

THE INTERNET WAGERING CITIZENS PROTECTION ACT

An Overview

The IWCPA is a compromise between strict prohibition and enforcement against unlawful online gambling, and a strong regulatory framework for licensed peer-to-peer online poker. It is built upon the earlier bills of various Congressional Senators and Representatives in their efforts for a Federal solution to Internet gambling in the United States. The IWCPA includes extensive language for consumer protections which were overlooked in the earlier efforts, and has fully flushed out the language of many other provisions which were deficient or incomplete. The IWCPA covers all of the issues necessary to a lawful and effective bill, including:

- Prohibition on unlicensed and unlawful Internet gambling.
- Clarification of the Wire Act as it applies to all unlawful Internet gambling.
- Amendment of the Wire Act, the UIGEA and the IGBA for strict enforcement.
- Protections against money laundering and terrorist financing.
- Limitations on lottery sales over the Internet.
- Preservation of the sovereign rights of Indian tribes.
- Oversight of licensing and regulation of online poker by Commerce and the NIGC.
- Strict standards for designation of regulatory authorities.
- Strict standards of qualification for licensing and certificates of suitability.
- Limitations on qualified entities for licensing.
- Restrictions against licensing of bad actors.
- Extensive protections for problem gambling.
- Strict requirements for participation of non-U.S. jurisdictions.
- Option for prohibition by individual States or Indian tribes.
- Option for imposition of revenue taxes by individual States, Indian tribes and regulatory authorities.
- Extensive protections against cheating, fraud and theft.
- Consumer protections for customer funds, privacy, Internet security, responsible gaming, game fairness, site transparency and dispute resolution.
- Amendment of IRS Code for proper reporting and collection of income tax.
- Orderly transition to implementation.

The need for a strong Federal solution to Internet gambling in the United States is apparent. The IWCPA is a model bi-partisan compromise, which can facilitate an effective political resolution while preserving and protecting the rights and security of consumers.

The IWCPA is available for electronic download at: <http://pokerxanadu.com/on-regulation/iwcpa/>

Note: The IWCPA is written in a way that is easily amended to meet compromise positions, including:

Restriction of licensing to certain wagering (currently online poker only): Section 106(a)(1).

Initial limitation of licensing to certain entities: Definition in Section 102 of 'qualified entity'.

Restriction on Internet lottery sales: Definition in Section 102 of 'qualifying lottery transaction'.

Restriction on intrastate online gaming: Section 102(3)(B)(ii)(III).

Minimum qualifications for casinos, slot manufacturers, card rooms or race tracks: Definitions in section 102 of 'qualified casino gaming facility', 'qualified manufacturer', 'qualified poker facility' or 'qualified race track'.

Bad actor restrictions: Section 106(c)(2)(b)(iii) and Section 106(c)(4).

Limits on revenue taxes imposed by States, Indian tribes and regulatory authorities: Section 115(f)(1) and Section 115(f)(3).

Change the timetable for implementation of licensing: Section 104(d)(1) – changing '120 days' will change all other deadlines for implementation in the bill.

Prohibition on use of credit cards: Section 110(d).

A BILL

To establish a program for the licensing and regulation of certain Internet wagering by States and federally-recognized Indian tribes, to prohibit unlicensed or unlawful Internet wagering businesses, to provide consumer protections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the 'Internet Wagering Citizens Protection Act'.

(b) Table of Contents- The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--INTERNET WAGERING LICENSING, REGULATION AND CONSUMER PROTECTION

Sec. 101. Findings.

Sec. 102. Definitions.

Sec. 103. Prohibition on operation of Internet wagering facilities.

Sec. 104. Secretary and Federal Overseer responsibilities, powers and oversight.

Sec. 105. Qualified regulatory authorities.

Sec. 106. Establishment of licensing program for certain Internet wagering.

Sec. 107. Enforcement.

Sec. 108. Compulsive gaming, responsible gaming, and self-exclusion program requirements.

Sec. 109. Prohibition on use of licenses in certain States and Indian lands.

Sec. 110. Prohibitions and restrictions.

Sec. 111. Safe harbor.

Sec. 112. Cheating and other fraud.

Sec. 113. Construction and relation to other law.

Sec. 114. Orderly transition.

Sec. 115. Revenue tax on licensees.

Sec. 116. Annual reports.

TITLE II--ENFORCEMENT UNDER TITLES 18 AND 31, UNITED STATES CODE

Sec. 201. Financial service providers.

Sec. 202. Amendments relating to illegal gambling businesses.

Sec. 203. Further amendments to subchapter IV of chapter 53 of title 31, United States Code.

Sec. 204. Operator forfeiture.

Sec. 205. Regulations.

Sec. 206. Conforming amendment.

TITLE III--INTERNET WAGERING TAXES

- Sec. 301. Amendment of 1986 code.
- Sec. 302. Internet wagering business information reporting.
- Sec. 303. Withholding from certain wagering winnings.
- Sec. 304. Withholding of tax on nonresident aliens.
- Sec. 305. Wager tax applicable to Internet wagering.
- Sec. 306. Territorial extent.
- Sec. 307. Gross income for skill games.

TITLE V—RESTORATION OF AMERICA’S WIRE ACT

- Sec. 401. Wire Act clarification.
- Sec. 402. Rule of construction.

TITLE IV--OTHER MATTERS

- Sec. 501. Severability.
- Sec. 502. Effective date.

TITLE I--INTERNET WAGERING LICENSING, REGULATION AND CONSUMER PROTECTION

SEC. 101. FINDINGS.

Congress finds the following:

- (1) Since the development of the Internet, online Web sites offering Internet wagering have raised numerous policy, consumer protection, and enforcement concerns for Federal, State, and Indian tribal governments as such Web sites are run by operators located in many different countries, often subject to little or no oversight, and have sought to attract customers from the United States.
- (2) The Unlawful Internet Gambling Enforcement Act of 2006 (title VIII of Public Law 109-347; 120 Stat. 1952), enacted in 2006 was intended to aid enforcement efforts against unlawful Internet wagering operators and to limit unlawful Internet wagering operations involving United States persons. However, that Act has only been partially successful in doing so.
- (3) The Unlawful Internet Gambling Enforcement Act, which prohibited the acceptance or processing of financial instruments for the purpose of unlawful Internet wagering, but which did not clarify which bets or wagers are prohibited by law. Groups such as the National District Attorneys Association and the Fraternal Order of Police have expressed support for a law that clearly defines and prohibits all unlicensed or unlawful Internet wagering operators. Enacting such a law will aid law enforcement, prosecutors and courts in their efforts to curtail such operators.
- (4) On December 23, 2011, the Department of Justice released a memorandum opinion of the Office of Legal Counsel dated September 20, 2011, that construed section 1084 of title 18, United States Code (referred to as the `Wire Act'), to apply only to sports-related gambling activities in interstate and foreign commerce, with the result that operation of non-

sports related Internet wagering in the United States has been found not to be prohibited under Federal law if it is lawful under State law. This revised interpretation of the Wire Act underlines the lack of clarity of the interaction between the Wire Act and other Federal laws regarding gambling, including the Illegal Gambling Business Act, the Interstate Horseracing Act and the Unlawful Internet Gambling Enforcement Act, especially in regards to the use of the Internet.

(5) A growing number of States and Indian tribes have legalized or are considering legalizing and promoting Internet wagering to generate revenue. Absent Federal limitations and enforcement, State regulation of Internet wagering, including consumer safeguards, could vary widely from State to State, and States could have difficulty enforcing Internet wagering restrictions within their borders, especially against out-of-State operators.

(6) There is uncertainty about the laws of the United States governing Internet poker. In *United States v. DiCristina* a Federal District Court for the Eastern District of New York held that poker is a game in which skill is the predominant factor in determining the outcome and that in passing the Illegal Gambling Businesses Act, Congress only intended to criminalize clear games of chance.

(7) Federal law needs to be updated to make clear its relationship to Internet wagering to strengthen enforcement and to ensure an effective Internet wagering enforcement structure that protects United States consumers and the ability of States to enforce State laws relating to Internet wagering.

(8) Additional tools to assist law enforcement in the prevention of unlawful Internet wagering activities would be important and beneficial. Maintenance of lists of lawful and unlawful Internet wagering enterprises and the owners, operators, and key personnel of such enterprises would aid those law enforcement efforts, would make the Unlawful Internet Gambling Enforcement Act more effective and would provide a level of certainty as to permitted or prohibited transactions.

(9) Internet wagering, like much other Internet commerce, traverses State boundaries. Any particular transaction may cross a number of State boundaries from origin to destination, and communications between the same parties at different times may travel along markedly different routes, based on factors such as traffic, load capacity, and other technical considerations outside the control of sender and recipient. For that reason, among others, the Federal courts consistently have ruled that the Internet is an instrumentality and channel of interstate commerce and, as such, is subject to Congress's plenary authority. For these same reasons, Internet wagering by its very nature implicates Federal concerns, and is different in kind and effect from traditional wagering activity.

(10) Poker is distinct from the class of games of chance traditionally defined as gambling in that players compete against each other, and not the person or entity hosting the game (sometimes called 'the house'), and that over any significant interval the outcome of a poker game is materially determined by the skill of the participants.

(11) United States consumers would benefit from a program of Internet poker regulation which recognizes the interstate nature of the Internet, but nevertheless preserves the prerogatives of States and federally recognized Indian tribes. Such a system would require strict licensing of Internet poker providers and would require licensed operators to--

- (A) have effective means to prevent minors from playing poker online;
- (B) identify and help treat problem gamblers;
- (C) allow players to self-exclude and limit losses;
- (D) prevent money laundering, terrorist financing, cheating and fraud;
- (E) ensure the games are fair and are conducted honestly; and
- (F) ensure that players within the borders and lands of States and Indian tribes that wish to prohibit Internet poker are excluded.

(12) Such a program would create a new industry within the United States creating thousands of jobs and substantial revenue for Federal, State, and Indian tribal governments.

(13) Federal regulation of Internet poker should be designed and implemented to foster a level-playing field among all types of qualified Internet poker operators, including casinos, Indian tribes, State-licensed lotteries, horseracing tracks, gaming device manufacturers, and poker facilities, and once the program is established, as well among enterprises with relevant expertise in e-gaming who meet the same qualifications as the other operators for integrity and for the capacity to carry out Internet wagering operations that meet applicable Federal and State standards.

(14) Due to the nature of poker and other such wagering skill games, wherein wagers are integral to the play of the game rather than simply a stake on the outcome of the game, the traditional method of defining income as the total of each wagering gain for the purpose of assessing income taxes is impractical and unreasonable. As well, for Internet poker, wherein the hands, games or tournaments in which a player participates are often concurrent, contiguous or tiered, the application of a session-based method of accounting for wins and losses is likewise impractical and unreasonable. For these reasons, the Federal tax code needs to be amended to accommodate the unique nature of these games.

SEC. 102. DEFINITIONS.

As used in this title, the following definitions apply:

- (1) **ADJUSTED GROSS REVENUES-** The term 'adjusted gross revenues' means the gross amount of fees assessed and collected by a licensee for participation in Internet wagering and any other gaming revenue of the licensee in regards to a licensed facility, not including amounts that are player contributions to a jackpot prize pool, and less cash promotional incentives.
- (2) **APPLICANT-** The term 'applicant' means any person who has applied for a license under this title.
- (3) **BET OR WAGER-**
 - (A) **IN GENERAL-** Except as provided in subparagraph (B), the term 'bet or wager' has the meaning given the term in section 5362 of title 31, United States Code.
 - (B) **EXCEPTION-** The term 'bet or wager' does not include the following:
 - (i) **INTERSTATE HORSERACING-** A bet or wager that is permissible under the Interstate horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

- (ii) CERTAIN INTRASTATE OR INTRATRIBAL TRANSACTIONS- Placing, receiving, or otherwise transmitting a bet or wager--
 - (I) as described in subparagraph (B) of section 5362(10) of title 31, United States Code, and clarified by subparagraph (E) of such section;
 - (II) authorized under a license that was issued by a regulatory body of a State or Indian tribe; and
 - (III) authorized under the laws of such State or Indian tribe.
- (iii) INTRASTATE LOTTERY TRANSACTIONS- A qualifying lottery transaction.
- (iv) INTRATRIBAL TRANSACTIONS- Placing, receiving, or otherwise transmitting a bet or wager as described in subparagraph (C) of such section 5362(10), as clarified by such subparagraph (E).
- (v) SKILL GAMES- Placing, receiving, or otherwise transmitting a bet or wager (in respect to which the intermediate routing of electronic data shall not determine the location or locations such bet or wager is initiated, placed, received or otherwise transmitted) on or in any skill game--
 - (I) that is not poker;
 - (II) that is not regarded as gambling under any provision of Federal law;
 - (III) that is not regarded as gambling under the laws of any State or Indian tribe in effect at the location or locations of the participants in the game during the game;
 - (IV) that is not regarded as gambling under the laws of any State or Indian tribe in effect at the location or locations where any such bet or wager on the game is placed, received or otherwise transmitted;
 - (V) in respect to which any such bet or wager is made by one or more participants in the game against one or more other participants in the game;
 - (VI) in respect to which the operator of the game may assess a fee for participation in the game; and
 - (VII) in respect to which any fee assessed by the operator of the game as a percentage of any bet or wager is no greater than 20 percent of such bet or wager.

(4) CASH PROMOTIONAL INCENTIVES- The term 'cash promotional incentives' means any amount of funds credited to a customer account by a licensee as an incentive to participate in bets or wagers on the licensee's licensed facility, including cash bonuses, matching deposits, tournament guarantee overlay payouts, cash rewards, and other such cash incentives, including any such amounts that require redemption through initiating, placing, or receiving bets or wagers on the licensed facility but only to the extent such amounts have been redeemed.

(5) CASINO GAMING-

- (A) IN GENERAL- Except as provided in subparagraph (B), the term 'casino gaming' means the full range of gaming activity licensed by regulatory bodies of States or Indian tribes that would be qualified as class III gaming

under section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703) if that Act were applicable to the gaming.

(B) EXCEPTION- The term 'casino gaming' does not include lotteries of States or Indian tribes in compliance with the law of that State or Indian tribe, as applicable, and that solely provide lottery tickets to participants wholly within the boundaries of such State or the Indian lands of such Indian tribe.

(6) CERTIFICATE OF SUITABILITY- The term 'certificate of suitability' means a certificate issued by a qualified regulatory authority to a significant vendor under section 106(c)(6)(A).

(7) COMMISSION- The term 'Commission' means the National Indian Gaming Commission.

(8) FACILITATE A BET OR WAGER- The term 'facilitate a bet or wager' means to provide an Internet wagering facility to facilitate in any part the initiating, placing, receiving, or otherwise making of a bet or wager by a participant in such bet or wager, or to accept a bet or wager through the operation of an Internet wagering facility.

(9) FEDERAL OVERSEER- The term 'Federal Overseer' means--

(A) in the case of a State, the Secretary, or the Director of the Office of Internet Wagering Oversight when carrying out the authorities, duties, or responsibilities delegated by the Secretary pursuant to section 104(c); or

(B) in the case of an Indian Tribe, the Commission.

(10) GAMING DEVICE-

(A) IN GENERAL- Except as provided in subparagraph (B), the term 'gaming device' means any computer-based gambling machine, including slot machines and video lottery terminals, that has been authorized by a gaming regulatory authority of a State or Indian tribe.

(B) EXCEPTIONS- The term 'gaming device' does not include--

(i) machines that process bets or wagers for parimutuel betting pools;

(ii) class II gaming devices qualified under section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703); or

(iii) remote gaming equipment.

(11) GAMING FACILITY- The term 'gaming facility' means a facility that provides gaming pursuant to a duly authorized license issued by a gaming regulatory authority of a State or Indian tribe.

(12) INDEPENDENT TESTING LABORATORY- The term 'independent testing laboratory' means a scientific laboratory that is--

(A) accredited by an international accreditation body approved by the Secretary;

(B) competent and qualified to scientifically test and evaluate equipment, software, communications and functionality relating to the operation of an Internet wagering facility; and

(C) not owned, directed, managed, supervised or controlled by a person who owns, directs, manages, supervises or controls an Internet wagering facility, an applicant, a significant vendor, a qualified entity, a gaming facility, or a remote gaming equipment vendor, manufacturer, distributor or retailer.

- (13) INDIAN LANDS AND INDIAN TRIBE- The terms 'Indian lands' and 'Indian tribe' have the meanings given those terms in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).
- (14) INTERNET- The term 'Internet' has the meaning given the term in section 5362 of title 31, United States Code.
- (15) INTERNET POKER- The term 'Internet poker' means a poker hand, game, tournament, or other contest of poker offered through the use of an Internet wagering facility.
- (16) INTERNET POKER FACILITY- The term 'Internet poker facility' means an Internet wagering facility that facilitates bets or wagers in regards to Internet poker, to the degree that such facility facilitates such bets or wagers.
- (17) INTERNET WAGERING- The term 'Internet wagering' means initiating, placing, receiving, or otherwise making a bet or wager through the use of an Internet wagering facility.
- (18) INTERNET WAGERING FACILITY- The term 'Internet wagering facility' means a Web site, an Internet server-client network, or a similar software and communications facility, in which transmissions may cross State boundaries, through which a bet or wager or qualifying lottery transaction is initiated, placed, received, or otherwise made, whether transmitted by telephone, Internet, satellite, or other wire or wireless communication facility, service, or medium, including an Internet wagering facility not operating under a license in good standing issued under this title, and including any such facility that facilitates qualifying lottery transactions to the degree that such facility facilitates such transactions.
- (19) INTERNET WAGERING OVERSIGHT FUND- The term 'Internet Wagering Oversight Fund' means a separate account established in the Treasury of the United States for deposit of fees and penalties as prescribed under this Act which funds shall--
- (i) be available to the Federal Overseer in such amounts, subject to appropriations, to cover expenses incurred by the Federal Overseer in carrying out the provisions of this title; and
 - (ii) not be construed to be appropriated monies, or subject to apportionment for the purposes of any other provision of law.
- (20) LICENSED FACILITY- The term 'licensed facility' means an Internet wagering facility for which a license has been issued for the operation thereof pursuant to this title.
- (21) LICENSED FACILITY REVENUE TAX- The term 'licensed facility revenue tax' means a tax assessed by a qualified regulatory authority, a qualified State, or a qualified Tribe on the adjusted gross revenues of a licensee.
- (22) LICENSEE- The term 'licensee' means a person that has been issued the license pursuant to this title for a licensed facility.
- (23) OPERATE AN INTERNET POKER FACILITY- The term 'operate an Internet poker facility' means to conduct, direct, manage, own, supervise, or control an Internet poker facility.
- (24) OPERATE AN INTERNET WAGERING FACILITY- The term 'operate an Internet wagering facility' means to conduct, direct, manage, own, supervise, or control an Internet wagering facility.
- (25) PARTICIPATE IN A BET OR WAGER- The term 'participate in a bet or wager' means to initiate, place, receive, or otherwise make a bet or wager via a facility

or service which facilitates such bet or wager, whether such facility or service is a participant in or only facilitates the bet or wager.

(26) PERSON- The term 'person' means a natural person, partnership, corporation, company, society, association, consortium, gaming facility, Internet wagering facility, licensee, qualified entity, State or State agency, or Indian tribe or corporation, agency, or instrumentality of an Indian tribe.

(27) POKER- The term 'poker' means any of several card games--

(A) that are commonly referred to as 'poker';

(B) that are played by 2 or more people who bet or wager against each other on cards dealt to them out of a common deck of cards--

(i) including games using community cards that any player may use to make his or her hand; and

(ii) including games using electronic representations that simulate cards in the place of cards;

(C) in which players compete against each other and not against the person operating the game;

(D) in which bets or wagers of one player are often designed to affect the decision of another player in the game;

(E) in which the person operating the game may assess a commission fee or any other type of fee for participation in bets or wagers in the game; and

(F) that are skill games.

The term 'poker' includes poker tournaments, including tournaments in which players pay a fee to play against each other, which fees may in any part form the tournament prize pool, and including tournaments where the person operating the game guarantees a minimum tournament prize pool.

(28) QUALIFIED CASINO GAMING FACILITY- The term 'qualified casino gaming facility' means a gaming facility that provides casino gaming and hosts not fewer than 500 gaming devices duly authorized under the facility's license in 1 physical location.

(29) QUALIFIED ENTITY- The term 'qualified entity' means a qualified casino gaming facility, qualified lottery, qualified manufacturer, qualified poker facility or qualified race track, or a consortium of such entities.

(30) QUALIFIED LOTTERY- The term 'qualified lottery' means an agency of a State or Indian tribe offering qualifying lottery transactions that is operating lawfully under the laws of that State or Indian tribe, as the case may be, and Federal law.

(31) QUALIFIED MANUFACTURER- The term 'qualified manufacturer' means a person who has manufactured and supplied to qualified casino gaming facilities not fewer than 500 gaming devices during the previous five years under a single license issued by a gaming regulatory authority of a State or Indian tribe.

(32) QUALIFIED POKER FACILITY- The term 'qualified poker facility' means a gaming facility that hosts not fewer than 50 gaming tables duly authorized under the facility's license in 1 physical facility, for bets or wagers in poker.

(33) QUALIFIED REGULATORY AUTHORITY- The term 'qualified regulatory authority' means any State agency or regulatory body of an Indian tribe that has been designated by the Federal Overseer pursuant to section 105(a)(1), which designation remains in good standing.

- (34) **QUALIFIED RACE TRACK**- The term 'qualified race track' means a race track that has--
- (A) been licensed by a gaming regulatory authority of a State or Indian tribe; and
 - (B) conducted live animal races at a physical race track pursuant to such license on which at least \$50,000,000 in all-source gross wagering handle, not to include any races simulcast from a separate race track, was accepted during any 3 of the last 5 calendar years.
- (35) **QUALIFIED STATE** - The term 'qualified State' means a State that is considered to be opted-in under section 109(b) and has elected to assess a licensed facility revenue tax under section 115(b).
- (36) **QUALIFIED TRIBE**- The term 'qualified Tribe' means an Indian tribe that is considered to be opted-in under section 109(c) and has elected to assess a licensed facility revenue tax under section 115(c).
- (37) **QUALIFYING INTRASTATE LOTTERY**- The term 'qualifying intrastate lottery' means a lottery of a State or Indian tribe that offers a lottery or other prize through the purchase of a chance or opportunity to win--
- (A) that is operating lawfully under the laws of that State or Indian tribe, as the case may be, and Federal law;
 - (B) in which the chance or opportunity to win is predominately subject to chance;
 - (C) in which the chance or opportunity to win is not in some part subject to the outcome of any part of a sporting event; and
 - (D) that provides the opportunity to purchase such chances or opportunities to win only to participants within the boundaries of that State or the Indian lands of that Indian tribe, as the case may be.
- (38) **QUALIFYING LOTTERY TRANSACTION**- The term 'qualifying lottery transaction' means the purchase of a chance or opportunity to win a lottery or other prize offered by a qualifying intrastate lottery, operating lawfully under the laws of a State or Indian tribe--
- (A) which chance or opportunity to win is predominantly subject to chance;
 - (B) which chance or opportunity to win is not in some part subject to the outcome of any part of a sporting event;
 - (C) that is authorized by such State or Indian tribe;
 - (D) is an intrastate or intratribal transaction as described in--
 - (i) subparagraph (B) of section 5362(10) of title 31, United States Code, and clarified by subparagraph (E) of such section; or
 - (ii) subparagraph (C) of section 5362(10) of title 31, United States Code, and clarified by subparagraph (E) of such section;
 - (E) with respect to which the Internet is solely the medium for purchase but is not the medium in which the drawing or the playing of the game or contest is conducted; and
 - (F) that is not a lottery game available on the Internet that is intended to mimic or does substantially mimic a gaming device, slot machine, poker, or any other casino gaming.
- (39) **RECIPROCAL AGREEMENT**- The term 'reciprocal agreement' means an agreement authorized under the laws of a State or Indian tribe and the laws of a foreign jurisdiction between a qualified regulatory authority of such State or Indian tribe and a duly authorized gaming regulatory body of such foreign

jurisdiction, which agreement prescribes the requirements, standards, restrictions, penalties, fees, taxation and enforcement for the commingling of players, funds, transactions and records in the operation of Internet wagering facilities licensed under this title and Internet wagering facilities licensed by such foreign gaming regulatory body under the laws of such foreign jurisdiction.

(40) REMOTE GAMING EQUIPMENT-

(A) IN GENERAL- Except as provided in subparagraph (B), the term 'remote gaming equipment' means electronic or other equipment principally used by or on behalf of an operator of an Internet wagering facility, including by any significant vendor or affiliate to such operator, in respect to the operation of such Internet gaming facility, to--

- (i) register a person's participation in bets or wagers and to store information relating thereto;
 - (ii) calculate or generate any of the elements or outcome of a game before or during such game;
 - (iii) present to persons who are participating or who may participate in bets or wagers the game that is to be played;
 - (iv) determine all or part of, or the effect of, a result relevant to bets or wagers and to store information relating thereto;
 - (v) accept payment with respect to bets or wagers from the player;
- or
- (vi) authorize or initiate payment of any winnings in respect to bets or wagers.

(B) EXCEPTION- The term 'remote gaming equipment' does not include the following:

- (i) Equipment used for business continuity, back-up, excess capacity, or other secondary use.
- (ii) A computer that is used by a person to participate in bets or wagers unless the computer is provided by or on behalf of the person who is conducting or providing the facilities for the game.
- (iii) Equipment operated in the ordinary course of providing banking, telecommunications, or payment processing services.
- (iv) Such other equipment that provides ancillary services as the Secretary considers appropriate and prescribes by regulations or rule.

(41) RULES OF FAIR PLAY- The term 'rules of fair play' means the set of rules and any additional rules required or approved by a qualified regulatory authority and adopted or added by a licensee under section 112(a)(5).

(42) SECRETARY- The term 'Secretary' means the Secretary of Commerce.

(43) SIGNIFICANT VENDOR- The term 'significant vendor' means a person who, in regards to a licensed facility,--

- (A) on behalf of a licensee or licensed facility, knowingly manages, administers, or controls bets or wagers that are initiated, placed, received, or otherwise made within the United States;
- (B) on behalf of a licensee or licensed facility, knowingly manages, administers, or controls the games with which such bets or wagers are associated;
- (C) on behalf of a licensee or licensed facility, develops, maintains, or operates software or other system programs or hardware on which

customer identifying, personal or financial information, the games, or the bets or wagers are managed, administered, or controlled;

(D) provides the trademarks, trade names, service marks, or similar intellectual property under which a licensee identifies its licensed facility to its customers in the United States;

(E) sells, licenses, or otherwise receives compensation for selling or licensing information via a database, customer list, or similar physical or electronic record on individuals in the United States selected in whole or in part because they participated in bets or wagers while located in the United States with an Internet wagering facility--

(i) not licensed by a State or Indian tribe, prior to enactment of this Act; or

(ii) not licensed either pursuant to this title or by a State or Indian tribe as permitted under this title, after enactment of this Act;

(F) provides any products, services, or assets to a licensee or licensed facility and is paid a percentage of gaming revenue or commission fees by such licensee or licensed facility (not including fees to financial institutions and payment providers for facilitating a deposit or withdrawal by a customer);

(G) provides any of the activities, services, or items described in subparagraphs (A) through (F) to any person that provides such activities services or items to an applicant, licensee or licensed facility; or

(H) with respect to an applicant, licensee, significant vendor, or licensed facility, proposes to provide any of the activities, services, or items described in subparagraphs (A) through (G).

(44) SKILL GAME- The term 'skill game' means any game--

(A) in which over any significant interval the outcome of the game is materially influenced by the skill of the participants;

(B) that is not casino gaming;

(C) that is played by two or more people; and

(D) that is not a sporting event.

(45) SPORTING EVENT- The term 'sporting event' means any athletic competition of physical exercise or exertion, whether professional, scholastic, or amateur, or any performance of any athlete in such competitions.

(46) STATE- The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(47) UNITED STATES- The term 'United States', in a geographic sense, means the several States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

SEC. 103. PROHIBITION ON OPERATION OF INTERNET WAGERING FACILITIES.

(a) Prohibition-

(1) IN GENERAL- Except as provided in paragraph (2), it shall be unlawful for a person to operate an Internet wagering facility that offers services to persons located in the United States, except as authorized under this title.

(2) EXCEPTION- Paragraph (1) shall not apply to--

- (A) the operation of a licensed facility by a person who holds a license in good standing issued to such person for such licensed facility by a qualified regulatory authority under this title and only to the extent authorized under section 106(a)(1); or
- (B) the operation of an Internet wagering facility in which bets or wagers are initiated, placed, received, or otherwise made solely by persons located outside the United States.

(b) Criminal Penalties- Any person who violates this section shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 104. SECRETARY AND FEDERAL OVERSEER RESPONSIBILITIES, POWERS AND OVERSIGHT.

(a) Secretary's Responsibilities and Powers- The Secretary shall have responsibility and authority for the following activities:

- (1) Prescribing such regulations and rules as may be necessary to administer and enforce the provisions of this title.
- (2) Issuing regulations establishing rules and procedures for dealing with funds placed in escrow pursuant to section 105(a)(4)(A)(i)(III), section 106(i)(1)(B)(i)(III), section 107(a)(7)(B), section 110(b)(2)(B), and section 114(b)(1)(E) such that the funds are safeguarded and disposed of in a manner which gives each person that owns a portion of such funds an extended and reasonable opportunity to claim such portion in accordance with Federal law, and disposing such funds accordingly.
- (3) Designating international accreditation bodies as approved for the purpose of accrediting independent testing laboratories.
- (4) Establishing, maintaining, publishing and distributing lists of qualified regulatory authorities, licensees, applicants, significant vendors, independent testing laboratories, States and Indian tribes that are opted-in under section 109, States, Indian tribes and qualified regulatory authorities that have assessed a licensed facility revenue tax pursuant to section 115 and the percentage amounts of such taxes, and any other similar lists that the Secretary determines are necessary to carry out the requirements of this title.
- (5) Establishing the Office of Internet Wagering Oversight under subsection (c), and delegating any authority, duty, or responsibility pursuant to such subsection.

(b) Federal Overseer Responsibilities and Powers- The Federal Overseer shall have responsibility and authority for the following activities:

- (1) Reviewing, qualifying, and designating regulatory bodies to operate as qualified regulatory authorities.
- (2) Exercising oversight over qualified regulatory authorities to ensure that such authorities--
 - (A) comply with the requirements and standards of this title; and
 - (B) carry out their regulatory and enforcement functions under this title with appropriate diligence.
- (3) Investigating and taking appropriate remedial action with respect to any qualified regulatory authority.
- (4) Employing enforcement agents with sufficient training and experience to administer the requirements of this title and the regulations, standards and rules prescribed thereunder.

(5) Enforcing the requirements of this title by all appropriate means provided under this title and other provisions of law.

(c) Office of Internet Wagering Oversight Establishment-

(1) IN GENERAL- Not later than 30 days after the date regulations are prescribed pursuant to subsection (d)(1), the Secretary shall establish within the Department of Commerce an office to exercise functions of the Secretary under this title.

(2) DESIGNATION- The office established under paragraph (1) shall be known as the 'Office of Internet Wagering Oversight'.

(3) DIRECTOR- The Secretary shall appoint as the head of OIWO a Director.

(4) EXPERIENCE AND EXPERTISE- The Director of OIWO shall be appointed by the Secretary from among individuals who demonstrate the following:

(A) Skill and experience in gaming regulation and enforcement.

(B) Experience in criminal investigations and law enforcement generally.

(C) A reputation for good character, honesty, and integrity.

(5) BACKGROUND INVESTIGATION- Before appointing an individual as Director under paragraph (3), the Secretary shall conduct a background investigation into the financial stability, integrity, and responsibility of the individual.

(6) LIMITATIONS- The Secretary may not appoint under paragraph (3) an individual who--

(A) has been convicted of a felony; or

(B) maintains any ownership or equity interest or any ongoing business relationship with--

(i) a qualified entity, an Internet wagering facility, a lottery, or another regulated gaming entity; or

(ii) a significant vendor, an independent testing laboratory, a licensee or a gaming regulatory body including a qualified regulatory authority.

(7) DETAIL OF GOVERNMENT EMPLOYEES- Any Federal Government employee may be detailed to OIWO without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(8) DELEGATION OF AUTHORITY- The Secretary may delegate to the Director of OIWO any authority, duty, or responsibility conferred upon the Secretary by this title.

(9) REGULATORY AUTHORITY OF DIRECTOR- The Director of OIWO may prescribe such regulations or rules and take such actions as may be necessary to carry out such authorities, duties, or responsibilities delegated to the Director by the Secretary under paragraph (8).

(10) DEFINITION OF OIWO- In this subsection, the term 'OIWO' means the Office of Internet Wagering Oversight.

(d) Regulations and Standards-

(1) REGULATIONS AND STANDARDS NECESSARY TO FUNCTION AS QUALIFIED REGULATORY AUTHORITY- Not later than 120 days after the date of the enactment of this Act, the Secretary, in consultation with the Commission, shall--

(A) prescribe regulations and standards for qualifying a qualified regulatory authority under section 105(a);

(B) publish in the Federal Register such information as may be necessary for a State agency or regulatory body of an Indian tribe to submit a complete application under section 105(a)(1)(C);

(2) MINIMUM STANDARDS FOR RULES OF FAIR PLAY- Not later than 60 days after the date regulations are prescribed under paragraph (1), the Secretary, in consultation with the Commission and the Director of the National Institute of Standards and Technology, shall publish in the Federal Register minimum standards for qualified regulatory authorities to carry out the requirements of section 112(a)(5)(B).

(3) ADDITIONAL REGULATIONS- Not later than 60 days after the date regulations are prescribed under paragraph (1), the Secretary shall prescribe such additional regulations as the Secretary considers necessary and where expressly required or authorized to carry out this title.

(4) MANNER OF PRESCRIPTION- Regulations prescribed under this subsection shall be prescribed in accordance with section 553 of title 5, United States Code.

(5) APPROVAL OF INTERNATIONAL ACCREDITING BODIES- Not later than 30 days after the date regulations are prescribed under paragraph (1), the Secretary, in consultation with the Commission and the Director of the National Institute of Standards and Technology, shall designate at least one international accreditation body as approved for the purpose of accrediting independent testing laboratories. Additional international accreditation bodies may be so designated by the Secretary, in consultation with the Commission and the Director of the National Institute of Standards and Technology, at any time thereafter the Secretary considers appropriate.

(e) Oversight of Qualified Regulatory Authorities- The Federal Overseer may investigate and take such action as the Federal Overseer considers appropriate under this title and other provisions of law with respect to any qualified regulatory authority that appears, based upon the Federal Overseer's own inquiry or based upon credible information provided by other qualified regulatory authorities, applicants, licensees, significant vendors or law enforcement officials, to be deficient or substantially less rigorous than other qualified regulatory authorities in the discharge of its authorities, duties and responsibilities under this title.

SEC. 105. QUALIFIED REGULATORY AUTHORITIES.

(a) Designation of Qualified Regulatory Authorities -

(1) DESIGNATING QUALIFIED REGULATORY AUTHORITIES-

(A) INITIAL DESIGNATION- Not later than 60 days after the date regulations are prescribed under section 104(d)(1), the Federal Overseer shall designate as a qualified regulatory authority any State agency or regulatory body of an Indian tribe that--

(i) submits an application under subparagraph (C) not later than 30 days after such regulations are prescribed; and

(ii) as the Federal Overseer determines, satisfies the criteria set forth under subparagraph (D).

(B) SUBSEQUENT DESIGNATIONS- After the initial designations under subparagraph (A), the Federal Overseer shall, at any time as the Federal Overseer considers appropriate to carry out the goals of this Act, designate as a qualified regulatory authority any additional State agency or regulatory body of an Indian tribe which submits an application under subparagraph (C) and the Federal Overseer determines meets the criteria set forth under subparagraph (D).

(C) APPLICATION- Each State agency or regulatory body of an Indian tribe seeking to be designated as a qualified regulatory authority under paragraph (A) or (B) shall submit to the Federal Overseer an application therefor in such form and containing such information as published under section 104(d)(1)(B) and any other information the Federal Overseer may require.

(D) STANDARDS FOR QUALIFIED REGULATORY AUTHORITIES- The Secretary shall prescribe strict minimum standards for the designation of agencies or regulatory bodies as qualified regulatory authorities under this paragraph, including minimum standards on the following:

(i) Relating to the size and qualification of staff of the qualified regulatory authority to ensure the qualified regulatory authority employs a sufficient number of enforcement agents with experience in gaming regulatory enforcement areas to discharge its intended functions and has the sophistication and resources necessary to evaluate issues unique to the Internet environment.

(ii) Relating to the length of time the qualified regulatory authority has regulated other forms of gaming to ensure designations of only those regulatory bodies that have a history of demonstrated regulatory enforcement and oversight commensurate with the responsibilities imposed under this title.

(iii) For assessing the applicant's experience and willingness to work with Federal authorities, including the Financial Crimes Enforcement Network.

(iv) Prohibiting conflicts of interest to ensure that qualified regulatory authorities are not controlled, directly or indirectly, by persons that have any significant ownership interest in entities regulated under this title, except in the case of--

(I) a lottery of the State of such qualified regulatory authority, in the case of a State agency; or

(II) a licensed facility owned or controlled, directly or indirectly, by an Indian tribe that does not control, directly or indirectly, the qualified regulatory authority which issued the license for such facility, in the case of a regulatory body of an Indian tribe.

(v) For the capacity and experience of the qualified regulatory authority in conducting rigorous suitability reviews under section 106.

(vi) For the adequacy of enforcement and regulatory authorities under the law of the State or Indian tribe applicable to the agency or regulatory body, including, at a minimum, requirements and authorities on the following:

(I) To investigate the suitability of each person required to be found suitable in connection with an application or license under this title.

(II) To require licensees and significant vendors to maintain appropriate procedures to ensure the compliance of licensees and significant vendors with the provisions of this title and the regulations, rules, and standards prescribed thereunder.

(III) To examine any licensee or significant vendor and any books, papers, records, or other data of licensees and

significant vendors relevant to any recordkeeping or reporting requirements imposed by the agency or regulatory body as a qualified regulatory authority under this title.

(IV) To summon a licensee, an applicant, a significant vendor, an officer or employee of a licensee, applicant, or significant vendor (including a former officer or employee), or any person having possession, custody, or care of the reports and records required by the agency or regulatory body as a qualified regulatory authority under this title to appear before the agency or regulatory body at such time and place named in the summons, to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to any investigation in connection with the enforcement of this title or any application for a license or certificate under this title.

(V) To enforce or direct enforcement of a summons in State or Indian tribal court, as the case may be.

(VI) To investigate any violation of a provision of this title, any applicable regulation, rule or standard prescribed under this title, and any other violation of applicable State or Indian tribal law relating to the operation of a licensed facility.

(VII) To conduct continuing reviews of applicants, licensees, and significant vendors and the operation of Internet wagering facilities by use of technological means, on-site observation of facilities, including remote gaming equipment, or other reasonable means to assure compliance with the provisions of this title and any applicable regulation, rule, or standard prescribed thereunder.

(VIII) To impose civil penalties for violations of this title and any applicable regulation, rule, or standard prescribed thereunder or applicable order issued thereunder, including State or Indian tribal law described under this subsection.

(IX) To ensure that the systems, hardware, software, communications equipment and other remote gaming equipment of an Internet wagering facility are tested by an independent testing laboratory for integrity, accountability, randomness of play, configuration, security of the network and any other applicable requirements prescribed under this title.

(X) To resolve disputes between licensees and the individuals participating in Internet wagering on their licensed facilities.

(XI) To execute the authorities, duties and responsibilities of a qualified regulatory authority as prescribed under this Act.

(vii) Such other standards as the Secretary considers relevant to the ability of an agency or regulatory body to serve as an effective qualified regulatory authority.

(2) NONQUALIFYING STATE AND INDIAN TRIBAL REGULATORY AUTHORITIES DUE TO LIMITED EXPERIENCE OR CONFLICTS-

(A) IN GENERAL- The Federal Overseer may not approve an application from a State agency or regulatory body of an Indian tribe under paragraph (1) if--

- (i) the State agency is not located within the territory of such State or such State is not opted-in under section 109(b);
- (ii) the regulatory body of the Indian tribe is not located on the Indian lands of such Indian tribe or such Indian tribe is not opted-in under section 109(c);
- (iii) any member of such agency or regulatory body controls, owns, manages, directs or has any ongoing business relationship with an applicant, licensee, or significant vendor under this title, a qualified entity, an Internet wagering facility, a lottery, another regulated gaming entity, or an independent testing laboratory, except in the case of an agency of a State in relation to the operation of a lottery of such State;
- (iv) any member of the agency or regulatory body has been selected or is controlled, directly or indirectly, by a person that has any ownership interest in or any ongoing business relationship with an applicant, licensee, or significant vendor under this title, a qualified entity, an Internet wagering facility, a lottery, another regulated gaming entity, or an independent testing laboratory, except in the case of--
 - (I) a State agency in relation to the operation of a lottery of such State; or
 - (II) a regulatory body of an Indian tribe in relation to a gaming entity regulated by such body that is not an applicant, licensee, or significant vendor under this title of any regulatory body of such Indian tribe.

(B) NON-CONTROLLING INVESTMENT- A non-controlling investment of a State, Indian tribe, or local government pension, retirement, annuity, or endowment fund shall not be considered an ownership interest for purposes of clauses (iii) and (iv) of subparagraph (A).

(3) WITHDRAWAL OF DESIGNATION-

(A) IN GENERAL- The Federal Overseer shall, after providing 60-days advance notice to a qualified regulatory authority of the Federal Overseer's intent to do so, withdraw the designation of such qualified regulatory authority under subsection (a) if the Federal Overseer determines that--

- (i) the qualified regulatory authority is not in compliance with the requirements of this title or regulations, rules, and standards prescribed thereunder; or
- (ii) the qualified regulatory authority is not in compliance with the conditions under which the qualified regulatory authority was designated.

(B) OPPORTUNITY TO COMPLY-

(i) IN GENERAL- The Federal Overseer shall provide a qualified regulatory authority who receives notice under subparagraph (A) with an opportunity to come into compliance as specified in that notice for a period of not less than 30 days and not more than 90 days after the date of such notice.

(ii) EXTENSION- The Federal Overseer may extend the period in clause (i) by not more than 180 additional days if the Federal Overseer determines that the qualified regulatory authority has made substantial progress toward compliance as of the expiration of the first period under clause (i).

(C) EFFECT OF NOTICE- The Federal Overseer shall prohibit a qualified regulatory authority that receives notice under subparagraph (A) from issuing new licenses and certificates of suitability under this title until the Federal Overseer determines that the qualified regulatory authority is in compliance with the requirements of this title and regulations, rules, and standards prescribed thereunder.

(D) RIGHT TO APPEAL- A State agency or regulatory body of an Indian tribe that has had its designation as a qualified regulatory authority withdrawn under this paragraph may seek judicial review of such withdrawal under chapter 7 of title 5, United States Code.

(E) CHANGE OF OPT-IN STATUS OF STATE OR INDIAN TRIBE- If a State or Indian tribe of a qualified regulatory authority changes its election to participate or not to participate under subsection (b) or (c) of section 109, such that the State or Indian tribe shall be considered not to be opted-in under such subsection, the Federal Overseer shall, after providing 60-days advance notice to such qualified regulatory authority of the Federal Overseer's intent to do so, withdraw the designation of the State agency or regulatory body of an Indian tribe as a qualified regulatory authority under subsection (a), without any opportunity to comply under subparagraph (C) and without any right to appeal under subparagraph (D). If such State or Indian tribe within 1 year of changing its election under the first sentence of this subparagraph subsequently changes its election to participate or not to participate under subsection (b) or (c) of section 109, such that such State or Indian tribe shall be considered to be opted-in under such subsection, the Federal Overseer may reinstate the designation of such agency or regulatory body as a qualified regulatory authority without submission of a new application under paragraph (1)(C) as the Federal Overseer considers appropriate.

(4) VACATING OF DESIGNATION-

(A) IN GENERAL- At any time, a qualified regulatory authority may submit in written form to the Federal Overseer a request for the Federal Overseer to vacate the designation of the qualified regulatory authority under paragraph (1). Upon receipt of such request, the Federal Overseer shall--

(i) verify the validity of such request; and

(ii) if the Federal Overseer determines the request is valid, promptly withdraw such designation.

(B) NO RIGHT OF APPEAL- A State agency or regulatory body of an Indian tribe that has had its designation as a qualified regulatory authority withdrawn under this paragraph shall not have any right to appeal under paragraph (3)(D).

(C) NOT ELIGIBLE FOR DESIGNATION- A State agency or regulatory body of an Indian tribe that has had its designation as a qualified regulatory authority withdrawn under this paragraph shall not be eligible to be

designated as a qualified regulatory authority under paragraph (1)(B) until 1 year after the date of withdrawal of designation under this paragraph.

(5) ACTION UPON WITHDRAWAL OF DESIGNATION-

(A) IN GENERAL- Not later than 30 days after the date on which the Federal Overseer withdraws a designation of a State agency or regulatory body of an Indian tribe under paragraph (3) or (4), each person with a license issued by such agency or regulatory body shall--

- (i)(I) cease offering, accepting, and providing services with respect to bets or wagers from persons located in the United States under such license;
- (II) to the degree feasible, return all customer account funds of United States customers in an orderly manner within 30 days; and
- (III) place in escrow those funds return of which to United States customers is not feasible under subclause (II) due to change in customer address, bank details, or similar difficulty in an account with a financial institution in the United States for safekeeping and orderly disposition by the Secretary, and provide to the Secretary to the extent feasible any identifying or account information known to the person in regards to such customers as the Secretary may require; or
- (ii) apply for a new license from a different qualified regulatory authority under section 106(b).

(B) INTERIM OPERATION- If a person applies for a new license under clause (ii) of subparagraph (A), the person may continue the activities described in subclause (i)(I) of such subparagraph under its existing license until final action is taken on the license application by the qualified regulatory authority, at which time such existing license shall be deemed terminated.

(C) INTERIM REGULATORY OVERSIGHT-

- (i) IN GENERAL- Until final action is taken under subparagraph (B) with respect to a person, the Federal Overseer shall have enforcement and regulatory authority over the licensed activities of such person.
- (ii) DELEGATION- The Federal Overseer may delegate enforcement and regulatory authority under clause (i) to such qualified regulatory authority as the Federal Overseer considers appropriate, with the consent of the qualified regulatory authority.

(6) TRANSFER OF DESIGNATION-

(A) IN GENERAL- At any time, a qualified regulatory authority may submit in written form to the Federal Overseer a request for the transfer of the designation of the qualified regulatory authority under paragraph (1) to another agency of the same State or regulatory body of the same Indian tribe, as the case may be.

(B) QUALIFYING NEW AUTHORITY- The State agency or regulatory body of an Indian tribe to which a transfer is requested under paragraph (1) shall be eligible for such transfer so long as they submit an application under subparagraph (C) and meet the criteria set forth under subparagraph (D).

(C) TRANSFER OF DESIGNATION- If the Federal Overseer finds that such State agency or regulatory body of an Indian tribe is eligible for a transfer under subparagraph (B), the Federal Overseer shall withdraw the designation of the qualified regulatory authority that requested the transfer and designate the State agency or regulatory body of an Indian tribe to which the transfer is requested as a qualified regulatory body pursuant to paragraph (1)(B).

(D) EFFECT OF TRANSFER- Any license or certificate of eligibility issued under this title by the State agency or regulatory body of an Indian tribe which requested a transfer under paragraph (A) shall become transferred to the qualified regulatory authority receiving the transfer and remain in effect without interruption, upon transfer of the designation under paragraph (C). Such State agency or regulatory body of an Indian tribe shall provide the qualified regulatory authority receiving the transfer with the books, papers, records, and other data in its possession related to applicants, licensees, and significant vendors, and any other books, papers, records, or other data in its possession necessary to carry out the authorities, duties, and responsibilities of a qualified regulatory authority under this title.

(b) Oversight of Qualified Regulatory Authorities- The Federal Overseer may investigate and take such action as the Federal Overseer considers appropriate with respect to any qualified regulatory authority that appears, based upon the Federal Overseer's own inquiry or based upon credible information provided by other qualified regulatory authorities, applicants, licensees, customers or law enforcement officials, to be deficient or substantially less rigorous than other qualified regulatory authorities in the discharge of its authorities, duties, and responsibilities under this title.

SEC. 106. ESTABLISHMENT OF LICENSING PROGRAM FOR CERTAIN INTERNET WAGERING.

(a) Internet Wagering Facility Licensing Program-

(1) AUTHORITY TO ISSUE LICENSES LIMITED TO CERTAIN INTERNET WAGERING- A qualified regulatory authority may issue licenses under this title only for the operation of Internet poker facilities.

(2) AUTHORITY TO OPERATE INTERNET WAGERING FACILITY UNDER VALID LICENSE-

(A) IN GENERAL- Notwithstanding any other provision of law and subject to the provisions of this title, a licensee may facilitate a bet or wager with respect to operating an Internet wagering facility for operations licensed under paragraph (1) from an individual located in the United States and may offer related services so long as the license of the licensee issued under this title remains in good standing.

(B) ONLY ONE LICENSE REQUIRED- Nothing in this title may be construed to require a person to have a license in good standing from more than one qualified regulatory authority in order to operate a licensed facility under this title.

(C) SIGNIFICANT VENDORS-

(i) IN GENERAL- Except as provided in clause (ii), if a person seeks a certificate of suitability from a qualified regulatory authority to provide services to a licensee or applicant as a significant vendor with respect to a licensed facility, such person shall not be required to obtain a license under this title to provide such services with respect to such licensed facility.

(ii) EXCEPTION- If such qualified regulatory authority determines that requiring a person described in clause (i) to seek a license under this title is necessary to prevent evasion of any provision of this title, and requiring so would otherwise be consistent with the provisions of this title, such qualified regulatory authority may require such person to seek a license under this title instead of the certificate of suitability.

(3) OPERATION OUTSIDE THE UNITED STATES-

(A) LIMITATION- A licensee or an affiliate of a licensee may not operate a licensed facility that facilitates a bet or wager from an individual located outside of the United States unless the transaction is--

(i) not unlawful under this Act or any provision of Federal law;

(ii) subject to--

(I) all provisions of this title and all regulations, rules, and standards prescribed under this title; or

(II) provisions of law, regulations, rules, and standards of equivalent stringency, requirements, restrictions, penalties and enforcement as those described in subclause (I), pursuant to a reciprocal agreement between the qualified regulatory authority of such licensed facility and a duly authorized government regulatory body of the jurisdiction in which such individual is located; and

(iii) not unlawful in the jurisdiction in which the individual is located.

(B) RULES OF CONSTRUCTION- Nothing in this title shall be construed to authorize a licensee or an affiliate thereof to facilitate a bet or wager from an individual located in any jurisdiction outside the United States that prohibits the licensee or affiliate from facilitating such bet or wager.

Nothing in this paragraph shall be construed to authorize a person in the United States to participate in a bet or wager outside of the United States which transaction is unlawful under any provision of Federal, State, or Indian tribal law except as authorized under this title, or under the law of any jurisdiction in which the bet or wager is initiated, placed, received or otherwise made.

(b) Application for License-

(1) APPLICATION- A person seeking to operate a licensed facility under this title shall submit to any qualified regulatory authority an application for a license therefor at such time, in such form, and in such manner as the qualified regulatory authority receiving the application considers appropriate.

(2) ELEMENTS- Each application submitted under paragraph (1) shall include such information as the qualified regulatory authority receiving the application considers appropriate, including at a minimum the following:

(A) Complete financial information about the applicant.

(B) Documentation showing the organization of the applicant and all related businesses and affiliates.

(C) The criminal, financial and gaming industry history of--
(i) the applicant;
(ii) each of the senior executives and directors of the applicant;
(iii) any other person who is in control of the applicant; and
(iv) such other persons as the qualified regulatory authority considers appropriate.

(D) Such other information as may be necessary for the suitability analysis required under subsection (c).

(E) Disclosure of all other applications for licenses previously or simultaneously submitted under paragraph (1) to other qualified regulatory authorities and whether those applications are pending, were approved, or were denied, and the current status of any license or certificate previously issued to the applicant under this title.

(F) A detailed description of the applicant's plan for complying with all applicable requirements, regulations, and rules prescribed pursuant to this title, with particular emphasis on the applicant's ability to comply with the regulations prescribed under subsection (f).

(G) A certification by the applicant that the applicant agrees to be subject to--

- (i) personal jurisdiction in Federal courts and in the courts of the State or Indian tribe of the qualified regulatory authority to which the applicant has applied with respect to any civil or criminal action relating to the operation of a licensed facility under this title; and
- (ii) all provisions of Federal, State, and Indian tribal law applicable to such an action.

(3) REPORT OF DISPOSITION-

(A) IN GENERAL- Each qualified regulatory authority shall report all applicants for licensure and the dispositions of their applications to the Secretary and the Commission promptly upon disposition of each application or in such intervals as the Federal Overseer may prescribe.

(B) CONTENTS- Each report under subparagraph (A) shall include such information or documentation as the Secretary and the Commission may require.

(c) Standards for License Issuance; Suitability Qualifications; and Disqualification Standards-

(1) SUITABILITY FOR LICENSING-

(A) IN GENERAL- No applicant shall be eligible to obtain a license under this title unless a qualified regulatory authority, with whom the applicant has filed an application for a license, has determined, upon completion of a background check and investigation, that the applicant, any person considered to be in control of the applicant, all significant vendors of the applicant, and any other person determined by the qualified regulatory authority as having significant influence on the applicant are suitable for licensing or for receiving a certificate of suitability as applicable.

(B) APPLICATION AS REQUEST FOR DETERMINATION OF SUITABILITY- An application for a license submitted to a qualified regulatory authority under this title constitutes a request for a determination of the general character, integrity, and ability to participate or engage in, be associated with, or operate a licensed facility, as appropriate, of the applicant, any person

considered to be in control of the applicant, all significant vendors of the applicant, and all other persons determined by the qualified regulatory authority as having significant influence on the applicant.

(C) ASSOCIATES-

(i) IN GENERAL- If an entity undergoing a determination of suitability under this paragraph is a corporation, partnership, consortium, or other such business entity, a background check and investigation shall be carried out by the applicable qualified regulatory authority with respect to the president or other chief executive of the corporation, partnership, consortium or business entity and such other partners or senior executives and directors or shareholders of the corporation, partnership, consortium, or entity as the qualified regulatory authority considers appropriate.

(ii) MINIMUM DETERMINATION- In carrying out clause (i), the qualified regulatory authority shall, at a minimum, carry out a suitability review of the 5 individuals receiving the most compensation (whether in the form of salary, bonus, dividends, distributions, disbursement of profits, or otherwise) from the entity, any person that controls the entity, and such other individuals or entities as the qualified regulatory authority considers appropriate.

(D) PARITY OF INVESTIGATION AND ANALYSIS-

(i) DILIGENCE WITH RESPECT TO SIGNIFICANT VENDORS AND AFFILIATES- Each investigation and analysis of the suitability of a person with respect to an application for a license under this title, other than the applicant for such license, shall be carried out with the same degree of diligence as the investigation and analysis of the suitability of the applicant.

(ii) STRINGENCY WITH RESPECT TO FACILITIES- Each qualified regulatory authority that also issues licenses to qualified entities for gaming facilities other than Internet wagering facilities shall ensure that each investigation and analysis of the suitability of a person carried out by the qualified regulatory authority under this subsection is no less stringent than a suitability review carried out by the qualified regulatory authority for such licensing of qualified entities, including, if any, investigations, certifications, and licensing of the employees of gaming facilities and vendors.

(iii) RELIANCE ON PRIOR INVESTIGATION- A qualified regulatory authority may, but need not, rely upon an investigation and analysis previously completed by such qualified regulatory authority related to issuance of a license for a gaming facility, in regards to the determination of suitability of any person required to be found suitable under this subsection.

(2) SUITABILITY STANDARDS- For purposes of this title, an applicant and any other person subject to a determination of suitability under paragraph (1) may only be considered suitable under this title if the applicant or person demonstrates to the applicable qualified regulatory authority by clear and convincing evidence that the applicant or person--

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

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

- (i) pose a threat to the public interest or to the effective regulation and control of Internet wagering facilities;
- (ii) create or enhance the danger of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of any licensed facility or the carrying on of the business and financial arrangements incidental to any such facility; or
- (iii) demonstrate a disregard for compliance with law by having operated or aided in the operation of an Internet wagering facility knowingly in violation of any provision of Federal, State, or Indian tribal law;

(C) is capable of and likely to conduct the activities for which the applicant or person is licensed or receives a certificate of suitability in accordance with the provisions of this title, any regulations, rules, and standards prescribed pursuant to this title, and all other applicable laws and regulations;

(D) in the case of an applicant, has or guarantees acquisition of adequate business competence and experience in the operation of an Internet wagering facility;

(E) in the case of an applicant, has or will obtain sufficient financing for the nature of the proposed operation and from a source that has not been found unsuitable under paragraph (3); and

(F) has disclosed to the qualified regulatory authority all known affiliations or relationships, whether direct or indirect, ongoing or prior, with persons or assets of persons who have operated or been associated with the operation of an Internet wagering facility not licensed under this Act.

(3) UNSUITABLE- An applicant or any other person may not be determined to be suitable under this subsection if the applicant or such person--

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

(B) has knowingly supplied information that is untrue or misleading as to a material fact pertaining to any such determination;

(C) has been convicted of an offense that is punishable by imprisonment of more than 1 year, except for persons described under paragraph (4)(A);

(D) is delinquent in the payment of any applicable Federal or State tax, tax penalty, addition to tax, or interest owed to a jurisdiction in which the applicant or person operates or does business, unless such payment has been extended or is the subject of a pending judicial or administrative dispute;

(E) has not certified in writing, pursuant to subsection (b)(2)(G), that the person submits to personal jurisdiction in the United States as described in such subsection;

(F) accepts or has accepted bets or wagers on sporting events knowingly in violation of a provision of Federal or State law; or

(G) fails to comply with any such other standard as the applicable qualified regulatory authority considers appropriate.

(4) INELIGIBILITY DUE TO PRIOR UNLAWFUL ENGAGEMENT IN INTERNET WAGERING-

- (A) INELIGIBLE DUE TO FELONY VIOLATIONS- No applicant nor any other person shall be eligible for a license or certificate of suitability under this section if such applicant or person has facilitated bets or wagers from any other person in felony violation of Federal or State law and has been convicted of such violation, until the later of 5 years after the enactment of this Act or 5 years after such conviction.
- (B) INEGLIBILE DUE TO PURCHASING ASSETS- No applicant nor any person who has purchased assets related to the operation of an Internet wagering facility knowingly of a person described in subparagraph (A) shall be eligible for a license or certificate of suitability under this section until the later of 5 years after the enactment of this Act or 5 years after such conviction.
- (C) RULE OF CONSTRUCTION- Nothing in this paragraph shall be construed to permit a qualified regulatory authority to determine that an applicant or any other person who is required to be determined to be suitable under this subsection is suitable without such person or applicant meeting all of the requirements and standards for suitability under this subsection.
- (5) ONGOING REQUIREMENT- A licensee and any other person who is required to be determined to be suitable under this section in connection with such licensee shall meet the standards necessary to be suitable for licensing or to receive a certificate of suitability, as the case may be, throughout the term of the license.
- (6) CERTIFICATE OF SUITABILITY FOR SIGNIFICANT VENDORS-
- (A) IN GENERAL- If a qualified regulatory authority determines under paragraph (1) that a significant vendor of an applicant is suitable under such paragraph, the qualified regulatory authority shall issue a certificate to such vendor that certifies the suitability of such vendor.
- (B) REVOCATION OF CERTIFICATE- A qualified regulatory authority that issues a certificate to a significant vendor under subparagraph (A) shall revoke the certificate if at any time the significant vendor no longer meets the standards necessary for a determination of suitability, subject to any opportunity to come into compliance the qualified regulatory authority considers appropriate of no more than 90 days.
- (C) RELIANCE ON CERTIFICATE- A qualified regulatory authority may, but need not, rely upon a certificate issued under subparagraph (A) to a significant vendor with respect to one application in the review of the same significant vendor in other license applications.
- (D) CERTIFICATES ISSUED BY OTHER QUALIFIED REGULATORY AUTHORITIES- A qualified regulatory authority may, but need not, accept a certificate issued to a significant vendor by another qualified regulatory authority as evidence of the suitability of the significant vendor to receive a certificate under subparagraph (A).
- (7) OTHER VENDORS-
- (A) NOTICE- An applicant or licensee shall promptly inform the appropriate qualified regulatory authority of all persons that are not significant vendors and that intend to or do--
- (i) direct, provide, or solicit customers to or for the applicant's or licensee's licensed facility, or materially assist in any of those tasks, in return for a commission or other fee;

- (ii) hold themselves out to the public as offering to facilitate bets or wagers on the licensee's behalf;
- (iii) offer to facilitate bets or wagers under their own names or brands but using and relying on the licensee's licensed facility;
- (iv) license trademarks, trade names, service marks, or other similar intellectual property to the applicant or licensee for a licensed facility;
- or
- (v) own a substantial interest in or control a person described in clause (i), (ii), (iii), or (iv).

(B) SUITABILITY OF OTHER VENDORS AND PERSONS- A qualified regulatory authority that reviews an application of an applicant or issues a license to an applicant or licensee may, at the sole discretion of the qualified regulatory authority and on a case-by-case basis, require as a condition of such license that a person meet the suitability requirements under paragraph (1) and be issued a certificate of suitability as a significant vendor under paragraph (6) if the person--

- (i) is described in subparagraph (A) with respect to the applicant or licensee;
- (ii) intends to or does provide services to such applicant or licensee and the qualified regulatory authority determines that, with respect to such services, there is a substantial risk of circumvention of the suitability requirements applicable to significant vendors; or
- (iii) is or will be associated with the applicant or licensee or one of the significant vendors of the applicant or licensee and the qualified regulatory authority determines such person or the activities of such person as described in subparagraph (A) may pose a threat to the integrity of a licensed facility operated by the applicant or licensee.

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

(8) ENFORCEMENT ACTIONS-

(A) IN GENERAL- If the Federal Overseer or the qualified regulatory authority that issued the license to a licensee finds that such licensee, or any other person that is subject to a required determination of suitability in connection with such licensee, ceases to meet the suitability requirements of this subsection at any time during the tenure of the license, the Federal Overseer or the qualified regulatory authority may take action to protect the public interest, including, if the Federal Overseer or qualified regulatory authority considers necessary, the suspension or termination of the license or suspension or revocation of a certificate of suitability.

(B) IMPOSITION OF CONDITIONS INCLUDING REMOVAL OF PARTIES- Notwithstanding a determination under subparagraph (A), the Federal Overseer or the qualified regulatory authority that issued the license to a licensee, or any other person that is subject to a required determination of suitability in connection with such licensee, may allow such licensee or person to continue engaging in licensed activities by imposing conditions on the person to which subparagraph (A) is applicable under penalty of

suspension, termination, or revocation of a license or certificate of suitability (as applicable), including--

- (i) the identification of any person determined to be unsuitable; and
- (ii) the establishment of appropriate safeguards to ensure such person is excluded from any management or involvement in operation of the licensed facility, or an affiliate, a significant vendor, or any connected activity or entity thereof.

(C) SPECIAL RULE FOR ENFORCEMENT OF PROHIBITION ON UNLAWFUL SPORTS WAGERING- If the Federal Overseer or a qualified regulatory authority finds that a licensee is no longer suitable under this subsection because such licensee has accepted bets or wagers as described in paragraph (3)(F), the Federal Overseer or the qualified regulatory authority, as the case may be, shall terminate the license of such licensee in addition to the imposition of such other penalties as the Federal Overseer or the qualified regulatory authority considers appropriate under this title.

(9) ADMINISTRATIVE PROVISIONS-

(A) BACKGROUND CHECK AND INVESTIGATION- Each qualified regulatory authority shall establish standards and procedures for conducting background checks and investigations for purposes of and which meet the standards and requirements of this subsection.

(B) PRIVILEGE- Any written or oral statement made in the course of an official proceeding of the Federal Overseer or a qualified regulatory authority, by any member thereof, or any witness testifying under oath that is relevant to the purpose of the proceeding and relates to the review of an application for a license or the issuance of a certificate of suitability under this title, is privileged and shall not give rise to liability for defamation or relief in any civil action.

(C) ADDITIONAL PRIVILEGE- Notwithstanding section 552 of title 5, United States Code, or any other Federal, State, or Indian tribal law to the contrary, any communication or document of an applicant, licensee, significant vendor, or affiliate thereof, that is made or transmitted pursuant to this title to the Federal Overseer or a qualified regulatory authority or any of their agents or employees, except information that is already public or required to be made public under this Act, shall be privileged and shall not be disclosed by the Federal Overseer or the qualified regulatory authority without the prior written consent of the applicant, licensee, significant vendor, or affiliate thereof (as applicable), or pursuant to a lawful court order, grand jury subpoena, or similar procedure. To the extent practicable, the Federal Overseer or qualified regulatory authority shall provide timely notice of the proceedings to the applicant, licensee, significant vendor, or affiliate thereof (as applicable).

(D) PRESERVATION OF PRIVILEGE RECOGNIZED UNDER OTHER PROVISIONS OF LAW- Any privilege recognized under any other provision of Federal, State, or Indian tribal law, including attorney-client, physician-patient, and accountant-client privileges, shall not be waived or lost because a document or communication otherwise protected by the privilege is disclosed to the Federal Overseer or a qualified regulatory authority under this title.

(E) CONFIDENTIALITY-

(i) Except as set forth in provision (ii) of this subparagraph, any communication or document, except information that is already public or required to be made public under this Act, shall be treated as confidential and may not be disclosed, in whole or part, by the Federal Overseer or a qualified regulatory authority without a lawful court order or as otherwise required by law, if the communication or document is--

- (I) required by the Federal Overseer or qualified regulatory authority to be disclosed by the applicant, licensee, significant vendor, or any other person that is subject to a required determination of suitability, including applications, financial or earnings information, and criminal or gaming industry records, whether of the applicant or licensee or of any affiliate, employee, officer, director, significant vendor, or other vendor thereof, or of any other third-party; or
- (II) prepared or obtained by an agent or employee of the Federal Overseer or qualified regulatory authority that contains information described in clause (i).

(ii) Nothing in this subsection shall limit the disclosure of information provided by an applicant, licensee, significant vendor, or any other person that is subject to a required determination of suitability to the Federal Overseer or qualified regulatory authority, to any official of the United States, or to any State regulatory or enforcement agency, requesting such information for any authorized purpose under Federal or State law, including but not limited to the administration or enforcement of Federal or State laws concerning Internet wagering or gambling, U.S. tax laws, consumer protection, data protection, financial regulation, or for the purposes of any civil or criminal investigation.

(F) FINALITY- Any issuance, denial, or termination of a license under this subsection shall be treated as a final action.

(d) Assessments for Administrative Expenses-

(1) USER FEES-

(A) IN GENERAL- The cost of administering this title with respect to each applicant, licensee, and significant vendor, including the cost of any review or examination of a licensee, its significant vendors, or any related person or entity to ensure compliance with the terms of the license and this title, may be assessed as user fees by the qualified regulatory authority receiving an application or issuing a license or certificate of suitability against the applicant, licensee, or significant vendor, as the case may be, by written notice in an amount that the qualified regulatory authority determines is necessary to--

- (i) meet the qualified regulatory authority's expenses in carrying out such administration, review, or examination; and
- (ii) to cover the amounts determined by the Federal Overseer under paragraph (3) to cover the expenses incurred by the Federal Overseer in carrying out the provisions of this title.

(B) EXPENSES FOR REVIEW OR EXAMINATION- Assessments under subparagraph (A) for expenses that are attributable to review or

examination of a particular applicant, licensee, or significant vendor shall be assessed against that applicant, licensee, or significant vendor.

(C) EXPENSES FOR GENERAL ADMINISTRATION- Assessments under subparagraph (A) for general administration expenses and to cover the amounts determined by the Federal Overseer under paragraph (3) shall be assessed against all licensees of the qualified regulatory authority equally.

(D) DISPOSITION OF USER FEES- Except as provided in paragraph (3), amounts assessed by a qualified regulatory authority as user fees under this paragraph shall--

(i) be available to the qualified regulatory authority to cover expenses incurred by the qualified regulatory authority in carrying out the provisions of this title; and

(ii) not be construed to be Government funds or appropriated monies, or subject to apportionment for the purposes of any other provision of law.

(E) COLLECTION-

(i) REFERRAL- If a licensee or significant vendor fails to pay any user fees to a qualified regulatory authority under this paragraph after the assessment of the fee has become final--

(I) the qualified regulatory authority may recover the amount assessed by action in any State or Indian tribal court (as applicable) in the jurisdiction of the qualified regulatory authority, or in any appropriate United States district court, along with any costs of collection and attorney fees; and

(II) such failure may be grounds for denial of an application for a license or certificate of suitability, termination of a license, or revocation of a certificate of suitability under this title.

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

(F) PAYMENT OF SIGNIFICANT VENDOR USER FEES BY APPLICANTS AND LICENSEES- Any user fees assessed against a significant vendor may be paid by an applicant or licensee on behalf of the significant vendor.

(2) DIRECT AND EXCLUSIVE OBLIGATION OF LICENSEE- With respect to a licensee, a user fee shall be the direct and exclusive obligation of the licensee and may not be deducted from amounts available as customer account funds to any person participating in bets or wagers on the licensee's licensed facility.

(3) OVERSIGHT FEES ESTABLISHED BY FEDERAL OVERSEER-

(A) IN GENERAL- The Federal Overseer shall determine the funding requirements necessary to meet the Federal Overseer's cost of administering this title and assess by written notice on a quarterly basis against each qualified regulatory authority a share of such costs proportional to the number of licensees of each qualified regulatory authority.

(B) DISPOSITION OF OVERSIGHT FEES- Within 15 days of the date of a notice under subparagraph (A), amounts assessed by the Federal Overseer under such subparagraph shall be deposited by a qualified regulatory authority into the Internet Wagering Oversight Fund.

(C) COLLECTION-

(i) REFERRAL- If a qualified regulatory authority fails to pay an amount assessed under this paragraph after the assessment has become final--

(I) the Federal Overseer may recover the amount assessed by action in any State or Indian tribal court (as applicable) in the jurisdiction of the qualified regulatory authority, or in any appropriate United States district court, along with any costs of collection and attorney fees; and

(II) such failure may be grounds for withdrawal of the designation of the qualified regulatory authority under section 105(a).

(ii) ASSESSMENT REVIEWABLE- In any civil action under clause (i), a court may review the validity and adjust the amount of the assessment.

(D) MITIGATION OF COSTS AND ASSESSMENTS- Any funds deposited in the Internet Wagering Oversight Fund under section 107(b)(2)(B)(vii) or section 108(d)(3) shall be used to mitigate the Federal Overseer's costs of administering this title and the Federal Overseer's assessments under subparagraph (A) shall be adjusted accordingly.

(e) Approval of License-

(1) IN GENERAL- A qualified regulatory authority may issue licenses under this title for the operation of an Internet wagering facility to the extent authorized under subsection (a)(1), to any applicant that meets all the criteria for licensing under this title and that meets one of the following restrictions for licensing:

(A) Owns or controls a qualified entity that has been in continuous operation under a license issued by a State or Indian tribe for the duration of the 5-year period ending on the date the license for the operation of an Internet wagering facility is issued and has continuously met the criteria to be considered a qualified entity during such period.

(B) Is owned or controlled by a person who for the duration of the 5-year period ending on the date the license for the operation of an Internet wagering facility is issued, owned or controlled a qualified entity.

(C) Meets an additional restriction for licensing prescribed by the Secretary under paragraph (2).

(2) EXPANSION OF LICENSEES ONLY IF NO RISK TO PUBLIC-

(A) IN GENERAL- On the date that is 2 years after the date of first issuance specified in section 114(a) and at any additional time the Secretary considers appropriate, the Secretary shall, by rule, authorize the issuance of licenses to applicants other than those described in subparagraphs (A) and (B) of paragraph (1) that the Secretary considers appropriate to increase the number of persons eligible to be licensed under this title.

(B) MANNER OF PRESCRIPTION- Rules prescribed under this paragraph shall be prescribed in accordance with section 553 of title 5, United States Code.

(C) ADDITIONAL RESTRICTIONS FOR LICENSING- The Secretary shall prescribe any additional restriction for licensing of applicants under this paragraph if the Secretary determines that such additional restriction for licensing will not significantly increase the risk that--

- (i) the requirements described in subsection (f)(2) will not be satisfied by licensees; or
- (ii) the standards described in section 105(a)(1)(D) will not be satisfied by qualified regulatory authorities.

(3) AUTHORITY OF FEDERAL OVERSEER TO TERMINATE LICENSES-

(A) IN GENERAL- Notwithstanding any license or certificate of suitability issued by a qualified regulatory authority, the Federal Overseer may suspend or terminate a license or suspend or revoke a certificate of suitability under this title if the Federal Overseer has reason to believe that the licensee or significant vendor does not meet the suitability requirements established under subsection (c) or, as applicable, any other requirement imposed on a licensee or significant vendor under this title.

(B) NO AUTHORITY TO OVERTURN DENIALS AND TERMINATIONS- The Federal Overseer may not overturn a decision by a qualified regulatory authority to deny or to terminate a license or to deny or revoke a certificate of suitability.

(4) CONFLICTS BETWEEN QUALIFIED REGULATORY AUTHORITIES- If a qualified regulatory authority denies or terminates a license or denies or revokes a certificate of suitability to a person and within 1 year of such denial, termination, or revocation another qualified regulatory authority issues such person a license or certificate of suitability, the Federal Overseer shall--

- (A) commence a review of such license or certificate of suitability; and
- (B) not later than 90 days after such commencement, determine whether to act under paragraph (3).

(5) PRESERVATION OF DESIGNATION OF QUALIFIED REGULATORY AUTHORITY-

A qualified regulatory may deny a license or certificate of suitability if the qualified regulatory authority deems that issuing such license or certificate will put at risk the designation of the qualified regulatory authority under section 105(a)(1) by violating the compliance of the qualified regulatory authority with the regulations and standards prescribed pursuant to section 104(d)(1)(A) or any other regulations, rules, or standards under this title.

(6) CONTROL DEFINED- In this subsection, the term 'control' or 'controlled', with respect to a person, means the possession, directly or indirectly, of the power to direct or influence the direction of the management or policies of the person, whether through the ownership of voting securities, through a management, executive officer, or board position, by shareholders or similar agreement, or otherwise.

(7) RULE OF CONSTRUCTION- No provision of this subsection shall be construed to permit a regulatory body of a Indian tribe to issue a license or certificate of suitability under this title in regards to the operation of a licensed facility that is owned or controlled, directly or indirectly, by such Indian tribe or any members, agency, or body of such Indian tribe.

(f) Safeguards Required of Licensee-

(1) IN GENERAL- Except as provided in paragraph (3), no qualified regulatory authority shall issue a license under this title unless the qualified regulatory authority--

- (A) prescribes regulations that prohibit a person from receiving or retaining a license under this title unless the person maintains or requires (as applicable) safeguards and mechanisms so that the requirements described

in paragraph (2) are met with respect to the operation of the person's licensed facility; and

(B) reviews the applicant's ability to comply with the requirements of this subsection, including mandating testing of the applicant's equipment including systems, hardware, software, communications equipment, and other remote gaming equipment necessary for operation of the applicant's Internet wagering facility under this title to ensure the integrity, accountability, randomness of play, configuration, security of the network, and any other function of such equipment deemed appropriate by the qualified regulatory authority, by one or more independent testing laboratories.

(2) SAFEGUARDS- Licensees are required to maintain safeguards and mechanisms in regards to operation of their licensed facility for the following:

(A) To ensure, to a reasonable degree of certainty, that individuals participating in a bet or wager are not younger than 21 years of age.

(B) To ensure, to a reasonable degree of certainty, that individuals participating in a bet or wager are physically located in a jurisdiction or jurisdictions in which the licensee is authorized under this title to facilitate such bets or wagers at the time the bet or wager is initiated or placed.

(C) To ensure, to a reasonable degree of certainty, that Federal, State or Indian tribal taxes assessed on a licensee's customer relating to Internet wagering with the licensed facility are collected, disbursed, and reported as required of such facility by law at the time of a withdrawal by such customer from the customer's account other than for the purpose of participating in bets or wagers on such licensed facility, and that adequate records to enable later audit or verification are maintained.

(D) To ensure that any taxes relating to the operation of a licensed facility assessed on the licensee are collected and disbursed as required by law and that adequate records to enable later audit or verification are maintained.

(E) To ensure that all user fees assessed against the licensee under subsection (d) are paid to the appropriate qualified regulatory authority and that adequate records to enable later audit or verification are maintained.

(F) To detect and prevent, to a reasonable degree of certainty, fraud, money laundering, and terrorist financing.

(G) To ensure, to a reasonable degree of certainty, compliance with the requirements of section 108(b).

(H) To protect, to a reasonable degree of certainty, the privacy and Internet security of any person participating in bets or wagers on the licensed facility, including limiting the transmission over the Internet or other wire or wireless communication facility of personal identifying information of such person that is unique to the physical characteristics of an individual to methods which do not risk theft of such information.

(I) To ensure, to a reasonable degree of certainty, that the games offered are fair and honest, and to detect and prevent to a reasonable degree of certainty--

(i) cheating, use of cheating devices, and collusion;

(ii) anomalous play that varies from statistical expectations;

- (iii) use of more than one account to participate in bets or wagers on a single Internet wagering facility by a single customer;
- (iv) compromised deal of the cards, tiles or similar tokens in a skill game;
- (v) failure of the randomness of a game; and
- (vi) theft of customer account funds or account information.

(J) To ensure customer account funds are held in accounts segregated from the funds of licensees, significant vendors, and affiliates and are otherwise protected from insolvency or financial risk of, or criminal or civil actions against the licensee, a significant vendor, an affiliate, or any other person connected to the licensee or the operation of the licensed facility.

(K) To ensure customer complaints are resolved in a reasonable time frame and in a manner that is fair including methods for appeal by a customer of any resolution imposed upon such customer.

(L) To ensure, to a reasonable degree of certainty, hardware and software implemented for a shuffle or deal of cards, tiles, or similar tokens in a skill game shall meet the following technical standards:

(i) A random number generator shall be based on real-world random events, as in modern hardware-based random number generators, or on a proven method of equivalent or superior random results verified by an independent testing laboratory.

(ii) Except as provided for by the published rules of a game, the outcome of the generation of each card, tile, or similar token dealt out of a set of cards, tiles or similar tokens shall have been unpredictable and of equal probability to any other card, tile, or similar token in the set, and not influenced by any previous such outcome.

(iii) Except as provided for by the published rules of a game, if an order of a set of cards, tiles, or similar tokens is generated prior to a deal or other use in a game, the outcome of the generation of the order shall have been unpredictable and of equal probability to any other possible order and not influenced by any previous such outcome, and the deal shall proceed in such order in accordance with the rules of the game.

(iv) Except as provided for by the published rules of a game, every possible order of the set of cards, tiles, or similar tokens in a game, as applicable in each game, shall be possible and equally likely to occur.

(M) To ensure that adequate records and audit trails necessary to facilitate any audits, regulatory investigations, dispute resolutions or criminal investigations are maintained or archived for a minimum of 10 years.

(N) To ensure that the terms and conditions of the licensed facility are publicly and conspicuously displayed on such facility's Web site, including all terms and conditions of player accounts, games, play, participating in bets or wagers, fees for participating in a bet or wager or in a game or tournament, promotional incentives, events and awards, security and privacy policies, and customer tax compliance.

(O) To ensure that all player contributions to a jackpot or prize pool are returned to players in the form of jackpot or prize awards without any

deductions for any costs of administration, marketing, commission, or other costs or fees.

(P) To ensure that customers are promptly reimbursed by the licensed facility for any customer account funds found to be missing, stolen, or wrongfully taken by any personnel or security measure failure, and for any gaming losses suffered by such customer due to acts of cheating, fraud or theft.

(Q) To comply with any other requirements as the qualified regulatory authority shall require, including testing of systems, hardware, software, communications equipment, and remote gaming equipment for integrity, accountability, randomness of play, configuration, security of the network and any other function of such equipment deemed appropriate by the qualified regulatory authority, by one or more independent testing laboratories.

(3) EXCEPTION- A qualified regulatory authority may issue a license to an applicant prior to completion of the testing mandated by the qualified regulatory authority under subparagraph (B) so long as the licensee guarantees not to begin facilitating bets or wagers authorized under this title in the operation of the licensed facility prior to completion of such testing and approval by the qualified regulatory authority to begin such activities. A violation of such guarantee by the licensee, or a significant vendor or affiliate of the licensee shall be grounds for the imposition of civil penalties under this title on the licensee, suspension or termination of the license, or both.

(g) Location of Remote Gaming Equipment-

(1) WITHIN THE UNITED STATES- A licensee shall maintain its remote gaming equipment used in the operation of a licensed facility within the territory of the United States throughout the term of the license.

(2) WITHIN TERRITORY OF QUALIFIED REGULATORY AUTHORITY- A qualified regulatory authority may require an applicant or licensee to locate the remote gaming equipment of the applicant or licensee used or intended to be used in the operation of a licensed facility under a license issued by such qualified regulatory authority within the territory of the State or Indian tribe of the qualified regulatory authority throughout the term of the license.

(3) LIMITATION ON STATES AND INDIAN TRIBES- A State or Indian tribe that is considered to be opted-in pursuant to section 109 may not require a licensee to locate the remote gaming equipment used in the operation of its licensed facility within the territory of such State or Indian tribe in order to facilitate bets or wagers from players located in such territory, except as provided for under paragraph (2).

(h) Appeal of Decisions- A decision by a qualified regulatory authority not to issue a person a license or certificate of suitability, or to terminate a license or revoke a certificate of suitability may be challenged by such person in any State or Indian tribal court (as applicable) in the jurisdiction of the qualified regulatory authority as permitted under the law of the State or Indian tribe, or in any appropriate United States district court. Such court shall set aside the qualified regulatory authority's decision if the court determines that the qualified regulatory authority's decision was arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law, or without observance of procedure required by law.

(i) Term, Renewal, and Transfer of License-

(1) TERM-

(A) IN GENERAL- Any license issued under this title shall be issued for a 5-year term beginning on the date of issuance. A license may be renewed in accordance with any requirements prescribed by the qualified regulatory authority that issued the license under this title.

(B) ACTION UPON DENIAL OF RENEWAL- If a qualified regulatory authority denies the renewal of a license, not later than 30 days after expiration of the license, the licensee shall--

- (i)(I) cease offering, accepting, and providing services with respect to bets or wagers from persons located in the United States under such license;
 - (II) to the degree feasible, return all customer account funds of United States customers in an orderly manner within 30 days; and
 - (III) place in escrow those funds return of which to United States customers is not feasible under subclause (II) due to change in customer address, bank details, or similar difficulty in an account with a financial institution in the United States for safekeeping and orderly disposition by the Secretary, and provide to the Secretary to the extent feasible any identifying or account information known to the person in regards to such customers as the Secretary may require; or
- (ii) apply for a new license from a different qualified regulatory authority under subsection (b).

(C) INTERIM OPERATION- If a person applies for a new license under clause (ii) of subparagraph (B), the person may continue the activities described in subclause (i)(I) of such subparagraph under its existing license until final action is taken on the license application by the qualified regulatory authority, at which time such existing license shall be deemed terminated.

(D) INTERIM REGULATORY OVERSIGHT-

- (i) IN GENERAL- Until final action is taken on the application for a new license under subparagraph (B)(ii), the Federal Overseer shall have enforcement and regulatory authority over the licensed activities of such person.
- (ii) DELEGATION- The Federal Overseer may delegate enforcement and regulatory authority under clause (i) to such qualified regulatory authority as the Federal Overseer considers appropriate, with the consent of the qualified regulatory authority.

(2) TRANSFER- A transfer of a license, change of control of a licensee, or change in significant vendor shall require prior approval by the qualified regulatory authority that issued the license. The qualified regulatory authority shall at a minimum ensure the suitability requirements of subsection (c) continue to be satisfied before approving any such transfer or change.

(j) Administrative Provisions-

(1) DETERMINATION OF INTERNET WAGERING-

(A) INITIAL DETERMINATION BY QUALIFIED REGULATORY AUTHORITY- A determination whether facilitating a bet or wager in a game, hand, tournament, or other contest facilitated by a licensed facility is authorized

under a license issued pursuant to this Act shall be made in the first instance by the qualified regulatory authority that issued the license to operate such licensed facility.

(B) CHALLENGES-

(i) IN GENERAL- A licensee, qualified regulatory authority, or qualified entity may challenge whether the facilitation of a bet or wager in a game, hand, tournament, or other contest facilitated by another licensee is authorized under a license issued pursuant to this Act.

(ii) CHALLENGE MADE WITH FEDERAL OVERSEER- A challenge made under clause (i) shall be made with the Federal Overseer of the applicable qualified regulatory authority of such other licensee.

(iii) DETERMINATION MADE BY FEDERAL OVERSEER WITHIN 30 DAYS- If a challenge is made under clause (i), the Federal Overseer shall make a determination whether the facilitation of a bet or wager in the game, hand, tournament, or other contest is authorized under a license issued pursuant to this Act not later than 30 days after the date on which the challenge is made.

(iv) OPERATION UNTIL DETERMINATION- A licensee that facilitates bets or wagers in a game, hand, tournament, or other contest that is challenged under clause (i) may continue to facilitate bets or wagers in such game, hand, tournament, or other contest until the Federal Overseer makes a determination under clause (iii).

(C) APPEALS-

(i) IN GENERAL- Not later than 30 days after the date on which the Federal Overseer makes a determination under subparagraph (B)(iii), a licensee, qualified regulatory authority, or qualified entity may appeal such determination to the United States District Court for the District of Columbia. Such court shall set aside the Federal Overseer's determination if the court determines that the Federal Overseer's determination was arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law, or without observance of procedure required by law.

(ii) OPERATION PENDING APPEAL- During the period in which the facilitation of a game, hand, tournament, or other contest is being challenged through an appeal under clause (i), the United States District Court for the District of Columbia may allow a licensee to continue facilitating bets or wagers in the game, hand, tournament, or other contest in full compliance with the terms of its existing license and any other conditions the court considers necessary, if the court determines that--

(I) the licensee has a reasonable likelihood of success on the merits; and

(II) allowing the licensee to continue facilitating bets or wagers in the challenged game, hand, tournament, or other contest while the appeal is pending will not threaten the public interest.

(2) CHALLENGES UNDER STATE LAW- Except as provided in paragraph (1) or as otherwise specifically provided in this title, actions taken by a qualified regulatory authority may be challenged by applicants, licensees or significant vendors only

as permitted under the law of the State or Indian tribe in which the qualified regulatory authority is located.

(3) SUMMONS-

(A) IN GENERAL- The Federal Overseer may issue a summons with respect to an applicant, licensee or significant vendor necessary to carry out the provisions of this title.

(B) PRODUCTION AT DESIGNATED SITE- A summons issued by the Federal Overseer pursuant to this paragraph may require that books, papers, records, or other data stored or maintained at any place be produced at any--

(i) business location of an applicant for a license, licensee or significant vendor;

(ii) designated location in the State or Indian lands of the applicable qualified regulatory authority; or

(iii) designated location in the District of Columbia.

(C) NO LIABILITY FOR EXPENSES- The Federal Overseer shall not be liable for any expense incurred in connection with the production of books, papers, records, or other data under this paragraph.

(D) SERVICE OF SUMMONS- Service of a summons issued under this subsection may be by registered mail or in such other manner calculated to give actual notice as determined by the Federal Overseer.

(E) AUTHORIZATION TO INVOKE AID OF COURTS- The Federal Overseer may invoke the aid of any court of the United States to compel compliance with the summons within the jurisdiction of which--

(i) the investigation that gave rise to the summons or the examination is being or has been carried on;

(ii) the person summoned is an inhabitant; or

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

(F) POWER OF COURTS TO COMPEL APPEARANCE- The court may issue an order requiring the person summoned to appear before the Federal Overseer--

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

(ii) to give testimony as may be necessary to explain how such material was compiled and maintained;

(iii) to allow the Federal Overseer to examine the business of an applicant, licensee or significant vendor; and

(iv) to pay the costs of the proceeding.

(G) CONTUMACY OR REFUSAL- Any failure to obey the order of the court under this paragraph may be punished by the court as a contempt thereof. All process in any case under this subsection may be served in any judicial district in which such person may be found.

SEC. 107. ENFORCEMENT.

(a) Disciplinary Action-

(1) IN GENERAL- A licensee may be subject to disciplinary action, including the imposition of civil penalties or suspension or termination of its license by the qualified regulatory authority that issued the license to the licensee or by the Federal Overseer if the licensee fails to comply with any provision of this title,

any regulation, rule or standard prescribed thereunder, or any other applicable provision of State or Indian tribal law.

(2) INITIATING AGENCY- Only the Federal Overseer or the qualified regulatory authority that issued the license to a licensee may initiate disciplinary action under this title against the licensee.

(3) SAVINGS PROVISION- Nothing in this subsection shall be construed to limit or alter the application of any law other than this title to a licensee or affiliated person, or to affect the enforcement of such law by the appropriate law enforcement administrative or regulatory entity.

(4) DISCIPLINARY PROCEDURES-

(A) IN GENERAL- A qualified regulatory authority or the Federal Overseer may commence disciplinary action under this subsection against a licensee upon service of a formal written complaint upon the licensee, with a copy forwarded to the applicable qualified regulatory authority or the Federal Overseer, as the case may be, that sets forth the grounds for the disciplinary action and the proposed penalty that is being sought, that may include any or all of imposition of a fine as provided pursuant to subsection (b)(1) or limitation, condition, suspension, or termination of the license.

(B) IN ACCORDANCE WITH LAW OF JURISDICTION OF QUALIFIED REGULATORY AUTHORITY OR FEDERAL LAW- The process for disciplinary action under this subsection shall proceed according to the law of the jurisdiction of the applicable qualified regulatory authority or Federal law, as the case may be.

(5) FINALITY OF ACTION AND APPEALS-

(A) FINALITY- Any disciplinary action under this subsection shall be treated as a final action.

(B) ACTION BY QUALIFIED REGULATORY AUTHORITIES- A licensee aggrieved by disciplinary action under this subsection by a qualified regulatory authority may file an appeal in the jurisdiction where the qualified regulatory authority taking such action is located only to the extent permitted by the law of such jurisdiction, or in Federal court as authorized by Federal law.

(C) ACTION BY FEDERAL OVERSEER- A licensee aggrieved by disciplinary action by the Federal Overseer may file an appeal in the United States District Court for the District of Columbia. Such court shall set aside the action if it determines that the action was arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law, or without observance of procedure required by law.

(6) PENDING APPEAL- During the period in which a suspension or termination of an existing license is being challenged through a pending judicial proceeding, the court handling the challenge may allow the licensee to continue facilitating bets or wagers in full compliance with the terms of its existing license and any other conditions the court considers necessary, if the court determines that--

(A) the appellant has a reasonable likelihood of success on the merits; and

(B) allowing the appellant to continue facilitating bets or wagers while the appeal is pending will not threaten the public interest.

(7) RETURN OF CUSTOMER ACCOUNT FUNDS- If the license of a licensee is terminated and no appeal pursuant to paragraph (5) is pending, the licensee shall--

(A) to the degree feasible, return all customer account funds of United States customers in an orderly manner not later than 30 days after the date of the termination of the license or final action in such appeal, as the case may be; and

(B) at the end of the 30-day period in subparagraph (A), place in escrow those funds return of which to United States customers is not feasible under such subparagraph due to change in customer address, bank details, or similar difficulty in an account with a financial institution in the United States for safekeeping and orderly disposition by the Secretary, and provide to the Secretary to the extent feasible any identifying or account information known to the licensee in regards to such customers as the Secretary may require.

(8) REFERRAL TO ATTORNEY GENERAL- If, in the course of carrying out the provisions of this title, the Federal Overseer or a qualified regulatory authority finds a substantial basis to believe that a person has violated section 103(a), the Federal Overseer or qualified regulatory authority shall refer such matter to the Attorney General.

(b) Civil Monetary Penalties-

(1) IN GENERAL-

(A) PENALTIES ASSESSED BY QUALIFIED REGULATORY AUTHORITIES- A qualified regulatory authority may assess upon any licensee or other person subject to the requirements of this title for each violation of this title or any regulation or rule prescribed or order issued under this title, a civil penalty of not more than the greater of--

(i) the amount involved in the violation, if any;

(ii) \$250,000 for an individual and \$750,000 for a corporation, partnership, consortium, or other such business entity; or

(iii) such other amount as provided under the applicable State or Indian tribal law of the qualified regulatory authority.

(B) PENALTIES ASSESSED BY FEDERAL OVERSEER- The Federal Overseer may assess upon any licensee or other person subject to the requirements of this title for each violation of this title or any regulation or rule prescribed or order issued under this title, a civil penalty of not more than the greater of--

(i) the amount involved in the violation, if any; or

(ii) \$250,000 for an individual and \$750,000 for a corporation, partnership, consortium, or other such business entity.

(C) NOT CUMULATIVE-

(i) IN GENERAL- The penalties authorized under subparagraphs (A) and (B) shall not be cumulative and only the first such penalty assessed per violation shall be imposed.

(ii) RULE OF CONSTRUCTION- Clause (i) shall not be construed to limit the authority of a qualified regulatory authority or the Federal Overseer, as the case may be, to pursue a civil penalty for each violation of a related series of violations.

(D) FAILURE TO OBTAIN A LICENSE- Notwithstanding any other provision of law, the Federal Overseer shall assess upon a person that is required to maintain a license under this title, but fails to maintain a license under this title, a civil penalty of not more than the greater of--

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

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

(2) ASSESSMENT-

(A) ENFORCEMENT BY QUALIFIED REGULATORY AUTHORITIES- Qualified regulatory authorities and such other entities as are authorized by applicable State or Indian tribal law shall enforce the provisions of this title under the law of the applicable State or Indian tribe, and penalties shall be determined, reviewable, collectable, and disposed of as provided under such law.

(B) ENFORCEMENT BY FEDERAL OVERSEER-

(i) WRITTEN NOTICE- Any penalty imposed under paragraph (1)(B) shall be assessed and collected by the Federal Overseer by written notice.

(ii) FINALITY OF ASSESSMENT- If, with respect to any assessment under paragraph (1)(B), a hearing is not requested pursuant to clause (v) within the period of time allowed under such clause, the assessment shall constitute a final agency order.

(iii) AUTHORITY TO MODIFY OR REMIT PENALTY- The Federal Overseer may compromise, modify, or remit any penalty that the Federal Overseer may assess or has already assessed under paragraph (1)(B).

(iv) MITIGATING FACTORS- In determining the amount of any penalty imposed under paragraph (1)(B), the Federal Overseer shall take into account the appropriateness of the penalty with respect to the following:

(I) The size of the financial resources and the good faith of the person against whom the penalty is assessed.

(II) The gravity of the violation.

(III) The history of previous violations.

(IV) Such other matters as justice may require.

(v) HEARING- The person against whom any penalty is assessed under paragraph (1)(B) shall be afforded a hearing by the Federal Overseer if such person submits to the Federal Overseer a written request for such hearing not later than 25 days after the date of the issuance of the notice of assessment.

(vi) COLLECTION-

(I) REFERRAL- If any person fails to pay an assessment after any penalty assessed under this subparagraph has become final, the Federal Overseer shall recover the amount assessed by action in the appropriate United States district court.

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

(vii) DISPOSITION OF PENALTIES- All penalties collected under authority of paragraph (1)(B) shall be deposited promptly into the Internet Wagering Oversight Fund.

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

(c) List of Licensed Facilities- The Secretary shall establish and maintain a list of all licensed facilities and their significant vendors. The Secretary shall update such list regularly and make such list publicly available on the Web site of the Department of Commerce.

SEC. 108. COMPULSIVE GAMING, RESPONSIBLE GAMING, AND SELF-EXCLUSION PROGRAM REQUIREMENTS.

(a) Regulations Required-

(1) IN GENERAL- Each qualified regulatory authority shall, before issuing any licenses under this title, prescribe regulations for the development of a Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program that each licensee of that qualified regulatory authority shall implement as a condition of licensure.

(2) OUTREACH- The regulations required by paragraph (1) shall also provide for the establishment of a program to alert the public to the existence, consequences, and availability of the master list of universally self-excluded persons established under subsection (c).

(b) Minimum Requirements- Under each program under subsection (a), a licensee shall, under the scope of the license issued to the licensee under this title, at a minimum--

(1) provide informational materials written in plain language about responsible gaming, including information about the master list of universally self-excluded persons established under subsection (c), how a customer may request placement on the list, the available gaming options under paragraph (3), and how a customer may choose such options, each time a customer signs in to their account, which materials shall be provided via a prominently displayed hyperlink or comparable mechanism;

(2) provide informational materials about responsible gaming to any player that requests such materials;

(3) make continuously available individualized responsible gaming options that any customer may choose for their participation in bets or wagers on the licensee's licensed facility, in each case as and to the extent that the qualified regulatory authority may consider appropriate, including allowing customers to--

(A) self-limit their deposit, time at play, bet or wager, or loss amounts or frequency of play;

(B) self-exclude from certain games or all games for a period of time; or

(C) self-limit their access to the issuance of credit, check cashing, or direct mail marketing by the licensee, any significant vendor of the licensee, or any affiliate of the licensee;

(4) monitor customer accounts and Internet wagering activity to detect indicators of compulsive, problem or pathological gaming and take any action prescribed by regulations under this title or deemed appropriate by the licensee or the qualified regulatory authority that issued the license to the licensee upon detection of such indicators;

(5) ensure, to a reasonable degree of certainty, that persons on the list of universally self-excluded persons established pursuant to subsection (c) or self-excluded under the self-exclusion options under paragraph (3) are prevented from participating in any bets or wagers on the licensee's licensed facility; and

(6) ensure that the information required under this subsection is clearly and prominently made available by the licensee in each language in which services are offered.

(c) List of Persons Universally Self-Excluded-

(1) ESTABLISHMENT-

(A) LISTS MAINTAINED BY QUALIFIED REGULATORY AUTHORITIES-

(i) IN GENERAL- Each qualified regulatory authority shall establish and maintain a list of persons universally self-excluded, including for each person on the list their identifying information, their period of self-exclusion requested, and the date of their request for self-exclusion.

(ii) SUBMITTAL TO SECRETARY- At the end of each day or any period of time deemed appropriate by the Secretary, each qualified regulatory authority shall submit to the Secretary a current copy of the list established and maintained by the qualified regulatory authority under clause (i).

(B) MASTER LIST MAINTAINED BY SECRETARY-

(i) IN GENERAL- The Secretary shall establish and maintain a master list of all persons universally self-excluded. Such list shall consist of all persons appearing on each of the most recent lists submitted by each qualified regulatory authority under subparagraph (A)(ii), including for each such person their identifying information, their period of self-exclusion requested, and the date of their request for self-exclusion.

(ii) AVAILABILITY- The Secretary shall make the master list of universally self-excluded persons established and maintained under clause (i) available to all qualified regulatory authorities and licensees on an ongoing basis and each licensee shall ensure, to a reasonable degree of certainty, that persons on such list are prevented from participating in any bets or wagers on the licensee's licensed facility.

(iii) SHARING OF INFORMATION-

(I) SHARING OF MASTER LIST- Notwithstanding any other provision of law, qualified regulatory authorities and licensees may share information relating to persons on the master list established under clause (i) among one another and with other governmental regulatory agencies, whether Federal, State, Indian tribal, local, or foreign, for the purpose of facilitating the prevention of universally self-excluded persons from participating in any bets or wagers within the scope of this title.

(II) SAFEGUARDS FOR CONFIDENTIALITY- The Secretary shall establish appropriate safeguards for the purpose of protecting the confidentiality of any personal information shared pursuant to this subsection, to prevent the disclosure of such information to unauthorized persons or for any purpose other than facilitating the prevention of universally self-excluded persons from participating in any bets or wagers within the scope of this title.

(C) PLACEMENT ON LIST- A qualified regulatory authority shall add to its list of universally self-excluded persons established under subparagraph (A), any person who requests to be universally self-excluded for any period by--

(i) acknowledging in a manner to be established by each qualified regulatory authority with respect to its licensees that the person wishes to be denied all Internet wagering privileges within the scope of this title; and

(ii) agreeing that, during any period of such voluntary exclusion, the person may not participate in Internet wagering or collect any winnings or recover any losses resulting from any Internet wagering activity at any licensed facility.

(D) REMOVAL FROM LIST- A qualified regulatory authority shall remove from its list of universally self-excluded persons established under subparagraph (A)--

(i) any person who submitted a voluntary request for placement on such list under subparagraph (C) and has subsequently submitted a request for removal from such list by certified written request to such qualified regulatory authority, but not sooner than 30 days after such placement on the list and only if such removal is considered appropriate by the qualified regulatory authority; and

(ii) any person whose period of placement on such list has reached the end of the period of voluntary exclusion requested by such person under subparagraph (C).

(2) LIMITATION ON LIABILITY-

(A) IN GENERAL- Except as provided in subparagraph (B), the United States, the Secretary, a qualified regulatory authority, the State or Indian tribe in which that qualified regulatory authority is located, an enforcement agent, licensee, or significant vendor, or any employee, affiliate, or agent thereof, shall not be liable to any universally self-excluded person or to any other party in any judicial or administrative proceeding for any harm, monetary or otherwise, that may arise as a result of--

(i) any failure to withhold Internet wagering privileges from, or to restore Internet wagering privileges to, a universally self-excluded person;

(ii) otherwise permitting a self-excluded person to engage in Internet wagering activity while on the list of universally self-excluded persons; or

(iii) disclosure to licensees, significant vendors, or employees or agents or affiliates of licensees or significant vendors of the fact that an individual has been placed on the list of universally self-excluded

persons and of other information that is reasonably necessary to identify that individual in order to carry out this subsection, including the name, address, date of birth, and taxpayer identification number of the individual.

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

(C) RULE OF CONSTRUCTION- Nothing in this paragraph shall be construed to prevent the Federal Overseer or a qualified regulatory authority from assessing a regulatory sanction against a licensee or person for failing to comply with a provision of this section or a regulation prescribed thereunder or for misuse of any list of universally self-excluded persons for purposes not authorized under this section.

(3) DISCLOSURE PROVISIONS-

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

(B) AFFILIATE DISCLOSURE- If necessary to effectuate the self-exclusion purposes of this subsection, any licensee may disclose the information on any list of universally self-excluded persons to any significant vendor, service provider, or affiliated company to the extent that the significant vendor, service provider, or affiliated company maintains such information under confidentiality provisions comparable to those in this subsection.

(4) DEFINITION- In this subsection, the term 'universally self-excluded' means voluntarily excluded from participating in Internet wagering on all licensed facilities.

(d) Internet Wagering by Prohibited Persons-

(1) PROHIBITION ON BENEFITTING FROM PROHIBITED INTERNET WAGERING ACTIVITY- A person who is prohibited from Internet wagering on a licensed facility by law, or by order of the Secretary, Commerce, a qualified regulatory authority, or any court of competent jurisdiction, including any person on the mater list of universally self-excluded persons established under subsection (c), shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of prohibited Internet wagering activity on a licensed facility.

(2) FORFEITURE- In addition to any other penalty provided by law, any money or thing of value that has been obtained by, or is owed to, any prohibited person by a licensee as a result of bets or wagers participated in by such prohibited person while the applicable prohibition is effective shall be subject to forfeiture by order of the Secretary, Commerce, or a qualified regulatory authority, following notice to the prohibited person and opportunity to be heard.

(3) DEPOSIT OF FORFEITED FUNDS- Any funds forfeited pursuant to this subsection shall be deposited into the Internet Wagering Oversight Fund, or, in the case of forfeiture to a qualified regulatory authority, as provided by the applicable State or Indian tribal law, after such forfeiture has reached its final action.

(e) Requirements With Respect to Court Notice-

(1) IN GENERAL- When the Secretary or a qualified regulatory authority receives written notice from a Federal or State court or an authorized representative of such court, that a particular individual is forbidden by such court to participate in Internet wagering, the Secretary or qualified regulatory authority shall include that individual on the appropriate list established under subsection (c).

(2) REMOVAL FROM LIST- Individuals placed on the list pursuant to paragraph (1) shall be removed from such list when such court or the authorized representative of such court notifies the Secretary or the qualified regulatory authority that such individual is no longer forbidden by such court to participate in Internet wagering.

(f) Authority To Address Gambling Addiction in SAMHSA Authorities- Section 501(d) of the Public Health Service Act (42 U.S.C. 290aa(d)) is amended--

(1) by striking 'and' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting '; and'; and

(3) by adding at the end the following:

'(19) establish and implement programs for the identification, prevention, and treatment of pathological and other problem gambling.'

(g) Compilation of Datasets on Player Behavior- The Secretary shall compile and make available to the public on the Web site of the Department of Commerce, datasets on player behavior from customer tracking data collected or generated by loyalty programs, player tracking software, Internet wagering transactions, or any other information system. The Secretary shall ensure that personally identifying information, including player name, street address, and bank or credit information is removed from the data. The data shall retain information on player characteristics including gender, age and region of residence, player behavior including frequency of play, length of play, speed of play, denomination of play, amounts wagered and, if applicable, number of lines or hands played and characteristics of games played. Qualified regulatory authorities, licensees and their significant vendors shall provide the Secretary with the information necessary for the Secretary to compile such datasets as the Secretary prescribes or requests.

(h) Administrative Provisions-

(1) NO DUTY TO IDENTIFY OR EXCLUDE COMPULSIVE PLAYERS NOT ON LIST- No provision of this section shall be construed as creating a legal duty in the Secretary, Commerce, a qualified regulatory authority, a licensee, or any employee or agent thereof to identify or to exclude compulsive players not on the mater list of universally self-excluded persons established under subsection (c).

(2) NO CAUSE OF ACTION- The Secretary, Commerce, a qualified regulatory authority, a licensee, and any employee or agent thereof, shall not be liable to any person in any proceeding for losses or other damages of any kind arising out of that person's Internet wagering activities based on a claim that the person was a compulsive, problem, or pathological player.

(3) NO PRIVATE RIGHT OF ACTION- Nothing in this section shall be construed to create a private right of action.

SEC. 109. PROHIBITION ON USE OF LICENSES IN CERTAIN STATES AND INDIAN LANDS.

(a) In General- Notwithstanding any other provision of this title, operation of a licensed facility shall be unlawful with respect to the facilitation of bets or wagers from

individuals located in States or on the Indian lands of Indian tribes that are not considered to be opted-in under this section.

(b) State Notice and Participation-

(1) OPT-IN ELECTION- A State shall be considered to be opted-in under this section if--

(A) the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State informs the Secretary by written notice that facilitating bets or wagers as authorized under this title should not be prohibited in such State in accordance with the constitution and laws of such State; and

(B) such notice is the most recent notice by the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State that expresses whether facilitating bets or wagers as authorized under this title should be prohibited or not be prohibited in such State.

(2) OPT-OUT ELECTION- A State shall be considered not to be opted-in under this section if--

(A) the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State informs the Secretary by written notice that facilitating bets or wagers as authorized under this title should be prohibited in such State in accordance with the constitution and laws of such State; and

(B) such notice is the most recent notice by the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State that expresses whether facilitating bets or wagers as authorized under this title should be prohibited or not be prohibited in such State.

(3) OPT-IN DEFAULT- A State shall be considered to be opted-in under this section if the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State has not informed the Secretary by written notice by or after the date regulations are prescribed by the Secretary under section 104(c) that facilitating bets or wagers as authorized under this title should be prohibited in such State under paragraph (2).

(4) EFFECTIVE DATE OF CHANGES- If a State changes its election to prohibit or not to prohibit facilitating bets or wagers as authorized under this title in such State under paragraph (1) or (2), such change shall apply, for purposes of this title, beginning on the later of--

(A) 60 days after the date of the written notification to the Secretary by the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State of such election; or

(B) the effective date specified in the latest bill, resolution, or similar measure enacted under the laws of such State determining the election of the State to prohibit or not to prohibit facilitating bets or wagers as authorized under this title in such State.

(c) Indian Tribe Notice and Participation-

(1) OPT-IN ELECTION- An Indian tribe shall be considered to be opted-in under this section if--

(A) the principal chief or other chief executive officer or designated authority of such Indian tribe informs the Secretary by written notice that

facilitating bets or wagers as authorized under this title should not be prohibited on the Indian lands of such Indian tribe in accordance with the laws of such Indian tribe; and

(B) such notice is the most recent written notice by the principal chief or other chief executive officer or designated authority of such Indian tribe that expresses whether facilitating bets or wagers as authorized under this title should be prohibited or not be prohibited on such Indian lands.

(2) OPT-OUT ELECTION- An Indian tribe shall be considered not to be opted-in under this section if--

(A) the principal chief or other chief executive officer or designated authority of such Indian tribe informs the Secretary by written notice that facilitating bets or wagers as authorized under this title should be prohibited on the Indian lands of such Indian tribe in accordance with the laws of such Indian tribe; and

(B) such notice is the most recent notice by the principal chief or other chief executive officer or designated authority of such Indian tribe that expresses whether facilitating bets or wagers as authorized under this title should be prohibited or not be prohibited on such Indian lands.

(3) OPT-IN DEFAULT- An Indian tribe shall be considered to be opted-in under this section if the principal chief or other chief executive officer or designated authority of such Indian tribe has not informed the Secretary by written notice by or after the date regulations are prescribed by the Secretary under section 104(c) that facilitating bets or wagers as authorized under this title should be prohibited on the Indian lands of such Indian tribe under paragraph (2).

(4) EFFECTIVE DATE OF CHANGES- If an Indian tribe changes its election to prohibit or not to prohibit facilitating bets or wagers as authorized under this title on the Indian lands of such Indian tribe under paragraph (1) or (2), such change shall apply, for purposes of this title, beginning on the later of--

(A) 60 days after the date of the written notification to the Secretary by the principal chief or other chief executive officer or designated authority of such Indian tribe of such election; or

(B) the effective date specified in the latest bill, resolution, or similar measure enacted under the laws of such Indian tribe determining the election of the Indian tribe to prohibit or not to prohibit facilitating bets or wagers as authorized under this title on the Indian lands of such Indian tribe.

(5) INDIAN LANDS LOCATED IN STATES THAT ARE OPTED-IN OR OPTED-OUT- The election of a State under subsection (b) shall have no effect on Internet wagering on the Indian lands of an Indian tribe located in some part within such State, which shall be governed solely by elections made by the Indian tribe under this subsection.

(d) Notification and Enforcement of State and Indian Tribe Prohibitions-

(1) IN GENERAL- The Secretary shall notify the Commission, all qualified regulatory authorities, all licensees, and all applicants of any written notice to the Secretary of an election by a State or Indian tribe to prohibit or not to prohibit facilitating bets or wagers under subsection (b) or (c), and the effective date of such election, promptly upon receipt of any such notice and not fewer than 30 days before the effective date of such election.

(2) VIOLATIONS- It shall be a violation of this title for any licensee to facilitate a bet or wager initiated, placed or otherwise made by a person who the licensee knows or should know is located at the time of making such bet or wager within the boundaries of any State or the Indian lands of any Indian tribe that is not considered to be opted-in under this section.

(3) STATE ATTORNEY GENERAL ENFORCEMENT- In any case in which the attorney general of a State or any State or local law enforcement agency, authorized by the attorney general of the State or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by a violation by a licensee under paragraph (2), the State, or the State or local law enforcement agency, may bring a civil action on behalf of the residents of that State or jurisdiction in a district court of the United States located therein--

(A) to enjoin that practice; or

(B) to enforce compliance with this section.

(4) INDIAN TRIBE ENFORCEMENT- In any case in which the chief law enforcement officer of an Indian tribe or tribal law enforcement agency, authorized by the chief law enforcement officer of the Indian tribe or by Indian tribal law to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of the Indian lands within the tribe's jurisdiction has been or is threatened or adversely affected by a violation by a licensee under paragraph (2), the Indian tribe, or the tribal law enforcement agency, may bring a civil action on behalf of the residents of those Indian lands in a district court of the United States located nearest to those Indian lands--

(A) to enjoin that practice; or

(B) otherwise to enforce compliance with this section.

(5) OPT-IN STATUS LIST- No later than 10 days after the date regulations are prescribed by the Secretary under section 104(c), the Secretary shall establish a list of States and Indian tribes that are considered to be opted-in under this section, States and Indian tribes that are considered not to be opted-in under this section, and any change not yet in effect to the election of a State or Indian tribe under subsection (b) or (c) including the effective date of such change. The Secretary shall maintain and update such list regularly and make such list publicly available on the Web site of the Department of Commerce.

(e) No Impact on Indian Gaming Regulatory Act-

(1) IN GENERAL- No provision of this title or decision or action taken by an Indian tribe or State pursuant thereto shall have any effect on non-Internet gaming activities within the scope of section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) or any successor provisions or on any Tribal-State compacts or authorities pursuant thereto.

(2) TRIBAL STATUS OR CATEGORY NOT AFFECTED- Operation of a licensed facility under this title by an Indian tribe shall not be considered class II or class III gaming under such section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) or any successor provisions, and an Indian tribe's status, category, or class under such section shall not impact its status or ability to facilitate bets or wagers pursuant to this title.

(3) NEW NEGOTIATIONS NOT REQUIRED-

(A) INDIAN TRIBES- The fact that an Indian tribe is operating under a license issued under this title or that an Indian tribal regulatory body is

acting as a qualified regulatory authority under this title shall not require an Indian tribe to negotiate a new agreement, limitation, or other provision of tribal-State compact, agreement, or other understanding with respect to gaming or revenue-sharing, with regard to any bet or wager occurring pursuant to a license issued under this title.

(B) STATES- The fact that a State is considered to be opted-in under this section or that a State regulatory body is acting as a qualified regulatory authority under this title shall not require the State to negotiate a new agreement, limitation, or other provision of tribal-State compact, agreement, or other understanding with respect to gaming or revenue-sharing, with regard to any bet or wager occurring pursuant to a license issued under this title.

(f) No Impact on Activities Carried Out Solely Within a State or Within Tribal Lands- No provision of this title shall have any effect on Internet wagering activities that are authorized as of the date before the date of the enactment of this Act by that State or Indian tribe (as the case may be) in compliance with the law of that State or Indian tribe and with Federal law in effect as of such date, as applicable, and that solely provide services to participants wholly within the boundaries of that State or the Indian lands of that Indian tribe.

SEC. 110. PROHIBITIONS AND RESTRICTIONS.

(a) Prohibition on Bets or Wagers on Games Other Than Authorized Internet Wagering- No provision of this title shall be construed to authorize any licensee to facilitate any bet or wager on any game, event, or activity, that is not authorized under this title.

(b) Prohibition on Public Internet Wagering Parlors-

(1) IN GENERAL- It shall be considered a violation of this title to operate a place of public accommodation, club (including a club or association limited to dues-paying members or similar restricted groups), or similar establishment in which computer terminals or similar access devices are made available to be used principally for the purpose of accessing licensed facilities, unless such establishment is licensed by a gaming regulatory agency of a State or Indian tribe to operate such devices for such purpose pursuant to the laws of such State or Indian tribe, as the case may be.

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

(3) RULES OF CONSTRUCTION-

(A) IN GENERAL- Nothing in this title shall be construed to authorize or otherwise to permit the operation of places of public accommodation, clubs (including clubs or associations limited to dues-paying members or similar restricted groups) and similar establishments that permit access to Internet wagering facilities.

(B) AUTHORIZED GAMING DEVICES- Nothing in this title shall be construed to prohibit qualified entities or other gaming entities licensed by a gaming regulatory agency of a State or Indian tribe from operating gaming devices duly authorized under such license if such gaming devices are not prohibited under the laws of the State or Indian tribe, as the case may be, or Federal law.

(4) RELATION TO STATE, LOCAL, AND INDIAN TRIBAL LAW- Places of public accommodation, clubs, or similar establishments described in paragraph (1) shall be subject to all otherwise applicable State, local, and Indian tribal laws.

(c) Prohibition on Retention of Customer Funds-

(1) IN GENERAL- No licensee, qualified regulatory authority, nor any other person may retain, confiscate or appropriate the funds of a customer upon closure of the customer's account by a licensee unless authorized under this title or other provisions of Federal law, or pursuant to a lawful court order.

(2) DISPOSITION OF CUSTOMER ACCOUNT FUNDS- If a customer's account is closed by a licensee, and the licensee or another person is not authorized to retain, confiscate, or appropriate the customer account funds of such customer under paragraph (1), the licensee shall--

(A) to the degree feasible, return the customer account funds to the customer in an orderly manner not later than 15 days after the date of the customer account closure; and

(B) place in escrow the remaining customer account funds of the customer of which return to the customer is not feasible under subparagraph (A) due to change in the customer address, bank details, or similar difficulty in an account with a financial institution in the United States for safekeeping and orderly disposition by the Secretary, and provide to the Secretary to the extent feasible any identifying or account information known to the licensee in regards to such customer as the Secretary may require.

(3) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to require a licensee to close a customer account.

(4) CUSTOMER ACCOUNT SUSPENSION- If a customer or customer account is subject to an investigation or civil or criminal action by a licensee, a qualified regulatory authority, the Federal Overseer, a court, or a law enforcement agency, the licensee may block the customer from making deposits or withdrawals or participating in bets or wagers on the licensee's licensed facility until such time as the investigation or action reaches its final action.

(d) Prohibition on the Use of Credit Cards for Internet Wagering- No licensee, no person operating on behalf of a licensee, and no person accepting payment for or settlement of a bet or wager who intends to transmit such payment to a person or licensee, may facilitate a bet or wager or payment for or settlement of a bet or wager that is transmitted or otherwise facilitated with a credit card (as such term is defined in section 5362(11) of title 31, United States Code).

SEC. 111. SAFE HARBOR.

It shall be an affirmative defense to any prosecution or enforcement action under any provision of Federal, State, or Indian tribal law that the activity forming the basis of such prosecution or enforcement action is authorized under and has been carried out lawfully in accordance with and under the terms of this title.

SEC. 112. CHEATING AND OTHER FRAUD.

(a) Cheating and Cheating Devices Prohibited-

(1) CHEATING PROHIBITED- No person initiating, placing, receiving, or otherwise making a bet or wager on a licensed facility, or sending, receiving, or inviting

information assisting with participating in a bet or wager on a licensed facility shall knowingly violate, attempt to violate, or assist another in violating the rules of fair play published under paragraph (5)(A) by the licensee of such licensed facility for the purpose of obtaining an advantage in any game authorized under this title.

(2) CHEATING DEVICES- Except as provided in paragraph (3), no person initiating, placing, receiving, or otherwise making a bet or wager on a licensed facility, or sending, receiving, or inviting information assisting with participation in a bet or wager on a licensed facility shall knowingly use, possess, or assist another in the use of, an electronic, electrical, or mechanical device or software or other program or tool that is designed, constructed, or programmed specifically for use in obtaining an advantage in any game authorized under this title, where such use is prohibited by or otherwise violates the rules of fair play published under paragraph (5)(A) by the licensee of such licensed facility.

(3) PERMISSIBLE USES- It shall not be a violation of this subsection for a licensee, its agents, a qualified regulatory authority, its agents, or an independent testing laboratory to use or possess a device described in paragraph (2) if--

- (A) such use or possession is solely for purposes of testing an Internet wagering facility or developing protections against such device;
- (B) such device is not used in play involving live bets or wagers;
- (C) such device is not capable of displaying to a player during play of a skill game the hidden cards, tiles, or similar playing tokens or electronic versions of such tokens held by another player that would not otherwise be known; and
- (D) such device is registered with the qualified regulatory authority that issued the applicable license, or the Secretary in the case of an independent testing laboratory.

(4) DISCLOSURE TO PUBLIC NOT REQUIRED- Notwithstanding any other provision of law, a qualified regulatory authority is not required to make available to the public any registration under paragraph (3)(D).

(5) RULES OF FAIR PLAY-

(A) IN GENERAL- A licensee shall publicly and conspicuously publish the rules of fair play for the licensee's licensed facility as a part of the terms and conditions of such facility on the facility's Web site. Such rules of fair play shall include the set of rules and any additional rules required under subparagraphs (B) and (D) by the qualified regulatory authority that issued the license to the licensee and each additional rule submitted for approval by the licensee and approved by such qualified regulatory authority under subparagraph (C).

(B) RULES REQUIRED BY A QUALIFIED REGULATORY AUTHORITY- Before issuing any licenses under this title, a qualified regulatory authority shall establish and require all of its licensees to adopt a set of rules that prevent or prohibit or aid in the prevention or prohibition of cheating, use of cheating devices, collusion, and fraud, and any other methods of gaining or aiding in gaining an unfair advantage in any game authorized under this title that the qualified regulatory authority considers appropriate. Such set of rules shall meet and implement all of the minimum standards prescribed by the Secretary under section 104(d)(2).

(C) RULES APPROVED BY A QUALIFIED REGULATORY AUTHORITY- A licensee may submit any additional rule to the qualified regulatory authority that issued the license to the licensee for approval as an additional rule to be added by the licensee to the set of rules established and required by the qualified regulatory authority under subparagraph (B). The qualified regulatory authority may approve any such additional rule if the qualified regulatory authority determines the rule shall prevent or prohibit or aid in the prevention or prohibition of cheating, use of cheating devices, collusion, or fraud, or any other method of gaining or aiding in gaining an unfair advantage in any game authorized under this title and is appropriate to carry out the standards, requirements and regulations of this title.

(D) RULES ADDED BY A QUALIFIED REGULATORY AUTHORITY- A qualified regulatory authority may require a licensee to add any term or condition which has been published on the Web site of the licensee's licensed facility under section 106(f)(2)(O) to the set of rules established and required by the qualified regulatory authority under subparagraph (B) if the qualified regulatory authority determines such rule shall prevent or prohibit or aid in the prevention or prohibition of cheating, use of cheating devices, collusion, or fraud, or any other method of gaining or aiding in gaining an unfair advantage in any game authorized under this title and is appropriate to carry out the standards, requirements, and regulations of this title.

(E) CHANGES TO RULES OF FAIR PLAY- At any time, a qualified regulatory authority may--

- (i) change the set of rules established by such qualified regulatory authority under paragraph (B) so long as such set of rules continues to meet and implement all of the minimum standards prescribed by the Secretary under section 104(d)(2);
- (ii) rescind the approval of a rule approved under paragraph (C) if the qualified regulatory authority determines such rule is no longer effective or appropriate; or
- (iii) remove any requirement under paragraph (D) if the qualified regulatory authority determines the requirement is no longer effective or appropriate.

(b) Additional Offense-

(1) IN GENERAL- Except as provided in paragraph (3), no person initiating, placing, receiving, or otherwise making a bet or wager on a licensed facility, or sending, receiving, or inviting information assisting with participation in a bet or wager on a licensed facility, shall knowingly use, possess, or assist another in the use of any cheating device with intent to cheat or defraud any licensee or person participating in bets or wagers on a licensed facility.

(2) BOTS-

(A) IN GENERAL- A program, tool or device of computing software, hardware, or a combination of software and hardware shall constitute a type of cheating device under this subsection if it is used or is intended to be used during a skill game in Internet wagering and it--

- (i) determines and displays to a player a suggestion for play action the player should make;
- (ii) determines and makes a play action for a player;

(iii) displays to a player the hidden cards, tiles, or similar playing tokens or electronic versions of such tokens held by another player that would not otherwise be known; or

(iv) displays to a player another player's history of play that would not otherwise be known by the player or a playing profile of another player based on such history.

(B) DETECTION AND WARNING- Notwithstanding any other provision of this section, if a licensee detects possession or use of a software program, tool, or device described in subparagraph (A) by a player, the licensee shall first issue a warning to the player that such possession or use is a violation of this subsection. Subsequent use by the player of such software program, tool, or device, or a pattern of use by the player of software programs, tools, or devices described in subparagraph (A), shall be reported by the licensee to the appropriate qualified regulatory authority.

(C) RULE OF CONSTRUCTION- Nothing in this paragraph shall be construed to permit any person to knowingly use any software program, tool, or device for the purpose of cheating, collusion, or fraud in Internet wagering.

(3) PERMISSIBLE USES- It shall not be a violation of this subsection for a licensee, its agents, a qualified regulatory authority, its agent, or an independent testing laboratory to use or possess a device described in paragraph (1) or (2) if-

-

(A) such use or possession is solely for purposes of testing an Internet wagering facility or developing protections against such a device;

(B) such device is not used in play involving live bets or wagers;

(C) such device is not capable of displaying to a player during play of a skill game the hidden cards, tiles, or similar playing tokens or electronic versions of such tokens held by another player that would not otherwise be known; and

(D) such device is registered with the qualified regulatory authority that issued the applicable license, or the Secretary in the case of an independent testing laboratory.

(4) DISCLOSURE TO PUBLIC NOT REQUIRED- Notwithstanding any other provision of law, a qualified regulatory authority is not required to make available to the public any registration under paragraph (3)(D).

(c) Criminal Penalty- Whoever violates subsection (a) or (b) shall be fined under title 18, United States Code, imprisoned for not more than 3 years, or both.

(d) Permanent Injunction- Upon conviction of a person for a violation of this section, the court may enter a permanent injunction enjoining such person from initiating, placing, receiving, or otherwise making bets or wagers in Internet wagering or sending, receiving, or inviting information assisting in the participation in bets or wagers in Internet wagering.

(e) Report on Threats to Operation of Internet Wagering Facilities-

(1) IN GENERAL- Not later than 1 year after the date of first issuance specified in section 114(a), the Director of the National Institute of Standards and Technology shall submit to Congress a report on threats to the integrity of licensed facilities.

(2) ELEMENTS- The report required by paragraph (1) shall include the following:

(A) Identification of threats to the integrity of licensed facilities.

(B) Identification of technologies that could be used to hack computer networks, facilitate cheating, or otherwise place consumers at risk of fraud or monetary loss, in regards to licensed facilities.

(C) An evaluation of steps taken by licensed facilities to respond to the threats identified pursuant to subparagraph (A).

(D) Recommendations for such measures as the Director considers appropriate to deal with the threats and risks identified in subparagraphs (A) and (B).

(3) COMPLIANCE- The Secretary, the Commission, qualified regulatory authorities, licensees, and any person issued a certificate of suitability shall comply as appropriate with any request by the Director of the National Institute of Standards and Technology to supply information necessary for the report required by this subsection.

SEC. 113. CONSTRUCTION AND RELATION TO OTHER LAW.

(a) No Impact on Existing Lawful Games-

(1) IN GENERAL- If bets or wagers on certain games of skill that are not Internet wagering are not regarded as gambling or otherwise prohibited under any provision of Federal or applicable State or Indian tribal law--

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

(B) fees paid to participate in such games shall not be regarded as bets or wagers for purposes of this title.

(2) RELIANCE- Nothing in this title may be relied on as support for the legality or permissibility of any games without compliance with the licensing and other requirements of this title.

(b) No Effect on Existing Law- Nothing in this section shall be construed to repeal, to amend, or to affect the interpretation of any provision of State or Indian tribal law that was in effect before the date of enactment of this Act that--

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

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

(c) Preemption of State and Indian tribal Laws-

(1) IN GENERAL- Except as otherwise expressly provided in this title, the provisions of this title shall supersede any provisions of the law of any State or Indian tribe expressly relating to the permitting, prohibiting, licensing, or regulating of Internet wagering or Internet wagering facilities and the law of any State or Indian tribe expressly relating to the authorization, prohibiting, licensing, expansion, or regulation of gambling, except to the extent such State or Indian tribal laws are not inconsistent with this title.

(2) LOTTERIES- No provision of this title shall be construed to have any effect on the rights, privileges, or obligations of a qualifying intrastate lottery as may be provided under other applicable Federal, State, or Indian tribal law to the extent such qualifying intrastate lottery offers qualifying lottery transactions.

(3) SAVINGS PROVISION- Nothing in this title may be construed to limit the applicability or enforcement of any State or Indian tribal consumer protection law of general applicability or preempt the applicability of State or Indian tribal trespass, contract, or tort law.

(d) Relation to Gambling Devices Transportation Act- Equipment used by a licensee or significant vendor or an affiliate thereof in the furtherance of licensed activities pursuant to this title (but not to the extent it is used for other purposes) shall not be considered a gambling device within the meaning of section 1 of the Act of January 2, 1951, prohibiting the transportation of gambling devices in interstate and foreign commerce (15 U.S.C. 1171).

(e) Exemptions From Subchapter Iv of Chapter 53 of Title 31, United States Code- Subchapter IV of chapter 53 of title 31, United States Code, is amended by adding at the end the following:

Sec. 5368. Inapplicability to certain gaming and wagers

The provisions of this subchapter--

(1) restricting acceptance of bets or wagers made by individuals located in the United States or requiring the blocking or other prevention of restricted transactions shall not apply with respect to the placing, transmitting, or receiving of interstate off-track wagers, as such term is defined in section 3 of the Interstate horseracing Act of 1978 (15 U.S.C. 3002), that are permissible under such Act (15 U.S.C. 3001 et seq.), whether such off-track wager is made by telephone, Internet, satellite, or other wire or wireless communication facility, service, or medium; and

(2) shall not apply to any bet or wager--

(A) occurring pursuant to a license issued under title I of the Internet Wagering Citizens Protection Act;

(B) that is permissible under the Interstate horseracing Act of 1978 (15 U.S.C. 3001 et seq.); or

(C) is the purchase of a chance or opportunity to win a lottery or other prize--

(i) which opportunity to win is predominantly subject to chance; and

(ii) that is authorized by a State or Indian tribe wholly within its borders.'.

(f) Inapplicability of Certain Provisions to Interstate Off-track Wagers- The provisions of this title requiring a license shall not apply with respect to the placing, transmitting, or receiving of interstate off-track wagers, as such term is defined in section 3 of the Interstate horseracing Act of 1978 (15 U.S.C. 3002), that are permissible under such Act (15 U.S.C. 3001 et seq.), whether such off-track wager is made by telephone, Internet, satellite, or other wire or wireless communication facility, service, or medium.

(h) Systems Used in Support of Lawful Gambling-

(1) IN GENERAL- This title, subchapter IV of chapter 53 of title 31, United States Code, section 1084 of title 18, United States Code, and any other provision of Federal law that establishes criminal penalties for any activity involved in initiating, placing, receiving, or otherwise transmitting a bet or wager, information assisting in the placing of bets or wagers, or a communication that entitles the recipient to receive money or credit as a result of bets or wagers, shall not apply to gaming devices, information, or communications, to the extent used to support bets or wagers offered by a gaming facility that--

(A) occur between participants who are located on the premises of the same gaming facility; and

- (B) are not unlawful in the State or on the Indian lands in or on which the gaming facility is located.
- (2) DEFINITION- In this subsection:
- (A) PARTICIPANTS- The term 'participants' includes all persons who are party to the bet or wager, including, in the case of banked games, the gaming facility or operator itself.
- (3) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to authorize the use of gaming devices by a gaming facility.

SEC. 114. ORDERLY TRANSITION.

(a) Issuance of Initial Licenses-

- (1) IN GENERAL- Each qualified regulatory authority designated under section 105(a)(1) before the date of first issuance specified in this subsection, shall, to the extent practicable while meeting the requirements and standards of this title, issue multiple licenses under this title before such date in order to ensure a robust and competitive market for consumers and to prevent the first licensees from gaining an unfair competitive advantage.
- (2) EFFECTIVE DATE OF INITIAL LICENSES- No license issued under this title shall authorize a licensee to facilitate a bet or wager under this title before the date of first issuance specified in this subsection.
- (3) DATE OF FIRST ISSUANCE- The date of first issuance specified in this subsection is the date that is 90 days after the date regulations are prescribed under section 104(d)(3).

(b) Orderly Cessation of Unlicensed Activity and Safekeeping of Customer Account Funds-

- (1) IN GENERAL- Except as provided in paragraph (2), each person shall, with respect to operation of an Internet wagering facility that is unlawful under this Act or is required to be licensed but has not been issued such license under this title, and to the extent applicable to the person--
- (A) not later than 1 day after the date of the enactment of this Act, cease accepting deposits from any individuals the person knows or reasonably should know, are located in the United States, and not later than the date of first issuance specified in this section, cease offering, accepting, and providing services with respect to bets or wagers from individuals the person knows, or reasonably should know, are located in the United States;
- (B) provide to each United States customer who has outstanding customer account funds on deposit with such person notice that operations will be ceasing or have ceased pursuant to this paragraph, including instructions describing the procedures a customer may use to request the return or transfer of such funds,--
- (i) not later than 7 days after the date of the enactment of this Act and not less frequently than monthly thereafter until such funds have been returned, transferred, or placed in escrow pursuant to this paragraph, by e-mail;
- (ii) not later than 30 days after the date of the enactment of this Act and not less frequently than quarterly thereafter until such funds have been returned, transferred, or placed in escrow pursuant to this paragraph, by mail; and

(iii) beginning not later than 7 days after the date of the enactment of this Act by promptly displaying notice each time such a customer signs into such Internet wagering facility;

(C) until the day specified in subparagraph (E), upon the request of a United States customer promptly return all outstanding customer account funds of such customer or, if feasible, at the request of such customer transfer such funds to a customer account of such customer with a licensed facility;

(D) during the period beginning on the date of the enactment of this Act and ending 90 days after the date of first issuance specified in this section, retain all customer account funds of United States customers that have not been returned or transferred under subparagraph (C); and

(E) on the day that is 91 days after the date of first issuance specified in this section, place all such customer account funds described in subparagraph (D) in escrow with a financial institution in the United States for safekeeping and orderly disposition by the Secretary, and provide to the Secretary to the extent feasible any identifying or account information known to the person in regards to such customers as the Secretary may require.

(2) EXCEPTION FOR APPLICANTS- Paragraph (1)(E) does not apply to any person who is an applicant until such time as final action is taken in regards to such applicant's application for a license under this title.

(3) CRIMINAL PENALTY- Whoever violates paragraph (1) shall be fined under title 18, United States Code, in an amount not to exceed 3 times the amount of the funds subject to this subsection or imprisoned under such title for not more than 2 years, or both.

(4) REGULATIONS- The Secretary shall prescribe regulations to carry out this subsection.

(5) JUDICIAL REVIEW- A person under paragraph (1) may seek judicial review of a determination under such paragraph only by the United States district court for the District of Columbia in accordance with chapter 7 of title 5, United States Code.

(6) SAFE HARBOR- Notwithstanding any other provisions of this Act, any person described in paragraph (1) who fully complies with the provisions of this section shall not be subject to any penalty, civil or criminal, pursuant to this Act with respect to operation of the Internet wagering facility under paragraph (1) during the period described in such paragraph.

(c) No Effect on Existing Law- Nothing in this section shall be construed to repeal, to amend, or to affect the interpretation of any provision of Federal or State law that was in effect before the date of the enactment of this Act that--

(1) authorizes the provision of services relating to bets or wagers by facilities authorized and licensed by that State or Indian tribe in compliance with the law of that State or Indian tribe, as applicable, and solely provides services to participants wholly within the boundaries of such State or the Indian lands of such Indian tribe;

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

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

(d) Regulations Required Before Facilitating Bets or Wagers- Notwithstanding any other provision of this title, a licensee may not facilitate a bet or wager in Internet wagering authorized under this title before the later of--

- (1) the date on which the Secretary prescribes final regulations under section 104(d)(3);
- (2) the date on which the Secretary of the Treasury prescribes final regulations pursuant to section 205; and
- (3) the date on which the Director of the Financial Crimes Enforcement Network submits to the Secretary of the Treasury a list of unlicensed Internet gambling enterprises pursuant to section 5369(a)(1)(B) of title 31, United States Code, as added by section 203(a).

SEC. 115. REVENUE TAX ON LICENSEES.

(a) Licensed Facility Revenue Tax-

(1) IN GENERAL- Not later than the tenth day of each calendar month, a licensee shall remit to the qualified regulatory authority that issued the license to the licensee an amount equal to the total monthly licensed facility revenue taxes assessed for the prior month under subsection (f) as payment for such licensed facility revenue taxes.

(2) TAX REPORT- At the time of payment by a licensee of licensed facility revenue taxes under paragraph (1), a licensee shall submit a report to the qualified regulatory authority in regards to such licensed facility revenue taxes for such month, including amount of total adjusted gross revenues, total bets or wagers facilitated, total cash promotional incentives given or awarded to customers, amounts of adjusted gross revenues attributed to each qualified State or qualified Tribe, amounts of licensed facility revenue taxes paid attributed to each qualified State, each qualified Tribe, and the qualified regulatory authority.

(3) DISTRIBUTION OF LICENSED FACILITY REVENUE TAX- No later than 5 days after receipt of licensed facility revenue taxes pursuant to paragraph (1), a qualified regulatory authority shall distribute the amounts of such licensed facility revenue taxes attributed to each qualified State or qualified Indian tribe to each such State or Indian tribe.

(4) DIRECT AND EXCLUSIVE OBLIGATION OF LICENSEE- With respect to a licensee, a licensed facility revenue tax shall be the direct and exclusive obligation of the licensee and may not be deducted from amounts available as customer account funds to any person participating in bets or wagers on the licensee's licensed facility.

(b) State Notice and Participation-

(1) STATE ELECTION TO ASSESS TAX- A State shall be considered to have elected to assess a licensed facility revenue tax under this section if--

- (A) the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State informs the Secretary by written notice that such State elects to assess a licensed facility revenue tax, and the percentage amount of such licensed facility revenue tax, in accordance with the constitution and laws of such State; and
- (B) such notice is the most recent notice by the Governor, other chief executive officer of the State, or any other person duly authorized under

the laws of the State that expresses whether such State elects to assess or not to assess a licensed facility revenue tax.

(2) STATE ELECTION NOT TO ASSESS TAX- A State shall be considered to have elected not to assess a licensed facility revenue tax under this section if--

(A) the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State informs the Secretary by written notice that such State elects not to assess a licensed facility revenue tax in accordance with the constitution and laws of such State; and
(B) such notice is the most recent notice by the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State that expresses whether such State elects to assess or not to assess a licensed facility revenue tax.

(3) STATE DEFAULT ELECTION- A State shall be considered to have elected not to assess a licensed facility revenue tax under this section if the Governor, other chief executive officer of the State, or any other person duly authorized under the laws of the State has not informed the Secretary by written notice by or after the date regulations are prescribed by the Secretary under section 104(c) of the election of the State to assess a licensed facility revenue tax under paragraph (1).

(4) EFFECTIVE DATE OF CHANGES- If a State changes its election to assess or not to assess a licensed facility revenue tax, or the percentage amount of such licensed facility revenue tax, under paragraph (1) or (2), such change shall apply, for purposes of this title, beginning on the later of--

(A) the first day of the second calendar month after the date of the applicable written notice to the Secretary; or
(B) the first day of the next calendar month after the effective date specified in the latest bill, resolution, or similar measure enacted under the laws of such State determining the election of the State to assess or not to assess a licensed facility revenue tax under this section.

(5) STATE ELECTION NOT TO AFFECT INDIAN TRIBAL ELECTION- An election by a State under paragraph (1) or (2) to assess or not to assess a licensed facility revenue tax under this section shall not constitute an election to assess or not to assess a licensed facility revenue tax on behalf of any Indian tribe whose Indian lands are located in any part within the geographic boundaries of such State.

(c) Indian Tribe Notice and Participation-

(1) INDIAN TRIBE ELECTION TO ASSESS TAX- An Indian tribe shall be considered to have elected to assess a licensed facility revenue tax under this section if--

(A) the principal chief or other chief executive officer or designated authority of such Indian tribe informs the Secretary by written notice that such Indian tribe elects to assess a licensed facility revenue tax, and the percentage amount of such licensed facility revenue tax, in accordance with the laws of such Indian tribe; and
(B) such notice is the most recent notice by the principal chief or other chief executive officer or designated authority of the Indian tribe that expresses whether such Indian tribe elects to assess or not to assess a licensed facility revenue tax.

(2) INDIAN TRIBE ELECTION NOT TO ASSESS TAX- An Indian tribe shall be considered to have elected not to assess a licensed facility revenue tax under this section if--

(A) the principal chief or other chief executive officer or designated authority of such Indian tribe informs the Secretary by written notice that such Indian tribe elects not to assess a licensed facility revenue tax in accordance with the constitution and laws of such Indian tribe; and
(B) such notice is the most recent notice by the principal chief or other chief executive officer or designated authority of the Indian tribe that expresses whether such Indian tribe elects to assess or not to assess a licensed facility revenue tax.

(3) INDIAN TRIBE DEFAULT ELECTION- An Indian tribe shall be considered to have elected not to assess a licensed facility revenue tax under this section if the principal chief or other chief executive officer or designated authority of such Indian tribe has not informed the Secretary by written notice by or after the date regulations are prescribed by the Secretary under section 104(c) of the election of the Indian tribe to assess a licensed facility revenue tax under paragraph (1).

(4) EFFECTIVE DATE OF CHANGES- If an Indian tribe changes its election to assess or not to assess a licensed facility revenue tax, or the percentage amount of such licensed facility revenue tax, under paragraph (1) or (2), such change shall apply, for purposes of this title, beginning on the later of--

(A) the first day of the second calendar month after the date of the applicable written notice to the Secretary; or

(B) the first day of the next calendar month after the effective date specified in the latest bill, resolution, or similar measure enacted under the laws of such Indian tribe determining the election of the Indian tribe to assess or not to assess a licensed facility revenue tax under this section.

(d) Qualified Regulatory Authority Notice and Participation-

(1) QUALIFIED REGULATORY AUTHORITY ELECTION TO ASSESS TAX- A qualified regulatory authority shall be considered to have elected to assess a licensed facility revenue tax under this section if--

(A) the chief executive officer or designated authority of such qualified regulatory authority informs the Secretary by written notice that such qualified regulatory authority elects to assess a licensed facility revenue tax, and the percentage amount of such licensed facility revenue tax, in accordance with the laws of the State or Indian tribe of such qualified regulatory authority; and

(B) such notice is the most recent notice by the chief executive officer or designated authority of such qualified regulatory authority that expresses whether such qualified regulatory authority elects to assess or not to assess a licensed facility revenue tax.

(2) QUALIFIED REGULATORY AUTHORITY ELECTION NOT TO ASSESS TAX- A qualified regulatory authority shall be considered to have elected not to assess a licensed facility revenue tax under this section if--

(A) the chief executive officer or designated authority of such qualified regulatory authority informs the Secretary by written notice that such qualified regulatory authority elects not to assess a licensed facility revenue tax in accordance with the constitution and laws of the State or Indian tribe of such qualified regulatory authority; and

(B) such notice is the most recent notice by the chief executive officer or designated authority of such qualified regulatory authority that expresses

whether such qualified regulatory authority elects to assess or not to assess a licensed facility revenue tax.

(3) QUALIFIED REGULATORY AUTHORITY DEFAULT ELECTION- A qualified regulatory authority shall be considered to have elected not to assess a licensed facility revenue tax under this section if the chief executive officer or designated authority of such qualified regulatory authority has not informed the Secretary by written notice by or after the date regulations are prescribed by the Secretary under section 104(c) of the election of the qualified regulatory authority to assess a licensed facility revenue tax under paragraph (1).

(4) EFFECTIVE DATE OF CHANGES- If a qualified regulatory authority changes its election to assess or not to assess a licensed facility revenue tax, or the percentage amount of such licensed facility revenue tax, under paragraph (1) or (2), such change shall apply, for purposes of this title, beginning on the later of--

(A) the first day of the second calendar month after the date of the applicable written notice to the Secretary; or

(B) the first day of the next calendar month after the effective date specified in the latest bill, resolution, or similar measure enacted under the laws of the State or Indian tribe of such qualified regulatory authority determining the election of the qualified regulatory authority to assess or not to assess a licensed facility revenue tax under this section.

(e) Notification and Enforcement of Licensed Facility Revenue Tax Elections-

(1) IN GENERAL- The Secretary shall notify the Commission, all qualified regulatory authorities, all licensees, and all applicants of each written notice submitted to the Secretary under subsection (b), (c), or (d) of an election to assess or not to assess a licensed facility revenue tax, and the percentage amount and effective date of each such licensed facility revenue tax, promptly upon receipt of each such notice and, if feasible, not fewer than 30 days before the effective date of such elections.

(2) VIOLATIONS- It shall be a violation of this title for a licensee to fail to pay a licensed facility revenue tax that has been assessed on the licensee under this section.

(3) COLLECTION-

(A) REFERRAL- If a licensee fails to remit to the qualified regulatory authority a licensed facility revenue tax under subsection (a)(1)--

(i) the qualified regulatory authority may recover the amount assessed by action in any State or Indian tribal court in the jurisdiction of the qualified regulatory authority, or in any appropriate United States district court, along with any costs of collection and attorney fees; and

(ii) such failure may be grounds for denial of an application for a license or suspension or termination of a license under this title.

(B) ASSESSMENT REVIEWABLE- In any civil action under paragraph (A), a court may review the validity and adjust the amount of the licensed facility revenue tax assessment.

(4) REVENUE TAX ASSESSMENT LIST- No later than 10 days after the date regulations are prescribed by the Secretary under section 104(c), the Secretary shall establish a list of States, Indian tribes, and qualified regulatory authorities that are considered to have elected to assess a licensed facility revenue tax under this section, the percentage amounts of each such assessment, States,

Indian tribes, and qualified regulatory authorities that are considered not to have elected to assess a licensed facility revenue tax under this section, and any change not yet in effect to the election of a State, Indian tribe, or qualified regulatory authority under subsection (b), (c) or (d) including the effective date of such change and any applicable percentage amount of an assessment under such subsections. The Secretary shall maintain and update such list regularly and make such list publicly available on the Web site of the Department of Commerce.

(f) Percentage Amount of Licensed Facility Revenue Tax-

(1) STATE AND INDIAN TRIBE PERCENTAGE- A qualified State or a qualified Tribe may assess a licensed facility revenue tax in any percentage amount of no more than 12 percent of all adjusted gross revenues attributable to the qualified State or qualified Indian tribe.

(2) DETERMINING AMOUNTS ATTRIBUTABLE-

(A) BETS OR WAGERS WITHIN A STATE- To determine the amount of adjusted gross revenues attributable to a qualified State, a licensee shall attribute its adjusted gross revenue from each amount paid to the licensee for participation in Internet wagering by a customer located within the geographic boundaries of such qualified State, excluding Indian lands within the geographic boundaries of such qualified State, at the time the first bet or wager in Internet wagering by the customer related to such amount is initiated, placed, or otherwise made, to such qualified State.

(B) BETS OR WAGERS WITHIN INDIAN LANDS- To determine the amount of adjusted gross revenues attributable to a qualified Tribe, a licensee shall attribute the adjusted gross revenue from each amount paid to the licensee for participation in Internet wagering by a customer located on the Indian lands of such qualified Tribe at the time the first bet or wager in Internet wagering by the customer related to such amount is initiated, placed, or otherwise made, to such qualified Indian tribe.

(C) SKILL GAME BETS OR WAGERS- In a skill game, if an amount paid to a licensee under subparagraph (A) or (B) for participation in a single game, hand or tournament in Internet wagering is paid by more than one customer collectively as one amount, the amount shall be divided equally among all such customers for the purpose of calculating the amount attributable to a qualified State or a qualified Tribe under such paragraphs.

(D) DETERMINING CUSTOMER LOCATION- To determine the location of a customer for purposes of this subsection, a licensee shall use modern geolocation technology approved by the qualified regulatory authority that issued the license to the licensee to positively determine the location of the customer, to a reasonable degree of certainty, at the time of logon and not less than each thirty minutes thereafter until the customer signs out. If a licensee is unable to positively determine the location of a customer, a licensee may use the last known location determined during or after the latest logon of such customer, or if such location is not known the customer's registered address of residence, as the location of the customer for purposes of this subsection.

(3) QUALIFIED REGULATORY AUTHORITY PERCENTAGE- A qualified regulatory authority may assess a licensed facility revenue tax in any percentage amount of

no more than 3 percent of all adjusted gross revenues of a licensee of the qualified regulatory authority.

(g) Other Fees and Taxes Prohibited- No fee or tax relating to the operation of a licensed facility shall be assessed on a licensee by a State, an Indian tribe, a qualified regulatory authority or any other State, Indian tribe, or local government entity, except for--

(1) applicable State or Indian tribe individual, business, and corporate income taxes;

(2) licensed facility revenue taxes assessed under this section; and

(3) user fees assessed under section 106(d).

(h) Regulations- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subchapter not later than 60 days after the date regulations are prescribed under section 104(d)(1).

SEC. 116. ANNUAL REPORTS.

(a) Licensing and Regulation of Internet Wagering Facilities-

(1) IN GENERAL- Not later than 1 year after the date of first issuance specified in section 114(a) and not less frequently than annually thereafter, the Secretary shall submit to Congress a report on the licensing and regulation of Internet wagering facilities under this title.

(2) ELEMENTS- Each report submitted under paragraph (1) shall include the following:

(A) A description of all notices received by the Secretary under subsections (b) and (c) of section 109 and subsections (b), (c) and (d) of section 115.

(B) The amount of assessments collected under section 106(d) and, in cooperation with the Secretary of the Treasury, an estimate of the amount of income tax revenue that is attributable to the operation of licensed facilities during the period covered by the report.

(C) A list of qualified regulatory authorities, the number of applicants, licensees, and significant vendors reviewed by the qualified regulatory authorities under this title, and the outcomes of such reviews.

(D) A description of the efforts the Secretary has undertaken to ensure that qualified regulatory authorities are properly issuing licenses and certificates of suitability and regulating licensees and significant vendors under this title.

(E) A detailed description of each type of game offered by licensees and how each type is consistent with the definition of 'Internet wagering' under section 102 and authorized under section 106.

(F) The amounts deposited in the Internet Wagering Oversight Funds under sections 107(b)(2)(B)(vii) and 108(d)(3) and a description of the source of such deposits.

(F) Such other information as the Secretary considers appropriate.

(b) Consumer Protection-

(1) IN GENERAL- Not later than 1 year after the date of first issuance specified in section 114(a) and not less frequently than annually thereafter, the Secretary shall submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on commercial and regulatory practices carried out to protect consumers

with respect to Internet wagering, including the practices carried out pursuant to the requirements of section 108 and the regulations prescribed pursuant to such section.

(2) ELEMENTS- Each report submitted under paragraph (1) shall include the following:

- (A) A detailed description of the efforts of each qualified regulatory authority to protect consumers from unfair or deceptive acts or practices, including deceptive advertising and marketing to minors.
- (B) A description of the practices that the Secretary recommends qualified regulatory authorities adopt to protect consumers.
- (C) Such recommendations as the Secretary may have for legislative action as the Secretary considers necessary to protect consumers with respect to Internet wagering.
- (D) Such other information as the Secretary considers appropriate.

TITLE II--ENFORCEMENT UNDER TITLES 18 AND 31, UNITED STATES CODE

SEC. 201. FINANCIAL SERVICE PROVIDERS.

Subchapter IV of chapter 53 of title 31, United States Code, is amended--

(1) in section 5362--

- (A) by redesignating paragraph (11) as paragraph (15); and
- (B) by inserting after paragraph (10) the following:

`(11) INTERNET WAGERING FACILITY- The term 'Internet wagering facility' has the meaning given the term in section 102 of the Internet Wagering Citizens Protection Act.

`(12) LIST OF LICENSED INTERNET WAGERING FACILITIES- The term 'list of licensed Internet wagering facilities' means the list established and maintained pursuant to section 107(c) of the Internet Wagering Citizens Protection Act.

`(13) LIST OF UNLICENSED INTERNET GAMBLING ENTERPRISES- The term 'list of unlicensed Internet gambling enterprises' means the list made available to a financial transaction provider by the Secretary pursuant to section 5369(a)(3).

`(14) UNLICENSED INTERNET GAMBLING ENTERPRISE- The term 'unlicensed Internet gambling enterprise' means any person who, on or after the date of enactment of the Internet Wagering Citizens Protection Act, violates or knowingly assists a person in violating section 5363.'; and

(2) in section 5364, by striking subsection (d) and inserting the following:

`(d) Financial Transaction Providers-

`(1) IN GENERAL- A financial transaction provider shall prevent, prohibit, or suspend its service from completing payment transactions involving customers within the United States and a person or entity that--

- `(A) the financial transaction provider reasonably believes is an Internet wagering facility that is required to be licensed pursuant to the Internet Wagering Citizens Protection Act but is not included on the list of licensed Internet wagering facilities;

- `(B) is included on the list of unlicensed Internet gambling enterprises, or that the financial transaction provider reasonably believes is included on such list;

- `(C) the financial transaction provider believes to be an unlicensed Internet gambling enterprise based on information other than the list of unlicensed Internet gambling enterprises;
 - `(D) the financial transaction provider reasonably believes is acting on behalf of an Internet wagering facility that is required to be licensed pursuant to the Internet Wagering Citizens Protection Act but is not included on the list of licensed Internet wagering facilities, or if the financial transaction provider has knowledge that such person or entity is acting on behalf of such facility; or
 - `(E) the financial transaction provider reasonably believes is acting on behalf of an unlicensed Internet gambling enterprises included on the list of unlicensed Internet gambling enterprises or the financial transaction provider believes to be an unlicensed Internet gambling enterprise based on information other than the list of unlicensed Internet gambling enterprises, or if the financial transaction provider has knowledge that such person or entity is acting on behalf of such enterprise.
- `(2) SAFE HARBOR- A financial transaction provider shall not be held liable to any person--
- `(A) for engaging in a financial activity or transaction, including a payments processing activity, in connection with a bet or wager that the provider believes is permitted by the Internet Wagering Citizens Protection Act or the Internet horseracing Act of 1978 (15 U.S.C. 3001 et seq.), unless the financial transaction provider has actual knowledge that the financial activity or transaction was conducted in violation of either such Act or any applicable provision of Federal or State law; or
 - `(B) for taking any action pursuant to paragraph (1).’.

SEC. 202. AMENDMENTS RELATING TO ILLEGAL GAMBLING BUSINESSES.

Section 1955(b)(1) of title 18, United States Code, is amended--

- (1) in clause (i), by striking ‘(i) is’ and inserting ‘(A)(i) is’;
- (2) in clause (iii), by striking the period at the end and inserting ‘; or’; and
- (3) by adding at the end the following:

‘(B) is an unlawful Internet wagering facility (as such term is defined in section 102 of the Internet Wagering Citizens Protection Act).’.

SEC. 203. FURTHER AMENDMENTS TO SUBCHAPTER IV OF CHAPTER 53 OF TITLE 31, UNITED STATES CODE.

(a) Amendment for Defining Unlawful Internet Gambling- Section 5362(10) of title 31, United States Code, is amended--

- (1) by striking subparagraphs (A) through (C) and inserting the following:
 - ‘(A) IN GENERAL- The term ‘unlawful Internet gambling’ means to place, receive, or otherwise knowingly transmit a bet or wager by or on behalf of a person located in the United States by any means that involves the use, at least in part, of the Internet, unless such bet or wager is expressly permitted under applicable Federal law.’;
- (2) by redesignating subparagraph (D) as subparagraph (B);
- (3) in subparagraph (B), as so redesignated, by striking clause (iii); and

(4) by striking subparagraph (E) and inserting the following:

`(C) QUALIFYING LOTTERY TRANSACTIONS- The term `unlawful Internet gambling` does not include a qualifying lottery transaction (as such term is defined in section 102 of the Internet Wagering Citizens Protection Act).

`(D) LICENSED INTERNET WAGERING FACILITIES- The term `unlawful Internet gambling` does not include an activity carried out by a licensed facility, as such term is defined in section 102 of the Internet Wagering Citizens Protection Act, operated in accordance with the provisions of such Act.`.

(b) Amendment for List of Unlicensed Internet Gambling Enterprises--

(1) IN GENERAL- Subchapter IV of chapter 53 of title 31, United States Code, as amended by section 201(a), is further amended by adding at the end the following:

`Sec. 5369. List of unlicensed Internet gambling enterprises

`(a) List of Unlicensed Internet Gambling Enterprises-

`(1) IN GENERAL- The Director shall--

`(A) identify unlicensed Internet gambling enterprises in accordance with the procedures described in subsection (b);

`(B) not later than 180 days after the date of enactment of the Internet Wagering Citizens Protection Act, submit to the Secretary a list of unlicensed Internet gambling enterprises that includes the information described in paragraph (2); and

`(C) not less frequently than every 92 days thereafter, submit to the Secretary an updated list that reflects the results of subsequent investigations carried out under this section.

`(2) INFORMATION REQUIRED- The information described in this paragraph is, with respect to each unlicensed Internet gambling enterprise included on the list required by paragraph (1), the following:

`(A) All known Web site addresses of the enterprise.

`(B) The name of any person who controls, finances, manages, supervises, directs, or owns all or part of the enterprise (as such terms are used in section 1955 of title 18), to the extent known.

`(C) Information identifying the financial agents and account numbers of the enterprise and the persons described in subparagraph (B), to the extent known.

`(3) DISTRIBUTION OF LIST- Not later than 10 days after receiving the list or an updated version of the list required by paragraph (1) from the Director, the Secretary shall--

`(A) post the information provided under subparagraphs (A) and (B) of paragraph (2) on the Web site of the Department of the Treasury; and

`(B) provide to each person that is required to comply with the regulations prescribed pursuant to section 5364 a copy of the information included with the list required by paragraph (1) in an electronic format compatible with the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control.

`(b) Procedures for Identifying Unlicensed Internet Gambling Enterprises-

`(1) INVESTIGATIONS-

`(A) INITIAL INVESTIGATION- Not later than the date that is 120 days after the date of enactment of the Internet Wagering Citizens Protection Act, the Director shall complete an initial investigation of entities that appear to be unlicensed Internet gambling enterprises.

`(B) SUBSEQUENT INVESTIGATIONS- After completing the initial investigation required by subparagraph (A), the Director shall regularly investigate additional entities that appear to be unlicensed Internet gambling enterprises.

`(2) REQUESTS-

`(A) IN GENERAL- Any Federal, State, Indian tribal, or local law enforcement official, any affected sports organization, any person directly harmed by unlicensed Internet gambling enterprises, any financial transaction provider, and any interactive computer service, and the Federal Overseer, any qualified entity, any significant vendor, and any qualified regulatory authority under the Internet Wagering Citizens Protection Act, as such terms are defined in section 102 of such Act, shall have the right, but not the obligation, to make a written request to the Director for the addition of any person to the list of unlicensed Internet gambling enterprises required by subsection (a).

`(B) DETERMINATIONS; NOTICE TO PERSON THAT SUBMITTED A REQUEST- Not later than 30 days after receiving a request under subparagraph (A), the Director shall--

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

`(ii) notify the person that submitted the request of the determination of the Director.

`(3) NOTICE- Not later than 30 days before including a person in the list of unlicensed Internet gambling enterprises required by subsection (a), the Director shall provide written notice to the person of the determination of the Director to include the person in the list.

`(4) OPPORTUNITY TO CONTEST-

`(A) IN GENERAL- A person that receives notice under paragraph (3) that the Director has determined to include the person in the list of unlicensed Internet gambling enterprises required by subsection (a) may, not later than 30 days after receiving the notice, contest the determination--

`(i) by submitting a written appeal to the Director; and

`(ii) by agreeing in the written appeal to submit to the jurisdiction of the United States in matters relating to operation of an unlicensed Internet gambling enterprise.

`(B) EFFECT OF NOT CONTESTING- If a person described in subparagraph (A) does not contest the determination of the Director to include the person in the list of unlicensed Internet gambling enterprises required by subsection (a) in accordance with subparagraph (A), the Director shall include the person in the list.

`(5) OPPORTUNITY FOR HEARING- The Director--

`(A) may not include a person that submits a written appeal pursuant to paragraph (4) in the list of unlicensed Internet gambling enterprises

required by subsection (a) until the Director provides the person with an opportunity for a hearing; and

`(B) shall provide the person the opportunity for a hearing not later than 30 days after receiving the written appeal from the person.

`(6) DETERMINATIONS AFTER HEARING- Not later than 10 days after the date of a hearing provided for a person under paragraph (5) (without regard to whether the person appears at the hearing), the Director shall--

`(A) determine if the person should be included in the list of unlicensed Internet gambling enterprises required by subsection (a); and

`(B) if the Director determines that the person should be included in the list, add the person to the list.

`(7) INJUNCTIVE RELIEF-

`(A) IN GENERAL- A person described in subparagraph (B) may petition for injunctive relief in the United States District Court for the District of Columbia, which shall have exclusive jurisdiction to hear cases arising under this section.

`(B) PERSON DESCRIBED- A person described in this subparagraph is a person that the Director determines to include in the list of unlicensed Internet gambling enterprises required by subsection (a)--

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

`(ii) that did not receive the notice required by paragraph (3).

`(C) BURDEN OF PROOF- The petitioner shall have the burden of establishing that the person should not be included in the list of unlicensed Internet gambling enterprises required by subsection (a).

`(D) STANDING- Only persons that the Director determines to include in the list of unlicensed Internet gambling enterprises required by subsection (a) and owners or operators of such enterprises shall have standing to contest the determination of the Director.

`(E) AVAILABLE RELIEF- The court may direct the Director and the Secretary not to add, or to remove, the petitioner from the list of unlicensed Internet gambling enterprises.

`(F) UNAVAILABILITY OF OTHER REMEDIES- There shall be no judicial review of a determination under this section other than pursuant to this paragraph.

`(c) Effect of List- A financial transaction provider shall be deemed to have actual knowledge that a person or entity is an unlicensed Internet gambling enterprise if--

`(1) the person or entity is included in the latest list of unlicensed Internet gambling enterprises made available to the financial transaction provider by the Secretary under subsection (a)(3); or

`(2) information other than the list described in paragraph (1) is known to the financial transaction provider that demonstrates, to a reasonable degree of certainty, that the person or entity is an unlicensed Internet gambling enterprise.

`(d) Definitions- In this section:

`(1) DIRECTOR- The term 'Director' means the Director of the Financial Crimes Enforcement Network appointed under section 310(b).

`(2) SPORTS ORGANIZATION- The term 'sports organization' means an amateur sports organization or a professional sports organization (as such terms are defined in section 3701 of title 28).

`(3) UNLICENSED INTERNET GAMBLING ENTERPRISE- The term `unlicensed Internet gambling enterprise` means any person who, on or after the date of enactment of the Internet Wagering Citizens Protection Act--

`(A) violates or knowingly assists a person in violating a provision of section 5363; or

`(B) knowingly assists a person in conduct described in subparagraph (A).`.

(2) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter 53, as amended by section 201(b), is further amended by adding at the end the following:

`5369. Unlicensed Internet gambling enterprises.`.

(c) Technical Correction- Section 5362(15)(B)(i) of title 31, United States Code, as redesignated by section 201(1)(A) of this title, is amended by striking `section 903(6)(E)` and inserting `section 903(7)(E)`.

SEC. 204. OPERATOR FORFEITURE.

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

`(I) Any property, real or personal, of a person described in section 103(a)(1) of the Internet Wagering Citizens Protection Act involved in a transaction or attempted transaction in violation of such section, or any property traceable to such property.`.

SEC. 205. REGULATIONS.

(a) Regulations- Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe such regulations as the Secretary of the Treasury considers necessary to ensure compliance with the Bank Secrecy Act (12 U.S.C. 1951 et seq.; 31 U.S.C. 5311 et seq.), by licensees, significant vendors to such licensees (as such terms are defined in section 102), and financial service providers to such licensees.

(b) Revision of Regulations- Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall revise part 233 of title 12, Code of Federal Regulations, and part 132 of title 31, Code of Federal Regulations, to conform with the provisions of this Act.

SEC. 206. CONFORMING AMENDMENT.

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

TITLE III--INTERNET WAGERING TAXES

SECTION 301. AMENDMENT OF 1986 CODE.

Amendment of 1986 Code- Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment of a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 302. INTERNET WAGERING BUSINESS INFORMATION REPORTING.

(a) In General- Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by adding at the end the following new section:

SEC. 6050X. RETURNS RELATING TO INTERNET WAGERING BUSINESSES.

(a) Requirement- Every Internet wagering business shall make a return for each calendar year described in subsection (c). Such Internet wagering business shall maintain, in the location and the manner, and to the extent as the Secretary may prescribe by regulations, such records as may be appropriate to the information described in subsection (c).

(b) Time for making return- Any applicable Internet wagering business required to make a return under subsection (a) shall file such return at such time as the Secretary may prescribe by regulations.

(c) Form and manner of returns- A return is described in this subsection if such return-

(1) is in such form as the Secretary prescribes by regulations;

(2) contains all of the following:

(A) The name, address, and TIN of the Internet wagering business.

(B) The name, address, and TIN of each taxpayer initiating or placing a bet or wager with the Internet wagering business during the calendar year.

(C) The gross winnings, gross bets or wagers, gross losses, and net Internet wagering winnings of each such taxpayer for the calendar year.

(D) The amount of tax withheld with respect to each such taxpayer for the calendar year.

(E) Gross amount of payments to each such taxpayer for the calendar year.

(F) Beginning and end-of-year customer account balances for each such taxpayer for the calendar year.

(G) Gross amount of deposits to and withdrawals from, by each such taxpayer, the customer accounts for each such taxpayer during the calendar year.

(H) Such other information as the Secretary may prescribe by regulations.

(c) Statement to be furnished to persons with respect to whom information is required- Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return by reason of initiating or placing a bet or wager, a written statement showing--

(1) the name, address, and phone number of the information contact of the person required to make such return, and

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

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically, and if so, the email address of the person required to make such return may be shown in lieu of the phone number.

`(d) Recipient to furnish name, address, and identification number- Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish his name, address, and TIN to such other person at such time and in such manner as the Secretary may prescribe by regulations.

`(e) Definitions- For the purposes of this section, the following definitions apply:

`(1) BET OR WAGER; FACILITATE A BET OR WAGER; INTERNET; INTERNET WAGERING; LICENSEE- The terms `bet or wager`, `facilitate a bet or wager`, `Internet`, `Internet wagering` and `licensee` have the meanings given those terms in section 102 of the Internet Wagering Citizens Protection Act.

`(2) INTERNET WAGERING BUSINESS- The term `Internet wagering business` means any person who is a licensee or who otherwise is engaged in the business of facilitating any bet or wager in Internet wagering.

`(3) LOSSES- The term `losses` means any decrease in the amount of funds between the beginning of a calendar day and the end of such day, which funds are available to the customer to participate in bets or wagers with an Internet wagering business and held by such Internet wagering business on behalf of the customer, excluding withdrawals from the respective customer account by the customer other than for participating in bets or wagers with the Internet wagering business.

`(4) NET INTERNET WAGERING WINNINGS- The term `net Internet wagering winnings` means gross winnings less gross losses for a specified period of time in regards to an Internet wagering business.

`(5) PAYMENT- The term `payment` means a withdrawal, other than for the purpose of participating in bets or wagers with an Internet wagering business, by a customer from the respective customer account with the Internet wagering business, to the extent such withdrawal consists of winnings.

`(6) WINNINGS- The term `winnings` means any increase in the amount of funds between the beginning of a calendar day and the end of such day, which funds are available to the customer to participate in bets or wagers with an Internet wagering business and held by such Internet wagering business on behalf of the customer, excluding deposits to the respective customer account by the customer other than from participation in bets or wagers with the Internet wagering business.

`(f) Regulations- The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.`.

(b) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050W the following new item:

`Sec. 6050X. Returns relating to internet wagering businesses.`.

SEC. 303. WITHHOLDING FROM CERTAIN WAGERING WINNINGS.

Internet wagering winnings- Paragraph (3) of section 3406(b) (relating to other reportable payments for purposes of backup withholding) is amended--

(1) by striking `or` in subparagraph (E);

(2) by striking `.` and inserting `, or` at the end of subparagraph (F); and

(3) by adding at the end thereof the following new subparagraph:

`(G) section 6050X (relating to returns relating to Internet wagering businesses).`.

SEC. 304. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.

(a) Tax on Nonresident Alien Individuals- Paragraph (1) of section 871(a) (relating to income not connected with United States business) is amended--

(1) by striking 'and' at the end of subparagraph (C); and

(2) by inserting before the period at the end of subparagraph (D) the following:

, and

(E) the gross amount of net Internet wagering winnings from each Internet wagering business (as such terms are defined in section 6050X(e)).'

(b) Withholding of Tax on Nonresident Alien Individuals- The first sentence of subsection (b) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by inserting after 'gains subject to tax under section 871(a)(1)(D),' the following: 'the gross amount of net Internet wagering winnings described in section 871(a)(1)(E),'.

(c) Source of Net Internet Wagering Winnings- Subsection (a) of section 861 is amended by inserting at the end thereof the following new paragraph:

(10) NET INTERNET WAGERING WINNINGS- Any net Internet wagering winnings received from an Internet wagering business (as such terms are defined in section 6050X(e)).'

SEC. 305. WAGER TAX APPLICABLE TO INTERNET WAGERING.

Subsection (a) of section 4401 is amended to read as follows:

(a) Wagers-

(1) AUTHORIZED WAGERS- There shall be imposed on any wager authorized under Federal law or the law of the State in which accepted an excise tax equal to 0.25 percent of the amount of such wager.

(2) UNAUTHORIZED WAGERS- There shall be imposed on any wager not described in paragraph (1) an excise tax equal to 2 percent of the amount of such wager.'

SEC. 306. TERRITORIAL EXTENT.

Paragraph (2) of section 4404 is amended to read as follows:

(2) placed within the United States, or any Commonwealth, territory, or possession thereof, by a person who is a United States citizen or resident.'

SEC. 307. GROSS INCOME FOR SKILL GAMES.

Section 183 of part VI of subchapter B of chapter 1 (relating to activities not engaged in for profit) is amended by adding at the end the following new subsection:

(f) Gross income for skill games

'In the case of wagering in skill games (as such term is defined in section 102 of the Internet Wagering Citizens Protection Act), gross income is calculated by subtracting the total amount of wagers from the total winnings from such wagers for any specified period of time.'

TITLE IV—RESTORATION OF AMERICA’S WIRE ACT**SEC. 401. WIRE ACT CLARIFICATION.**

- (a) DEFINITIONS- Section 1081 of title 18, United States Code, is amended--
- (1) by designating the five undesignated paragraphs as paragraphs (1) through (5), respectively;
 - (2) in paragraph (2), as so designated by subparagraph (A), by striking ‘value.’ and inserting ‘value, including any Internet wagering facility.’;
 - (3) by amending paragraph (5), as so designated by subparagraph (A), to read as follows:
 - ‘(5) The term ‘communication facility’ includes any instrumentality, personnel, and services (including, the receipt, forwarding, or delivery of communications) used in the transmission of a writing, sign, picture, or sound of any kind by aid of wire, cable, radio, or an electromagnetic, photoelectronic, or photooptical system, or other like connection (whether fixed or mobile) between the points of origin and reception of such transmission.’; and
 - (4) by adding at the end the following:
 - ‘(6) The terms ‘bet or wager’ and ‘Internet wagering facility’ have the meanings given those terms in section 102 of the Internet Wagering Citizens Protection Act.
 - ‘(7) The term ‘Internet’ has the meaning given the term in section 5362 of title 31, United States Code.
 - ‘(8) The terms ‘financial transaction provider’ and ‘insured depository institution’ have the meanings given those terms in section 5362 of title 31, United States Code.
 - ‘(9) The term ‘gambling business’ means a business of betting or wagering.
 - ‘(10) The terms ‘own or control’ and ‘owned or controlled’ include circumstances within the meaning of section 2(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(2)).
 - ‘(11) The term “Indian tribe” has the meaning given the term in section 450b(e) of title 25.
 - ‘(12) The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.
 - ‘(13) The term ‘unlawful Internet gambling’ has the meaning given the term in section 5362(10) of title 31.’.
- (b) MODIFICATION OF EXISTING PROHIBITION- Section 1084 of title 18, United States Code, is amended to read as follows:

‘Sec. 1084. Transmission of wagering information; penalties

- ‘(a) Offense- Except as otherwise provided in this section or in the Internet Wagering Citizens Protection Act, it shall be unlawful for a person that is engaged in a gambling business to knowingly use a communication facility for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any country with respect to any transmission to or from the United States, of--

- `(1) any bet or wager on any sporting event or contest, or in any unlawful Internet gambling;
 - `(2) information assisting in the placing of any bet or wager on any sporting event or contest, or in any unlawful Internet gambling; or
 - `(3) a communication, that entitles the recipient to receive money or credit as a result of any bet or wager, or for information assisting in the placing of any bet or wager on any sporting event or contest, or in any unlawful Internet gambling.
- `(b) Penalty- Any person who violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.
- `(c) Transmission in Interstate or Foreign Commerce- Except as otherwise provided in this section, the transmission of bets or wagers, information assisting in the placing of bets or wagers, or a communication that entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers shall be considered a transmission in interstate or foreign commerce subject to this section if such transmission involved the use, in some part, of the Internet.
- `(d) Rules of Construction- Nothing in this section shall be construed to--
- `(1) prohibit--
 - `(A) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers;
 - `(B) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, Indian tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery; or
 - `(C) a qualifying intrastate lottery transaction (as such term is defined in section 102 of the Internet Wagering Citizens Protection Act);
 - `(D) any authorized activity carried out in connection with a license issued under the Internet Wagering Citizens Protection Act.
 - `(2) create immunity from criminal prosecution under any laws of a State or Indian tribe; or
 - `(3) authorize activity that is prohibited under chapter 178 of title 28.
- `(e) Applicability- This section shall not apply to any activity that is permissible under the Interstate horseracing Act of 1978 (15 U.S.C. 3001 et seq.), or any activity that is permissible under title I of the Internet Wagering Citizens Protection Act.
- `(f) Duty of Common Carrier-
- `(1) IN GENERAL- If a common carrier (as such term is defined in section 3 of the Communications Act of 1934 (47 U.S.C. 153)), subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, Indian tribal, or local law enforcement agency, acting within the jurisdiction of the law enforcement agency, that a communication facility furnished by the common carrier is being used or will be used by a subscriber of the common carrier for the purpose of transmitting or receiving gambling information in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any country with respect to any transmission to or from the United States in violation of Federal, State, Indian tribal, or local law, the common carrier shall

discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber.

`(2) LIMITATION ON LIABILITY- No damages, penalty, or forfeiture, civil or criminal, shall be found against a common carrier for any act done in compliance with any notice received from a law enforcement agency pursuant to paragraph (1).

`(3) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to prejudice the right of any person affected to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, Indian tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

`(g) Exclusions- This section, subchapter IV of chapter 53 of title 31, and any other provision of Federal law that establishes criminal penalties for any activity involved in placing, receiving or otherwise transmitting a bet or wager shall not apply to any bet or wager that--

`(1) is permissible under the Interstate horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

`(2) is an international off-track wager on horseracing, or the combination of international horseracing pari-mutuel wagering pools, that is lawful in the State or foreign jurisdiction involved;

`(3) is permissible under the Internet Wagering Citizens Protection Act; or

`(4) is a qualifying lottery transaction (as such term is defined in section 102 of the Act referred to in paragraph (3)).'

(c) AUTHORIZATION OF CIVIL ENFORCEMENT-

(1) IN GENERAL- Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

`Sec. 1085. Civil remedies

`(a) Jurisdiction- The district courts of the United States (in addition to any other remedies under current law) shall have original and exclusive jurisdiction to prevent and restrain violations of section 1084 by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under section 1084.

`(b) Proceedings-

`(1) DEFINITION- In this subsection, the term 'account' means--

`(A) the unpaid balance of money or its equivalent received or held by an insured depository institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to an account, including interest credited, or that is evidenced by an instrument on which the depository institution is primarily liable; and

`(B) money received or held by an insured depository institution, or the credit given for money or its equivalent received or held by the insured depository institution in the usual course of business for a special or specific purpose, regardless of the legal relationships established thereby, including escrow funds, funds held as security for securities loaned by the depository institution, funds deposited as advance payment on subscriptions to United States Government securities, and funds held to meet its acceptances.

`(2) PROCEEDINGS- The United States may institute proceedings under this section--

`(A) to obtain injunctive or declarative relief, including a temporary restraining order and a preliminary injunction, against any person (other than a financial transaction provider, except as provided in paragraph (3)) to prevent or restrain a violation or a threatened violation of section 1084;

`(B) in the case of an insured depository institution that is a financial transaction provider, to--

`(i) restrain an account maintained at such insured depository institution if such account is--

`(I) owned or controlled by a gambling business; and

`(II) includes proceeds of, or is used to facilitate a violation of section 1084; or

`(ii) seize funds in an account described in clause (i) if such funds--

`(I) are owned or controlled by a gambling business; and

`(II) constitute the proceeds of, were derived from, or facilitated, a violation of section 1084.

`(3) FINANCIAL TRANSACTION PROVIDERS- The limitation in paragraph (2)(A) shall not apply if the financial transaction provider is a gambling business, in which case, such financial transaction provider shall be subject to the enforcement provisions under paragraph (2).

`(4) INJUNCTIVE PROCEEDINGS-

`(A) IN GENERAL- The attorney general (or other appropriate State official) of a State in which a communication in violation of section 1084 allegedly has been or will be initiated or received may institute proceedings under this section to obtain injunctive or declarative relief to prevent or restrain the violation or threatened violation.

`(B) RELIEF- Upon application of the attorney general (or other appropriate State official) of an affected State under subparagraph (A), the district court may enter a temporary restraining order, a preliminary injunction, an injunction, or declaratory relief against any person (other than a financial transaction provider) to prevent or restrain a violation or threatened violation of section 1084, in accordance with rule 65 of the Federal Rules of Civil Procedure.

`(5) ENFORCEMENT AUTHORITY- Notwithstanding paragraphs (2) and (4), for a communication in violation of section 1084 that allegedly has been or will be initiated or received on Indian lands (as such term is defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703))--

`(A) the United States shall have the enforcement authority provided under paragraph (2);

`(B) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact; and

`(C) if there is no applicable Tribal-State compact, an appropriate tribal official may institute proceedings in the same manner as an attorney general of a State.

`(6) RULE OF CONSTRUCTION- Nothing in this subsection shall be construed to alter, supersede, or otherwise affect the application of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

`(7) LIMITATION ON RELIEF- Notwithstanding paragraph (4), no relief shall be granted under this section against a financial transaction provider except as provided in paragraph (3).

`(c) Limitation on Liability- No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency pursuant to this section.`

(2) CLERICAL AMENDMENT- The table of sections for chapter 50 of title 18, United States Code, is amended by inserting after the item relating to section 1084 the following:

`1085. Civil remedies.`

SEC. 402. RULE OF CONSTRUCTION.

Nothing in this Title, or the amendments made by this Title, shall be construed—

(a) to preempt any State law prohibiting gambling; or

(b) to alter, limit, or extend—

(1) the relationship between the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) and other Federal laws in effect on the date of enactment of this Act;

(2) the ability of a State licensed lottery retailer to make in-person, computer-generated retail lottery sales under applicable Federal and State laws in effect on the date of the enactment of this Act; or

(3) the relationship between Federal laws and State charitable gaming laws in effect on the date of the enactment of this Act.

TITLE V--OTHER MATTERS

SEC. 501 SEVERABILITY.

If any provision of this Act is declared unconstitutional the remainder of the Act shall remain in effect. If the applicability of any provision of this Act to any person or circumstances is held invalid, such provision shall continue to apply to other persons and circumstances.

SEC. 502. EFFECTIVE DATE.

The provisions of this Act shall take effect upon enactment of this Act.