

A BILL

To amend title 31, United States Code, to provide for the licensing by the Secretary of the Treasury of Internet poker and other games that are predominantly of skill, to provide for consumer protections on the Internet, to enforce the tax code, 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 Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009''.

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

Sec. 1. Short title; table of contents.

TITLE I—REGULATION OF INTERNET GAMES-OF-SKILL FACILITIES

Sec. 101. Findings.

Sec. 102. Federal licensing requirement for operation of Internet games-of-skill facilities.

Sec. 103. List of unlawful Internet gambling enterprises.

Sec. 104. Regulations.

Sec. 105. Annual report.

Sec. 106. Conforming amendments.

Sec. 107. Effective date.

Sec. 108. Applicability.

TITLE II—INTERNET GAME-OF-SKILL TAX PROVISIONS

Sec. 201. Amendment of 1986 code.

Sec. 202. Tax on Internet games of skill; licensee information reporting.

Sec. 203. Withholding for pari-mutuel pool winnings.

Sec. 204. Withholding from certain gaming winnings.

Sec. 205. Withholding of tax on nonresident aliens.

Sec. 206. Information at source; pari-mutuel wagers.

Sec. 207. Exemption from State and Indian tribal government taxation.

Sec. 208. Territorial extent of wagering tax.

TITLE III—STUDY AND PREVENTION OF PROBLEM AND PATHOLOGICAL GAMBLING

Sec. 301. Authorization of programs for identification, prevention, and treatment of problem and pathological gambling.

Sec. 302. Public awareness, research, and treatment.

TITLE I—REGULATION OF INTERNET GAMES-OF-SKILL FACILITIES

Sec. 101. FINDINGS.

Congress makes the following findings:

(1) In the United States, gambling and gaming activities, equipment, and operations have traditionally been subject to various forms of Federal and State control, regulation, and enforcement, with some form of gambling being permitted in nearly every State and by many Indian tribes.

(2) The demarcation between games of chance and games of skill is not always clearly drawn, and the treatment and definition of ``games of skill'' has varied from jurisdiction to jurisdiction.

(3) Millions of people in the United States enjoy competing with other players in poker, chess, bridge, mah-jong, backgammon, and similar games where the outcome turns predominantly on the skill of the participants. While each of these games contains an element of chance, over any substantial interval, a player's ultimate success is determined by that player's relative level of skill.

(4) Poker, in particular, enjoys a long tradition in the United States. Poker is part of the cultural and recreational fabric of the United States and has been since the founding days of the United States. United States poker aficionados have included presidents, judges, and statesmen throughout the history of the United States.

(5) Since the development of the Internet, online sites offering Internet gambling and similar games have raised numerous policy, consumer protection, and enforcement concerns for the Federal and State governments as millions of United States persons have chosen to play online on sites offered by operators located in many different countries under a variety of licensing and regulatory regimes.

(6) Bets and wagers made with respect to games in which success is predominantly determined by the skill of the players and in which the bets and wagers are between the participants can and should be treated as distinct from other bets and wagers made with respect to games in which success is not predominantly determined by the skill of the players or in which the wagers are not between the participants such as Internet wagering with off-shore sites on games of chance and betting on sporting events, all of which (with the exception of certain betting on horse racing) are barred by the laws of the United States.

(7) The hosting by Internet operators of games predominantly determined by the skill of players and in which wagers can be made between the participants should be controlled by a strict Federal licensing and regulatory framework—

- (A) to prevent underage wagering and otherwise to protect vulnerable individuals;
- (B) to ensure the games are fair;
- (C) to address the concerns of law enforcement; and
- (D) to enforce limitations on the activity established by the States and Indian tribes.

(8) An effective Federal licensing system would ensure that licenses are issued only to Internet operators who—

- (A) meet strict criteria to protect consumers;
- (B) are in good financial and legal standing;
- (C) are of good character, honesty, and integrity;
- (D) utilize appropriate technology to prevent those of insufficient age from participating;
- (E) adopt and implement systems to protect compulsive players;
- (F) have in place risk-based methods—
 - (i) to identify and combat money laundering and fraud; and
 - (ii) to protect the privacy and security of users;
- (G) adopt strict internal controls which are subject to audit; and
- (H) adopt and implement systems to collect and remit taxes due.

(9) Effective regulation requires application of the regulatory provisions prescribed under sub-chapter V of chapter 53 of title 31, United States Code, as added by section 102, to all persons seeking a license to operate an Internet game-of-skill

facility (as such term is defined in section 5381 of such subchapter), with each State and Indian tribe having the ability to prohibit operators of Internet game-of-skill facilities from accepting bets or wagers from persons located within the territory of the State or Indian tribe by opting out under section 5385(a) of such subchapter, as so added.

(10) Maintenance of a list of unlawful Internet gambling enterprises and the owners and operators of such enterprises will aid law enforcement efforts to prevent unlawful Internet gambling.

(11) Longstanding Federal policy against gambling on professional, scholastic, or amateur sporting events, and all criminal laws prohibiting such gambling, should remain in full force and effect.

(12) Licensing and regulating Internet game-of-skill facilities (as such term is defined in section 5381 of title 31, United States Code) in the United States would provide additional tax revenues for the United States and would reduce tax avoidance.

Sec. 102. FEDERAL LICENSING REQUIREMENT FOR OPERATION OF INTERNET GAME-OF-SKILL FACILITIES.

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

``SUBCHAPTER V—REGULATION OF INTERNET GAME-OF-SKILL FACILITIES

``§ 5381. Definitions

``In this subchapter:

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

``(2) BET OR WAGER.—The term ‘bet or wager’ has the meaning given the term in section 5362.

``(3) INDIAN LANDS AND INDIAN TRIBE.—The terms ‘Indian lands’ and ‘Indian tribe’ have the meaning given such terms in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

``(4) INTERNET.—The term ‘Internet’ has the same meaning given the term in section 5362.

``(5) INTERNET GAME OF SKILL.—The term ‘Internet game of skill’ means an Internet-based game in which success is predominantly determined by the skill of the players, including poker, chess, bridge, mah-jong, and backgammon.

``(6) INTERNET GAME-OF-SKILL FACILITY.— The term ‘Internet game-of-skill facility’ means an Internet site through which a bet or wager is initiated, received, or otherwise made with respect to an Internet game of skill, whether transmitted by telephone, Internet, satellite, or other wire or wireless communication medium.

``(7) LICENSEE.—The term ‘licensee’ means a person who operates an Internet game-of-skill facility under a license issued by the Secretary under this subchapter.

``(8) OPERATE AN INTERNET GAME-OF-SKILL FACILITY.—The term ‘operate an Internet game-of-skill facility’ means to direct, manage, supervise, or control an Internet game-of-skill facility.

``(9) 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 on cards dealt to them;
- ``(C) in which players compete against each other and not against the person operating the game; and
- ``(D) in which the person operating the game may assess a commission fee or any other type of fee.

``(10) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

``(11) SPORTING EVENT.—The term 'sporting event' means any athletic competition, whether professional, scholastic, or amateur, except that such term does not include any activity described in section 3704(a)(4) of title 28.

``(12) STATE.—The term 'State' means any State of the United States, the District of Columbia, or any commonwealth, territory, or other possession of the United States.

``§ 5382. Establishment and administration of licensing program

``(a) TREASURY RESPONSIBILITIES.—The Secretary shall have responsibility for the following activities:

``(1) Exercising full regulatory jurisdiction over—

- ``(A) the operation of Internet game-of-skill facilities by licensees; and
- ``(B) the licensure of all applicants.

``(2) Prescribing such regulations as may be necessary to administer and enforce the requirements of this subchapter.

``(3) Employing enforcement agents with sufficient training and experience to administer the requirements of this subchapter and the regulations prescribed under this subchapter.

``(b) INTERNET GAME-OF-SKILL FACILITY LICENSING PROGRAM.—

``(1) LICENSE REQUIRED.—It shall be unlawful for a person to operate an Internet game-of-skill facility in interstate or foreign commerce, in which bets or wagers are knowingly initiated, received, or otherwise made by individuals located in the United States, without a license issued to such person by the Secretary under this subchapter.

``(2) AUTHORITY UNDER VALID LICENSE.—Notwithstanding any other provision of law and subject to the provisions of this subchapter, a licensee may accept a bet or wager with respect to an Internet game of skill; from an individual located in the United States and offer related services.

``(3) INTERSTATE OFF-TRACK WAGERS.—Notwithstanding anything in this subchapter to the contrary, a person may accept interstate off-track wagers (as defined by section 3 of the Interstate Horseracing Act of 1978 (15 U.S.C. 3002)), whether by telephone, Internet, satellite, or other wire or wireless communication without need for a license issued pursuant to this subchapter.

``(c) APPLICATION FOR LICENSE.—

``(1) APPLICATION.—A person seeking a license to operate an Internet game-of-skill facility in interstate or foreign commerce shall submit to the Secretary an application therefor in such form and in such manner as the Secretary considers appropriate.

“(2) ELEMENTS.—Each application submitted under paragraph (1) shall include such information as the Secretary considers appropriate, including the following:

- “(A) Complete financial information about the applicant.
- “(B) Documentation showing the corporate structure of the applicant and all related businesses and affiliates.
- “(C) The criminal and credit history of—
 - “(i) the applicant;
 - “(ii) each of the senior executives and directors of the applicant; and
 - “(iii) any other person who is in control of the applicant.
- “(D) A detailed description of the applicant’s plan for complying with all applicable regulations prescribed under this subchapter, with particular emphasis on the applicant’s ability—
 - “(i) to prevent underage play;
 - “(ii) to protect compulsive players;
 - “(iii) to ensure the Internet games of skill are being operated fairly; and
 - “(iv) to comply with and address any additional concerns identified by the Secretary.
- “(E) A certification by the applicant that the applicant agrees to be subject to United States jurisdiction and all applicable United States laws relating to the operation of an Internet game-of-skill facility and associated activities.

“(d) STANDARDS FOR LICENSE ISSUANCE; SUITABILITY QUALIFICATIONS AND DISQUALIFICATION STANDARDS.—

“(1) SUITABILITY FOR LICENSING STANDARDS.—

“(A) IN GENERAL.—No person shall be eligible to obtain a license unless the Secretary has determined, upon completion of a background check and investigation, that the applicant, and any person deemed to be in control of the applicant, is suitable for licensing.

“(B) ASSOCIATES OF APPLICANTS.—

“(i) IN GENERAL.—If an applicant is a corporation, partnership, or other business entity, a background check and investigation shall occur with respect to the president or other chief executive of the corporation, partnership, or other business entity and other partners or senior executives and directors of the corporation, partnership, or entity, as determined appropriate by the Secretary, in the Secretary’s sole discretion.

“(ii) MINIMUM DETERMINATION.—In carrying out clause (i), the Secretary shall, as a minimum, carry out a background check and investigation of the 5 individuals receiving the most compensation from the applicant.

“(2) SUITABILITY FOR LICENSING STANDARDS.—For purposes of this subchapter, an applicant and any other person associated with the applicant, as applicable, is suitable for licensing if the applicant demonstrates to the Secretary by clear and convincing evidence that the applicant (or individual associated with the applicant, as applicable)—

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

“(B) is a person whose prior activities, reputation, habits, and associations do not—

“(i) pose a threat to the public interest or to the effective regulation and control of Internet game-of-skill facilities; or

“(ii) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of Internet game-of-skill facilities or the carrying on of the business and financial arrangements incidental there to such facilities;

“(C) is capable of and likely to conduct the activities for which the applicant is licensed in accordance with the provisions of this subchapter and any regulations prescribed under this subchapter;

“(D) has or guarantees acquisition of adequate business competence and experience in the operation of Internet game-of-skill facilities; and

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

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

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

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

“(C) has been convicted of an offense punishable by imprisonment of more than 1 year;

“(D) is delinquent in filing any applicable Federal or State tax return or in the payment of any applicable tax, penalty, addition to tax, or interest owed to a jurisdiction in which the applicant or other person operates or does business;

“(E) knowingly accepts or knowingly has accepted bets or wagers on sporting events from persons located in the United States in violation of applicable Federal or State law; or

“(F) has not agreed in writing to submit to personal jurisdiction in the United States for purposes of any matter arising from the operation of an Internet game-of-skill facility or associated activities.

“(4) ONGOING REQUIREMENT.—A licensee (and any other person who is required to be determined to be suitable for licensing in connection with such licensee) shall meet the standards necessary to be suitable for licensing throughout the term of the license.

“(5) BACKGROUND CHECK AND INVESTIGATION.—The Secretary shall establish standards and procedures for conducting background checks and investigations for purposes of this subsection.

“(6) PROTECTION OF THE PUBLIC TRUST.—The Secretary may take such action as is necessary to protect the public trust, including the implementation of such safeguards as may be necessary to ensure that the operation of an Internet game-of-skill facility licensed under this subchapter is controlled only by persons who are suitable for licensing.

“(7) ENFORCEMENT ACTIONS.—

“(A) DETERMINATION OF UNSUITABILITY FOR CONTINUED LICENSURE.—If the Secretary finds that an individual owner or holder of a controlling or substantial interest in a licensee, or of a holding, parent, or intermediary company of a licensee, or a director, partner, or officer of a licensee is not suitable for licensing, the Secretary may determine that the licensee is not qualified to continue as a licensee.

“(B) ACTION TO PROTECT THE PUBLIC INTEREST, INCLUDING SUSPENSION.—If the Secretary determines that a licensee is not qualified to continue as a licensee, the Secretary shall propose action the Secretary considers necessary to protect the public interest, including, if the Secretary considers necessary, the suspension of the licensee.

“(C) IMPOSITION OF CONDITIONS INCLUDING REMOVAL OF PARTIES.—Notwithstanding a determination under subparagraph (A), the Secretary may allow a licensee to

continue engaging in licensed activities by imposing conditions on the licensee under penalty of revocation or suspension of a license, including—

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

“(ii) the establishment of appropriate safeguards to ensure such person is excluded from any management or involvement in operation of the licensed activities.

“(e) ASSESSMENTS FOR ADMINISTRATIVE EXPENSES.—

“(1) USER FEES.—

“(A) IN GENERAL.—The cost of administering this subchapter with respect to each licensee, including the cost of any review or examination of a licensee to ensure compliance with the terms of the license and this sub-chapter, shall be assessed by the Secretary against the licensee institution by written notice in an amount limited to that necessary to meet the Secretary’s expenses in carrying out such administration, review, or examination to the exclusion of general overhead and other administrative expenses that are not directly attributable to that licensee.

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

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

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

“(iii) not be construed to be Government funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 or any other authority.

“(C) HEARING.—Any licensee against whom an assessment is assessed under this paragraph shall be afforded an agency hearing if such person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

“(D) COLLECTION.—

“(i) REFERRAL.—If any licensee fails to pay an assessment under this paragraph after the assessment has become final, the Secretary may recover the amount assessed by action in the appropriate United States district court, along with any costs of collection and attorney fees.

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

“(2) DIRECT AND EXCLUSIVE OBLIGATION OF LICENSEE.—The user fee shall be the direct and exclusive obligation of the licensee and may not be deducted from amounts available as deposits to any person placing a bet.

“(f) APPROVAL OF LICENSE.—The Secretary shall grant licenses under this subchapter if the applicant meets the criteria established by the Secretary under this sub-chapter.

“(g) SAFEGUARDS REQUIRED OF LICENSEE.—No person shall receive or retain a license under this section unless the person maintains or requires mechanisms so that the following requirements, and the standards established under section 5383, are met with respect to any Internet bet or wager:

“(1) AGE.—Appropriate safeguards reasonably calculated to ensure that the individual placing a bet or wager is not less than 21 years of age.

“(2) LOCATION.—Appropriate safeguards reasonably calculated to ensure that the individual placing a bet or wager is physically located in a jurisdiction that has not prohibited such bets or wagers pursuant to section 5385 at the time the bet or wager is placed.

“(3) COLLECTION OR REPORTING OF CUSTOMER TAXES.—Appropriate mechanisms reasonably calculated to ensure that all taxes relating to Internet games of skill from persons engaged in bets or wagers relating to such games are collected or reported, as required by law, at the time of any payment of proceeds of such bets or wagers.

“(4) COLLECTION OR REPORTING OF TAXES OF LICENSEE.—Appropriate mechanisms reasonably calculated to ensure that all taxes relating to the operation of an Internet game-of-skill facility from any licensee are collected and disbursed as required by law and that adequate records to enable later audit or verification are maintained.

“(5) SAFEGUARDS AGAINST FINANCIAL CRIME.—Appropriate safeguards reasonably calculated to prevent fraud, money laundering, and terrorist finance.

“(6) SAFEGUARDS AGAINST COMPULSIVE PLAY.—Appropriate safeguards reasonably calculated to prevent compulsive betting or wagering.

“(7) PRIVACY SAFEGUARDS.—Appropriate safeguards reasonably calculated to protect the privacy and security of any person engaged in bets or wagers relating to Internet games of skill, including customers of the licensee.

“(8) PAYMENT OF ASSESSMENTS.—Appropriate mechanisms reasonably calculated to ensure that any assessment under subsection (e) is paid to the Secretary.

“(9) OTHER REQUIREMENTS.—Such other requirements as the Secretary may establish by regulation or order for purposes of this subchapter.

“(10) INTERNET GAMES OF SKILL PARTICIPATION - No provision of this subchapter is meant to prohibit any person from placing bets or wagers on any Internet game of skill with a licensee where there are persons participating in the game who are not located in the United States, or to limit the participation of any person by setting stake limits, loss limits, deposit limits, or session time limits except as options pursuant to section 5383(b)(6).

“(h) TERM AND RENEWAL OF LICENSE.—

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

“(2) RENEWAL.—Licenses may be renewed in accordance with requirements prescribed by the Secretary under this subchapter.

“(i) REVOCATION OR DENIAL OF LICENSE.—

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

- “(A) the licensee fails to comply with any provision of this subchapter; or
- “(B) the licensee is determined to be unsuitable within the meaning of this subchapter.

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

“(j) ADMINISTRATIVE PROVISIONS.—

“(1) GENERAL POWERS OF SECRETARY.—The Secretary shall have the authority to engage in the following:

``(A) Investigate the suitability of each applicant to ensure compliance with this sub-chapter and regulations prescribed under this subchapter.

``(B) Require licensees to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter.

``(C) Examine any licensee and any books, papers, records, or other data of licensees relevant to any recordkeeping or reporting requirements imposed by the Secretary under this sub-chapter.

``(D) When determined by the Secretary to be necessary, summon a licensee or an applicant for a license, an officer or employee of a licensee or any such applicant (including a former officer or employee), or any person having possession, custody, or care of the reports and records required by the Secretary under this subchapter, to appear before the Secretary at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to any investigation in connection with the enforcement of this sub-chapter or any application for a license under this subchapter.

``(E) Investigate any violation of this sub-chapter, any regulation under this subchapter, and any other violation of law relating to the operation of an Internet game-of-skill facility.

``(F) Conduct continuing reviews of applicants and licensees and the operation of Internet game-of-skill facilities by use of technological means, on-site observation of facilities, including servers, or other reasonable means to assure compliance with this subchapter and any regulations under this subchapter.

``(2) ADMINISTRATIVE ASPECTS OF SUMMONS.—

``(A) PRODUCTION AT DESIGNATED SITE.—A summons issued pursuant to this subsection may require that books, papers, records, or other data stored or maintained at any place be produced—

- ``(i) at any business location of a licensee or applicant for a license;
- ``(ii) if the licensee or applicant has been deemed suitable by or is seeking a determination of suitability from a State or tribal regulatory authority, at any designated location in that State or tribal land; or
- ``(iii) if the licensee or applicant has been deemed suitable or is seeking a determination of suitability from the Secretary, at any designated location in the District of Columbia.

``(B) NO LIABILITY FOR EXPENSES.—The United States shall not be liable for any expense incurred in connection with the production of books, papers, records, or other data under this subsection.

``(C) 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 the Secretary may prescribe by regulation.

``(3) CONTUMACY OR REFUSAL.—

``(A) REFERRAL TO ATTORNEY GENERAL.—In case of contumacy by a person issued a summons under this subsection or a refusal by such person to obey such summons or to allow the Secretary to conduct an examination, the Secretary shall refer the matter to the Attorney General.

``(B) JURISDICTION OF COURT.—The Attorney General 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 which 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.

``(C) COURT ORDER.—The court may issue an order requiring the person summoned to appear before the Secretary or a delegate of the Secretary—

- ``(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 Secretary to examine the business of a licensee; and

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

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

``(E) SERVICE OF PROCESS.—All process in any case under this subsection may be served in any judicial district in which such person may be found.

``(k) CIVIL MONEY PENALTIES.—

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

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

``(B) \$25,000.

``(2) ASSESSMENT.—

``(A) WRITTEN NOTICE.—Any penalty imposed under paragraph (1) may be assessed and collected by the Secretary by written notice.

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

``(C) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Secretary may compromise, modify, or remit any penalty which the Secretary may assess or has already assessed under paragraph (1).

``(D) MITIGATING FACTORS.—In determining the amount of any penalty imposed under paragraph (1), the Secretary shall take into account the appropriateness of the penalty with respect to—

``(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; and

``(iv) such other matters as justice may require.

``(E) HEARING.—The person against whom any penalty is assessed under paragraph (1) shall be afforded an agency hearing if such person submits a request for such hearing not later than 20 days after the issuance of the notice of assessment.

``(F) COLLECTION.—

``(i) REFERRAL.—If any person fails to pay an assessment after any penalty assessed under this paragraph has become final, the Secretary shall recover the amount assessed by action in the appropriate United States district court.

``(ii) SCOPE OF REVIEW.—In any civil action under clause (i), the validity and appropriateness of the penalty shall be subject to review for abuse of agency discretion.

``(G) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

``(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.

``(1) TREATMENT OF RECORDS.—In light of business competition, confidentiality and privacy concerns, the Secretary shall protect from disclosure information submitted

in support of a license application under this subchapter and information collected in the course of regulating licensees to the full extent permitted by sections 552 and 552a of title 5.

“(m) SUITABILITY REQUIRED FOR CERTAIN SERVICE PROVIDERS.—Any person that knowingly manages, administers, or controls bets or wagers that are initiated, received, or otherwise made within the United States or that manages, administers, or controls the games with which such bets or wagers are associated shall meet all of the suitability for licensing criteria established under this section in the same manner and to the same extent as if that person itself were a licensee. Any failure on the part of such person to remain suitable for licensing may be grounds for revocation of the license of the licensee for whom such service is provided, in the same manner and in accordance with subsection (i).

“(n) RELIANCE ON STATE AND TRIBAL REGULATORY BODY CERTIFICATIONS OF SUITABILITY FOR APPLICANTS.—

“(1) QUALIFICATION OF STATE AND TRIBAL REGULATORY BODIES.—

“(A) APPLICATION FOR DETERMINATION.—Any State agency that regulates gambling that would be classified as class III gaming under section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or a tribal regulatory body that regulates class III gaming, may—

“(i) notify the Secretary of its willingness to review prospective applicants to certify whether any such applicant meets the qualifications set forth by this sub-chapter; and

“(ii) provide the Secretary with such documentation as the Secretary determines necessary for the Secretary to determine whether such State or tribal regulatory body—

“(I) is qualified to conduct such review; and

“(II) may be relied upon by the Secretary to make any such certification.

“(B) DETERMINATION AND NOTICE.—Not later than 60 days after receiving a notice by a State agency or a tribal regulatory body under subparagraph (A) (i), the Secretary shall—

“(i) make a determination as to whether such State or tribal regulatory body—

“(I) is qualified to conduct a review of prospective applicants; and

“(II) may be relied upon to certify whether any such applicant meets the qualifications established under this subchapter; and

“(ii) notify such State or tribal regulatory body of such determination.

“(2) ACTIONS BY QUALIFIED AUTHORITIES.— During the period that any determination of qualification under paragraph (1) (B) is in effect with respect to any such State or tribal regulatory body, the State or tribal regulatory body—

“(A) may undertake reviews of any applicant to determine whether it meets the criteria for suitability for licensing established under this subchapter;

“(B) may impose on each such applicant an administrative fee or assessment for conducting such review in an amount the regulatory body determines to be necessary to meet its expenses in the conduct of such review; and

“(C) shall process and assess each applicant fairly and equally based on objective criteria, regardless of any prior licensing of an applicant by the State or tribal regulatory body.

“(3) RELIANCE ON STATE OR TRIBAL CERTIFICATION.—An applicant may provide a certification of suitability made by a State or tribal regulatory body under paragraph (2), together with all documentation the applicant has submitted to such State or tribal regulatory body, to the Secretary, and such certification and

documentation shall be relied on by the Secretary as evidence that the applicant has met the suitability requirements under this section.

“(4) AUTHORITY OF SECRETARY TO REVIEW.—Notwithstanding any certification of suitability made by a State or tribal regulatory body, the Secretary retains the authority to review, withhold, or revoke a license if the Secretary has reason to believe that an applicant or licensee does not meet the suitability requirements established under this section or any other requirement of a licensee.

“(5) RELIANCE ON QUALIFIED REGULATORY BODY FOR OTHER PURPOSES.—At the discretion of the Secretary, the Secretary may rely on a State and tribal regulatory body found qualified under this subsection for such other regulatory and enforcement activities as the Secretary finds to be useful and appropriate to carry out the purposes of this subchapter.

“(6) REVOCATION OF QUALIFICATION.—The Secretary may revoke, at any time and for any reason, the qualification of a State or tribal regulatory body to certify or to conduct any other regulatory or enforcement activity to carry out the purposes of this subchapter.

“(7) LIMITATION.—The Secretary may not rely upon a State or tribal regulatory body for purposes of this subchapter unless the Secretary determines that the regulations and procedures of such State or tribal regulatory body for the review of an applicant’s suitability for a license under this subchapter are no less stringent than the regulations and procedures established by the Secretary for such purpose.

“§ 5383. Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program

“(a) REGULATIONS REQUIRED.—The Secretary and any State or tribal regulatory body that has been qualified under section 5382(n) shall prescribe regulations for the development of a Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program on the basis of standards that each licensee shall implement as a condition of licensure.

“(b) MINIMUM REQUIREMENTS.—An application for a license shall include a submission to the Secretary, qualified State, or tribal regulatory body setting forth a comprehensive program that is reasonably calculated—

- “(1) to verify the identity and age of each customer;
- “(2) to ensure that no customers under the age of 21 may initiate or otherwise make any bets or wagers;
- “(3) to verify the State or tribal land in which the customer is located at the time the customer attempts to initiate a bet or wager;
- “(4) to ensure that no customer who is located in a State or tribal land that opts out pursuant to section 5385 can initiate or otherwise make a bet or wager prohibited by such opt-out;
- “(5) to ensure that responsible gaming materials are made available to customers upon request;
- “(6) to make available individualized responsible gaming options that any customer may choose, including stake limit, loss limit, deposit limit, and session time limit option, and other similar options that the Secretary or qualified State or tribal regulatory body may deem appropriate and require to be made available;
- “(7) to prevent persons on the list of self-excluded persons established pursuant to subsection (c) from initiating any bets or wagers;

“(8) to protect the privacy and security of any customer in connection with any lawful activity relating to the operation of an Internet game-of-skill facility; and

“(9) to protect against fraud and money laundering relating to the operation of an Internet game-of-skill facility.

“(c) LIST OF PERSONS SELF-EXCLUDED FROM GAMING ACTIVITIES.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Secretary shall provide by regulation for the establishment of a list of persons self-excluded from gaming activities at all licensee sites.

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

“(i) acknowledging in a manner to be established by the Secretary that the person wishes to be denied gaming privileges; and

“(ii) agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at any licensee sites.

“(2) PLACEMENT AND REMOVAL PROCEDURES.—The regulations of the Secretary under paragraph (1)(A) shall establish procedures for placements on, and removals from, the list of self-excluded persons.

“(3) LIMITATION ON LIABILITY.—

“(A) IN GENERAL.—The United States, the Secretary, an enforcement agent, and a licensee, and any employee or agent thereof, shall not be liable to any self-excluded person or to any other party in any judicial or administrative proceeding for any harm, monetary or otherwise, which may arise as a result of—

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

“(ii) otherwise permitting a self-excluded person to engage in gaming activity while on the list of self-excluded persons.

“(B) RULE OF CONSTRUCTION.—No provision of subparagraph (A) shall be construed as preventing the Secretary from assessing any regulatory sanction against a licensee for failing to comply with the minimum standards prescribed pursuant to this subsection.

“(4) DISCLOSURE PROVISIONS.—

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

“(B) AFFILIATE DISCLOSURE.—Any licensees may disclose the identities of persons on the self excluded list to any affiliated company or, where required to comply with this subsection, service provider, to the extent that the affiliated company or service provider maintains such information under confidentiality provisions comparable to those in this subsection.

“(5) LIMITATION ON LIABILITY FOR DISCLOSURE.—A licensee and an employee, agent, or affiliate of a licensee shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of disclosure or publication in any manner.

“(d) GAMING BY PROHIBITED PERSONS.—

“(1) PROHIBITION BENEFITTING FROM PROHIBITED GAMING ACTIVITY.—A person who is prohibited from gaming with a licensee by law, or by order of the Secretary or any

court of competent jurisdiction, including any person on the self-exclusion list in accordance with subsection (c), shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

“(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 made by a prohibited person shall be subject to forfeiture by order of the Secretary, 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 Treasury.

“(e) COMPULSIVE PLAYERS NOT ON THE LIST OF SELF-EXCLUDED PERSONS.—

“(1) PUBLIC AWARENESS PROGRAM.—

“(A) IN GENERAL.—The Secretary and any State or tribal regulatory body that has been qualified under section 5382(n) shall provide by regulation for the establishment of a program to alert the public to the existence, consequences, and availability of the self-exclusion list, and shall prepare and promulgate written materials to be used in such a program.

“(B) LICENSEE-PROVIDED PUBLICITY.—Regulations prescribed under subparagraph (A) may require a licensee to make available literature or screen displays relating to the existence of the program.

“(2) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as creating a legal duty in the Secretary, a qualified State or tribal regulatory body, a licensee, or any representative of a licensee to identify or to exclude compulsive players not on the list of self-excluded persons.

“(3) IMMUNITY.—The United States, the Secretary, a qualified State or tribal regulatory body, 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 gaming activities based on a claim that the person was a compulsive, problem, or pathological player.

“§ 5384. Financial transaction providers

“(a) IN GENERAL.—No financial transaction provider shall be held liable for engaging in financial activities or transactions, including payments processing activities, in connection with any bets or wagers permitted by this subchapter or the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.) unless such financial transaction provider has knowledge or reason to know that the specific financial activities or transactions are conducted in violation of this subchapter, the Interstate Horseracing Act, or other applicable provision of Federal or State law.

“(b) DEFINITIONS.—In this section:

“(1) FINANCIAL TRANSACTION PROVIDER.—The term ‘financial transaction provider’ means a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or international, national, regional, or local payment network utilized to effect a credit transaction, electronic fund transfer, stored value product transaction, or money transmitting service, or a participant in such network, or other participant in a payment system.

“(2) OTHER TERMS.—

“(A) CREDIT, CREDITOR, CREDIT CARD, AND CARD ISSUER.—The terms ‘credit’, ‘creditor’, ‘credit card’, and ‘card issuer’ have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

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

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

“(ii) includes any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

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

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

“(i) has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)); and

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

“(E) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms ‘money transmitting business’ and ‘money transmitting service’ have the meanings given the terms in section 5330(d) (determined without regard to any regulations prescribed by the Secretary under such section).

“§ 5385. Limitation on licenses in States and Indian lands

“(a) STATE OPT-OUT EXERCISE.—

“(1) **PROHIBITIONS** IMPOSED BY STATES.—

“(A) IN GENERAL.—No licensee may knowingly accept a bet or wager, under a license issued pursuant to this subchapter, initiated by a person who is located in any State which provides notice that **the laws of the State prohibit** such bets or wagers, if the Governor or other chief executive officer of such State informs the Secretary of such **prohibition** before the end of the 90-day period beginning on the date of the enactment of the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009, or in accordance with paragraph (2), until such time as notice of any repeal of such **prohibition** becomes effective under paragraph (2).

“(B) COORDINATION BETWEEN STATE AND TRIBAL OPT-OUT EXERCISES.—Any State **prohibition** under Subparagraph (A) shall not apply to the acceptance by a licensee of bets or wagers from persons located within the tribal lands of an Indian tribe that—

“(i) has itself not chosen to opt out pursuant to subsection (b); or

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

“(2) CHANGES TO STATE **PROHIBITIONS**.—The establishment or repeal by any State of any **prohibition** referred to in paragraph (1) after the end of the 90-day period beginning on the date of the enactment of this subchapter shall apply, for purposes of this subchapter, beginning on the first January 1 that occurs after the end of the 60-day period beginning on the later of—

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

“(B) the effective date of such establishment or repeal.

“(3) EXISTING STATE LAW.—No provision of State law enacted prior to the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009 shall be construed to authorize a State Governor or other chief executive officer of such State to provide notice pursuant to this subsection.

“(b) INDIAN TRIBE OPT-OUT EXERCISE.—

“(1) PROHIBITIONS IMPOSED BY INDIAN TRIBES.—No licensee may knowingly accept a bet or wager, under a license issued pursuant to this sub-chapter, that is initiated by a person who is located in the tribal lands of any Indian tribe which prohibits such bets or wagers if the principal chief or other chief executive officer of such Indian tribe informs the Secretary of such prohibition before the end of the 90-day period beginning on the date of the enactment of the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009, or in accordance with paragraph (2), until such time as notice of any repeal of such prohibition becomes effective under paragraph (2).

“(2) CHANGES TO INDIAN TRIBE PROHIBITIONS.—The establishment or repeal by any Indian tribal government of the prohibition referred to in paragraph (1) after the end of the 90-day period beginning on the date of the enactment of this subchapter shall apply, for purposes of this subchapter, beginning on the first January 1 that occurs after the end of the 60-day period beginning on the later of—

“(A) the date a notice of such establishment or repeal is provided by the principal chief or other chief executive officer of such Indian tribal government in writing to the Secretary; or

“(B) the effective date of such establishment or repeal.

“(3) EXISTING TRIBAL LAW.—No provision of tribal law enacted prior to the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009 shall be construed to authorize an Indian tribal government to provide notice pursuant to this subsection.

“(c) NOTIFICATION AND ENFORCEMENT OF STATE AND INDIAN TRIBE PROHIBITIONS.—

“(1) IN GENERAL.—The Secretary shall notify all licensees and applicants of all States and Indian tribes that have provided notice pursuant to paragraph (1) or (2) of subsection (a) or (b), as the case may be, promptly upon receipt of such notice and in no event later than 30 days before the effective date of such notice.

“(2) COMPLIANCE.—The Secretary shall take effective measures to ensure that any licensee under this subchapter, as a condition of the license, complies with any prohibition imposed by any State or Indian tribe to which the licensee is subject under subsection (a) or (b), as the case may be.

“(3) VIOLATIONS.—It shall be a violation of this subchapter for any licensee knowingly to accept a bet or wager initiated or otherwise made by a person located at the time of such bet or wager within any State or in the tribal lands of any Indian tribe for which a notice is in effect under subsection (a) or (b), as the case may be.

“(4) STATE ATTORNEY GENERAL ENFORCEMENT.—In any case in which the attorney general or other chief law enforcement officer of a State or any State or local law enforcement agency, authorized by the attorney general or other chief law enforcement officer 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 pursuant to paragraph (2), the State, or the State or local law enforcement agency, on behalf of the residents of the agency’s jurisdiction, 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 sub-chapter.

``(d) NO IMPACT ON INDIAN GAMING REGULATORY ACT.-No decision by a State pursuant to this section shall be considered in determining the ability of an Indian tribe to offer any class of gambling activity pursuant to section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) or any successor provisions.

``§ 5386. Prohibition on bets or wagers on games of chance and sporting events

``(a) IN GENERAL.-No provision of this subchapter shall be construed to authorize any licensee to accept a bet or wager knowingly from a person located in the United States on-

``(1) any game that is not an Internet game of skill; or

``(2) any sporting event in violation of section 3702 of title 28 or of any other applicable provision of State or Federal law.

``(b) CONSTRUCTION.-Nothing in this subchapter shall be construed to repeal or to amend any provision of State or Federal law prohibiting, restricting, or otherwise addressing bets or wagers on sporting events.

``§ 5387. Safe harbor

``It shall be an affirmative defense to any prosecution or enforcement action under any provision of Federal or State 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-

``(1) this subchapter; or

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

``§ 5388. Relation to section 1084 of title 18 and sub-chapter IV of this title

``Section 1084 of title 18 and subchapter IV of this chapter shall not apply to any bet or wager-

``(1) occurring pursuant to a license issued by the Secretary under this subchapter, subject to section 5386; or

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

``§ 5389. Cheating and other fraud

``(a) ELECTRONIC CHEATING DEVICES PROHIBITED.-No person initiating, receiving, or otherwise making a bet or wager with a licensee, or sending, receiving, or inviting information assisting with a bet or wager with a licensee shall knowingly use, or assist another in the use of, an electronic, electrical, or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage in any game authorized under this subchapter, where such advantage is prohibited or otherwise violates the rules of play established by the licensee.

``(b) ADDITIONAL OFFENSE.-No person initiating, receiving, or otherwise making a bet or wager with a licensee, or sending, receiving, or inviting information assisting

with a bet or wager with a licensee, shall knowingly use or possess any cheating device with intent to cheat or defraud any licensee or other persons placing bets or wagers with such licensee.

“(c) PERMANENT INJUNCTION.—Upon conviction of a person for violation of this section, the court may enter a permanent injunction enjoining such person from initiating, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.

“(d) CRIMINAL PENALTY.—Whoever violates subsection (a) or (b) shall be fined under title 18 or imprisoned for not more than 5 years, or both.

“§ 5390. Construction and relation to State law

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

“(1) IN GENERAL.—If certain games of skill are not regarded as gambling under an applicable provision of State or Federal law in effect as of the effective date of the enactment of the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009—

“(A) nothing in this subchapter shall be construed to require licensing under this sub-chapter 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 subchapter.

“(2) RELIANCE.—Nothing in this subchapter may be relied on as support for the legality or permissibility of games described in paragraph (1) without compliance with the licensing and other requirements of this subchapter.

“(b) PUBLIC GAMING FACILITIES NOT AUTHORIZED.—

“(1) IN GENERAL.—Nothing in this subchapter 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 for the primary purpose of allowing the public or members access to Internet bets or wagers.

“(2) ASSUMED PUBLIC GAMING FACILITIES.— Any place of public accommodation, club, or similar establishment in which large numbers of computer terminals or similar access devices are made available that are used principally for the purpose of Internet bets or wagers shall be considered a place of public accommodation, club, or similar establishment operated for the primary purpose of allowing the public or members access to Internet bets or wagers under subparagraph (A).

“(3) RELATION TO STATE LAW.—Places of public accommodation, clubs, or similar establishments described in this subsection shall be subject to all otherwise applicable State, tribal, and local police zoning and other regulatory powers, which are not intended to be limited in any way by this subchapter.

“(c) INTERSTATE OFF-TRACK WAGERS.—The provisions of this subchapter 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 acceptance of interstate off-track wagers (as such term is defined by section 3 of the Interstate Horseracing Act of 1978, as amended (15 U.S.C. 3002)), whether such off-track wager is made by telephone, Internet, satellite, or other wire or wireless communication.”.

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

``SUBCHAPTER V--REGULATION OF INTERNET GAME-OF-SKILL FACILITIES

``Sec.

``5381. Definitions.

``5382. Establishment and administration of licensing program.

``5383. Compulsive Gaming, Responsible Gaming, and Self-Exclusion Program.

``5384. Financial transaction providers.

``5385. Limitation on licenses in States and Indian lands.

``5386. Prohibition on bets or wagers on games of chance and sporting events.

``5387. Safe harbor.

``5388. Relation to section 1084 of title 18 and subchapter IV of this title.

``5389. Cheating and other fraud.

``5390. Construction and relation to State law.''.

Sec. 103. LIST OF UNLAWFUL INTERNET GAMBLING ENTERPRISES.

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

``§ 5368. List of unlawful Internet gambling enterprises

``(a) DEFINITIONS.--In this section:

``(1) UNLAWFUL INTERNET GAMBLING ENTERPRISE.--The term 'unlawful Internet gambling enterprise' means any person who, more than 10 days after the date of the enactment of this section--

``(A) violates a provision of section 5363;

``(B) knowingly receives or transmits funds intended primarily for a person described in subparagraph (A); or

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

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

``(b) LIST OF UNLAWFUL INTERNET GAMBLING ENTERPRISES.--

``(1) IN GENERAL.--Not later than 120 days after the date of the enactment of this section, the Director shall submit to the Secretary a list of unlawful Internet gambling enterprises and shall regularly update such list in accordance with the procedures described in paragraph (3). Such list shall include the following information for each such unlawful Internet gambling enterprise:

``(A) All known Internet website addresses of the enterprise.

``(B) The names of all known owners and operators of the enterprise.

``(C) To the extent known, information identifying the financial agents and account numbers of the enterprise and the persons listed under subparagraph (B).

``(2) DISTRIBUTION OF LIST BY SECRETARY.-- The Secretary shall make available--

``(A) a copy of the information provided under subparagraphs (A) and (B) of paragraph (1) on the Internet website of the Department of the Treasury;

``(B) to all persons who are required to comply with the regulations prescribed under the authority provided in section 5364 a copy of all the information provided under paragraph (1) in an electronic format compatible with the Specially Designated Nationals list maintained by the Office of Foreign Assets Control; and

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

(3) PROCEDURES.—The procedures described in this paragraph are the following:

(A) INVESTIGATION.—The Director shall investigate entities that appear to be unlawful Internet gambling enterprises. An initial investigation shall be completed before the end of the 60-day period beginning on the date of enactment of this section. After the initial investigation, the Director shall regularly investigate entities that appear to be unlawful Internet gambling enterprises. If the Director discovers evidence sufficient to prove a prima facie case that any person is an unlawful Internet gambling enterprise, the Director shall provide the notice required under subparagraph (C).

(B) REQUESTS.—Any Federal, State, tribal, or local law enforcement official, any affected sports organization, any person directly harmed by unlawful Internet gambling, any financial transaction provider, and any interactive computer service (as such terms are defined in section 5362) 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 unlawful Internet gambling enterprises. If the Director determines that the evidence submitted is sufficient to prove a prima facie case that such person is an unlawful Internet gambling enterprise, the Director shall provide the notice required under subparagraph (C) to each person identified as an alleged unlawful Internet gambling enterprise. The Director also shall provide written notice of its decision under this subparagraph, including a decision not to add a person to the list required under paragraph (1), to the requesting party no later than 30 days after the request is received. The Director shall not include on the list any person operating an Internet game-of-skill facility who falls within the scope of section 108(a) of the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009.

(C) NOTICE.—Not fewer than 30 days before adding an unlawful Internet gambling enterprise, or an owner or operator thereof, to the list required under paragraph (1), the Director shall provide written notice to such enterprise, owner, or operator. Any enterprise, owner, or operator receiving such notice may contest the Director’s determination by written appeal to the Director not more than 30 days after receiving notice.

(D) OPPORTUNITY FOR HEARING.—If a person properly submits a written appeal under subparagraph (C), the Director shall not include such person in the list required under paragraph (1) unless and until the Director provides such person with an opportunity for a hearing not more than 30 days after receiving written notice of appeal. Not more than 10 days after an opportunity for hearing is afforded, whether or not the person requesting the hearing appears at such hearing, the Director shall proceed to add such person to the list of unlawful Internet gambling enterprises unless the Director determines, based on a preponderance of the evidence, that such person is not an unlawful Internet gambling enterprise.

(E) INJUNCTIVE RELIEF.—Any person that the Director determines shall be included in the list required under paragraph (1) after such person appears at a hearing described in subparagraph (D) and any person included in such list who did not receive the notice required under subparagraph (C), may petition for injunctive relief in the United States District Court for the District of Columbia, which shall have exclusive jurisdiction to hear challenges pursuant to this section. The petitioner shall have the burden of establishing by a preponderance of the evidence that such person is not an unlawful Internet gambling enterprise. Only persons designated by the Director for inclusion on the list of unlawful Internet gambling enterprises, and other owners or operators of an enterprise to be so listed, shall have standing to contest the Director’s determination. The court may enjoin the Director and the Secretary not to add or remove the petitioner from the list of unlawful Internet gambling enterprises, and no other judicial recourse shall be permitted.

“(c) EFFECT OF LIST.—A financial transaction provider shall be deemed to have actual knowledge that a person is an unlawful Internet gambling enterprise to the extent that such person is identified on the list available to the public, or on a non-public list made available to such financial transaction provider, by the Secretary as described in subsection (b) (2), provided that the list shall not be deemed to be the sole source of actual knowledge.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 53 is amended by inserting after the item relating to section 5367 the following:

“5368. List of unlawful Internet gambling enterprises.”.

Sec. 104. REGULATIONS.

(a) LICENSING OF INTERNET GAME-OF-SKILL FACILITIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

- (1) prescribe regulations to carry out subchapter V of chapter 53 of title 31, United States Code, as added by section 102(a); and
- (2) publish such regulations in final form in the Federal Register.

(b) EXCLUSION OF BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FROM REQUIREMENT TO PRESCRIBE REGULATIONS CONCERNING PREVENTION OF RESTRICTED TRANSACTIONS.—Subsection (a) of section 5364 of such title is amended by striking “Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate)” and inserting “The Secretary shall prescribe regulations”.

(c) MODIFICATION OF REQUIREMENTS FOR POLICIES AND PROCEDURES.—Subsection (b) of such section is amended to read as follows:

- “(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations under subsection (a), the Secretary shall—
- “(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed, as applicable, to be reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of the products or services of the payment system or participant with respect to each type of restricted transaction;
 - “(2) permit any participant in a payment system to rely on the policies and procedures of such payment system if such policies and procedures are reasonably designed to identify and block or otherwise prevent or prohibit a transaction in which any participant in that payment system in such transaction has actual knowledge that the intended recipient is an unlawful Internet gambling enterprise;
 - “(3) exempt certain participants from any requirement imposed under such regulations if the Secretary finds that—
 - “(A) such requirement is not reasonably practical for such participants; and
 - “(B) such regulations are reasonably calculated to require at least 1 participant under the jurisdiction of the United States in each designated payment system to identify and block or otherwise prevent or prohibit the acceptance of the products or services of the payment system with respect to each type of restricted transaction; and

“(4) ensure that transactions in connection with any activity excluded from the definition of unlawful Internet gambling in subparagraphs (B), (C), (D)(i), or (E) of section 5362(10) or that are lawfully conducted pursuant to section 5382 are not blocked or otherwise prevented or prohibited by the prescribed regulations.”.

(d) TEMPORARY SUSPENSION OF CERTAIN REGULATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), during the period beginning on the date of the enactment of this Act and ending on June 1, 2010, part 233 of title 12, Code of Federal Regulations, and part 132 of title 31, Code of Federal Regulations, shall have no force or effect.

(2) PREVIOUS VIOLATION.—Paragraph (1) shall not apply with respect to any violation of a regulation described in such paragraph that occurred before the date of the enactment of this Act.

(e) REVISION OF REGULATIONS.—The Secretary of the Treasury shall, in consultation with the Attorney General, revise the regulations described in subsection (d)(1) in accordance with the amendments made to subchapter IV of chapter 53 of title 31, United States Code, by this Act.

Sec. 105. ANNUAL REPORT.

(a) IN GENERAL.—Not later than 1 year after the date on which the Secretary of the Treasury prescribes regulations under section 104(a) and annually thereafter, the Secretary shall submit to Congress a report on the licensing and regulation of Internet game-of-skill facilities (as such term is defined in section 5382 of title 31, United States Code, as added by section 102(a)).

(b) ELEMENTS.—Each report submitted under subsection

(a) shall include the following:

(1) A description of all notices received by the Secretary of the Treasury under subsections (a) and (b) of section 5385 of title 31, United States Code, as added by section 102(a).

(2) The amount of user fees received under section 5382(e) of such title (as added by section 102(a)), the amount of Federal, State, and tribal licensing fees collected, and an estimate of the amount of income tax revenue that is attributable to the operation of Internet game-of-skill facilities (as such term is defined in section 5381 of such title, as so added) during the period covered by the report.

(3) A list of the State and tribal regulatory bodies that the Secretary has made an affirmative determination under section 5382(n)(1)(B) of such title, as so added, the number of licensees reviewed by such regulatory bodies, and the outcomes of such reviews.

(4) A description of the efforts the Secretary has undertaken to ensure that licensees qualified by State and tribal regulatory bodies meet the requirements of subchapter V of chapter 53 of such title, as so added.

(5) Information on regulatory and enforcement actions undertaken during the period for which the report is submitted with respect to the provisions of such subchapter.

(6) Data regarding the list required by 5368(b)(1) of such title, as added by section 103(a), including its size, the number of persons and websites added and removed, number and description of challenges to inclusion on the list, and resolution of those challenges.

(7) Any other information the Secretary determines may be useful to Congress in evaluating the effectiveness of subchapter V of chapter 53 of such title, as added by section 102(a), in meeting its purpose, including the provision of protections against underage gambling, compulsive gambling, money laundering and fraud, and in combating tax avoidance relating to Internet gambling.

Sec. 106. CONFORMING AMENDMENTS.

(a) DUTIES AND POWERS OF THE DIRECTOR OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section 310(b)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively; and

(2) by inserting after subparagraph (H) the following:

“(i) Administer the requirements of subchapter V of chapter 53.”.

(b) EXCLUSION OF LICENSED INTERNET GAME-OF-SKILL FACILITY OPERATIONS FROM DEFINITION OF UNLAWFUL INTERNET GAMBLING.—Section 5362(10) of such title is amended—

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

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

“(E) LICENSED INTERNET GAME-OF-SKILL FACILITIES.—The term ‘unlawful Internet gambling’ shall not include an activity carried out by an Internet game-of-skill facility (as such term is defined in section 5382) operated by a person under a license provided under sub-chapter V in accordance with the provisions of such subchapter.”.

Sec. 107. EFFECTIVE DATE.

Subchapter V of chapter 53 of title 31, United States Code, and the regulations prescribed under section 104(a) shall take effect on the date that is 90 days after the date on which the Secretary of the Treasury publishes regulations under paragraph (2) of such section.

Sec. 108. APPLICABILITY.

(a) IN GENERAL.—Subsection (b)(1) of 5382 of title 31, United States Code, as added by section 102(a), shall not apply to a person who, not later than 90 days after enactment of this Act, notifies in writing the Secretary of the Treasury of their intent to seek a license under sub-chapter V of such chapter, as so added, and who not later than 90 days after the date on which the Secretary of the Treasury begins accepting applications for licenses under subchapter V of such chapter, as so added, submits to the Secretary of the Treasury an application for a license under such subchapter may operate an Internet game-of-skill facility in interstate or foreign commerce, in which bets or wagers are knowingly initiated, received, or otherwise made by individuals located in the United States, without a license issued to such person by the Secretary under such subchapter during the period beginning on the date of such submittal and ending on the earlier of—

(1) the date the Secretary grants such license;

(2) the date that is 2 years after the date of such submittal; or

(3) the date on which the Secretary denies such application.

(b) CONSTRUCTION.—Subsection (a) shall not be construed to modify, amend, or affect in any way any other provision of law with respect to unlawful Internet gambling (as such term is defined in section 5361 of such title).

(c) PREVIOUS OPERATION.—The Secretary of the Treasury may not deny an application for a license under subchapter V of such title, as so added, that is submitted by an applicant during the 90-day period beginning on the date that the Secretary begins accepting applications under such subchapter because the applicant operated an Internet game-of-skill facility, in interstate or foreign commerce, in which bets or wagers were knowingly initiated, received, or otherwise made by individuals located in the United States, without a license issued to such person by the Secretary under such subchapter.

(d) DEFINITIONS.—The terms ``bet or wager'' and ``operate an Internet game-of-skill facility'' have the meaning given such terms in section 5381 of such title, as added by section 102(a).

TITLE II—INTERNET GAMES OF SKILL TAX PROVISIONS

Sec. 201. AMENDMENT OF 1986 CODE.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal 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. 202. TAX ON INTERNET GAMES OF SKILL; LICENSEE INFORMATION REPORTING.

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

``Subchapter E—Internet Gambling and Games of Skill

``SEC. 4491. IMPOSITION OF INTERNET GAMING LICENSE FEE.

``(a) IMPOSITION OF FEE.—Each person who is a licensee shall be required to pay not later than 15 days after the end of each calendar month a fee equal to the sum of—

``(1) the Federal Internet gaming license fee; and

``(2) the State or Indian tribal government gaming license fee.

``(b) AMOUNT OF FEES.—For purposes of this section—

``(1) FEDERAL INTERNET GAMING LICENSE FEE.—The Federal Internet gaming license fee is a fee equal to 5 percent of a licensee's Internet gaming deposited funds for a calendar month, **but no more than \$500,00 on any individual deposit.**

``(2) STATE OR INDIAN TRIBAL GOVERNMENT GAMING LICENSE FEE.—The State or Indian tribal government gaming license fee is a fee equal to 5 percent of a licensee's Internet gaming deposited funds for a calendar month, **but no more than \$500,00 on any individual deposit.**

``(3) INTERNET GAMING DEPOSITED FUNDS.—The term 'Internet gaming deposited funds' means all funds deposited by persons located within the United States into any account maintained by the licensee or any agent of the licensee into which funds are deposited for the purpose of being used to place a bet or wager with respect to an Internet game of skill. Funds received from a customer by an operator of an Internet game-of-skill facility and made available in any form to a customer for the purpose

of placing a bet or wager, and funds paid to reimburse an operator of an Internet game-of-skill facility for value previously advanced to the customer for such purpose, shall be regarded as Internet gaming deposited funds unless the funds received or paid were already considered Internet gaming deposited funds prior to their transmittal to the operator of the Internet game-of-skill facility.

“(4) LIMITATION TO IMPOSITION OF ONE STATE OR INDIAN TRIBAL GAMING LICENSE FEE FOR ANY TRANSACTION.—In the case of a customer located within the jurisdiction of an Indian tribe at the time of a transaction, only one fee described in paragraph (2) shall be imposed on a licensee’s Internet gaming deposited funds in connection with that transaction, and no additional fee shall be collected on behalf of the State in which the customer is located. All of the fee described in paragraph (2) in such case shall be allocated to the Indian tribe in which the customer is located at the time of the transaction, and no portion of the fee shall be allocated to the State.

“(c) UNAUTHORIZED GAMING.—

“(1) PENALTY.—Each person who is not a licensee and who operates an Internet game-of-skill facility for which a license is required under section **5382(b)(1)** of title 31, United States Code, except as provided in section 108(a) shall be required to pay not later than the end of each calendar month a fee equal to the amount of the Federal Internet gaming license fee that would be applicable to such person for such month if such person were a licensee, determined by substituting ‘50 percent’ for ‘5 percent’ in subsection (b)(1).

“(2) EXCEPTION.—Paragraph (1) shall not apply to a game described in paragraph (3) of section 5382(b) of title 31, United States Code.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

“(1) IN GENERAL.—The terms ‘licensee’, ‘bet or wager’, ‘Internet game of skill’, and ‘Internet game-of-skill facility’ have the meaning given such terms by section 5381 of title 31, United States Code.

“(2) DEPOSITS.—Deposits made by or on behalf of a licensee of Internet gaming winnings, and returns of funds by or on behalf of a licensee to the account of a customer, shall not be treated as a deposit.

“(e) PERSONS LIABLE.—

“(1) IN GENERAL.—Each licensee or other person who operates an Internet game-of-skill facility for which a license is required under section 5382(b)(1) of title 31, United States Code, shall be liable for and shall pay the applicable fees under this section with respect to all Internet gaming deposited funds.

~~“(2) JOINT AND SEVERAL LIABILITY FOR UNAUTHORIZED GAMBLING.—In the case of any deposit with respect to which a fee is imposed under subsection (c), the person described in paragraph (1) of such subsection and the person making such deposit for the purposes of placing a bet or wager shall be jointly and severally liable for the fee under such subsection with respect to such deposit.~~

“(2) DIRECT AND EXCLUSIVE OBLIGATION OF LICENSEE.—The fees under this section shall be the direct and exclusive obligation of the licensee and may not be deducted from amounts available as deposits to any person placing a bet or wager.

“(f) ADMINISTRATIVE PROVISIONS.—Except to the extent the Secretary shall by regulations prescribe, the administrative provisions of this title applicable to the excise taxes imposed by chapter 35 shall apply to the fees imposed by this section.

“SEC. 4492. RECORD KEEPING REQUIREMENTS.

“(a) IN GENERAL.—Each licensee who is liable for the fees imposed by this subchapter shall keep a daily record showing all deposits to which this subchapter applies, in addition to all other records required pursuant to section 6001(a).

“(b) RECORDS WITH RESPECT TO STATE OR INDIAN TRIBAL GOVERNMENT GAMING LICENSE FEE.—Each licensee to which subsection (a) applies shall keep a record, using methods determined to be satisfactory by the Secretary or, in the case of a licensee who is certified by a State or tribal regulatory body under section 5382(o) of title 31, United States Code, by such State or tribal regulatory body, of the location of each person making a deposit to which this subchapter applies, for purposes of determining the State or Indian tribal government gaming license fee applicable to such deposit for purposes of section 9511.”.

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

“SEC. 6050X. RETURNS RELATING TO INTERNET GAMBLING; AND GAMES OF SKILL.

“(a) REQUIREMENT.—Every person described in section 4491(e)(1) with respect to any month during a taxable year shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b), and such person shall maintain (in the location and manner and to the extent prescribed in such regulations) such records as may be appropriate with respect to such information.

“(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

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

“(2) the name, address, and TIN of each person placing a bet or wager (within the meaning of section 4491) with the person described in subsection (a) during the calendar year;

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

“(4) the net Internet gaming winnings for each such person for the calendar year;

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

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

“(7) the amounts of all deposits and withdrawals from each such account during such calendar year.

“(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 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.

“(d) For purposes of this section, the following definitions shall apply-

“(1) ACCOUNT BALANCE- The term ‘account balance’ means any unused balance in the account of any customer of a licensee for the purpose of placing bets and wagers with an Internet game-of-skill facility (within the meaning of section 4491) for which a license is required under section 5382(b) (1) of title 31, United States Code.

“(2) TOTAL ACCOUNT BALANCE- The term ‘total account balance’ means the account balance of any customer of a licensee plus any amount currently in use by the customer for engaging in bets and wagers with the licensee.

“(3) GROSS WINNINGS- The term ‘gross winnings’ means any gain in the total account balance of any person at the end of a session by engaging in bets or wagers during the session.

“(4) GROSS WAGERS- The term ‘gross wagers’ means the amount of any customer’s account balance used to engage in bets or wagers during a session.

“(5) GROSS LOSSES- The term ‘gross losses’ means any loss in the total account balance of any person at the end of a session by engaging in bets or wagers during the session.

“(6) SESSION- The term ‘session’ means one calendar day starting at 0:00 Greenwich Mean Time and ending at 0:00 Greenwich Mean Time the next day.

“(7) NET INTERNET GAMING WINNINGS.- The term ‘net Internet gaming winnings’ means gross winnings reduced by gross losses.’’.

(c) STATE AND INDIAN TRIBAL GOVERNMENT GAMING LICENSE FEE TRUST FUND.—Subchapter A of chapter 98 is amended by adding at the end the following new section:

“SEC. 9511. STATE AND INDIAN TRIBAL GOVERNMENT GAMING LICENSE FEE TRUST FUND.

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘State and Indian Tribal Government Gaming License Fee Trust Fund’ (hereafter in this section referred to as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

“(b) TRANSFERS TO FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the fees received in the Treasury with respect to each calendar month under section 4491 by reason of subsection (a) (2) thereof.

“(c) EXPENDITURES FROM FUND.—

“(1) IN GENERAL.—The Secretary shall pay to each qualified State and each qualified Indian tribal government, out of the amounts in the Trust Fund, an amount equal to the monthly pro rata gaming license fee amount.

“(2) MONTHLY PRO RATA GAMING LICENSE FEE AMOUNT.—For purposes of this section, with respect to a qualified State and a qualified Indian tribal government for any calendar month, the monthly pro rata gaming license fee amount is the amount of the fees described in subsection (b) received with respect to such calendar month that are attributable to deposits made by persons located within the jurisdiction of such State or tribal government (determined by the Secretary on the basis of records kept under section 4492(b)).

“(3) QUALIFIED STATE; QUALIFIED INDIAN TRIBAL GOVERNMENT.—

“(A) IN GENERAL.—For purposes of this section, the terms ‘qualified State’ and ‘qualified Indian tribal government’ mean a State or an Indian tribal government, respectively, that has not elected (by notice provided by the Governor, principal chief, or other chief executive officer and in such form and manner as the Secretary may prescribe) to be excluded from the receipt of funds under this section.

“(B) STATE ELECTION NOT TO AFFECT TRIBAL ELECTION.—An election by a State under subparagraph (A) to be excluded from the receipt of funds under this section shall not constitute an election to be so excluded on behalf of any Indian tribe located within or partially within the geographic boundaries of such State.

“(C) APPLICABILITY OF ELECTION.—An election made under subparagraph (A) shall be effective—

“(i) upon receipt by the Secretary, if such election is received within 90 days of the date of the enactment of the Internet Poker and Games of Skill Regulation, Consumer Protection, and Enforcement Act of 2009; and

“(ii) in any other case, on the first January 1 that occurs at least 60 days after the later of—

“(I) the receipt of such election by the Secretary; or

“(II) the effective date specified in such election.

“(D) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, or any commonwealth, territory or other possession of the United States.

“(E) INDIAN TRIBAL GOVERNMENT.—The term ‘Indian tribal government’ means the government of an Indian tribe (within the meaning of section 4 of the Indian Gaming Regulatory Act).

“(4) TIME OF PAYMENTS.—The payment made under this subsection with respect to any calendar month shall be made not later than the 11th day of the succeeding calendar month.”.

(d) CLERICAL AMENDMENTS.—

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

“SUBCHAPTER E. INTERNET GAMBLING AND GAMES OF SKILL.”.

(2) 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 gambling; and games of skill.”.

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

“Sec. 9511. State and Indian Tribal Government Gaming License Fee Trust Fund.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

Sec. 203. WITHHOLDING FOR PARIMUTUEL POOL WINNINGS.

(a) WINNINGS SUBJECT TO WITHHOLDING.—Sub21 paragraph (C) of section 3402(q) (3) is amended to read as follows:

“(C) SWEEPSTAKES, WAGERING POOLS, AND LOTTERIES.—Proceeds of more than \$5,000 from a wager placed in a sweepstakes, wagering pool, or lottery.”.

(b) EXCEPTION FOR PARIMUTUEL POOLS.—Paragraph (5) of section 3402(q) is amended—

(1) by striking “shall not apply to” and all that follows, and inserting “shall not apply—

“(A) to winnings from a slot machine, keno, or bingo; and

“(B) to proceeds from a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai.”; and

(2) by inserting “AND CERTAIN PARIMUTUEL POOLS” after “SLOT MACHINES” in the heading.

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

Sec. 204. WITHHOLDING FROM CERTAIN GAMING WINNINGS.

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

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

(2) by striking the period at the end of subparagraph (F) and inserting “, or”; and

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

“(G) section 6050X(b)(4) (relating to net internet gaming winnings).”.

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

Sec. 205. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.

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

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

(2) by inserting “and” at the end of subparagraph (D); and

(3) by inserting after subparagraph (D) the following new subparagraph—

“(E) the net Internet gaming winnings (as defined in section 6050X(d)),”.

(b) EXEMPTION FOR CERTAIN GAMING WINNINGS.— The first sentence of section 871(j) is amended by inserting “, or to net Internet gaming winnings (as defined in section 6050X(d))” before the period.

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

(d) FOREIGN OFF-TRACK WAGERS.—Subsection (b)(5) of section 872 is amended by inserting “, including a legal wagering transaction placed over the Internet or other remote means from outside the United States. Any payment to any person with respect to income derived from a legal wagering transaction excluded by this subsection shall not be subject to any obligation under section 1441, 1442, 3402(q), or 6041” before the period.

(e) SOURCE OF INTERNET GAMBLING WINNINGS.— Subsection (a) of section 861 is amending by adding at the end the following new paragraph:

``(9) INTERNET GAMING WINNINGS.—Net Internet gaming winnings (as defined in section 6050X(d)).''.

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

Sec. 206. INFORMATION AT SOURCE; PARIMUTUEL WAGERS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

``(h) CERTAIN GAMBLING WINNINGS.—Subsection (a) shall apply to payments made as proceeds of a parimutuel wager only if the amount paid with respect to such wager is at least \$1,200, and if the amount of the proceeds of such wager is at least 300 times of the amount wagered.''.

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

Sec. 207. EXEMPTION FROM STATE AND INDIAN TRIBAL GOVERNMENT TAXATION.

(a) EXEMPTION FROM TAX ON INTERNET GAMES OF SKILL.—A State or political subdivision thereof, and an Indian tribe or political subdivision thereof, shall impose no tax on—

(1) deposits or bets or wagers placed with a licensee that is subject to the fees under section 4491 of the Internal Revenue Code of 1986; or

(2) income of a licensee relating to such deposits or bets or wagers, unless such licensee maintains a permanent physical presence in such State or within the area of the jurisdiction of such Indian tribe.

(b) EXEMPTION NOT TO APPLY TO STATES AND INDIAN TRIBES NOT RECEIVING TRUST FUND APPROPRIATIONS.—

(1) IN GENERAL.—Subsection(a) shall not apply to any State or Indian tribal government with respect to which an election is in effect under section 9511(c)(3) of the Internal Revenue Code of 1986 for such State or Indian tribal government to be excluded from the receipt of funds from the State and Indian Tribal Government Gaming License Fee Trust Fund.

(2) ACTIVITY NOT EXEMPT FROM TAXATION.— A State or Indian tribal government described in paragraph (1) may impose a tax on deposits or bets or wagers only if initiated or otherwise made by a person located within the jurisdiction of that State or Indian tribe at the time of the deposit, bet, or wager and placed with a licensee that is subject to the fees under section 4491 of the Internal Revenue Code of 1986, and on a licensee with respect to income relating to such deposits or bets or wagers in each case (with respect to taxes on deposits, bets, or wagers and income) only if such licensee maintains a permanent physical presence in such State or within the area of the jurisdiction of such Indian tribe.

(c) DEFINITIONS.—For purposes of this section—

(1) IN GENERAL.—The terms ``deposit'', ``bet or wager'', and ``licensee'' have the same meaning as when used in section 4491 of the Internal Revenue Code of 1986. The terms ``State'' and ``Indian tribal government'' have the same meaning as when used in section 9511 of such Code. The term ``State and Indian Tribal Government Gaming

License Fee Trust Fund'' means the Trust Fund established by section 9511(a) of such Code.

(2) TAX.—The term ``tax'' includes any tax, charge, or fee levied by a taxing jurisdiction, whether such tax, charge, or fee is imposed on a licensee or on a customer of a licensee, and without regard to the terminology used to describe such tax, charge, or fee.

(3) PERMANENT PHYSICAL PRESENCE.—

(A) IN GENERAL.—The term ``permanent physical presence'' means a substantial and continuous physical presence for the majority of the applicable taxable year. Such determination shall be made solely by reference to the assets of a licensee and the activities conducted by its employees or agents.

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

(d) EFFECTIVE DATE.—This section shall apply to taxes on deposits and bets or wagers after the date of the enactment of this Act.

Sec. 208. TERRITORIAL EXTENT OF WAGERING TAX.

(a) IN GENERAL.—Paragraph (2) of section 4404 is amended—

(1) by striking ``or'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ``, or''; and

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

``(C) with a person who is required to be licensed (whether or not such person is so licensed) under section 5382(b)(1) of title 31, United States Code, with respect to such wagers.''.

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

TITLE III—STUDY AND PREVENTION OF PROBLEM AND PATHOLOGICAL GAMBLING

Sec. 301. AUTHORIZATION OF PROGRAMS FOR IDENTIFICATION, PREVENTION, AND TREATMENT OF PROBLEM AND PATHOLOGICAL GAMBLING.

Section 501(d) of the Public Health Service Act (42 U.S.C. 290aa(d)) is amended—

(1) in paragraph (17), by striking ``and'' at the end;

(2) in paragraph (18), by striking the period at the end and inserting ``; and''; and

(3) by adding at the end the following:

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

Sec. 302. PUBLIC AWARENESS, RESEARCH, AND TREATMENT.

Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended by adding at the end the following:

“(p) PUBLIC AWARENESS.—

“(1) IN GENERAL.—The Secretary shall carry out a national campaign to increase knowledge and improve awareness with respect to problem gambling within the general public, including supporting and augmenting existing national campaigns.

“(2) AUTHORIZATION OF APPROPRIATIONS.— For the purpose of carrying out this subsection, there is authorized to be appropriated \$200,000 for each of fiscal years 2010 through 2014.

“(q) RESEARCH.—

“(1) IN GENERAL.—The President shall establish and implement a national program of research on problem and pathological gambling.

“(2) AUTHORIZATION OF APPROPRIATIONS.— For the purpose of carrying out this subsection, there is authorized to be appropriated \$4,000,000 for each of fiscal years 2010 through 2014.

“(r) TREATMENT.—

“(1) GRANTS.—The Secretary may make grants to States, local governments, and nonprofit agencies to provide comprehensive education, prevention, and treatment services with respect to problem and pathological gambling.

“(2) AUTHORIZATION OF APPROPRIATIONS.— For the purpose of carrying out this subsection, there is authorized to be appropriated \$10,000,000 for each of fiscal years 2010 through 2014.”.