 (4) Games of chance have traditionally been
2 subject to various forms of Federal and State con-
3 trol and prohibition, and those policy decisions
4 should be respected and enforced, except as altered
5 in this Act.

6 (5) There is some uncertainty about the laws of
7 the United States regarding Internet gambling,
8 though not Internet sports betting. The Department
9 of Justice has maintained that a broad range of ac-
10 tivity is illegal, including activity that Congress in-
11 tended to legalize under the Interstate Horseracing
12 Act of 1978. Certain court decisions have used logic
13 not consistent with the Department of Justice's po-
14 sition. Enforcement efforts would be aided by bring-
15 ing greater clarity to these laws.

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

24 (7) Poker has long been part of the cultural
25 and recreational fabric of the United State.

1 (8) Unlike with many other games that are sub-
2 ject to chance, in the long run the outcome of poker
3 is influenced by the skill of the participants. Poker
4 does contain elements of chance, and for that reason
5 nearly all courts and States have considered poker to
6 be a game of chance for in relation to applicable
7 gaming laws. Nonetheless, over any substantial in-
8 terval, a player's ultimate success is also influenced
9 by that player's relative level of skill. Unlike house-
10 banked games, bets and wagers in poker are made
11 between the participants.

12 (9) Currently, at least 15 States permit licensed
13 commercial poker in some form, including the fol-
14 lowing:

15 (A) California.

16 (B) Colorado.

17 (C) Delaware.

18 (D) Florida.

19 (E) Iowa.

20 (F) Kansas.

21 (G) Michigan.

22 (H) Mississippi.

23 (I) Missouri.

24 (J) Nevada.

25 (K) New Jersey.

1 (L) New Mexico.

2 (M) Ohio.

3 (N) Pennsylvania.

4 (O) West Virginia.

5 (10) The hosting by Internet operators of poker
6 games and tournaments should be controlled by a
7 strict licensing and regulatory framework—

8 (A) to prevent underage wagering and oth-
9 erwise to protect vulnerable individuals;

10 (B) to ensure the games are fair and are
11 conducted honestly;

12 (C) to address the concerns of law enforce-
13 ment; and

14 (D) to ensure that States and Indian
15 tribes that wish to prohibit online gaming may
16 do so.

17 (11) An effective licensing system would ensure
18 that licenses are issued only to Internet operators
19 who—

20 (A) meet strict criteria to protect con-
21 sumers;

22 (B) are in good financial and legal stand-
23 ing;

24 (C) are of good character, honesty, and in-
25 tegrity;

1 (D) utilize appropriate technology to pre-
2 vent those under 21 years of age from partici-
3 pating;

4 (E) adopt and implement systems to pre-
5 vent gambling by compulsive players;

6 (F) have in place risk-based methods—

7 (i) to identify and combat money
8 laundering and fraud; and

9 (ii) to protect the privacy and security
10 of customers;

11 (G) adopt strict internal controls that are
12 subject to audit; and

13 (H) adopt and implement systems to col-
14 lect and remit taxes due.

15 (12) Because there is no interstate gaming reg-
16 ulatory structure in the United States, creating a
17 new interstate Internet poker market would pose
18 complex regulatory and enforcement challenges for
19 regulators. Therefore, a new market should be regu-
20 lated by State and tribal entities that have an estab-
21 lished track record of providing a well-regulated
22 gaming market to United States consumers.

23 (13) Because there is no interstate gaming reg-
24 ulatory structure in the United States, creating a
25 new interstate Internet poker market would pose

1 complex challenges to ensure protection of United
2 States consumers. Therefore, a new market should
3 be limited, at least initially, to service providers that
4 have an established track record of complying with
5 a strict regulatory environment, have an established
6 track record of providing fair games to consumers,
7 and have significant goodwill and assets at stake, in
8 addition to their Internet poker assets, to ensure
9 they would comply strictly with the new regulatory
10 regime.

11 (14) The Internet, by its nature, traverses
12 State boundaries. Any particular transaction may
13 cross a number of State boundaries from origin to
14 destination, and 2 communications between the same
15 parties at different times may travel along markedly
16 different routes, based on factors such as traffic,
17 load capacity, and other technical considerations
18 outside the control of sender and recipient. For that
19 reason, among others, the Federal courts consist-
20 ently have ruled that the Internet is an instrumen-
21 tality and channel of interstate commerce and, as
22 such, is subject to Congress's plenary authority.

23 (15) Effective regulation requires application of
24 the regulatory provisions prescribed in this Act to all
25 persons seeking a license to operate an Internet

1 poker facility, with each State and Indian tribe re-
2 taining the ability to prohibit operators of Internet
3 poker facilities from accepting bets or wagers from
4 persons located within their jurisdictions by pro-
5 viding notice of such determination as prescribed in
6 this title.

7 (16) Licensing and regulating Internet poker
8 facilities would provide additional revenues for the
9 United States and for States in which customers
10 and operators are located and will reduce tax avoid-
11 ance.

12 (17) The United States never intended to in-
13 clude Internet gaming of any kind within the scope
14 of its commitments under the General Agreement
15 for Trade in Services, and therefore, no World
16 Trade Organization Member had any competitive ex-
17 pectation of access to the United States Internet
18 gaming market. Despite these obvious facts, the Dis-
19 pute Settlement Panels and the Appellate Body of
20 the World Trade Organization have determined that
21 such commitments were made in a proceeding
22 brought by the Government of Antigua and Bar-
23 buda, WT/DS285.

24 (18) As a result of the erroneous conclusion of
25 World Trade Organization dispute settlement bodies,

1 the United States has indicated its intention to with-
2 draw that commitment and has initiated the appro-
3 priate process to that end. The United States should
4 conclude this matter expeditiously.

5 (19) Different forms of gaming do not con-
6 stitute like services under the General Agreement for
7 Trade in Services because they raise different regu-
8 latory and policy concerns, require differing meas-
9 ures to protect consumers and to ensure fairness,
10 entail different roles for operators and players, re-
11 quire differing infrastructure and support, are per-
12 ceived differently by consumers and markets, and
13 are grounded in differing cultural and historical con-
14 texts.

15 **SEC. 102. DEFINITIONS.**

16 In this title:

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

20 (2) **BET OR WAGER.**—

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

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

3 (i) INTERSTATE HORSERACING.—A
4 bet or wager that is permissible under the
5 Interstate Horseracing Act of 1978 (15
6 U.S.C. 3001 et seq.).

7 (ii) INTRATRIBAL TRANSACTIONS.—A
8 chance or opportunity to win a lottery or
9 other game authorized by a State or In-
10 dian tribe that is a placing, receiving, or
11 otherwise transmitting of a bet or wager as
12 described in subparagraph (B) of section
13 5362(10) of title 31, United States Code.

14 (iii) INTRASTATE TRANSACTIONS.—
15 Placing, receiving, or otherwise transmit-
16 ting of a bet or wager as described in sub-
17 paragraph (C) of such section 5362(10).

18 (3) CASINO GAMING.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B), the term “casino gaming”
21 means the full range of casino gaming activity
22 licensed by regulatory bodies of States or In-
23 dian tribes that would be qualified as class III
24 gaming under section 4 of the Indian Gaming

1 Regulatory Act (25 U.S.C. 2703), if that Act
2 were applicable to the gaming.

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

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

13 (5) GAMING DEVICE.—

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

20 (B) EXCEPTION.—The term “gaming de-
21 vice” does not include machines that process
22 bets or wagers for parimutuel betting pools.

23 (6) LIVE RACING.—The term “live racing”
24 means, with respect to a qualified race track, the
25 conduct of live thoroughbred horse races at a race-

1 track, but not including any races simulcasted from
2 a separate racetrack.

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

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

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

18 (10) INTERNET POKER.—The term “Internet
19 poker” means a poker game, hand, tournament, or
20 other contest of poker offered through the use of an
21 Internet poker facility.

22 (11) INTERNET POKER FACILITY.—The term
23 “Internet poker facility” means a type of Internet
24 gambling facility that provides bets or wagers only

1 with respect to a game, hand, tournament, or other
2 contest of poker.

3 (12) LICENSEE.—The term “licensee” means a
4 person who operates an Internet poker facility under
5 a license issued by a qualified body pursuant to this
6 title.

7 (13) OPERATE AN INTERNET POKER FACIL-
8 ITY.—The term “operate an Internet poker facility”
9 means to conduct, direct, manage, own, supervise, or
10 control an Internet poker facility.

11 (14) POKER.—

12 (A) IN GENERAL.—The term “poker”
13 means any of several card games—

14 (i) in which success over the long run
15 is influenced by the skill of the player;

16 (ii) that are commonly referred to as
17 “poker”;

18 (iii) that are played by 2 or more peo-
19 ple who bet or wager against each other on
20 cards dealt to them out of a common deck
21 of cards—

22 (I) including games using com-
23 munity cards that any player may use
24 to make his or her hand; and

1 (II) including games using elec-
2 tronic devices that simulate a deck of
3 cards;

4 (iv) in which players compete against
5 each other and not against the person op-
6 erating the game;

7 (v) in which bets or wagers of one
8 player are often designed to affect the deci-
9 sion of another player in the game; and

10 (vi) in which the person operating the
11 game may assess a commission fee (com-
12 monly referred to as a “rake”) or any
13 other type of fee.

14 (B) POKER TOURNAMENTS.—The term
15 “poker” includes poker tournaments in which
16 players pay a fee to play against each other, in-
17 cluding tournaments where the licensee guaran-
18 tees a minimum tournament pot.

19 (15) QUALIFIED BODY.—The term “qualified
20 body” means—

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

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

4 (16) QUALIFIED MOBILE GAMING SYSTEM.—
5 The term “qualified mobile gaming system” means
6 a system for the conduct of casino gaming through
7 communications devices or gaming devices operated
8 at a casino gaming facility by the use of communica-
9 tion technology that allows a person to transmit in-
10 formation to a computer to assist in the placing of
11 a bet or wager and corresponding information re-
12 lated to the display of the game, game outcomes, or
13 other similar information and which is licensed for
14 operation at a casino gaming facility by a State or
15 Indian tribe.

16 (17) QUALIFIED RACE TRACK.—The term
17 “qualified race track” means a race track that—

18 (A) has been licensed by a regulatory au-
19 thority of a State or Indian tribe; and

20 (B)(i) has at least 500 gaming devices at
21 1 physical location; or

22 (ii) has conducted at least 250 days of live
23 racing in the aggregate during any three of the
24 5 years preceding the date of the enactment of
25 this Act.

1 (iii) determine all or part of, or the ef-
2 fect of, a result relevant to a game, hand,
3 tournament, or other contest of Internet
4 poker and to store information relating
5 thereto;

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

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

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

12 (i) Equipment used for business con-
13 tinuity, back-up, excess capacity, or other
14 secondary use.

15 (ii) A computer which is used by a
16 person to participate in Internet poker un-
17 less the computer is provided by or on be-
18 half of the person who is conducting or
19 providing the facilities for the game.

20 (iii) Equipment operated in the ordi-
21 nary course of providing banking, tele-
22 communications, or payment processing
23 services.

1 (iv) Such other equipment that pro-
2 vides ancillary services as the Secretary
3 considers appropriate.

4 (20) SECRETARY.—The term “Secretary”
5 means the Secretary of Commerce.

6 (21) SIGNIFICANT VENDOR.—The term “signifi-
7 cant vendor” means a person who—

8 (A) on behalf of a licensee, knowingly man-
9 ages, administers, or controls bets or wagers
10 that are initiated, received, or otherwise made
11 within the United States;

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

15 (C) on behalf of a licensee, develops, main-
16 tains, or operates the software or other system
17 programs or hardware on which the games or
18 the bets or wagers are managed, administered,
19 or controlled;

20 (D) provides the trademarks, tradenames,
21 service marks, or similar intellectual property
22 under which a licensee identifies its Internet
23 poker facility to its customers in the United
24 States;

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

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

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

15 (22) SPORTING EVENT.—

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

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

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

5 (24) TOTAL UNITED STATES CASINO GAMING
6 REVENUE.—The term “total United States casino
7 gaming revenue” means, with respect to a calendar
8 year, the sum of—

9 (A) all United States commercial casino
10 gaming revenue and racino gaming revenue (as
11 calculated by summing the amounts reported by
12 State gaming control authorities) in that year;
13 and

14 (B) the number reported by the National
15 Indian Gaming Commission as total tribal gam-
16 ing revenues for that year.

17 **SEC. 103. PROHIBITION ON UNLICENSED INTERNET GAM-**
18 **BLING.**

19 (a) IN GENERAL.—It shall be unlawful for a person
20 to operate an Internet gambling facility in which bets or
21 wagers are initiated, received, or otherwise made by indi-
22 viduals the person knows, or reasonably should know, are
23 located in the United States, without a license in good
24 standing issued to such person by a qualified body under
25 this title.

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

4 **SEC. 104. ESTABLISHMENT OF LICENSING PROGRAM ONLY**
5 **FOR INTERNET POKER.**

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

9 (1) Reviewing and qualifying agencies and regu-
10 latory bodies pursuant to section 105.

11 (2) Exercising oversight over qualified bodies to
12 ensure that qualified bodies—

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

15 (B) carry out their regulatory and enforce-
16 ment functions under this title with appropriate
17 diligence.

18 (3) Investigating and taking appropriate reme-
19 dial action with respect to any qualified body under
20 section 105.

21 (4) Prescribing such regulations as may be nec-
22 essary to administer and enforce the provisions of
23 this title, including issuing regulations establishing
24 rules and procedures for dealing with sums placed in

1 escrow under subsection (l)(7), section
2 105(a)(6)(A)(i)(II), and section 118(b)(1)(E).

3 (5) Employing enforcement agents with suffi-
4 cient training and experience to administer the re-
5 quirements of this title and the regulations pre-
6 scribed thereunder.

7 (6) Enforcing the requirements of this title by
8 all appropriate means provided under this title and
9 other provisions of law.

10 (b) INTERNET POKER FACILITY LICENSING PRO-
11 GRAM.—

12 (1) AUTHORITY TO ISSUE LICENSES LIMITED
13 TO INTERNET POKER.—A qualified body may issue
14 licenses pursuant to this title only for the operation
15 of Internet poker facilities.

16 (2) AUTHORITY TO OPERATE INTERNET POKER
17 FACILITY UNDER VALID LICENSE.—

18 (A) IN GENERAL.—Notwithstanding any
19 other provision of law and subject to the provi-
20 sions of this title, a licensee may accept a bet
21 or wager with respect to Internet poker from an
22 individual located in the United States and may
23 offer related services so long as the license of
24 the licensee issued under this title remains in
25 good standing.

1 (B) NOT MORE THAN ONE LICENSE RE-
2 QUIRED.—Nothing in this title may be con-
3 strued to require a person to obtain a license
4 from more than one qualified body in order to
5 operate an Internet poker facility under this
6 title.

7 (C) SIGNIFICANT VENDORS.—If a signifi-
8 cant vendor has obtained a certificate of suit-
9 ability from a qualified body to provide services
10 to a licensee with respect to an Internet poker
11 facility, such vendor shall not be required to ob-
12 tain a license under this title to provide such
13 services with respect to that Internet poker fa-
14 cility.

15 (3) OPERATION OUTSIDE THE UNITED
16 STATES.—

17 (A) LIMITATION.—Except as provided in
18 subparagraph (B), a licensee or an affiliate of
19 a licensee may not operate an Internet gam-
20 bling facility that accepts a bet or wager from
21 an individual located outside of the United
22 States unless—

23 (i) the entity that operates such Inter-
24 net gambling facility is separate from the

1 entity that is licensed to operate an Inter-
2 net poker facility under this title; and

3 (ii) there is no commingling of play-
4 ers, funds, or records of such Internet
5 gambling facility with the players, funds,
6 or records of such Internet poker facility
7 (except as necessary for consolidated finan-
8 cial or tax reporting or compliance with
9 other applicable).

10 (B) AUTHORITY TO REMOVE LIMITA-
11 TION.—On or after the date that is 3 years
12 after the date that licenses are first issued
13 under section 118(a), the Secretary may waive
14 the limitation of subparagraph (A) if the Sec-
15 retary determines that waiving such limitation
16 would not significantly increase the risk that
17 the requirements and standards under sub-
18 section (g) will not be satisfied.

19 (C) REPORT TO CONGRESS.—If the Sec-
20 retary exercises the authority provided in sub-
21 paragraph (B), the Secretary shall submit to
22 Congress a report setting forth the determina-
23 tion made by the Secretary under such subpara-
24 graph.

1 (D) CONSTRUCTION.—Nothing in this title
2 shall be construed to authorize a licensee to ac-
3 cept a bet or wager from an individual located
4 in any jurisdiction outside the United States
5 that prohibits such bet or wager.

6 (c) APPLICATION FOR LICENSE.—

7 (1) APPLICATION.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraphs (B) and (C), a person seeking a
10 license to operate an Internet poker facility
11 under this title shall submit to a qualified body
12 an application therefor at such time, in such
13 form, and in such manner as the qualified body
14 receiving the application considers appropriate.

15 (B) CERTAIN APPLICANTS.—

16 (i) IN GENERAL.—Notwithstanding
17 any other provision of this title, a person
18 described in clause (ii) may only apply for
19 and receive a license or certificate of suit-
20 ability from a qualified body designated
21 under section 105(a)(1)(A).

22 (ii) CERTAIN APPLICANTS DE-
23 SCRIBED.—A person described in this
24 clause is any person who—

1 (I) at any time before applying
2 for a license under this title, owned,
3 in whole or in significant part, an
4 Internet gambling facility or an entity
5 that operated an Internet gambling
6 facility that—

7 (aa) accepted bets or wagers
8 from persons located in the
9 United States; and

10 (bb) acted with knowledge of
11 the fact that such bets or wagers
12 involved persons located in the
13 United States;

14 (II) was a significant vendor with
15 respect to the bets or wagers from
16 persons located in the United States
17 for a person described in subclause (I)
18 and acted with knowledge of the fact
19 that such bets or wagers involved per-
20 sons located in the United States;

21 (III) purchased or acquired, di-
22 rectly or through an affiliate or inter-
23 mediary—

1 (aa) in whole or in signifi-
2 cant part, a person described in
3 subclause (I) or (II); or

4 (bb) the assets, tangible or
5 intangible and in whole or in
6 part, of such person; or

7 (IV) will use as a significant ven-
8 dor a person described in subclause
9 (I), (II), or (III).

10 (iii) SIGNIFICANT PART DEFINED.—In
11 this subparagraph, the term “significant
12 part”, with respect to ownership of a per-
13 son, means ownership of—

14 (I) 5 percent or more of that per-
15 son; or

16 (II) any amount of ownership of
17 that person that provides control over
18 such person.

19 (2) ELEMENTS.—Each application submitted
20 under paragraph (1) shall include such information
21 as the qualified body receiving the application con-
22 siders appropriate, including at a minimum the fol-
23 lowing:

24 (A) Complete financial information about
25 the applicant.

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

4 (C) The criminal and financial history of—
5 (i) the applicant;
6 (ii) each of the senior executives and
7 directors of the applicant;
8 (iii) any other person who is in control
9 of the applicant; and
10 (iv) such other persons as the quali-
11 fied body considers appropriate.

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

15 (E) Disclosure of all other applications for
16 licenses previously or simultaneously submitted
17 under paragraph (1) to other qualified bodies
18 and whether those applications are pending,
19 were granted, or were denied.

20 (F) A detailed description of the appli-
21 cant's plan for complying with all applicable re-
22 quirements and regulations prescribed pursuant
23 to this title, with particular emphasis on the ap-
24 plicant's ability to comply with the regulations
25 prescribed under subsection (g).

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

3 (i) jurisdiction in United States Fed-
4 eral courts and in the courts of the State
5 or Indian tribe of the qualified body to
6 which the applicant has applied; and

7 (ii) all applicable provisions of United
8 States law relating to the operation of an
9 Internet poker facility and associated ac-
10 tivities.

11 (3) REPORTS.—Each qualified body shall report
12 all applicants for licensure and the dispositions of
13 their applications to the Secretary promptly upon
14 disposition of each application or in such intervals as
15 the Secretary may prescribe. Such report shall in-
16 clude such information or documentation as the Sec-
17 retary may require.

18 (d) STANDARDS FOR LICENSE ISSUANCE; SUIT-
19 ABILITY QUALIFICATIONS AND DISQUALIFICATION
20 STANDARDS.—

21 (1) SUITABILITY FOR LICENSING.—

22 (A) IN GENERAL.—No applicant shall be
23 eligible to obtain a license under this title un-
24 less a qualified body, with whom the applicant
25 has filed an application for a license, has deter-

1 mined, upon completion of a background check
2 and investigation, that the applicant, any per-
3 son deemed to be in control of the applicant,
4 and all significant vendors of the applicant are
5 suitable for licensing.

6 (B) APPLICATION AS REQUEST FOR DE-
7 TERMINATION OF SUITABILITY.—An application
8 for a license under this title constitutes a re-
9 quest for a determination of the general char-
10 acter, integrity, and ability to participate or en-
11 gage in or be associated with an Internet poker
12 facility, as appropriate, of the applicant, any
13 person deemed to be in control of the applicant,
14 and all significant vendors of the applicant.

15 (C) ASSOCIATES.—

16 (i) IN GENERAL.—If an entity under-
17 going a determination of suitability under
18 this paragraph is a corporation, partner-
19 ship, or other business entity, a back-
20 ground check and investigation shall be
21 carried out by the applicable qualified body
22 with respect to the president or other chief
23 executive of the corporation, partnership,
24 or other business entity and such other
25 partners or senior executives and directors

1 or shareholders of the corporation, part-
2 nership, or entity as the qualified body
3 considers appropriate.

4 (ii) MINIMUM DETERMINATION.—In
5 carrying out clause (i), the qualified body
6 shall, at a minimum, carry out a back-
7 ground check and investigation of the 5 in-
8 dividuals receiving the most compensation
9 (whether in the form of salary, bonus, or
10 otherwise) from the entity, any person that
11 controls the entity, and such other individ-
12 uals or entities as the qualified body con-
13 siders appropriate.

14 (D) PARITY OF INVESTIGATION AND ANAL-
15 YSIS.—Each investigation and analysis of the
16 suitability of a person with respect to an appli-
17 cation for a license under this title, other than
18 the applicant for such license, shall be carried
19 out with the same degree of diligence as the in-
20 vestigation and analysis of the suitability of the
21 applicant.

22 (2) SUITABILITY STANDARDS.—For purposes of
23 this title, an applicant and any other person subject
24 to a determination of suitability under paragraph (1)
25 shall be considered suitable under this title if the ap-

1 plicant or person demonstrates to the applicable
2 qualified body by clear and convincing evidence that
3 the applicant or person—

4 (A) is a person of good character, honesty,
5 and integrity;

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

9 (i) pose a threat to the public interest
10 or to the effective regulation and control of
11 Internet poker facilities; or

12 (ii) create or enhance the dangers of
13 unsuitable, unfair, or illegal practices,
14 methods, and activities in the conduct of
15 Internet poker facilities or the carrying on
16 of the business and financial arrangements
17 incidental to such facilities;

18 (C) is capable of and likely to conduct the
19 activities for which the applicant is licensed or
20 receives a certificate of suitability in accordance
21 with the provisions of this title and any regula-
22 tions prescribed under this title;

23 (D) with respect to applicants, has or
24 guarantees acquisition of adequate business
25 competence and experience in the operation of

1 casino gaming facilities, Internet poker facili-
2 ties, or Internet gambling facilities; and

3 (E) has or will obtain sufficient financing
4 for the nature of the proposed operation and
5 from a suitable source.

6 (3) UNSUITABLE.—An applicant or any other
7 person may not be determined to be suitable under
8 this subsection if the applicant or such person—

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

12 (B) has supplied information which is un-
13 true or misleading as to a material fact per-
14 taining to any such determination;

15 (C) has been convicted of an offense that
16 is punishable by imprisonment of more than 1
17 year;

18 (D) is delinquent in the payment of any
19 applicable Federal or State tax, tax penalty, ad-
20 dition to tax, or interest owed to a jurisdiction
21 in which the applicant or person operates or
22 does business, unless such payment has been
23 extended or is the subject of a pending judicial
24 or administrative dispute;

1 (E) has not agreed in writing to submit to
2 personal jurisdiction in the United States for
3 purposes of any matter arising from the oper-
4 ation of an Internet poker facility or associated
5 activities; or

6 (F) fails to comply with such other stand-
7 ard as the applicable qualified body considers
8 appropriate.

9 (4) ONGOING REQUIREMENT.—A licensee (and
10 any other person who is required to be determined
11 to be suitable for licensing in connection with such
12 licensee) shall meet the standards necessary to be
13 suitable for licensing throughout the term of the li-
14 cense.

15 (5) CERTIFICATE OF SUITABILITY FOR SIGNIFI-
16 CANT VENDORS.—

17 (A) IN GENERAL.—If a qualifying body de-
18 termines under paragraph (1) that a significant
19 vendor of an applicant is suitable under such
20 paragraph, the qualifying body shall issue a cer-
21 tificate to such vendor that certifies the suit-
22 ability of such vendor.

23 (B) REVOCATION OF CERTIFICATE.—A
24 qualified body that issues a certificate to a sig-
25 nificant vendor under subparagraph (A) shall

1 revoke the certificate if at any time the signifi-
2 cant vendor no longer meets the standards nec-
3 essary for a determination of suitability.

4 (C) RELIANCE ON CERTIFICATE.—A quali-
5 fied body may, but need not, rely upon a certifi-
6 cate issued under subparagraph (A) to a signifi-
7 cant vendor with respect to one application in
8 the review of the same significant vendor in
9 other license applications.

10 (D) CERTIFICATES ISSUED BY OTHER
11 QUALIFIED BODIES.—A qualified body may, but
12 need not, accept a certificate issued to a signifi-
13 cant vendor by another qualified body as evi-
14 dence of the suitability of the significant ven-
15 dor.

16 (6) OTHER VENDORS.—

17 (A) NOTICE.—A licensee shall promptly
18 notify the qualified body that issued the license
19 to the licensee of all persons that are not sig-
20 nificant 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 these
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 body that issues a li-
15 cense to a licensee may, at the sole discretion
16 of the qualified body and on a case-by-case
17 basis, require as a condition of such license that
18 a person meet suitability requirements under
19 paragraph (1) if the person—

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

22 (ii) provides services to an applicant
23 or licensee and the qualified body deter-
24 mines that with respect to the services of-
25 fered to the licensee, there is a substantial

1 risk of circumvention of the suitability re-
2 quirements applicable to significant ven-
3 dors.

4 (C) INFORMATION.—A qualified body may
5 require such information from an applicant, li-
6 censee, significant vendor or other person iden-
7 tified in this paragraph as the qualified body
8 considers necessary to carry out this paragraph.

9 (7) ENFORCEMENT ACTIONS.—

10 (A) IN GENERAL.—If the Secretary or the
11 qualified body that issued a license to a licensee
12 finds that the licensee, or any other person that
13 is subject to a required determination of suit-
14 ability in connection with such licensee, fails to
15 meet the suitability requirements of this sub-
16 section at any time during the tenure of the li-
17 cense, the Secretary or the qualified body may
18 take action to protect the public interest, in-
19 cluding, if the Secretary or qualified body con-
20 siders necessary, the suspension or termination
21 of the license.

22 (B) IMPOSITION OF CONDITIONS INCLUD-
23 ING REMOVAL OF PARTIES.—Notwithstanding a
24 determination under subparagraph (A), the
25 Secretary or the qualified body that issued a li-

1 cense to a licensee may allow the licensee to
2 continue engaging in licensed activities by im-
3 posing conditions on the person to which sub-
4 paragraph (A) is applicable under penalty of
5 revocation or suspension of a license or certifi-
6 cate of suitability, including—

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

9 (ii) the establishment of appropriate
10 safeguards to ensure such person is ex-
11 cluded from any management or involve-
12 ment in operation of the licensed activities.

13 (8) ADMINISTRATIVE PROVISIONS.—

14 (A) BACKGROUND CHECK AND INVESTIGA-
15 TION.—Each qualified body shall establish
16 standards and procedures for conducting back-
17 ground checks and investigations for purposes
18 of this subsection.

19 (B) PRIVILEGE.—Any written or oral
20 statement made in the course of an official pro-
21 ceeding of the Secretary or a qualified body, by
22 any member thereof, or any witness testifying
23 under oath which is relevant to the purpose of
24 the proceeding and relates to the review of an
25 application for a license under this title, is priv-

1 ileged and shall not give rise to liability for def-
2 amation or relief in any civil action.

3 (C) **ADDITIONAL PRIVILEGE.**—Notwith-
4 standing section 552 of title 5, United States
5 Code, or any other Federal, State, or tribal law
6 to the contrary, any communication or docu-
7 ment of an applicant or licensee, or affiliate
8 thereof, which is made or transmitted pursuant
9 to this title to the Secretary or a qualified body
10 or any of their agents or employees, except in-
11 formation that is already public, shall be privi-
12 leged and shall not be disclosed by the Sec-
13 retary or the qualified body without the prior
14 written consent of the applicant or licensee (as
15 applicable), or pursuant to a lawful court order,
16 grand jury subpoena, or similar procedure after
17 timely notice of the proceedings have been given
18 to the applicant or licensee (as applicable).

19 (D) **PRESERVATION OF PRIVILEGE RECOG-**
20 **NIZED UNDER OTHER PROVISIONS OF LAW.**—
21 Any privilege recognized under any other appli-
22 cable provision of Federal, State, or tribal law,
23 including attorney-client, physician-patient, and
24 accountant-client privileges, shall not be waived
25 or lost because a document or communication

1 otherwise protected by the privilege is disclosed
2 to the Secretary or a qualified body.

3 (E) CONFIDENTIALITY.—Any communica-
4 tion or document, except information that is al-
5 ready public, shall be treated as confidential
6 and may not be disclosed, in whole or part, by
7 the Secretary or a qualified body without a law-
8 ful court order or as otherwise expressly re-
9 quired by law, if the communication or docu-
10 ment is—

11 (i) required by the Secretary or quali-
12 fied body to be disclosed by the applicant,
13 licensee, or significant vendor, including
14 applications, financial or earnings informa-
15 tion, and criminal records, whether of the
16 applicant or licensee or of any affiliate,
17 employee, officer, director or significant
18 vendor thereof, or of any other third party;
19 or

20 (ii) prepared or obtained by an agent
21 or employee of the Secretary or qualified
22 body that contains information described
23 in clause (i).

24 (e) ASSESSMENTS FOR ADMINISTRATIVE EX-
25 PENSES.—

1 (1) USER FEES.—

2 (A) IN GENERAL.—The cost of admin-
3 istering this title with respect to each applicant,
4 licensee, and significant vendor, including the
5 cost of any review or examination of a licensee
6 or its significant vendors to ensure compliance
7 with the terms of the license and this title, shall
8 be assessed by the qualified body receiving an
9 application or issuing a license against the ap-
10 plicant, licensee, or significant vendor, as the
11 case may be, by written notice in an amount
12 that the qualified body determines is necessary
13 to meet the qualified body's expenses in car-
14 rying out such administration, review, or exam-
15 ination.

16 (B) EXPENSES FOR REVIEW OR EXAMINA-
17 TION.—Expenses that are attributable to review
18 or examination of a particular applicant, li-
19 censee, or significant vendor shall be assessed
20 under subparagraph (A) against that applicant,
21 licensee, or significant vendor.

22 (C) EXPENSES FOR GENERAL ADMINISTRA-
23 TION.—Expenses for general administration
24 shall be assessed against all licensees equally.

1 (D) DISPOSITION OF USER FEES.—Except
2 as provided in subparagraph (E), amounts as-
3 sessed by a qualified body as user fees under
4 this paragraph shall—

5 (i) be available to the qualified body
6 to cover expenses incurred by the qualified
7 body in carrying out the provisions of this
8 title; and

9 (ii) not be construed to be Govern-
10 ment funds or appropriated monies, or
11 subject to apportionment for the purposes
12 of any other provision of law.

13 (E) USER FEES ESTABLISHED BY SEC-
14 RETARY.—

15 (i) IN GENERAL.—The Secretary may
16 establish user fees to be paid by applicants,
17 licensees, and significant vendors in
18 amounts the Secretary determines nec-
19 essary to meet the Secretary's cost of ad-
20 ministering this title. Qualified bodies shall
21 collect such user fees from applicants, li-
22 censees, and significant vendors and turn
23 them over promptly to the Secretary.

1 (ii) DISPOSITION OF USER FEES.—

2 Amounts assessed by the Secretary as user
3 fees under clause (i) shall—

4 (I) be available to the Secretary
5 to cover expenses incurred by the Sec-
6 retary in carrying out the provisions
7 of this title; and

8 (II) not be construed to be Gov-
9 ernment funds or appropriated mon-
10 ies, or subject to apportionment for
11 the purposes of any other provision of
12 law.

13 (F) COLLECTION.—

14 (i) REFERRAL.—If a licensee or sig-
15 nificant vendor fails to pay a user fee to a
16 qualified body under this paragraph after
17 the assessment of the fee has become
18 final—

19 (I) the qualified body may re-
20 cover the amount assessed by action
21 in a court of the State or Indian tribe
22 of the qualified body or in the appro-
23 priate United States district court,
24 along with any costs of collection and
25 attorney fees; and

1 (II) such failure may be grounds
2 for denial of an application for a li-
3 cense under this title or revocation of
4 a license or certificate of suitability
5 under this title.

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

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

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

21 (f) APPROVAL OF LICENSE.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), a qualified body may issue licenses under
24 this title for the operation of an Internet poker facil-

1 ity if the applicant meets the criteria established by
2 the qualified body under this title.

3 (2) LIMITATION ON ELIGIBLE LICENSEES.—A
4 qualified body may only issue a license under this
5 title to the following:

6 (A) An applicant who—

7 (i) owns or controls a company that
8 operates a casino gaming facility or a
9 qualified race track; and

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 (c)(1), owned or controlled such ca-
14 sino gaming facility or qualified race track.

15 (B) An applicant who is owned or con-
16 trolled by a person described in subparagraph
17 (A).

18 (C) An applicant who, for the duration of
19 the 5-year period ending on the date on which
20 the applicant submits an application under sub-
21 section (c)(1), under license issued by a State
22 or Indian tribe manufactured and supplied slot
23 machines or qualified mobile gaming systems to
24 casino gaming facilities with not fewer than 500
25 gaming devices.

1 (D) Such other applicants as the Secretary
2 determines appropriate under paragraph (3).

3 (3) EXPANSION OF LICENSEES ONLY IF NO
4 RISK TO PUBLIC.—Beginning on the date that is 2
5 years after the date of first issuance specified in sec-
6 tion 118(a), the Secretary may, by rule, authorize
7 the issuance of licenses to applicants under para-
8 graph (2)(D) if the Secretary determines, after pro-
9 viding the public with notice and an opportunity to
10 comment, that such authorization will not signifi-
11 cantly increase the risk that the regulations pre-
12 scribed under subsection (g) will not be satisfied by
13 licensees.

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

1 (5) CONFLICTS BETWEEN QUALIFIED BOD-
2 IES.—If a qualified body denies a license, terminates
3 a license, denies a certificate of suitability, or re-
4 vokes a certificate of suitability to a person and
5 within 12 months of such denial, termination, or
6 revocation another qualified body grants such person
7 a license or certificate of suitability, the Secretary
8 shall—

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

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

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

22 (g) SAFEGUARDS REQUIRED OF LICENSEE.—No
23 qualified body shall issue a license under this title unless
24 the qualified body prescribes regulations that prohibit a
25 person from receiving or retaining a license under this title

1 unless the person maintains or requires mechanisms so
2 that the following requirements are met with respect to
3 the operation of an Internet poker facility:

4 (1) PROHIBITION OF UNDERAGE GAMING.—App-
5 appropriate safeguards to ensure, to a reasonable de-
6 gree of certainty, that the individual placing a bet or
7 wager is not less than 21 years of age.

8 (2) PROHIBITED LOCATIONS.—Appropriate
9 safeguards to ensure, to a reasonable degree of cer-
10 tainty, that the individual placing a bet or wager is
11 physically located in a jurisdiction that has not pro-
12 hibited such bets or wagers pursuant to section 108
13 at the time the bet or wager is placed.

14 (3) MANDATORY COLLECTION OR REPORTING
15 OF CUSTOMER TAXES.—Appropriate mechanisms to
16 ensure, to a reasonable degree of certainty, that all
17 taxes relating to Internet poker from persons en-
18 gaged in bets or wagers relating to such Internet
19 poker are collected or reported, as required by law,
20 at the time of any payment of proceeds of such bets
21 or wagers.

22 (4) COLLECTION OR REPORTING OF TAXES OF
23 LICENSEE.—Appropriate mechanisms to ensure that
24 all taxes relating to the operation of an Internet
25 poker facility from any licensee are collected and dis-

1 bursed as required by law and that adequate records
2 to enable later audit or verification are maintained.

3 (5) SAFEGUARDS AGAINST FINANCIAL CRIME.—
4 Appropriate safeguards to prevent, to a reasonable
5 degree of certainty, fraud, money laundering, and
6 terrorist financing.

7 (6) SAFEGUARDS AGAINST COMPULSIVE
8 PLAY.—Appropriate safeguards to ensure, to a rea-
9 sonable degree of certainty, compliance with the re-
10 quirements of section 107(b).

11 (7) PRIVACY SAFEGUARDS.—Appropriate safe-
12 guards to protect, to a reasonable degree of cer-
13 tainty, the privacy and online security of any person
14 engaged in bets or wagers with the licensee's Inter-
15 net poker facility.

16 (8) PAYMENT OF ASSESSMENTS.—Appropriate
17 mechanisms to ensure that any user fee required
18 under subsection (e) is paid to the qualified body.

19 (9) PREVENTION OF CHEATING.—Appropriate
20 safeguards to ensure, to a reasonable degree of cer-
21 tainty, that Internet poker games are fair and hon-
22 est, and to prevent, to a reasonable degree of cer-
23 tainty, cheating, including collusion, and use of
24 cheating devices, including use of software programs

1 (sometimes referred to as “bots”) that make bets or
2 wagers according to algorithms.

3 (10) OTHER REQUIREMENTS.—Such other
4 mechanisms and safeguards as the qualified body
5 may establish by regulation.

6 (h) LOCATION OF REMOTE GAMING EQUIPMENT.—
7 A licensee shall maintain its remote gaming equipment
8 within the territory of the United States throughout the
9 term of its license. A qualified body may require applicants
10 that seek a license from such qualified body to locate that
11 equipment within the territory of the State or Indian tribe
12 of the qualified body if the qualified body determines that
13 such requirement will advance the regulatory interests of
14 this title.

15 (i) LICENSE IS A PRIVILEGE NOT A RIGHT.—A deci-
16 sion by a qualified body not to grant a person a license
17 or certificate of suitability, or to terminate a license, or
18 revoke a certificate of suitability, is not reviewable under
19 Federal law or the law of any jurisdiction other than the
20 jurisdiction of the qualified body. The State or Indian
21 tribe of the jurisdiction of the qualified body may, but
22 need not, provide an opportunity to appeal.

23 (j) TERM, RENEWAL, AND TRANSFER OF LICENSE.—

1 (1) TERM.—Any license issued under this title
2 shall be issued for a 5-year term beginning on the
3 date of issuance.

4 (2) RENEWAL.—A license may be renewed in
5 accordance with requirements prescribed by the
6 qualified body that issued the license under this
7 title.

8 (3) TRANSFER.—A transfer of a license, change
9 of control of a licensee, or change in significant ven-
10 dor shall require prior approval by the qualified body
11 that issued the license. The qualified body shall at
12 a minimum ensure the suitability requirements of
13 subsection (d) continue to be satisfied before approv-
14 ing any such transfer or change.

15 (k) ADMINISTRATIVE PROVISIONS.—

16 (1) DETERMINATION OF INTERNET POKER.—

17 (A) INITIAL DETERMINATION BY QUALI-
18 FIED BODY.—A determination of whether a
19 game, hand, tournament, or other contest of a
20 licensee is Internet poker shall be made in the
21 first instance by the qualified body that issued
22 the license to such licensee under this title.

23 (B) CHALLENGES.—

24 (i) IN GENERAL.—A licensee or quali-
25 fied body may challenge whether a game,

1 hand, tournament, or other contest of an-
2 other licensee is Internet poker.

3 (ii) CHALLENGE MADE WITH SEC-
4 RETARY.—A challenge made under clause
5 (i) shall be made with the Secretary.

6 (iii) DETERMINATION MADE BY SEC-
7 RETARY WITHIN 30 DAYS.—If a challenge
8 is made under clause (i), the Secretary
9 shall make a determination of whether the
10 game, hand, tournament, or other contest
11 is Internet poker not later than 30 days
12 after the date on which the challenge is
13 made.

14 (iv) OPERATION UNTIL DETERMINA-
15 TION.—A licensee that offers a game,
16 hand, tournament, or other contest that is
17 challenged under clause (i) may continue
18 to offer such game, hand, tournament, or
19 other contest until the Secretary makes a
20 determination under clause (iii).

21 (C) APPEALS.—Not later than 30 days
22 after the date on which the Secretary makes a
23 determination under subparagraph (B)(iii), a li-
24 censee or a qualified body may appeal such de-
25 termination to the United States District Court

1 for the District of Columbia. Such court shall
2 set aside the Secretary's determination if the
3 court determines that the Secretary's deter-
4 mination was—

5 (i) arbitrary, capricious, an abuse of
6 discretion, or otherwise not consistent with
7 law; or

8 (ii) without observance of procedure
9 required by law.

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

17 (3) SUMMONS.—

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

22 (B) PRODUCTION AT DESIGNATED SITE.—
23 A summons issued by the Secretary pursuant to
24 this paragraph may require that books, papers,

1 records, or other data stored or maintained at
2 any place be produced at any—

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

5 (ii) designated location in the State or
6 Indian lands of the applicable qualified
7 body; or

8 (iii) designated location in the District
9 of Columbia.

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

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

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

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

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

6 (iii) the person summoned carries on
7 business or may be found.

8 (F) POWER OF COURTS TO COMPEL AP-
9 PEARANCE.—The court may issue an order re-
10 quiring the person summoned to appear before
11 the Secretary—

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

14 (ii) to give testimony as may be nec-
15 essary to explain how such material was
16 compiled and maintained;

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

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

20 (G) CONTUMACY OR REFUSAL.—Any fail-
21 ure to obey the order of the court under this
22 paragraph may be punished by the court as a
23 contempt thereof. All process in any case under
24 this subsection may be served in any judicial
25 district in which such person may be found.

1 (l) DISCIPLINARY ACTION.—

2 (1) IN GENERAL.—A licensee may be subject to
3 disciplinary action, including suspension or revoca-
4 tion of its license, by a qualified body that issued a
5 license to the licensee or by the Secretary if the li-
6 censee fails to comply with any provision of this
7 title, any regulation prescribed thereunder, or any
8 other applicable provision of State or tribal law.

9 (2) INITIATING AGENCY.—Only the Secretary
10 or the qualified body which granted the license may
11 initiate disciplinary action under this title.

12 (3) SAVINGS PROVISION.—Nothing in this sub-
13 section shall be construed to prohibit a regulatory
14 body that has authority over a licensee or an affili-
15 ated person, independent from this title, from taking
16 action under the law of that regulatory body.

17 (4) DISCIPLINARY PROCEDURES.—

18 (A) IN GENERAL.—A qualified body shall
19 commence disciplinary action under this sub-
20 section against a licensee upon service of a for-
21 mal written complaint upon the licensee, with a
22 copy forwarded to the Secretary, that sets forth
23 the grounds for the disciplinary action and the
24 proposed penalty that is being sought, which
25 may include any or all of the imposition of a

1 fine as provided pursuant to subsection (m)(1)
2 or limitation, condition, suspension or revoca-
3 tion of the license.

4 (B) IN ACCORDANCE WITH LAW OF JURIS-
5 DICTION OF QUALIFIED BODY.—The discipli-
6 nary process shall proceed according to the law
7 of the jurisdiction of the applicable qualified
8 body.

9 (5) FINALITY OF ACTION AND APPEALS.—

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

12 (B) ACTION BY QUALIFIED BODIES.—A li-
13 censee aggrieved by disciplinary action by a
14 qualified body may file an appeal in the juris-
15 diction where the qualified body taking such ac-
16 tion is located only to the extent permitted by
17 the law of such jurisdiction.

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

1 (i) arbitrary, capricious, an abuse of
2 discretion, or otherwise not consistent with
3 law; or

4 (ii) without observance of procedure
5 required by law.

6 (6) PENDING APPEAL.—During the period in
7 which a suspension or revocation of an existing li-
8 cense is being challenged through a pending judicial
9 proceeding, the licensee may continue to offer bets
10 and wagers in full compliance with the terms of its
11 existing license and any other conditions the quali-
12 fied body that issued a license to the licensee or the
13 Secretary consider necessary to protect the public in-
14 terest.

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

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

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

1 safekeeping and orderly disposition by the Sec-
2 retary.

3 (8) REFERRAL TO ATTORNEY GENERAL.—If, in
4 the course of carrying out the provisions of this title,
5 the Secretary or a qualified body finds a substantial
6 basis to believe that a person has violated section
7 103, the Secretary or qualified body shall refer such
8 matter to the Attorney General.

9 (m) CIVIL MONEY PENALTIES.—

10 (1) IN GENERAL.—

11 (A) PENALTIES ASSESSED BY QUALIFIED
12 BODIES.—A qualified body may assess upon
13 any licensee or other person subject to the re-
14 quirements of this title for any violation of this
15 title or any regulation prescribed or order
16 issued under this title, a civil penalty of not
17 more than the greater of—

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

20 (ii) \$100,000 for an individual and
21 \$500,000 for a corporation; or

22 (iii) such other amount as provided
23 under the applicable State or tribal law of
24 the qualified body.

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

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

10 (ii) \$100,000 for an individual and
11 \$500,000 for a corporation.

12 (C) NOT CUMULATIVE.—The penalties au-
13 thorized under subparagraphs (A) and (B) shall
14 not be cumulative and only one such penalty
15 may be assessed per violation.

16 (D) FAILURE TO OBTAIN A LICENSE.—
17 Notwithstanding any other provision of law, the
18 Secretary may assess upon a person that is re-
19 quired to obtain a license under this title, but
20 fails to obtain a license under this title, a civil
21 penalty of not more than the greater of—

22 (i) the amount of bets or wagers
23 taken by the person from players in the
24 United States during the period that a li-

1 cense was needed but not held by the per-
2 son; or

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

8 (E) CONSTRUCTION.—Nothing in this
9 paragraph shall be construed to affect the abil-
10 ity of a law enforcement official to seek crimi-
11 nal penalties against a person.

12 (2) ASSESSMENT.—

13 (A) ENFORCEMENT BY QUALIFIED BOD-
14 IES.—Qualified bodies shall enforce the provi-
15 sions of this title under the law of the applica-
16 ble State or Indian tribe, and penalties shall be
17 determined, reviewable, collectable, and dis-
18 posed of as provided under such law.

19 (B) ENFORCEMENT BY SECRETARY.—

20 (i) WRITTEN NOTICE.—Any penalty
21 imposed under paragraph (1)(B) shall be
22 assessed and collected by the Secretary by
23 written notice.

24 (ii) FINALITY OF ASSESSMENT.—If,
25 with respect to any assessment under para-

1 graph (1)(B), a hearing is not requested
2 pursuant to clause (v) within the period of
3 time allowed under such clause, the assess-
4 ment shall constitute a final agency order.

5 (iii) AUTHORITY TO MODIFY OR
6 REMIT PENALTY.—The Secretary may
7 compromise, modify, or remit any penalty
8 which the Secretary may assess or has al-
9 ready assessed under paragraph (1)(B).

10 (iv) MITIGATING FACTORS.—In deter-
11 mining the amount of any penalty imposed
12 under paragraph (1)(B), the Secretary
13 shall take into account the appropriateness
14 of the penalty with respect to the fol-
15 lowing:

16 (I) The size of the financial re-
17 sources and the good faith of the per-
18 son against whom the penalty is as-
19 sessed.

20 (II) The gravity of the violation.

21 (III) The history of previous vio-
22 lations.

23 (IV) Such other matters as jus-
24 tice may require.

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

8 (vi) COLLECTION.—

9 (I) REFERRAL.—If any person
10 fails to pay an assessment after any
11 penalty assessed under this subpara-
12 graph has become final, the Secretary
13 shall recover the amount assessed by
14 action in the appropriate United
15 States district court.

16 (II) SCOPE OF REVIEW.—In any
17 civil action under subclause (I), the
18 validity and appropriateness of the
19 penalty shall be subject to review for
20 abuse of agency discretion.

21 (vii) DISBURSEMENT.—All penalties
22 collected under authority of paragraph
23 (1)(B) shall be deposited into the Treasury
24 of the United States.

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

5 (n) CONSULTATION WITH INDIAN TRIBES.—In im-
6 plementing this title, the Secretary shall conduct meaning-
7 ful consultation with Indian tribes regarding all aspects
8 of this title which affect Indian tribes, both as potential
9 qualified bodies and as potential licensees.

10 **SEC. 105. QUALIFIED BODIES.**

11 (a) DESIGNATION OF QUALIFIED BODIES.—

12 (1) AUTOMATIC DESIGNATION OF CERTAIN
13 AGENCY AND REGULATORY BODIES.—

14 (A) IN GENERAL.—Each State agency or
15 regulatory body of an Indian tribe that, on the
16 date of the enactment of this Act, meets the
17 conditions specified in subparagraph (B) and
18 submits at any time after the date of the enact-
19 ment of this Act a notice to the Secretary of
20 the agency's or regulatory body's intention to
21 act as a qualified body shall be designated as
22 a qualified body effective as of the date of the
23 submittal of such notice.

24 (B) CONDITIONS.—The conditions speci-
25 fied in this subparagraph are the following:

1 (i) The agency or regulatory body reg-
2 ulated casino gaming during the 5-year pe-
3 riod ending on the day before the date of
4 the enactment of this Act.

5 (ii) The agency or regulatory body has
6 regulated casino gaming facilities involving
7 gross gaming revenue of at least 5 percent
8 of total United States casino gaming rev-
9 enue for at least 3 out of the 5 years pre-
10 ceding the date of the enactment of this
11 Act.

12 (iii) No member of such agency or
13 regulatory body is selected or controlled,
14 directly or indirectly, by an entity that has
15 any ownership interest in a facility that en-
16 gages in casino gaming or that is an appli-
17 cant, licensee or significant vendor under
18 this title, except that non-controlling in-
19 vestments held by a State, tribal, or local
20 government pension, retirement, annuity,
21 or endowment fund shall not be considered
22 ownership interests for purposes of this
23 subparagraph.

1 (iv) The agency or regulatory body is
2 located in a State or on Indian lands that
3 is opted in under section 108(b)(1)(C).

4 (2) DESIGNATION OF OFFICE OF INTERNET
5 POKER OVERSIGHT.—

6 (A) IN GENERAL.—The Secretary shall
7 designate the Office of Internet Poker Over-
8 sight established under section 106 as a quali-
9 fied body to issue licenses to and regulate the
10 operation of Internet poker facilities by Indian
11 tribes.

12 (B) CONSTRUCTION.—Subparagraph (A)
13 shall not be construed to require an Indian
14 tribe seeking a license under this title and sub-
15 mitting an application under section
16 104(c)(1)(A) to submit such application to the
17 Office of Internet Poker Oversight.

18 (3) OTHER AGENCIES AND REGULATORY BOD-
19 IES.—

20 (A) APPLICATION.—Beginning on the date
21 on which the Secretary prescribes final regula-
22 tions to carry out this title, a State agency or
23 tribal regulatory body that regulates casino
24 gaming, that has not already been designated
25 as a qualified body under paragraph (1), and

1 that is seeking designation as a qualified body
2 shall submit to the Secretary an application
3 therefor in such form, in such manner, and con-
4 taining such information as the Secretary con-
5 siders appropriate.

6 (B) DETERMINATIONS.—Not later than
7 120 days after receiving an application from an
8 agency or regulatory body under subparagraph
9 (A), the Secretary shall—

10 (i) determine whether —

11 (I) the agency or regulatory body
12 meets the minimum standards estab-
13 lished under subparagraph (C); and

14 (II) the applicable State or tribal
15 laws, regulations, and standards to
16 implement the requirements set out in
17 subsections (d) and (g) of section 104
18 and section 107 are substantially
19 equivalent to those of agencies or reg-
20 ulatory bodies designated as qualified
21 bodies under paragraph (1);

22 (ii) if the Secretary makes an affirma-
23 tive determination under clause (i), des-
24 ignate such agency or regulatory body as a
25 qualified body; and

1 (iii) notify such agency or regulatory
2 body of the determinations made under
3 clause (i) and whether a designation was
4 made under clause (ii).

5 (C) MINIMUM STANDARDS FOR QUALIFIED
6 BODIES.—The Secretary shall prescribe min-
7 imum standards for qualified bodies that apply
8 under this paragraph, including minimum
9 standards relating to the following:

10 (i) The size and qualification of staff
11 of the qualified body to ensure the quali-
12 fied body employs sufficient number of en-
13 forcement agents with experience in gam-
14 ing regulatory enforcement areas to dis-
15 charge its intended functions and has the
16 sophistication and resources necessary to
17 evaluate issues unique to the Internet envi-
18 ronment.

19 (ii) The length of time the qualified
20 body has regulated other forms of gaming
21 to ensure designations of only those regu-
22 latory bodies that have a history of dem-
23 onstrated regulatory enforcement and over-
24 sight commensurate with the responsibil-
25 ities imposed under this title.

1 (iii) The qualified body's experience
2 and willingness to work with Federal au-
3 thorities, including the Financial Crimes
4 Enforcement Network.

5 (iv) Prohibiting conflicts of interest by
6 qualified bodies to ensure that qualified
7 bodies are not controlled, directly or indi-
8 rectly, by persons that have any significant
9 ownership interest in regulated entities.

10 (v) Authority, capacity, and experi-
11 ence of the qualified body in conducting
12 rigorous suitability reviews.

13 (vi) Enforcement and regulatory au-
14 thorities provided to the qualified body
15 under the law of the applicable State or
16 Indian tribe. At a minimum, such law shall
17 provide the following authorities:

18 (I) To investigate the suitability
19 of each applicant for a license under
20 this title to ensure the compliance of
21 licensees with the provisions of this
22 title and the regulations prescribed
23 thereunder.

24 (II) To require licensees to main-
25 tain appropriate procedures to ensure

1 the compliance of licensees with the
2 provisions of this title and the regula-
3 tions prescribed thereunder.

4 (III) To examine any licensee
5 and any books, papers, records, or
6 other data of licensees relevant to any
7 recordkeeping or reporting require-
8 ments imposed by the agency or regu-
9 latory body under this title.

10 (IV) To summon a licensee or an
11 applicant for a license under this title,
12 an officer or employee of a licensee or
13 any such applicant (including a
14 former officer or employee), or any
15 person having possession, custody, or
16 care of the reports and records re-
17 quired by the agency or regulatory
18 body as a qualified body under this
19 title to appear before the agency or
20 regulatory body at such time and
21 place named in the summons, to
22 produce such books, papers, records,
23 or other data, and to give such testi-
24 mony, under oath, as may be relevant
25 or material to any investigation in

1 connection with the enforcement of
2 this title or any application for a li-
3 cense under this title.

4 (V) To enforce or direct enforce-
5 ment of a summons in State or tribal
6 court, as the case may be.

7 (VI) To investigate any violation
8 of a provision of this title, any appli-
9 cable regulation prescribed under this
10 title, and any other violation of appli-
11 cable State or tribal law relating to
12 the operation of an Internet poker fa-
13 cility.

14 (VII) To conduct continuing re-
15 views of applicants and licensees and
16 the operation of Internet poker facili-
17 ties by licensees by use of techno-
18 logical means, on-site observation of
19 facilities, including servers, or other
20 reasonable means to assure compli-
21 ance with the provisions of this title
22 and any applicable regulation pre-
23 scribed thereunder.

24 (VIII) To impose civil penalties
25 for violations of provisions of this title

1 and any applicable regulation pre-
2 scribed thereunder or applicable order
3 issued thereunder, including State or
4 tribal law described under this sub-
5 section.

6 (IX) To ensure that the hard-
7 ware, software, and communications
8 equipment, randomness, configura-
9 tion, and network security of the
10 Internet poker facility are tested by
11 an independent testing laboratory.

12 (vii) Such other minimum standards
13 as the Secretary considers relevant to the
14 ability of an agency or regulatory body to
15 serve as an effective qualified body.

16 (4) NONQUALIFYING STATE AND TRIBAL REGU-
17 LATORY AUTHORITIES DUE TO LIMITED EXPERI-
18 ENCE OR CONFLICTS.—The Secretary may not ap-
19 prove an application from a State agency or regu-
20 latory body of an Indian tribe under paragraph (3)
21 if—

22 (A) the agency or regulatory body has not
23 regulated casino gaming facilities involving at
24 least 0.5 percent of the total United States ca-

1 sino gaming revenue for at least 3 out of the
2 5 years preceding the date of the application;

3 (B) the agency or regulatory body is lo-
4 cated in a State or Indian lands that is not
5 opted in under section 108; or

6 (C) the members of such agency or regu-
7 latory body are selected or controlled, directly
8 or indirectly, by a person that has any owner-
9 ship interest in an applicant, licensee, or signifi-
10 cant vendor under this title, except that non-
11 controlling investments held by a State, tribal,
12 or local government pension, retirement, annu-
13 ity, or endowment fund shall not be considered
14 ownership interests for purposes of this sub-
15 paragraph.

16 (5) WITHDRAWAL OF DESIGNATION.—

17 (A) AUTOMATICALLY QUALIFIED BOD-
18 IES.—If the Secretary determines, not later
19 than 30 days after the date on which the Sec-
20 retary issues final regulations under this title,
21 that a qualified body designated under para-
22 graph (1) would not satisfy the requirements
23 necessary to be designated as a qualified body
24 if the entity were to apply for a designation
25 under paragraph (3), the Secretary may—

1 (i) notify the qualified body—

2 (I) that the Secretary intends to
3 withdraw the designation; and

4 (II) the steps the qualified body
5 must take to satisfy the requirements
6 to maintain its designation as a quali-
7 fied body; and

8 (ii) not earlier than the date that is 1
9 year after the date on which notice is pro-
10 vided under clause (i), withdraw the des-
11 ignation as a qualified body under para-
12 graph (1) if the qualified body has not
13 taken the steps described in such notice.

14 (B) ALL QUALIFIED BODIES.—

15 (i) IN GENERAL.—Beginning on the
16 date that is 1 year after the date on which
17 the Secretary prescribes final regulations
18 under this title, the Secretary may, after
19 providing 60 days notice to a qualified
20 body, withdraw the designation of a quali-
21 fied body under this section if the Sec-
22 retary determines that—

23 (I) the qualified body is not in
24 compliance with the requirements of

1 this title or regulations prescribed
2 thereunder; or

3 (II) the qualified body is not in
4 compliance with the conditions under
5 which the qualified body was des-
6 ignated.

7 (ii) OPPORTUNITY TO COMPLY.—

8 (I) IN GENERAL.—The Secretary
9 may provide a qualified body who re-
10 ceives notice under clause (i) with an
11 opportunity to come into compliance
12 for a period of not more than 180
13 days.

14 (II) EXTENSION.—The Secretary
15 may extend the period in subclause (I)
16 by not more than 180 additional days
17 if the qualified body has made sub-
18 stantial progress toward compliance
19 as of the expiration of the first 180
20 day period.

21 (iii) EFFECT OF NOTICE.—A qualified
22 body that receives notice under clause (i)
23 may not issue any new licenses under this
24 title until the Secretary determines that
25 the qualified body is in compliance with

1 the requirements of this title and regula-
2 tions prescribed thereunder.

3 (C) RIGHT TO APPEAL.—

4 (i) IN GENERAL.—A State agency or
5 regulatory body of an Indian tribe that has
6 had its designation as a qualified body
7 withdrawn under subparagraph (A) or (B)
8 may appeal to the United States District
9 Court for the District of Columbia such
10 withdrawal.

11 (ii) STANDARD OF REVIEW.—Under a
12 review of an appeal under clause (i), the
13 United States District Court for the Dis-
14 trict of Columbia shall review whether the
15 withdrawal was a result of an abuse of dis-
16 cretion.

17 (6) ACTION UPON WITHDRAWAL OF DESIGNA-
18 TION.—

19 (A) IN GENERAL.—Not later than 30 days
20 after the date on which the Secretary withdraws
21 a designation of a State agency or regulatory
22 body of an Indian tribe under paragraph (5),
23 each person with a license issued by the agency
24 or regulatory body shall—

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

5 (II) return all customer deposits or
6 place those sums the return of which to
7 United States customers is not feasible due
8 to change in customer address, bank de-
9 tails, or similar difficulty, in escrow in an
10 account with a financial institution in the
11 United States for safekeeping and orderly
12 disposition by the Secretary; or

13 (ii) apply for a new license from a dif-
14 ferent qualified body.

15 (B) INTERIM OPERATION.—If a person ap-
16 plies for a new license under clause (ii) of sub-
17 paragraph (A), the person may continue the ac-
18 tivities described in clause (i)(I) of such sub-
19 paragraph until final action is taken on the li-
20 cense application by the qualified body.

21 (C) INTERIM REGULATORY OVERSIGHT.—

22 (i) IN GENERAL.—Until final action is
23 taken under subparagraph (B) with re-
24 spect to a person, the Secretary shall have

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

3 (ii) DELEGATION.—The Secretary
4 may delegate enforcement and regulatory
5 authority under clause (i) to such qualified
6 body as the Secretary considers appro-
7 priate, with the consent of the qualified
8 body.

9 (b) OVERSIGHT OF QUALIFIED BODIES.—The Sec-
10 retary may investigate and take such action as the Sec-
11 retary considers appropriate with respect to any qualified
12 body that appears, based upon the Secretary’s own inquiry
13 or based upon credible information provided by other
14 qualified bodies, applicants, licensees, or law enforcement
15 officials, to be deficient or substantially less rigorous than
16 other qualified bodies in the discharge of its responsibil-
17 ities under this title.

18 **SEC. 106. OFFICE OF INTERNET POKER OVERSIGHT.**

19 (a) ESTABLISHMENT.—The Secretary shall establish
20 an office in the Department of Commerce to exercise the
21 functions of the Secretary set out in this title.

22 (b) DESIGNATION.—The office established pursuant
23 to subsection (a) shall be known as the “Office of Internet
24 Poker Oversight” (in this section referred to as the “of-
25 fice”).

1 (c) HEAD.—The Secretary shall appoint the head of
2 the office from among individuals who have demonstrated
3 experience and expertise in regulating gaming activities.

4 (d) DELEGATION OF AUTHORITY.—The Secretary
5 may delegate to the head of the office any authority, duty,
6 or responsibility conferred upon the Secretary by this title.

7 (e) REGULATORY AUTHORITY.—The head of the of-
8 fice may prescribe such regulations and take such actions
9 as may be necessary to carry out such authorities, duties,
10 or responsibilities delegated to the office by the Secretary
11 under subsection (d).

12 (f) FUNCTIONS OF OFFICE AS QUALIFIED BODY.—

13 (1) IN GENERAL.—With respect to the applica-
14 tion of this title to the functions of the office as a
15 qualified body under section 105(a)(2), any ref-
16 erence to the State of the qualified body shall be
17 considered a reference to the United States and any
18 reference to the law of a State of the qualified body
19 shall be considered a reference to a law of the
20 United States.

21 (2) REGULATIONS.—With respect to the appli-
22 cation of this title to the functions of the office as
23 a qualified body under section 105(a)(2), the head
24 of the office shall prescribe regulations and stand-
25 ards to implement the requirements set out in sub-

1 sections (d) and (g) of section 104 and section 107
2 that are substantially equivalent to the regulations
3 and standards of the agencies or regulatory bodies
4 designated as qualified bodies under section
5 105(a)(1).

6 (3) ENFORCEMENT RESOURCES AND CAPAC-
7 ITY.—The office may issue licenses under this title
8 only if it has obtained sufficient staff, resources, and
9 expertise to carry out its functions as a qualified
10 body.

11 **SEC. 107. COMPULSIVE GAMING, RESPONSIBLE GAMING,**
12 **AND SELF-EXCLUSION PROGRAM REQUIRE-**
13 **MENTS.**

14 (a) REGULATIONS REQUIRED.—Each qualified body
15 shall prescribe regulations for the development of a Com-
16 pulsive Gaming, Responsible Gaming, and Self-Exclusion
17 Program that each licensee of that qualified body shall im-
18 plement as a condition of licensure. Such regulations shall
19 also provide for the establishment of a program to alert
20 the public to the existence, consequences, and availability
21 of the self-exclusion list established under subsection (c).

22 (b) MINIMUM REQUIREMENTS.—At a minimum, each
23 qualified body shall require that licensees—

24 (1) provide informational materials about re-
25 sponsible gaming, including information about the

1 self-exclusion list established under subsection (c)
2 and how a player may request placement on the list,
3 each time a player signs in to make a bet or wager,
4 which materials may be provided via a prominently
5 displayed hyperlink or comparable mechanism;

6 (2) provide informational materials about re-
7 sponsible gaming to any player that requests such
8 materials;

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

16 (4) ensure to a reasonable degree of certainty
17 that persons on the list of self-excluded persons es-
18 tablished pursuant to subsection (c) are prevented
19 from initiating any bets or wagers within the scope
20 of this title.

21 (c) LIST OF PERSONS SELF-EXCLUDED.—

22 (1) ESTABLISHMENT.—

23 (A) LISTS MAINTAINED BY QUALIFIED
24 BODIES.—

1 (i) IN GENERAL.—Each qualified body
2 shall establish and maintain a list of per-
3 sons self-excluded from playing Internet
4 poker through Internet poker facilities li-
5 censed by the qualified body.

6 (ii) SUBMITTAL TO SECRETARY.—
7 Each week, each qualified body shall sub-
8 mit to the Secretary a current copy of the
9 list established and maintained by the
10 qualified body under clause (i).

11 (B) MASTER LIST MAINTAINED BY SEC-
12 RETARY.—

13 (i) IN GENERAL.—The Secretary shall
14 establish and maintain a master list of all
15 persons self-excluded from playing Internet
16 poker through Internet poker facilities li-
17 censed under this title. Such list shall con-
18 sist of all persons submitted under sub-
19 paragraph (A)(ii).

20 (ii) AVAILABILITY.—The Secretary
21 shall make the master list established and
22 maintained under clause (i) available to all
23 qualified bodies and licensees.

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

4 (i) acknowledging in a manner to be
5 established by each qualified body with re-
6 spect to its licensees that the person wishes
7 to be denied gaming privileges within the
8 scope of this title; and

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

14 (2) LIMITATION ON LIABILITY.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the United States, the Sec-
17 retary, a qualified body, the State or Indian
18 tribe in which that qualified body is located, an
19 enforcement agent, licensee, or any employee or
20 agent thereof, shall not be liable to any self-ex-
21 cluded person or to any other party in any judi-
22 cial or administrative proceeding for any harm,
23 monetary or otherwise, which may arise as a re-
24 sult of—

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

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

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

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

18 (C) RULE OF CONSTRUCTION.—Nothing in
19 this paragraph shall be construed to prevent the
20 Secretary or a qualified body from assessing a
21 regulatory sanction against a licensee or person
22 for failing to comply with a provision of this
23 section or a regulation prescribed thereunder or
24 for misuse of any list of self-excluded persons
25 for purposes not authorized under this section.

1 (3) DISCLOSURE PROVISIONS.—

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

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

16 (d) GAMING BY PROHIBITED PERSONS.—

17 (1) PROHIBITION ON BENEFITTING FROM PRO-
18 HIBITED GAMING ACTIVITY.—A person who is pro-
19 hibited from gaming with a licensee by law, or by
20 order of the Secretary, a qualified body, or any court
21 of competent jurisdiction, including any person on
22 the self-exclusion list under subsection (c), shall not
23 collect, in any manner or proceeding, any winnings
24 or recover any losses arising as a result of any pro-
25 hibited gaming activity.

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

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

15 (e) ADMINISTRATIVE PROVISIONS.—

16 (1) RULE OF CONSTRUCTION.—No provision of
17 this section shall be construed as creating a legal
18 duty in the Secretary, a qualified body, a licensee,
19 or any employee or agent thereof to identify or to
20 exclude compulsive players not on the list of self-ex-
21 cluded persons.

22 (2) NO CAUSE OF ACTION.—The Secretary, a
23 qualified body, a licensee, and any employee or agent
24 thereof, shall not be liable to any person in any pro-
25 ceeding for losses or other damages of any kind aris-

1 ing out of that person’s gaming activities based on
2 a claim that the person was a compulsive, problem,
3 or pathological player.

4 **SEC. 108. PROHIBITION ON USE OF LICENSES IN CERTAIN**
5 **STATES AND INDIAN LANDS.**

6 (a) IN GENERAL.—Except as provided in section
7 105(b)(3), Internet poker provided by Internet poker fa-
8 cilities licensed under this title shall be lawful in the
9 United States only with respect to the acceptance of bets
10 or wagers from individuals located in States and Indian
11 lands that have not opted out or have opted in, as the
12 case may be, under this section.

13 (b) STATE NOTICE AND PARTICIPATION EXER-
14 CISE.—

15 (1) ELECTIONS BY STATES.—

16 (A) IN GENERAL.—No licensee may accept
17 a bet or wager, under a license issued pursuant
18 to this title, initiated by a person who is known
19 by the licensee to be located at the time of such
20 bet or wager in any State which prohibits such
21 bets or wagers under this paragraph, until such
22 time as notice of any repeal of such prohibition
23 becomes effective under paragraph (2).

24 (B) STATES THAT DO NOT PERMIT COM-
25 MERCIAL POKER MAY OPT-IN.—The States not

1 listed in subparagraph (C) shall be deemed to
2 prohibit the bets and wagers authorized under
3 this title, unless the Governor of such State,
4 pursuant to a duly enacted law of the State,
5 provides written notice to the Secretary not
6 later than December 31, 2011, that such bets
7 or wagers should not be prohibited.

8 (C) STATES THAT PERMIT COMMERCIAL
9 POKER MAY OPT-OUT.—A State as follows shall
10 be deemed to permit the bets and wagers au-
11 thorized under this title, unless the Governor of
12 such State, pursuant to a duly enacted law of
13 the State, provides written notice to the Sec-
14 retary not later than December 31, 2011, that
15 such bets or wagers should be prohibited:

- 16 (i) California.
- 17 (ii) Colorado.
- 18 (iii) Delaware.
- 19 (iv) Florida.
- 20 (v) Iowa.
- 21 (vi) Kansas.
- 22 (vii) Michigan.
- 23 (viii) Mississippi.
- 24 (ix) Missouri.
- 25 (x) Nevada.

- 1 (xi) New Jersey.
- 2 (xii) New Mexico.
- 3 (xiii) Ohio.
- 4 (xiv) Pennsylvania.
- 5 (xv) West Virginia.

6 (2) CHANGES TO STATE ELECTION.—At any
7 time after the date described in paragraph (1)(B), a
8 State may elect to permit or to prohibit bets and wa-
9 gers authorized under this title through written no-
10 tice by the Governor of such State to the Secretary
11 pursuant to a duly enacted law of the State. Any
12 such notice shall apply, for purposes of this title be-
13 ginning the later of—

14 (A) 60 days after the date the notice is
15 provided; or

16 (B) the effective date specified in the no-
17 tice.

18 (3) COORDINATION BETWEEN STATE AND TRIB-
19 AL ELECTIONS.—Any State prohibition under para-
20 graphs (1) or (2) of bets and wagers otherwise au-
21 thorized under this title shall not apply to the ac-
22 ceptance by a licensee of bets or wagers from per-
23 sons located within the Indian lands of an Indian
24 tribe that—

1 (A) itself elects or is deemed to participate
2 pursuant to subsection (c); or

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

7 (4) EXISTING STATE LAW.—No provision of
8 State law enacted prior to the date of the enactment
9 of this Act shall be construed—

10 (A) to satisfy the notice procedure set out
11 in paragraph (1); or

12 (B) to require a State to provide notice
13 pursuant to this subsection.

14 (c) INDIAN TRIBE NOTICE AND PARTICIPATION EX-
15 ERCISE.—

16 (1) ELECTIONS BY INDIAN TRIBES.—

17 (A) IN GENERAL.—No licensee may know-
18 ingly accept a bet or wager, under a license
19 issued pursuant to this title, that is initiated by
20 a person who is located in the Indian lands of
21 any Indian tribe which prohibits such bets or
22 wagers, until such time as notice of any repeal
23 of such prohibition becomes effective under
24 paragraph (2).

1 (B) LIST OF INDIAN TRIBES THAT PERMIT
2 TRIBALLY CONDUCTED OR PERMITTED
3 POKER.—Not later than 90 days after the date
4 of the enactment of this Act, the Secretary
5 shall—

6 (i) obtain from the National Indian
7 Gaming Commission a list of all Indian
8 tribes that permit licensed poker; and

9 (ii) publish such list.

10 (C) INDIAN TRIBES THAT DO NOT PERMIT
11 TRIBALLY CONDUCTED OR PERMITTED
12 POKER.—Any Indian tribe not identified on the
13 list published pursuant to subparagraph (B)
14 shall be deemed under this paragraph to pro-
15 hibit the bets and wagers authorized under this
16 title, unless the principal chief or other chief ex-
17 ecutive officer or designated authority of such
18 Indian tribe provides written notice to the Sec-
19 retary pursuant to a duly enacted law of such
20 Indian tribe not later than December 31, 2011,
21 that such bets or wagers should not be prohib-
22 ited.

23 (D) INDIAN TRIBES THAT PERMIT TRIB-
24 ALLY CONDUCTED OR PERMITTED POKER.—
25 Any Indian tribe identified as permitting Inter-

1 net poker in the list specified in subparagraph
2 (B) shall be deemed under this paragraph to
3 permit the bets and wagers authorized under
4 this title, unless the principal chief or other
5 chief executive officer or designated authority of
6 such Indian tribe provides written notice to the
7 Secretary pursuant to a duly enacted law of the
8 Indian tribe not later than December 31, 2011,
9 that such bets or wagers should be prohibited.

10 (2) CHANGES TO INDIAN TRIBE ELECTION.—At
11 any time after the date described in paragraph
12 (1)(C), an Indian tribe may elect to permit or to
13 prohibit bets and wagers authorized under this title
14 through written notice by the principal chief or other
15 chief executive officer or designated authority of
16 such Indian tribe to the Secretary pursuant to a
17 duly enacted law of the Indian tribe. Any such notice
18 shall apply, for purposes of this title, beginning on
19 the later of—

20 (A) that date that is 60 days after the date
21 the notice is provided; or

22 (B) the effective date specified in the no-
23 tice.

1 (3) EXISTING TRIBAL LAW.—No provision of
2 Indian tribe law enacted before the date of the en-
3 actment of this Act shall be construed—

4 (A) to satisfy the notice procedure set
5 forth in paragraph (1); or

6 (B) to require an Indian tribe to provide
7 notice pursuant to this subsection.

8 (d) INTRASTATE REMOTE POKER.—If a State or In-
9 dian tribe allows intrastate or intratribal Internet gam-
10 bling facilities or closed-loop remote casino gaming or
11 other bets or wagers within State or Indian lands, such
12 State or Indian tribe shall be deemed to allow licensees
13 to accept bets or wagers from individuals located in such
14 State or Indian lands under this title and any opt-out
15 under subsection (b) or (c) shall have no effect. Nothing
16 in this subsection shall be construed to suggest an infer-
17 ence as to the legality or illegality under Federal law or
18 State or tribal laws purporting to make such intrastate
19 or intratribal gaming legal.

20 (e) NOTIFICATION AND ENFORCEMENT OF STATE
21 AND INDIAN TRIBE PROHIBITIONS.—

22 (1) IN GENERAL.—The Secretary shall notify
23 qualified bodies, all licensees, and applicants of all
24 States and Indian tribes that are deemed to prohibit
25 the bets and wagers otherwise authorized under this

1 title, promptly upon receipt of notice under sub-
2 section (b) or (c) or upon determination that sub-
3 section (d) applies to a State or Indian tribe, as the
4 case may be, and in no event later than 30 days be-
5 fore the effective date of such notice.

6 (2) VIOLATIONS.—It shall be a violation of this
7 title for any licensee to accept a bet or wager initi-
8 ated or otherwise made by a person who the licensee
9 knows is located at the time of such bet or wager
10 within any State or in the Indian lands of any In-
11 dian tribe which has been deemed to prohibit such
12 bets or wagers pursuant to subsection (b) or (c), as
13 the case may be, and which is not subject to sub-
14 section (d).

15 (3) STATE ATTORNEY GENERAL ENFORCE-
16 MENT.—In any case in which the attorney general or
17 other chief law enforcement officer of a State or any
18 State or local law enforcement agency, authorized by
19 the attorney general or other chief law enforcement
20 officer of the State or by State statute to prosecute
21 violations of consumer protection law, has reason to
22 believe that an interest of the residents of that State
23 has been or is threatened or adversely affected by a
24 violation by a licensee pursuant to paragraph (2),
25 the State, or the State or local law enforcement

1 agency, may bring a civil action on behalf of the
2 residents of that State or jurisdiction in a district
3 court of the United States located therein—

4 (A) to enjoin that practice; or

5 (B) to enforce compliance with this section.

6 (4) INDIAN TRIBE ENFORCEMENT.—In any case
7 in which the chief law enforcement officer of an In-
8 dian tribe or tribal law enforcement agency, author-
9 ized by the chief law enforcement officer of the In-
10 dian tribe or by tribal law to prosecute violations of
11 consumer protection law, has reason to believe that
12 an interest of the residents of the Indian lands with-
13 in the tribe’s jurisdiction has been or is threatened
14 or adversely affected by a violation by a licensee pur-
15 suant to paragraph (2), the Indian tribe, or the trib-
16 al law enforcement agency, may bring a civil action
17 on behalf of the residents of those Indian lands in
18 a district court of the United States most proximate
19 to those Indian lands—

20 (A) to enjoin that practice; or

21 (B) otherwise to enforce compliance with
22 this section.

23 (5) IMPACT OF PARTICIPATION.—Any person
24 who participates in a bet or wager authorized under
25 this title shall be responsible for all obligations in-

1 curred in connection with such bet or wager and
2 may not avoid such obligation on any basis other
3 than a basis established by the applicable qualified
4 body.

5 (f) NO IMPACT ON INDIAN GAMING REGULATORY
6 ACT.—

7 (1) IN GENERAL.—Except as provided in sec-
8 tions 103 and 104(b), no provision of this title or
9 decision or action taken by an Indian tribe or State
10 pursuant thereto shall have any effect on non-Inter-
11 net gaming activities within the scope of section 11
12 of the Indian Gaming Regulatory Act (25 U.S.C.
13 2710) or any successor provisions or on any Tribal-
14 State compacts or authorities pursuant thereto.

15 (2) TRIBAL STATUS OR CATEGORY NOT AF-
16 FECTED.—Tribal operation of Internet poker facili-
17 ties under this title shall not affect an Indian tribe's
18 status or category or class under such section, and
19 an Indian tribe's status, category, or class under
20 such section shall not impact its status or ability to
21 offer bets or wagers pursuant to this title.

22 (3) NEW NEGOTIATIONS NOT REQUIRED.—

23 (A) INDIAN TRIBES.—The fact that an In-
24 dian tribe is operating under a license issued
25 pursuant to this title or that a tribal regulatory

1 body is acting as a qualified body pursuant to
2 this title shall not require an Indian tribe to ne-
3 gotiate a new agreement, limitation, or other
4 provision of tribal-State compact, agreement, or
5 other understanding with respect to gaming or
6 revenue-sharing, with regard to any bet or
7 wager occurring pursuant to a license issued
8 under this title.

9 (B) STATES.—The fact that a State has
10 opted in or failed to opt out, as the case may
11 be, under this section or that a State regulatory
12 body is acting as a qualified body pursuant to
13 this title shall not require the State to negotiate
14 a new agreement, limitation, or other provision
15 of tribal-State compact, agreement, or other un-
16 derstanding with respect to gaming or revenue-
17 sharing, with regard to any bet or wager occur-
18 ring pursuant to a license issued under this
19 title.

20 **SEC. 109. PROHIBITION ON BETS OR WAGERS ON GAMES OF**
21 **CHANCE AND SPORTING EVENTS.**

22 (a) IN GENERAL.—No provision of this title shall be
23 construed to authorize any licensee to accept a bet or
24 wager on—

25 (1) any game that is not Internet poker; or

1 (2) any sporting event in violation of any Fed-
2 eral or State law.

3 (b) CONSTRUCTION.—Nothing in this title shall be
4 construed to repeal or to amend any provision of Federal
5 or State law prohibiting, restricting, or otherwise address-
6 ing bets or wagers on sporting events, including provisions
7 of Federal and State law that permit participation in any
8 fantasy or simulation sports games.

9 **SEC. 110. PUBLIC GAMING FACILITIES PROHIBITED.**

10 (a) IN GENERAL.—It shall be considered a violation
11 of this title to operate a place of public accommodation,
12 club (including a club or association limited to dues-paying
13 members or similar restricted groups), or similar estab-
14 lishment in which computer terminals or similar access de-
15 vices are made available to be used principally for the pur-
16 pose of accessing Internet gambling facilities.

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

20 (c) CONSTRUCTION.—Nothing in this title shall be
21 construed to authorize or otherwise to permit the oper-
22 ation of places of public accommodation, clubs (including
23 clubs or associations limited to dues-paying members or
24 similar restricted groups) and similar establishments that
25 permit access to Internet gambling facilities.

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

7 **SEC. 111. SAFE HARBOR.**

8 It shall be an affirmative defense to any prosecution
9 or enforcement action under any provision of Federal,
10 State, or tribal law that the activity forming the basis of
11 such prosecution or enforcement action is authorized
12 under and has been carried out lawfully in accordance with
13 and under the terms of—

14 (1) this title; or

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

17 **SEC. 112. RELATION TO SUBCHAPTER IV OF CHAPTER 53 OF**
18 **TITLE 31, UNITED STATES CODE.**

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

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

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

1 **SEC. 113. CHEATING AND OTHER FRAUD.**

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

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

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

1 (3) PERMISSIBLE USES.—It shall not be a vio-
2 lation of this subsection for a licensee, its agents, a
3 qualified body, or its agent to use or possess a device
4 described in the preceding sentence if—

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

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

9 (C) such device is registered with the Sec-
10 retary and the qualified body that issued the
11 applicable license.

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

16 (b) ADDITIONAL OFFENSE.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (3), no person initiating, receiving, or other-
19 wise making a bet or wager with a licensee, or send-
20 ing, receiving, or inviting information assisting with
21 a bet or wager with a licensee, shall knowingly use,
22 possess, or assist another in the use of any cheating
23 device with intent to cheat or defraud any licensee
24 or other persons placing bets or wagers with such li-
25 censee.

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

5 (3) PERMISSIBLE USES.—It shall not be a vio-
6 lation of this subsection for a licensee, its agents, a
7 qualified body, or its agent to use or possess a device
8 described in paragraph (1) or (2) if—

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

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

13 (C) such device is registered with the
14 qualified body that issued the applicable license.

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

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

1 (d) CRIMINAL PENALTY.—Whoever violates sub-
2 section (a) or (b) shall be fined under title 18, United
3 States Code, or imprisoned for not more than 2 years, or
4 both.

5 **SEC. 114. INAPPLICABILITY OF CERTAIN PROVISIONS TO**
6 **INTERSTATE OFF-TRACK WAGERS.**

7 The provisions of this title requiring a license and of
8 subchapter IV of chapter 53 of title 31, United States
9 Code, restricting acceptance of bets or wagers made by
10 individuals located in the United States or requiring the
11 blocking or other prevention of restricted transactions
12 shall not apply with respect to the acceptance of interstate
13 off-track wagers (as such term is defined by section 3 of
14 the Interstate Horseracing Act of 1978, as amended (15
15 U.S.C. 3002)), whether such off-track wager is made by
16 telephone, Internet, satellite, or other wire or wireless
17 communication facility, service, or medium.

18 **SEC. 115. CONSTRUCTION AND RELATION TO OTHER LAW.**

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

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

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

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

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

12 (b) PREEMPTION OF STATE AND TRIBAL LAWS.—

13 (1) IN GENERAL.—Except as otherwise ex-
14 pressly provided in this Act, the provisions of this
15 title shall supersede any provisions of the law of any
16 State or tribe relating to the permitting, prohibiting,
17 licensing, or regulating of Internet gambling facili-
18 ties, including Internet poker facilities, except to the
19 extent such State or tribal laws are consistent with
20 this title.

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

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

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

12 “(f) This section, subchapter IV of chapter 53 of title
13 31, and any other provision of Federal law that establishes
14 criminal penalties for any activity involved in placing, re-
15 ceiving, or otherwise transmitting a bet or wager shall not
16 apply to any bet or wager that is permissible under the
17 Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et
18 seq.), that is permissible under the Prohibition of Internet
19 Gambling, Internet Poker Regulation, and Strengthening
20 UIGEA Act of 2010, or is a qualifying intrastate lottery
21 bet or wager as defined in section 102 of such Act.”.

22 **SEC. 116. REGULATIONS.**

23 (a) LICENSING OF INTERNET POKER FACILITIES.—
24 Not later than 180 days after the date of the enactment
25 of this Act, the Secretary shall—

1 (1) prescribe such regulations as the Secretary
2 considers necessary and where expressly required or
3 authorized to carry out this title; and

4 (2) publish such regulations in final form in the
5 Federal Register.

6 (b) **AUTHORITY TO ACT UNDER ABSENCE OF REGU-**
7 **LATIONS.**—The failure of the Secretary to comply with the
8 requirements of subsection (a) and the absence of any part
9 of the regulations required under such subsection shall not
10 affect the authority of a qualified body to consider applica-
11 tions, issue licenses, and otherwise take actions otherwise
12 authorized to qualified bodies under this title.

13 **SEC. 117. ANNUAL REPORT.**

14 (a) **IN GENERAL.**—Not later than 1 year after the
15 date that licenses first issue under section 118(a) and an-
16 nually thereafter, the Secretary shall submit to Congress
17 a report on the licensing and regulation of Internet poker
18 facilities under this title.

19 (b) **ELEMENTS.**—Each report submitted under sub-
20 section (a) shall include the following:

21 (1) A description of all notices received by the
22 Secretary under subsections (b) and (c) of section
23 108.

24 (2) The amount of assessments collected under
25 section 104(e) and, in cooperation with the Sec-

1 retary of Treasury, an estimate of the amount of in-
2 come tax revenue that is attributable to the oper-
3 ation of Internet poker facilities during the period
4 covered by the report.

5 (3) A list of qualified bodies, the number of li-
6 censees reviewed by the qualified bodies under this
7 title, and the outcomes of such reviews.

8 (4) A description of the efforts the Secretary
9 has undertaken to ensure that qualified bodies are
10 properly issuing licenses and regulating licensees
11 under this title.

12 (5) Any other information the Secretary deter-
13 mines may be useful to Congress.

14 **SEC. 118. ORDERLY TRANSITION.**

15 (a) DATE OF FIRST ISSUANCE.—No qualified body
16 may issue a license under this title before the date that
17 is 15 months after the date of the enactment of this Act.
18 Qualified bodies shall, to the extent practicable while
19 meeting the requirements and standards of this title, issue
20 multiple licenses on the date that is 15 months after the
21 date of the enactment of this Act in order to ensure a
22 robust and competitive market for consumers and to pre-
23 vent the first licensees from gaining an unfair competitive
24 advantage.

1 (b) ORDERLY CESSATION OF UNLICENSED ACTIVITY
2 AND SAFEKEEPING OF CUSTOMER FUNDS.—

3 (1) IN GENERAL.—Each person described in
4 subclause (I), (II), or (III) of section
5 104(c)(1)(B)(ii) shall, with respect to an Internet
6 gambling facility and to the extent applicable to the
7 person—

8 (A) not later than 30 days after the date
9 of the enactment of this Act, cease offering, ac-
10 cepting, and providing services with respect to
11 bets or wagers from persons located in the
12 United States;

13 (B) provide to each individual located in
14 the United States who has outstanding sums on
15 deposit with such person notice to such indi-
16 vidual that operations will be ceasing pursuant
17 to subparagraph (A) with instructions indi-
18 cating the procedures the individual should use
19 to request the return of such sums—

20 (i) not later than 7 days after the
21 date of the enactment of this Act and not
22 less frequently than quarterly thereafter
23 until such sums have been returned, by e-
24 mail;

1 (ii) not later than 30 days after the
2 date of the enactment of this Act and not
3 less frequently than semi-annually there-
4 after until such sums have been returned,
5 by mail; and

6 (iii) beginning not later than 14 days
7 after the date of the enactment of this Act
8 and ending on the date that such sums
9 have been returned, by promptly displaying
10 notice each time such individual signs into
11 the Internet gambling facility;

12 (C) promptly return all outstanding sums
13 to individuals located in the United States who
14 have sums on deposit with such person, upon
15 the request of such individuals;

16 (D) during the 2-year period beginning on
17 the date of the enactment of this Act, retain all
18 outstanding sums owed to individuals under
19 subparagraph (C) the disposition of which re-
20 mains unresolved because of a lack of a request
21 by such individual under such subparagraph or
22 other reason; and

23 (E) on the date that is 2 years and 1 day
24 after the date of the enactment of this Act,
25 place any remaining sums owed to individuals

1 under subparagraph (C) the disposition of
2 which remains unresolved in escrow with a fi-
3 nancial institution in the United States for
4 safekeeping and orderly disposition as the Sec-
5 retary may direct.

6 (2) APPLICABILITY REGARDLESS OF LICENSE
7 APPLICATION STATUS.—Paragraph (1) applies to
8 any person described in subclause (I), (II), or (III)
9 of section 104(c)(1)(B)(ii) regardless of whether
10 such person applies for a license or seeks a certifi-
11 cate of suitability with respect to an application for
12 a license under this title.

13 (c) COMPLIANCE AS REQUIREMENT FOR LICENS-
14 ING.—

15 (1) IN GENERAL.—A license or certificate of
16 suitability may not be issued by any qualified body
17 to a person described in subclause (I), (II), or (III)
18 of section 104(c)(1)(B)(ii) under this title if such
19 person has not complied with subsection (b)(1), to
20 the extent applicable to the person.

21 (2) PURCHASE AND ACQUISITION.—A license or
22 certificate of suitability may not be issued by any
23 qualified body to a person that purchased or ac-
24 quired, directly or through an affiliate or inter-
25 mediary, in whole or in significant part, a person de-

1 scribed in paragraph (1), or the assets, tangible or
2 intangible and in whole or in part, of a person de-
3 scribed in paragraph (1).

4 (3) SIGNIFICANT PART DEFINED.—In this sub-
5 section, the term “significant part”, with respect to
6 ownership of a person, means ownership of—

7 (A) 5 percent or more of that person; or

8 (B) any amount of ownership of that per-
9 son that provides control over such person.

10 (d) APPLICABILITY.—An applicant for a license
11 under this title and an entity that must obtain a certificate
12 of suitability under this title shall certify that it has not
13 acquired, directly or indirectly through an affiliate or
14 intermediary, and will not use any assets, tangible or in-
15 tangible, from an entity that has violated subsection
16 (b)(1).

17 (e) NO EFFECT ON EXISTING LAW.—Nothing in this
18 section shall be construed to repeal, to amend, or to affect
19 the interpretation of any provision of Federal or State law
20 prohibiting, restricting, or otherwise addressing bets or
21 wagers or prohibiting fraud or other criminal activity that
22 was in effect before the date of the enactment of this Act.

23 (f) CRIMINAL PENALTY.—Whoever violates sub-
24 section (b)(1) shall be fined under title 18, United States
25 Code, in an amount not to exceed 3 times the amount of

1 the funds subject to subsection or imprisoned under such
2 title for not more than 2 years, or both.

3 **SEC. 119. EFFECTIVE DATE.**

4 Except as otherwise provided in this title, the provi-
5 sions of this title shall take effect on the date that is 30
6 days after the date of the enactment of this Act.

7 **TITLE II—STRENGTHENING OF**
8 **UNLAWFUL INTERNET GAM-**
9 **BLING ENFORCEMENT ACT**
10 **OF 2006**

11 **SEC. 201. FINANCIAL TRANSACTION PROVIDERS.**

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

15 **“§ 5368. Financial transaction providers**

16 “(a) IN GENERAL.—A financial transaction provider
17 shall not be held liable for engaging in a financial activity
18 or transaction, including a payments processing activity,
19 in connection with a bet or wager permitted by the Prohi-
20 bition of Internet Gambling, Internet Poker Regulation,
21 and Strengthening UIGEA Act of 2010 or the Interstate
22 Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) unless
23 the financial transaction provider has knowledge or reason
24 to know that the financial activity or transaction was con-

1 ducted in violation of either such Act or any other applica-
2 ble provision of Federal or State law.

3 “(b) DEFINITIONS.—In this section:

4 “(1) FINANCIAL TRANSACTION PROVIDER.—

5 The term ‘financial transaction provider’ means—

6 “(A) a creditor, credit card issuer, finan-
7 cial institution, operator of a terminal at which
8 an electronic fund transfer may be initiated, or
9 money transmitting business;

10 “(B) an international, national, regional,
11 or local payment network utilized to effect a
12 credit transaction, electronic fund transfer,
13 stored value product transaction, or money
14 transmitting service;

15 “(C) a participant in a network described
16 in subparagraph (B); or

17 “(D) another participant in a payment sys-
18 tem.

19 “(2) OTHER TERMS.—

20 “(A) CREDIT, CREDITOR, CREDIT CARD,
21 AND CARD ISSUER.—The terms ‘credit’, ‘cred-
22 itor’, ‘credit card’, and ‘card issuer’ have the
23 meanings given those terms in section 103 of
24 the Truth in Lending Act (15 U.S.C. 1602).

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

3 “(i) has the meaning given the term
4 in section 903(7) of the Electronic Fund
5 Transfer Act (15 U.S.C. 1693a(7)), except
6 that such term includes transfers that
7 would otherwise be excluded under section
8 903(7)(E) of such Act; and

9 “(ii) includes any fund transfer cov-
10 ered by Article 4A of the Uniform Com-
11 mercial Code, as in effect in any State.

12 “(C) FINANCIAL INSTITUTION.—The term
13 ‘financial institution’ has the meaning given the
14 term in section 903(9) of the Electronic Fund
15 Transfer Act (15 U.S.C. 1963a(9)), except that
16 such term does not include a casino, sports
17 book, or other business at or through which
18 bets or wagers may be placed or received.

19 “(D) INSURED DEPOSITORY INSTITU-
20 TION.—The term ‘insured depository institu-
21 tion’—

22 “(i) has the meaning given the term
23 in section 3(c) of the Federal Deposit In-
24 surance Act (12 U.S.C. 1813(c)); and

1 “(ii) includes an insured credit union
2 (as defined in section 101 of the Federal
3 Credit Union Act (12 U.S.C. 1752)).

4 “(E) MONEY TRANSMITTING BUSINESS
5 AND MONEY TRANSMITTING SERVICE.—The
6 terms ‘money transmitting business’ and
7 ‘money transmitting service’ have the meanings
8 given those terms in section 5330(d) (deter-
9 mined without regard to any regulations pre-
10 scribed by the Secretary under such section).”.

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

 “5368. Financial transaction providers.”.

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

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

20 **“§ 5369. List of unlicensed Internet gambling enter-**
21 **prises**

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

24 “(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 Prohibition of
6 Internet Gambling, Internet Poker Regulation,
7 and Strengthening UIGEA Act of 2010, submit
8 to the Secretary a list of unlicensed Internet
9 gambling enterprises that includes the informa-
10 tion 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 tigation 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 website addresses
21 of the enterprise.

22 “(B) The name of any person who con-
23 ducts, 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 website 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 Prohibition of Internet
2 Gambling, Internet Poker Regulation, and
3 Strengthening UIGEA Act of 2010, the Direc-
4 tor shall complete an initial investigation of en-
5 tities that appear to be unlicensed Internet
6 gambling enterprises.

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

23 “(5) OPPORTUNITY FOR HEARING.—The Direc-
24 tor—

1 “(A) may not include a person that sub-
2 mits a written appeal under paragraph (4) in
3 the list of unlicensed Internet gambling enter-
4 prises required by subsection (a) until the Di-
5 rector provides the person with an opportunity
6 for a hearing; and

7 “(B) shall provide the person the oppor-
8 tunity for a hearing not later than 30 days
9 after receiving the written appeal from the per-
10 son.

11 “(6) DETERMINATIONS AFTER HEARING.—Not
12 later than 10 days after the date of a hearing pro-
13 vided for a person under paragraph (5) (without re-
14 gard to whether the person appears at the hearing),
15 the Director shall—

16 “(A) determine if the person should be in-
17 cluded in the list of unlicensed Internet gam-
18 bling enterprises required by subsection (a);
19 and

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

23 “(7) INJUNCTIVE RELIEF.—

24 “(A) IN GENERAL.—A person described in
25 subparagraph (B) may petition for injunctive

1 relief in the United States District Court for
2 the District of Columbia, which shall have ex-
3 clusive jurisdiction to hear cases arising under
4 this section.

5 “(B) PERSON DESCRIBED.—A person de-
6 scribed in this subparagraph is a person that
7 the Director determines to include in the list of
8 unlicensed Internet gambling enterprises re-
9 quired by subsection (a)—

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

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

14 “(C) BURDEN OF PROOF.—The petitioner
15 shall have the burden of establishing that the
16 person should not be included in the list of unli-
17 censed Internet gambling enterprises required
18 by subsection (a).

19 “(D) STANDING.—Only persons that the
20 Director determines to include in the list of un-
21 licensed Internet gambling enterprises required
22 by subsection (a) and owners or operators of
23 such enterprises shall have standing to contest
24 the determination of the Director.

1 “(E) AVAILABLE RELIEF.—The court may
2 direct the Director and the Secretary not to
3 add, or to remove, the petitioner from the list
4 of unlicensed Internet gambling enterprises.

5 “(F) UNAVAILABILITY OF OTHER REM-
6 EDIES.—There shall be no judicial review of a
7 determination under this section other than
8 pursuant to this paragraph.

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

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

16 “(2)(A) the person or entity is included in a
17 nonpublic list of unlicensed Internet gambling enter-
18 prises made available to the financial transaction
19 provider by the Secretary under subsection (a)(3);
20 and

21 “(B) information in addition to the nonpublic
22 list described in subparagraph (A) is available to the
23 financial transaction provider that demonstrates that
24 the person or entity is an unlicensed Internet gam-
25 bling enterprise.

1 “(d) DEFINITIONS.—In this section:

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

5 “(2) FINANCIAL TRANSACTION PROVIDER.—
6 The term ‘financial transaction provider’ has the
7 meaning given that term in section 5368.

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

12 “(4) UNLICENSED INTERNET GAMBLING EN-
13 TERPRISE.—The term ‘unlicensed Internet gambling
14 enterprise’ means any person who, on or after the
15 date of the enactment of the Prohibition of Internet
16 Gambling, Internet Poker Regulation, and Strengthening
17 UIGEA Act of 2010—

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

19 “(B) knowingly receives or transmits funds
20 intended primarily for a person described in
21 subparagraph (A); or

22 “(C) knowingly assists a person in conduct
23 described in subparagraph (A) or (B).”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of such chapter 53, as amended by sec-

1 tion 201(b), is further amended by adding at the end the
2 following:

“5369. Unlicensed Internet gambling enterprises.”.

3 **SEC. 203. REGULATIONS.**

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

7 (1) prescribe regulations to carry out sections
8 5368 and 5369 of title 31, United States Code, as
9 added by sections 201(a) and 202(a), and publish
10 such regulations in final form in the Federal Reg-
11 ister; and

12 (2) prescribe such regulations as the Secretary
13 of the Treasury considers necessary to ensure com-
14 pliance with chapter 21 of title 12, United States
15 Code, and subchapter II of chapter 53 of title 31,
16 United States Code (commonly known, collectively,
17 as the “Bank Secrecy Act”), by licensees, significant
18 vendors to such licensees, and financial service pro-
19 viders to such licensees (as such terms are defined
20 in section 102).

21 (b) EXCLUSION OF BOARD OF GOVERNORS OF THE
22 FEDERAL RESERVE SYSTEM FROM REQUIREMENT TO
23 PRESCRIBE REGULATIONS CONCERNING PREVENTION OF
24 RESTRICTED TRANSACTIONS.—Subsection (a) of section
25 5364 of title 31, United States Code, is amended by strik-

1 ing “Before the end of the 270-day period beginning on
2 the date of the enactment of this subchapter, the Sec-
3 retary and the Board of Governors of the Federal Reserve
4 System, in consultation with the Attorney General, shall
5 prescribe regulations (which the Secretary and the Board
6 jointly determine to be appropriate)” and inserting “The
7 Secretary shall prescribe regulations”.

8 (c) TEMPORARY SUSPENSION OF CERTAIN REGULA-
9 TIONS.—

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

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

23 (d) REVISION OF REGULATIONS.—Not later than 180
24 days after the date of the enactment of this Act, the Sec-
25 retary of the Treasury shall revise part 233 of title 12,

1 Code of Federal Regulations, and part 132 of title 31,
2 Code of Federal Regulations, to conform with the provi-
3 sions of title I.

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

10 (1) The size of the list.

11 (2) The number of persons and websites added
12 to and removed from the list.

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

16 **SEC. 204. CONFORMING AMENDMENTS.**

17 (a) DUTIES AND POWERS OF THE DIRECTOR OF THE
18 FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section
19 310(b)(2)(I) of title 31, United States Code, is amended
20 by striking “subchapter II” and inserting “subchapters II
21 and IV”.

22 (b) EXCLUSION OF LICENSED INTERNET POKER FA-
23 CILITY OPERATIONS FROM DEFINITION OF UNLAWFUL
24 INTERNET GAMBLING ENTERPRISE.—Section 5362(10)
25 of such title is amended—

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

3 (2) by redesignating subparagraph (E) as sub-
4 paragraph (F); and

5 (3) by inserting after subparagraph (D) the fol-
6 lowing:

7 “(E) LICENSED INTERNET POKER FACILI-
8 TIES.—The term ‘unlawful Internet gambling’
9 does not include an activity carried out by an
10 Internet poker facility, as such term is defined
11 in section 102 of the Prohibition of Internet
12 Gambling, Internet Poker Regulation, and
13 Strengthening UIGEA Act of 2010, operated by
14 a person under a license provided under title I
15 of such Act in accordance with the provisions of
16 such title.”.

17 **TITLE III—INTERNET POKER**
18 **REVENUE PROVISIONS**

19 **SEC. 301. AMENDMENT OF 1986 CODE.**

20 Except as otherwise expressly provided, whenever in
21 this title an amendment or repeal is expressed in terms
22 of an amendment to, or repeal of, a section or other provi-
23 sion, the reference shall be considered to be made to a
24 section or other provision of the Internal Revenue Code
25 of 1986.

1 **SEC. 302. TAX ON INTERNET POKER; LICENSEE INFORMA-**
2 **TION REPORTING.**

3 (a) IN GENERAL.—Chapter 36 is amended by adding
4 at the end the following new subchapter:

5 **“Subchapter E—Internet Poker**

6 **“SEC. 4491. IMPOSITION OF INTERNET POKER LICENSE**
7 **FEE.**

8 “(a) IMPOSITION OF INTERNET POKER LICENSE
9 FEE.—Each person who is a licensee shall be required to
10 pay not later than 15 days after the end of each calendar
11 month an Internet poker license fee equal to **[20]** percent
12 of a licensee’s Internet poker receipts for that calendar
13 month.

14 “(b) INTERNET POKER RECEIPTS.—

15 “(1) IN GENERAL.—The term ‘Internet poker
16 receipts’ with respect to any calendar month means
17 the amounts received by a licensee which are attrib-
18 utable to any commission fee, tournament fee (re-
19 duced by the amount of any tournament prizes paid
20 by the licensee), or other fee or charge required or
21 received from customers during such month which
22 are directly connected to Internet poker.

23 “(2) EXCLUSIONS.—Revenues derived from the
24 sale or provision of goods or services that are ancil-
25 lary and not integral to the game, tournament, or

1 contest of Internet poker shall not be taken into ac-
2 count in determining Internet poker receipts.

3 “(c) UNAUTHORIZED GAMING.—Each person who is
4 not a licensee and who operates an Internet poker facility
5 for which a license is required under section 103 of the
6 Prohibition of Internet Gambling, Internet Poker Regula-
7 tion, and Strengthening UIGEA Act of 2010, except as
8 provided in section 105 of such Act, shall be required to
9 pay not later than the end of each calendar month a fee
10 equal to the amount of the Internet poker license fee that
11 would be applicable under subsection (a), applied by sub-
12 stituting ‘50 percent’ for ‘**[20]** percent’, to such person
13 for such month if such person were a licensee. Nothing
14 in this section shall be construed to limit the criminal or
15 civil liability under any other provision of law of a person
16 that has operated or operates an Internet poker facility
17 without a license issued pursuant to section 104(b) of the
18 Prohibition of Internet Gambling, Internet Poker Regula-
19 tion, and Strengthening UIGEA Act of 2010.

20 “(d) DEFINITIONS.—For purposes of this sub-
21 chapter, the terms ‘licensee’, ‘bet or wager’, ‘poker’,
22 ‘Internet poker’, and ‘Internet poker facility’ have the
23 meaning given such terms by section 102 of the Prohibi-
24 tion of Internet Gambling, Internet Poker Regulation, and
25 Strengthening UIGEA Act of 2010.

1 “(e) PERSONS LIABLE.—

2 “(1) IN GENERAL.—Each licensee or other per-
3 son (including an Indian tribal government or in-
4 strumentality thereof which is a licensee) who oper-
5 ates an Internet poker facility for which a license is
6 required under section 103 of the Prohibition of
7 Internet Gambling, Internet Poker Regulation, and
8 Strengthening UIGEA Act of 2010, shall be liable
9 for and shall pay the applicable fees under this sec-
10 tion with respect to all Internet poker receipts.

11 “(2) JOINT AND SEVERAL LIABILITY FOR UN-
12 AUTHORIZED GAMING.—In the case of any fee im-
13 posed under subsection (d), the person described in
14 such subsection and any significant vendor to such
15 person shall be jointly and severally liable for the fee
16 under such subsection.

17 “(f) ADMINISTRATIVE PROVISIONS.—Except to the
18 extent the Secretary shall by regulations prescribe, the ad-
19 ministrative provisions of this title applicable to the excise
20 taxes imposed by chapter 35 shall apply to the fees im-
21 posed by this section.

22 **“SEC. 4492. RECORDKEEPING REQUIREMENTS.**

23 “(a) IN GENERAL.—Each licensee who is liable for
24 the fees imposed by this subchapter shall keep a daily
25 record showing all deposits and withdrawals to which this

1 subchapter applies, in addition to all other records re-
2 quired pursuant to section 6001(a).

3 “(b) RECORDS WITH RESPECT TO INTERNET POKER
4 LICENSE FEE.—Each licensee to which subsection (a) ap-
5 plies shall keep a record, using methods determined to be
6 satisfactory by the qualified body (within the meaning of
7 section 105 of the Prohibition of Internet Gambling, Inter-
8 net Poker Regulation, and Strengthening UIGEA Act of
9 2010) responsible for oversight of such licensee, of the lo-
10 cation of each person making a deposit or withdrawal to
11 which this subchapter applies, for purposes of determining
12 the Internet poker license fee applicable to such deposit
13 or withdrawal.”.

14 (b) INFORMATION RETURNS.—Subpart B of part III
15 of subchapter A of chapter 61 is amended by adding at
16 the end the following new section:

17 **“SEC. 6050X. RETURNS RELATING TO INTERNET POKER.**

18 “(a) REQUIREMENT.—Every person described in sec-
19 tion 4491(e)(1) with respect to any month during a tax-
20 able year shall furnish, at such time and in such manner
21 as the Secretary shall by regulations prescribe, the infor-
22 mation described in subsection (b), and such person shall
23 maintain (in the location and manner and to the extent
24 prescribed in such regulations) such records as may be ap-
25 propriate with respect to such information.

1 “(b) REQUIRED INFORMATION.—For purposes of
2 subsection (a), the information described in this sub-
3 section is—

4 “(1) the name, address, and TIN of the person
5 described in subsection (a);

6 “(2) the name, address, and TIN of each per-
7 son placing a bet or wager on Internet poker (within
8 the meaning of section 4491) with the person de-
9 scribed in subsection (a) during the calendar year;

10 “(3) the gross winnings, gross wagers, and
11 gross losses for the calendar year of each person
12 placing a bet or wager as described in paragraph
13 (2);

14 “(4) the net Internet poker winnings for each
15 such person for the calendar year;

16 “(5) the amount of tax withheld, if any, with
17 respect to each such person by the person described
18 in subsection (a) for the calendar year;

19 “(6) the balance of any account maintained for
20 each person placing a bet or wager as described in
21 paragraph (2) by the person described in subsection
22 (a), at the beginning and the end of the calendar
23 year; and

1 “(7) the amounts of all deposits and with-
2 drawals from each such account during such cal-
3 endar year.

4 “(c) STATEMENT TO BE FURNISHED TO PERSONS
5 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

6 Every person required to make a return under subsection
7 (a) shall furnish to each person whose name is required
8 to be set forth in such return a written statement show-
9 ing—

10 “(1) the name, address, and phone number of
11 the information contact of the person required to
12 make such return; and

13 “(2) the information required to be shown on
14 such return with respect to each person whose name
15 is required to be set forth in such return.

16 The written statement required under the preceding sen-
17 tence shall be furnished to the person on or before Janu-
18 ary 31 of the year following the calendar year for which
19 the return under subsection (a) was required to be made.

20 “(d) NET INTERNET POKER WINNINGS.—The term
21 ‘net Internet poker winnings’ means gross winnings from
22 bets or wagers with an Internet poker facility (within the
23 meaning of section 4491) for which a license is required
24 under section 103 of the Prohibition of Internet Gambling,
25 Internet Poker Regulation, and Strengthening UIGEA

1 Act of 2010, reduced (but not below zero) by the amounts
2 bet or wagered. The Secretary of the Treasury shall issue
3 guidance on the appropriate time period for determining
4 net Internet poker winnings for purposes of the reporting
5 requirements of this section.”.

6 (c) INTERNET POKER LICENSE FEE TRUST FUND.—
7 Subchapter A of chapter 98 is amended by adding at the
8 end the following new section:

9 **“SEC. 9512. INTERNET POKER LICENSE FEE TRUST FUND.**

10 “(a) CREATION OF TRUST FUND.—There is estab-
11 lished in the Treasury of the United States a trust fund
12 to be known as the ‘Internet Poker License Fee Trust
13 Fund’ (hereafter in this section referred to as the ‘Trust
14 Fund’), consisting of such amounts as may be appro-
15 priated or credited to such Trust Fund as provided in this
16 section and section 9602(b).

17 “(b) TRANSFERS TO FUND.—There are hereby ap-
18 propriated to the Trust Fund amounts equivalent to the
19 amount of the fees received in the Treasury with respect
20 to each calendar month under section 4491.

21 “(c) EXPENDITURES FROM FUND.—

22 “(1) STATE AND INDIAN TRIBAL GOVERNMENT
23 FEES.—

24 “(A) IN GENERAL.—On a monthly basis,
25 the Secretary shall pay to qualified States and

1 qualified Indian tribal governments the State
2 and tribal share of the Trust Fund, to be allo-
3 cated as follows:

4 “(i) 70 percent of such share to be al-
5 located among such States and Indian trib-
6 al governments, with each such govern-
7 ment receiving an amount which bears the
8 same ratio to the total amount so allocated
9 as the number of customers located within
10 the jurisdiction of such government bears
11 to the total number of customers to whom
12 the Internet poker receipts (within the
13 meaning of section 4491(b)) which give
14 rise to the fees received under section 4491
15 for such month are attributable.

16 “(ii) except as provided in subpara-
17 graph (D), 30 percent to be allocated
18 among such States and Indian tribal gov-
19 ernments, with each such government re-
20 ceiving an amount which bears the same
21 ratio to the total amount so allocated as—

22 “(I) the amount of the Internet
23 poker receipts (within the meaning of
24 section 4491(b)) which give rise to the
25 fees received under section 4491 for

1 such month which are attributable to
2 customers of a licensee licensed by a
3 qualified body (within the meaning of
4 section 105 of the Prohibition of
5 Internet Gambling, Internet Poker
6 Regulation, and Strengthening
7 UIGEA Act of 2010) located within
8 the jurisdiction of such government,
9 bears to

10 “(II) the total amount of such re-
11 cepts for such month.

12 “(B) STATE AND TRIBAL SHARE.—Except
13 as provided in subparagraph (D), for purposes
14 of this section and with respect to a calendar
15 month, the State and tribal share of the Trust
16 Fund is 70 percent of the amounts received in
17 such Fund with respect to such month.

18 “(C) STATE AND INDIAN TRIBAL GOVERN-
19 MENT JURISDICTION.—For purposes of sub-
20 paragraph (A)(i), Internet poker receipts of a
21 customer located within the jurisdiction of an
22 Indian tribal government shall be attributed to
23 such Indian tribal government and not to the
24 State or States in which such Indian tribal gov-
25 ernment is located. For purposes of subpara-

1 graph (A)(ii), a qualified body located within
2 the jurisdiction of an Indian tribal government
3 shall be considered to be located solely within
4 the jurisdiction of such Indian tribal govern-
5 ment and not within the jurisdiction of any
6 State.

7 “(D) FEDERAL QUALIFIED BODY.—In the
8 case of a licensee licensed by a qualified body
9 which is a Federal agency (or any component
10 thereof, including the Office of Internet Poker
11 Oversight), the amount of the State and tribal
12 share of the Trust Fund which, if such quali-
13 fied body were not a Federal agency (or compo-
14 nent thereof) and were located within the juris-
15 diction of a State or Indian tribal government,
16 would be allocated under subparagraph (A)(ii)
17 to such State or Indian tribal government—

18 “(i) shall be subtracted from the State
19 and tribal share of the Trust Fund, and

20 “(ii) shall be added to the Federal
21 share of the Trust Fund, and shall be
22 available for expenditure as provided in
23 paragraphs (2) and (3).

24 “(E) QUALIFIED STATE; QUALIFIED IN-
25 DIAN TRIBAL GOVERNMENT.—

1 “(i) IN GENERAL.—For purposes of
2 this section, the terms ‘qualified State’ and
3 ‘qualified Indian tribal government’ mean
4 a State or an Indian tribal government, re-
5 spectively, that has not elected (by notice
6 provided by the Governor, principal chief,
7 or other chief executive officer or des-
8 ignated authority and in such form and
9 manner as the Secretary may prescribe) to
10 be excluded from the receipt of funds
11 under this section.

12 “(ii) STATE ELECTION NOT TO AF-
13 FECT TRIBAL ELECTION.—An election by a
14 State under clause (i) to be excluded from
15 the receipt of funds under this section
16 shall not constitute an election to be so ex-
17 cluded on behalf of any Indian tribe lo-
18 cated within or partially within the geo-
19 graphic boundaries of such State.

20 “(iii) APPLICABILITY OF ELECTION.—
21 An election made under subparagraph (A)
22 shall be effective—

23 “(I) upon receipt by the Sec-
24 retary, if such election is received
25 within 90 days of the date of enact-

1 ment of the Prohibition of Internet
2 Gambling, Internet Poker Regulation,
3 and Strengthening UIGEA Act of
4 2010; and

5 “(II) in any other case, on the
6 first January 1 that occurs at least 60
7 days after the later of the receipt of
8 such election by the Secretary or the
9 effective date specified in such elec-
10 tion.

11 “(iv) REVOCATION OF ELECTION.—

12 “(I) A State or Indian tribal gov-
13 ernment may revoke its election under
14 clause (i) through a duly enacted law
15 or a legally binding decision of the
16 tribal decision-making body, as the
17 case may be, and with notice of rev-
18 ocation provided to the Secretary by
19 the Governor, principal chief, or other
20 chief executive officer or designated
21 authority in such form and manner as
22 the Secretary may prescribe.

23 “(II) Such revocation shall be ef-
24 fective on the first January 1 that oc-
25 curs at least 60 days after the later of

1 the receipt of such revocation by the
2 Secretary, or the effective date speci-
3 fied in such revocation.

4 “(v) STATE.—For purposes of this
5 section, the term ‘State’ means any State
6 of the United States, the District of Co-
7 lumbia, or any commonwealth, territory or
8 other possession of the United States.

9 “(vi) INDIAN TRIBAL GOVERNMENT.—
10 For purposes of this section, the term ‘In-
11 dian tribal government’ means the govern-
12 ment of an Indian tribe (within the mean-
13 ing of section 4 of the Indian Gaming Reg-
14 ulatory Act).

15 “(F) TIME OF PAYMENTS.—The payment
16 made under this paragraph with respect to any
17 calendar month shall be made not later than
18 the 11th day of the succeeding calendar month.

19 “(2) NATIVE AMERICAN PROGRAM.—The Sec-
20 retary shall transfer \$5,000,000 per year from the
21 Federal share of the Trust Fund (only to the extent
22 the funds are available) to the Administration for
23 Native Americans in the Department of Health and
24 Human Services to be used for purposes consistent

1 with the Native American Programs Act of 1974 (42
2 U.S.C. 2991 et seq.).

3 “(3) SUPPORT OF RESPONSIBLE GAMING RE-
4 SEARCH.—In each of the 5 years following the date
5 of the enactment of the Prohibition of Internet
6 Gambling, Internet Poker Regulation, and Strength-
7 ening UIGEA Act of 2010, the Secretary shall
8 transfer \$2,500,000 from the Federal share of the
9 Trust Fund (only to the extent the funds are avail-
10 able after compliance with paragraph (5)) to the Na-
11 tional Center for Responsible Gaming for the pur-
12 pose of conducting research on problem and patho-
13 logical gambling. In each year after such 5 years,
14 the Secretary shall transfer \$5,000,000 from the
15 Federal share of the Trust Fund (only to the extent
16 the funds are available after compliance with para-
17 graph (5)) to the National Institutes of Health to
18 fund research on problem and pathological gambling.

19 “(4) TRANSFERS TO GENERAL FUND.—On the
20 last day of each fiscal year, the Secretary shall
21 transfer any amounts remaining in the Trust Fund
22 with respect to calendar months in such fiscal year
23 which are not allocated under paragraph (1), (2), or
24 (3), to the general fund of the Treasury.

1 “(5) FEDERAL SHARE.—Except as provided in
2 paragraph (1)(D), for purposes of this section and
3 with respect to a calendar month, the Federal share
4 of the Trust Fund is 30 percent of the amounts re-
5 ceived in such Fund with respect to such month.”.

6 (d) CLERICAL AMENDMENTS.—

7 (1) The table of subchapters for chapter 36 is
8 amended by adding at the end the following item:

 “SUBCHAPTER E—INTERNET POKER”.

9 (2) The table of sections for subpart B of part
10 III of subchapter A of chapter 61 is amended by in-
11 sserting after the item relating to section 6050W the
12 following new item:

 “Sec. 6050X. Returns relating to Internet poker.”.

13 (3) The table of sections for subchapter A of
14 chapter 98 of such Code is amended by adding at
15 the end the following new item:

 “Sec. 9512. Internet Poker License Fee Trust Fund.”.

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to amounts received by a licensee
18 after the date of the enactment of this Act.

19 **SEC. 303. WITHHOLDING FROM CERTAIN INTERNET POKER**
20 **WINNINGS.**

21 (a) NET INTERNET POKER WINNINGS.—Paragraph
22 (3) of section 3406(b) is amended—

1 (1) by striking “or” at the end of subparagraph
2 (E);

3 (2) by striking the period at the end of sub-
4 paragraph (F) and inserting “, or”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(G) section 6050X(b)(4) (relating to net
8 Internet poker winnings).”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to amounts paid after the date of
11 the enactment of this Act.

12 **SEC. 304. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.**

13 (a) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—
14 Paragraph (1) of section 871(a) is amended—

15 (1) by striking “and” at the end of subpara-
16 graph (C);

17 (2) by inserting “and” at the end of subpara-
18 graph (D); and

19 (3) by inserting after subparagraph (D) the fol-
20 lowing new subparagraph:

21 “(E) the net Internet poker winnings (as
22 defined in section 6050X(d)), determined at the
23 time monies are withdrawn from a person who
24 operates an Internet poker facility for which a
25 license is required under section 103 of the Pro-

1 hibition of Internet Gambling, Internet Poker
2 Regulation, and Strengthening UIGEA Act of
3 2010.”.

4 (b) EXEMPTION FOR CERTAIN POKER WINNINGS.—
5 The first sentence of section 871(j) is amended by insert-
6 ing “, or to net Internet poker winnings (as defined in
7 section 6050X(d))” before the period.

8 (c) WITHHOLDING OF TAX ON NONRESIDENT ALIEN
9 INDIVIDUALS.—The first sentence of subsection (b) of sec-
10 tion 1441 is amended by inserting “amounts described in
11 section 871(a)(1)(E),” after “gains subject to tax under
12 section 871(a)(1)(D),”.

13 (d) SOURCE OF INTERNET POKER WINNINGS.—Sub-
14 section (a) of section 861 is amended by adding at the
15 end the following new paragraph:

16 “(9) INTERNET POKER WINNINGS.—Net Inter-
17 net poker winnings (as defined in section
18 6050X(d)).”.

19 (e) FOREIGN OFF-TRACK WAGERS.—Subsection
20 (b)(5) of section 872 is amended by inserting “, including
21 a legal wagering transaction placed over the Internet or
22 other remote means from outside the United States. Any
23 payment to any person with respect to income derived
24 from a legal wagering transaction excluded by this sub-

1 section shall not be subject to any obligation under section
2 1441, 1442, 3402(q), or 6041” before the period.

3 (f) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to payments made after the date
5 of the enactment of this Act.

6 **SEC. 305. PROVISIONS FOR STATE AND TRIBAL TAX.**

7 (a) EXEMPTION FROM TAX ON INTERNET POKER.—
8 A State or political subdivision thereof, and an Indian
9 tribal government or political subdivision thereof, shall im-
10 pose no tax on—

11 (1) bets or wagers placed with a licensee that
12 is subject to the fees under section 4491 of the In-
13 ternal Revenue Code of 1986; or

14 (2) income or revenue of a licensee relating to
15 such bets or wagers, unless such licensee maintains
16 a permanent physical presence in such State or with-
17 in the area of the jurisdiction of such Indian tribal
18 government.

19 (b) DEFINITIONS.—For purposes of this section—

20 (1) IN GENERAL.—The terms “bet or wager”
21 and “licensee” have the same meaning as when used
22 in section 4491 of the Internal Revenue Code of
23 1986. The terms “State” and “Indian tribal govern-
24 ment” have the same meaning as when used in sec-
25 tion 9512 of such Code.

1 (2) TAX.—The term “tax” includes any tax,
2 charge, or fee levied by a taxing jurisdiction, wheth-
3 er such tax, charge, or fee is imposed on a licensee
4 or on a customer of a licensee, and without regard
5 to the terminology used to describe such tax, charge,
6 or fee.

7 (3) PERMANENT PHYSICAL PRESENCE.—

8 (A) IN GENERAL.—The term “permanent
9 physical presence” means a substantial and
10 continuous physical presence for the majority of
11 the applicable taxable year. Such determination
12 shall be made solely by reference to the assets
13 of a licensee and the activities conducted by its
14 employees.

15 (B) PRESENCE IN INDIAN TRIBE NOT TO
16 AFFECT STATE PRESENCE.—If a licensee has
17 permanent physical presence within the area of
18 jurisdiction of an Indian tribal government for
19 purposes of this section, such presence shall not
20 be deemed to constitute permanent physical
21 presence in any State in which such area of ju-
22 risdiction is located or partially located.

23 (c) EFFECTIVE DATE.—This section shall apply to
24 taxes bets or wagers after the date of the enactment of
25 this Act.

1 **SEC. 306. FOREIGN LICENSEES SUBJECT TO UNITED**
2 **STATES FEDERAL INCOME TAX.**

3 (a) **NONRESIDENT ALIEN INDIVIDUALS.**—Section
4 872 is amended by inserting after subsection (b) the fol-
5 lowing new subsection:

6 “(c) **INCOME EARNED BY NONRESIDENT ALIEN IN-**
7 **DIVIDUALS OPERATING INTERNET POKER FACILITIES.**—

8 “(1) **TREATMENT AS UNITED STATES TRADE**
9 **OR BUSINESS.**—For purposes of this title, a non-
10 resident alien individual who is a licensee or operates
11 an Internet poker facility for which a license is re-
12 quired under section 103 of the Prohibition of Inter-
13 net Gambling, Internet Poker Regulation, and
14 Strengthening UIGEA Act of 2010, at any time dur-
15 ing a taxable year shall be deemed to be engaged in
16 the conduct of a trade or business within the United
17 States during the taxable year.

18 “(2) **TREATMENT OF GROSS INCOME AS EFFEC-**
19 **TIVELY CONNECTED INCOME.**—For purposes of this
20 title, all gross income related to domestic wagers
21 that are placed over the Internet shall be deemed to
22 be effectively connected with the licensee’s trade or
23 business within the United States.

24 “(3) **TREATMENT OF GROSS INCOME AS AT-**
25 **TRIBUTABLE TO PERMANENT ESTABLISHMENT.**—
26 For purposes of any applicable United States income

1 tax treaty, a nonresident alien individual who is a li-
2 censee or operates an Internet poker facility for
3 which a license is required under section 103 of the
4 Prohibition of Internet Gambling, Internet Poker
5 Regulation, and Strengthening UIGEA Act of 2010,
6 at any time during a taxable year shall be deemed
7 to have a permanent establishment located in the
8 United States, and all gross income arising from do-
9 mestic wagers that are placed over the Internet shall
10 be treated as attributable to the permanent estab-
11 lishment of such nonresident alien individual.

12 “(4) DEFINITIONS.—

13 “(A) WAGER.—The term ‘wager’ has the
14 meaning given the term ‘bet or wager’ in sec-
15 tion 102(2) of the Prohibition of Internet Gam-
16 bling, Internet Poker Regulation, and Strengthen-
17 ing UIGEA Act of 2010.

18 “(B) DOMESTIC WAGER.—The term ‘do-
19 mestic wager’ means a wager placed by a per-
20 son located in the United States.

21 “(C) INTERNET.—The term ‘Internet’ has
22 the meaning given in section 5362(5) of title
23 31, United States Code.”.

24 (b) FOREIGN CORPORATIONS.—Section 882 is
25 amended by—

1 (1) redesignating subsections (e) and (f) as sub-
2 sections (f) and (g), respectively; and

3 (2) by inserting after subsection (d) the fol-
4 lowing:

5 “(e) INCOME EARNED BY FOREIGN CORPORATIONS
6 OPERATING INTERNET POKER FACILITIES.—

7 “(1) TREATMENT AS UNITED STATES TRADE
8 OR BUSINESS.—For purposes of this title, a foreign
9 corporation that is a licensee or operates an Internet
10 poker facility for which a license is required under
11 section 103 of the Prohibition of Internet Gambling,
12 Internet Poker Regulation, and Strengthening
13 UIGEA Act of 2010, at any time during a taxable
14 year shall be deemed to be engaged in the conduct
15 of a trade or business within the United States dur-
16 ing the taxable year.

17 “(2) TREATMENT OF GROSS INCOME AS EFFEC-
18 TIVELY CONNECTED INCOME.—For purposes of this
19 title, all gross income related to domestic wagers
20 that are placed over the Internet shall be deemed to
21 be effectively connected with the licensee’s trade or
22 business within the United States.

23 “(3) TREATMENT OF GROSS INCOME AS AT-
24 TRIBUTABLE TO PERMANENT ESTABLISHMENT.—
25 For purposes of any applicable United States income

1 tax treaty, a foreign corporation that is a licensee or
2 operates an Internet poker facility for which a li-
3 cense is required under section 103 of the Prohibi-
4 tion of Internet Gambling, Internet Poker Regula-
5 tion, and Strengthening UIGEA Act of 2010, at any
6 time during a taxable year shall be deemed to have
7 a permanent establishment located in the United
8 States, and all gross income arising from domestic
9 wagers that are placed over the Internet shall be
10 treated as attributable to the permanent establish-
11 ment of such foreign corporation.

12 “(4) DEFINITIONS.—

13 “(A) WAGER.—The term ‘wager’ has the
14 meaning given the term ‘bet or wager’ in sec-
15 tion 102(2) of the Prohibition of Internet Gam-
16 bling, Internet Poker Regulation, and Strengthen-
17 ing UIGEA Act of 2010.

18 “(B) DOMESTIC WAGER.—The term ‘do-
19 mestic wager’ means a wager placed by a per-
20 son located in the United States.

21 “(C) INTERNET.—The term ‘Internet’ has
22 the meaning given in section 5362(5) of title
23 31, United States Code.”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to payments made after the date
3 of the enactment of this Act.

4 **SEC. 307. NO EXCISE TAX ON INTERNET POKER WAGERING.**

5 (a) DEFINITION OF WAGER.—Paragraph (1) of sec-
6 tion 4421 is amended by inserting after subparagraph (C)
7 the following flush text:

8 “For purposes of this chapter, the term ‘wager’ does not
9 include any bet or wager, within the meaning of section
10 102(2) of the Prohibition of Internet Gambling, Internet
11 Poker Regulation, and Strengthening UIGEA Act of
12 2010, that is placed over the Internet.”.

13 (b) DEFINITION OF INTERNET.—Section 4421 is
14 amended by inserting after paragraph (2) the following
15 new paragraph:

16 “(3) INTERNET.—The term ‘Internet’ has the
17 meaning given in section 5362(5) of title 31, United
18 States Code.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to wagers made after the date of
21 enactment of this Act.

22 **SEC. 308. ELIMINATION OF WITHHOLDING REQUIREMENT**
23 **FOR PROCEEDS FROM PARIMUTUEL POOL**
24 **WAGERS.**

25 (a) IN GENERAL.—

1 (1) Subparagraph (C) of section 3402(q)(3) is
2 amended—

3 (A) by striking clause (ii),

4 (B) by striking “, or” at the end of clause
5 (i) and inserting a period, and

6 (C) by striking “(C) SWEEPSTAKES, WA-
7 GERING POOLS, CERTAIN PARIMUTUEL POOLS”
8 and all that follows through “(ii) a wager” and
9 inserting the following:

10 “(C) SWEEPSTAKES, WAGERING POOLS,
11 AND LOTTERIES.—Proceeds of more than
12 \$5,000 from a wager”.

13 (2) Paragraph (5) of section 3402(q) is amend-
14 ed—

15 (A) by inserting “proceeds from a wager-
16 ing transaction in a parimutuel pool with re-
17 spect to horse races, dog races, or jai alai, and”
18 after “shall not apply to”, and

19 (B) by inserting “CERTAIN PARIMUTUEL
20 POOLS,” before “BINGO” in the heading thereof.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to amounts paid after the date of
23 the enactment of this Act.

1 **SEC. 309. INFORMATION AT SOURCE; PARIMUTUEL WA-**
2 **GERS.**

3 (a) IN GENERAL.—Section 6041 is amended by add-
4 ing at the end the following new subsection:

5 “(h) CERTAIN GAMBLING WINNINGS.—Subsection
6 (a) shall apply to payments made as proceeds of a pari-
7 mutuel wager only if the amount paid with respect to such
8 wager is at least \$1,200, and if the amount of the proceeds
9 of such wager is at least 300 times of the amount wa-
10 gered.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to payments made after the date
13 of the enactment of this Act.

14 **TITLE IV—STUDY AND PREVEN-**
15 **TION OF PROBLEM AND**
16 **PATHOLOGICAL GAMBLING**

17 **SEC. 401. STATE AND TRIBAL SUPPORT FOR PUBLIC**
18 **AWARENESS, RESEARCH, AND TREATMENT**
19 **PROGRAMS FOR PROBLEM AND PATHOLOG-**
20 **ICAL GAMBLING.**

21 (a) IN GENERAL.—Subject to subsection (b), a State
22 or Indian tribal government receiving payments from the
23 Internet Poker License Fee Trust Fund established under
24 section 9512 of the Internal Revenue Code of 1986, as
25 added by section 302 of this Act, shall determine appro-

1 puate amounts from those payments to be used for the
2 following purposes:

3 (1) PUBLIC AWARENESS.—To increase knowl-
4 edge and improve awareness with respect to problem
5 and pathological and underage gambling, including
6 supporting and augmenting existing programs.

7 (2) RESEARCH.—To support peer-reviewed sci-
8 entific and medical research into the causes and
9 treatment of problem and pathological and underage
10 gambling, including supporting and augmenting ex-
11 isting programs.

12 (3) TREATMENT.—To provide treatment serv-
13 ices with respect to problem and pathological and
14 underage gambling, including supporting and aug-
15 menting existing programs.

16 (b) LIMITATION ON AMOUNTS APPLIED TO PUBLIC
17 AWARENESS, RESEARCH, AND TREATMENT PROGRAMS
18 FOR PROBLEM AND PATHOLOGICAL GAMBLING.—In a fis-
19 cal year, a State or Indian tribal government described
20 in subsection (a) shall determine an amount to be used
21 for the purposes described in such subsection that is not
22 less than the lesser of—

23 (1) 0.5 percent of the payments received by the
24 State or Indian tribe from Internet Poker License
25 Fee Trust Fund during that fiscal year, or

1 (2) \$1,000,000.

2 **TITLE V—RESOLUTION OF**
3 **INTERNATIONAL DISPUTES**

4 **SEC. 501. RESOLUTION OF INTERNATIONAL DISPUTE OVER**
5 **INTERNET GAMBLING.**

6 (a) NEGOTIATION OF WITHDRAWAL.—Not later than
7 180 days after the date of the enactment of this Act, the
8 United States Trade Representative shall take such action
9 as may be necessary to conclude the process of with-
10 drawing the commitment of the United States with respect
11 to remote or Internet gambling under the General Agree-
12 ment on Trade in Services in accordance with the provi-
13 sions of Article XXI of that Agreement.

14 (b) ARBITRATION OF WITHDRAWAL.—If the United
15 States Trade Representative is unable to conclude the
16 process of withdrawing the commitment of the United
17 States with respect to remote or Internet gambling under
18 the General Agreement on Trade in Services by the dead-
19 line specified in subsection (a), the United States shall
20 take all available steps to complete arbitration under Arti-
21 cle XXI of that Agreement to conclude the process of with-
22 drawing that commitment.

23 (c) GENERAL AGREEMENT ON TRADE IN SERVICES
24 DEFINED.—In this section, the term “General Agreement
25 on Trade in Services” means the General Agreement on

1 Trade in Services referred to in section 101(d)(14) of the
2 Uruguay Round Agreements Act (19 U.S.C.
3 3511(d)(14)).

4 **TITLE VI—SEVERABILITY**

5 **SEC. 601. SEVERABILITY.**

6 If any provision of this Act is declared unconstitu-
7 tional, or the applicability thereof to any person or cir-
8 cumstances is held invalid, the remainder of the Act shall
9 remain in effect and will continue to apply to other per-
10 sons and circumstances.