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**AMENDMENT TO THE COMMITTEE PRINT OF THE
BUDGET RECONCILIATION LEGISLATIVE REC-
COMMENDATIONS OF THE COMMITTEE ON FI-
NANCIAL SERVICES
OFFERED BY MR. PERLMUTTER OF COLORADO**

Add at the end the following new subtitle (and con-
form the table of contents accordingly):

1 Subtitle E—Internet Gambling

2 SECTION 381. SHORT TITLE.

3 This subtitle may be cited as the “Internet Gambling
4 Regulation, Consumer Protection, and Enforcement Act”.

**5 SEC. 382. FEDERAL LICENSING REQUIREMENT FOR INTER-
6 NET GAMBLING OPERATORS.**

7 (a) IN GENERAL.—Chapter 53 of title 31, United
8 States Code, is amended by adding at the end the fol-
9 lowing new subchapter:

**10 “SUBCHAPTER V—REGULATION OF LAWFUL
11 INTERNET GAMBLING**

12 “§ 5381. Congressional findings

13 “The Congress finds the following:

14 “(1) Since the development of the Internet, mil-
15 lions of people have chosen to gamble online, and
16 today Internet gambling is offered by operators lo-

1 cated in many different countries under a variety of
2 licensing and regulatory regimes.

3 “(2) Despite the increasing use of the Internet
4 for gambling by persons in the United States, there
5 is no Federal or State regulatory regime in place to
6 protect United States citizens who choose to engage
7 in this interstate activity, or to oversee operators to
8 establish and enforce standards of integrity and fair-
9 ness.

10 “(3) In the United States, gambling activities,
11 equipment, and operations have been subject to var-
12 ious forms of Federal and State control, regulation,
13 and enforcement, with some form of gambling being
14 permitted in nearly every State and by many Indian
15 tribes.

16 “(4) Internet gambling in the United States
17 should be controlled by a strict Federal, State, and
18 tribal licensing and regulatory framework to protect
19 underage and otherwise vulnerable individuals, to
20 ensure the games are fair, to address the concerns
21 of law enforcement, and to enforce any limitations
22 on the activity established by the States and Indian
23 tribes.

24 “(5) An effective Federal, State, and tribal li-
25 censing system would ensure that licenses are issued

1 only to Internet gambling operators which meet
2 strict criteria to protect consumers, and which—

3 “(A) are in good financial and legal stand-
4 ing, and of good character, honesty, and integ-
5 rity;

6 “(B) utilize appropriate technology to de-
7 termine the age and location of users;

8 “(C) adopt and implement systems to pro-
9 tect minors and problem gamblers;

10 “(D) adopt and implement systems to en-
11 force any applicable Federal, State, and Indian
12 tribe limitations on Internet gambling; and

13 “(E) have in place risk-based methods to
14 identify and combat money laundering and
15 fraud relating to Internet gambling, and to pro-
16 tect the privacy and security of users.

17 “(6) There is a need to extend the regulatory
18 provisions of this Act to all persons, locations, equip-
19 ment, practices, and associations related to Internet
20 gambling, with each State and Indian tribe having
21 the ability to limit Internet gambling operators from
22 offering Internet gambling to persons located within
23 its territory by opting out of the provisions of this
24 subchapter.

1 **“§ 5382. Definitions**

2 “For purposes of this subchapter, the following defi-
3 nitions shall apply:

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

7 “(2) BET OR WAGER.—The term ‘bet or wager’
8 has the same meaning as in section 5362(1).

9 “(3) ENFORCEMENT AGENT.—The term ‘en-
10 forcement agent’ means any individual authorized by
11 the Secretary to enforce the provisions of this sub-
12 chapter and regulations prescribed under this sub-
13 chapter.

14 “(4) INDIAN LANDS AND INDIAN TRIBE.—The
15 terms ‘Indian lands’ and ‘Indian tribe’ have the
16 same meanings as in section 4 of the Indian Gaming
17 Regulatory Act.

18 “(5) INTERNET.—The term ‘Internet’ has the
19 same meaning as in section 5362(5).

20 “(6) LICENSEE.—The term ‘licensee’ means an
21 entity authorized to operate an Internet gambling
22 facility in accordance with this subchapter.

23 “(7) OPERATE AN INTERNET GAMBLING FACIL-
24 ITY.—The term ‘operate an Internet gambling facil-
25 ity’ or ‘operation of an Internet gambling facility’
26 means the direction, management, supervision, or

1 control of an Internet site through which bets or wa-
2 gers are initiated, received, or otherwise made,
3 whether by telephone, Internet, satellite, or other
4 wire or wireless communication.

5 “(8) SECRETARY.—The term ‘Secretary’ means
6 the Secretary of the Treasury, or any person des-
7 ignated by the Secretary.

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

12 “(10) SPORTING EVENT.—The term ‘sporting
13 event’ means any athletic competition, whether pro-
14 fessional, scholastic, or amateur.

15 **“§ 5383. Establishment and administration of licens-**
16 **ing program**

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

19 “(1) Exercising full regulatory jurisdiction
20 over—

21 “(A) the operation of Internet gambling fa-
22 cilities by licensees; and

23 “(B) the licensure and regulation of all ap-
24 plicants, except to the extent that powers have

1 been delegated to qualified State and tribal reg-
2 ulatory bodies pursuant to this subchapter.

3 “(2) Prescribing such regulations as may be
4 necessary to administer and enforce the require-
5 ments of this subchapter.

6 “(3) Employing enforcement agents with suffi-
7 cient training and experience to administer the re-
8 quirements of this subchapter and the regulations
9 prescribed under this subchapter.

10 “(4) Enforcing the requirements of this sub-
11 chapter through all appropriate means provided
12 under this subchapter and other provisions of law.

13 “(b) INTERNET GAMBLING LICENSING PROGRAM.—

14 “(1) LICENSING REQUIRED FOR CERTAIN
15 INTERNET GAMBLING.—No person may operate an
16 Internet gambling facility that knowingly accepts
17 bets or wagers from persons located in the United
18 States without a license issued by the Secretary in
19 accordance with this subchapter.

20 “(2) AUTHORITY UNDER VALID LICENSE.—A li-
21 censee may accept bets or wagers from persons lo-
22 cated in the United States, subject to the limitations
23 set forth in this subchapter, so long as its license re-
24 mains in good standing.

25 “(c) APPLICATION FOR LICENSE.—

1 “(1) IN GENERAL.—Any person seeking author-
2 ity to operate an Internet gambling facility offering
3 services to persons in the United States may apply
4 for a license issued by the Secretary.

5 “(2) INFORMATION REQUIRED.—Any applica-
6 tion for a license under this subchapter shall contain
7 such information as may be required by the Sec-
8 retary, including the following:

9 “(A) The criminal and credit history of the
10 applicant, any senior executive and director of
11 the applicant, and any person deemed to be in
12 control of the applicant.

13 “(B) The financial statements of the appli-
14 cant.

15 “(C) Documentation showing the corporate
16 structure of the applicant and all related busi-
17 nesses and affiliates.

18 “(D) Documentation containing detailed
19 evidence of the applicant’s plan for complying
20 with all applicable regulations should a license
21 be issued, with particular emphasis on the ap-
22 plicant’s ability to—

23 “(i) protect underage and problem
24 gamblers;

1 “(ii) ensure games are being operated
2 fairly; and

3 “(iii) comply with and address the
4 concerns of law enforcement.

5 “(E) Certification that the applicant
6 agrees to submit to United States jurisdiction
7 and all applicable United States laws relating to
8 acceptance by the applicant of bets or wagers
9 over the Internet from persons located in the
10 United States and all associated activities.

11 “(F) Certification that the applicant has
12 established a corporate entity or other separate
13 business entity in the United States, a majority
14 of whose officers are United States persons
15 and, if there is a board of directors, that the
16 board is majority-controlled by directors who
17 are United States persons.

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

21 “(1) SUITABILITY FOR LICENSING STAND-
22 ARDS.—

23 “(A) IN GENERAL.—No person shall be eli-
24 gible to obtain a license unless the Secretary or
25 an appropriate State officer or agency has de-

1 terminated, upon completion of a background
2 check and investigation, that the applicant, and
3 any person deemed to be in control of the appli-
4 cant, is suitable for licensing.

5 “(B) ASSOCIATES OF APPLICANTS.—If the
6 applicant is a corporation, partnership, or other
7 business entity, a background check and inves-
8 tigation shall occur with respect to the presi-
9 dent or other chief executive of the corporation,
10 partnership, or other business entity and other
11 partners or senior executives and directors of
12 the corporation, partnership, or entity, as deter-
13 mined appropriate by the Secretary or any ap-
14 propriate State or tribal officer or agency.

15 “(C) BACKGROUND CHECK AND INVES-
16 TIGATION.—The Secretary shall establish
17 standards and procedures for conducting back-
18 ground checks and investigations for purposes
19 of this subsection.

20 “(2) SUITABILITY FOR LICENSING STANDARDS
21 DESCRIBED.—For purposes of this subchapter, an
22 applicant and any other person associated with the
23 applicant, as applicable, is suitable for licensing if
24 the applicant demonstrates to the Secretary or ap-
25 propriate State or tribal officer or agency by clear

1 and convincing evidence that the applicant (or indi-
2 vidual associated with the applicant, as applicable)—

3 “(A) is a person of good character, hon-
4 esty, and integrity;

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

7 “(i) pose a threat to the public inter-
8 est or to the effective regulation and con-
9 trol of the licensed activities; or

10 “(ii) create or enhance the dangers of
11 unsuitable, unfair, or illegal practices,
12 methods, and activities in the conduct of
13 the licensed activities or the carrying on of
14 the business and financial arrangements
15 incidental to such activities;

16 “(C) is capable of and likely to conduct the
17 activities for which the applicant is licensed in
18 accordance with the provisions of this sub-
19 chapter and any regulations prescribed under
20 this subchapter;

21 “(D) has or guarantees acquisition of ade-
22 quate business competence and experience in
23 the operation of Internet gambling facilities;
24 and

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

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

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

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

14 “(C) has been convicted of an offense pun-
15 ishable by imprisonment of more than 1 year;

16 “(D) is delinquent in filing any applicable
17 Federal or State tax returns or in the payment
18 of any taxes, penalties, additions to tax, or in-
19 terest owed to a State or the United States;

20 “(E) has, on or after the date of the enact-
21 ment of the Unlawful Internet Gambling En-
22 forcement Act of 2006—

23 “(i) knowingly participated in, or
24 should have known they were participating
25 in, any illegal Internet gambling activity,

1 including the taking of an illegal Internet
2 wager, the payment of winnings on an ille-
3 gal Internet wager, the promotion through
4 advertising of any illegal Internet gambling
5 website or service, or the collection of any
6 payments to an entity operating an illegal
7 Internet gambling website; or

8 “(ii) knowingly been owned, operated,
9 managed, or employed by, or should have
10 known they were owned, operated, man-
11 aged, or employed by, any person who was
12 knowingly participating in, or should have
13 known they were participating in, any ille-
14 gal Internet gambling activity, including
15 the taking of an illegal Internet wager, the
16 payment of winnings on an illegal Internet
17 wager, the promotion through advertising
18 of any illegal Internet gambling website or
19 service, or the collection of any payments
20 to an entity operating an illegal Internet
21 gambling website;

22 “(F) has—

23 “(i) received any assistance, financial
24 or otherwise, from any person who has, be-
25 fore the date of the enactment of the

1 Internet Gambling Regulation, Consumer
2 Protection, and Enforcement Act, know-
3 ingly accepted bets or wagers from a per-
4 son located in the United States in viola-
5 tion of Federal or State law; or

6 “(ii) provided any assistance, financial
7 or otherwise, to any person who has, before
8 the date of the enactment of the Internet
9 Gambling Regulation, Consumer Protec-
10 tion, and Enforcement Act, knowingly ac-
11 cepted bets or wagers from a person lo-
12 cated in the United States in violation of
13 Federal or State law;

14 “(G) with respect to another entity that
15 has accepted a bet or wager from any individual
16 in violation of United States law, has purchased
17 or otherwise obtained—

18 “(i) such entity;

19 “(ii) a list of the customers of such
20 entity; or

21 “(iii) any other part of the equipment
22 or operations of such entity;

23 “(H) is listed on a State gambling ex-
24 cluded persons list; or

1 “(I) fails to certify in writing, under pen-
2 alty of perjury, that the applicant or other such
3 person, and all affiliated business entities (in-
4 cluding all entities under common control), has
5 through its entire history—

6 “(i) not committed an intentional fel-
7 ony violation of Federal or State gambling
8 laws; and

9 “(ii) used diligence to prevent any
10 United States person from placing a bet on
11 an Internet site in violation of Federal or
12 State gambling laws.

13 “(4) APPEAL OF DETERMINATION.—With re-
14 spect to any applicant or other person that the Sec-
15 retary determines is not suitable for licensing within
16 the meaning of this subchapter by reason of sub-
17 paragraph (E) or (F) of paragraph (3), and where
18 the Secretary has not determined that such appli-
19 cant or person was acting in their capacity as a
20 managerial employee of an Internet gambling
21 website, the Secretary shall establish an appeals
22 process by which such applicant or person may ap-
23 peal the Secretary’s determination.

24 “(5) ONGOING REQUIREMENT.—A licensee (and
25 any other person who is required to be determined

1 to be suitable for licensing in connection with such
2 licensee) shall meet the standards necessary to be
3 suitable for licensing throughout the term of the li-
4 cense.

5 “(6) PROTECTION OF THE PUBLIC TRUST.—

6 The Secretary may take such action as is necessary
7 to protect the public trust, including the implemen-
8 tation of such safeguards as may be necessary to en-
9 sure the operation of an Internet gambling facility
10 licensed under this subchapter is controlled only by
11 persons who are suitable for licensing.

12 “(7) ENFORCEMENT ACTIONS.—

13 “(A) DETERMINATION OF UNSUITABILITY
14 FOR CONTINUED LICENSURE.—If the Secretary
15 finds that an individual owner or holder of a se-
16 curity of a licensee, or of a holding or inter-
17 mediary company of a licensee or any person
18 with an economic interest in a licensee or a di-
19 rector, partner, or officer of a licensee is not
20 suitable for licensing, the Secretary may deter-
21 mine that the licensee is not qualified to con-
22 tinue as a licensee.

23 “(B) ACTION TO PROTECT THE PUBLIC IN-
24 TEREST, INCLUDING SUSPENSION.—If the Sec-
25 retary may determine that the licensee is not

1 qualified to continue as a licensee, the Secretary
2 shall propose action necessary to protect the
3 public interest, including, if deemed necessary,
4 the suspension of the authority of the licensee
5 to engage in licensed activities.

6 “(C) IMPOSITION OF CONDITIONS INCLUD-
7 ING REMOVAL OF PARTIES.—Notwithstanding a
8 determination under subparagraph (A), the
9 Secretary may allow a licensee to continue en-
10 gaging in licensed activities by imposing condi-
11 tions on the licensee under penalty of revocation
12 or suspension of the authority of the licensee to
13 engage in licensed activities, including—

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

17 “(ii) the establishment of appropriate
18 safeguards to ensure such person is ex-
19 cluded from any interest in the licensed ac-
20 tivities.

21 “(e) ASSESSMENTS FOR ADMINISTRATIVE EX-
22 PENSES.—

23 “(1) USER FEES.—

24 “(A) IN GENERAL.—The cost of admin-
25 istering this subchapter with respect to each li-

1 censee, including the cost of any review or ex-
2 amination of a licensee to ensure compliance
3 with the terms of the license and this sub-
4 chapter, shall be assessed by the Secretary
5 against the licensee institution by written notice
6 in an amount appropriate to meet the Sec-
7 retary's expenses in carrying out such adminis-
8 tration, review, or examination.

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

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

15 “(ii) be available to the Secretary to
16 cover all expenses incurred by the Sec-
17 retary in carrying out this subchapter; and

18 “(iii) not be construed to be Govern-
19 ment funds or appropriated monies, or
20 subject to apportionment for the purposes
21 of chapter 15 or any other authority.

22 “(C) HEARING.—Any licensee against
23 whom an assessment is assessed under this
24 paragraph shall be afforded an agency hearing
25 if such person submits a request for such hear-

1 ing within 20 days after the issuance of the no-
2 tice of assessment.

3 “(D) COLLECTION.—

4 “(i) REFERRAL.—If any licensee fails
5 to pay an assessment under this paragraph
6 after the assessment has become final, the
7 Secretary shall recover the amount as-
8 sessed by action in the appropriate United
9 States district court.

10 “(ii) APPROPRIATENESS OF ASSESS-
11 MENT NOT REVIEWABLE.—In any civil ac-
12 tion under clause (i), the validity and ap-
13 propriateness of the assessment shall not
14 be subject to review.

15 “(2) DIRECT AND EXCLUSIVE OBLIGATION OF
16 LICENSEE.—The user fee shall be the direct and ex-
17 clusive obligation of the licensee and may not be de-
18 ducted from amounts available as deposits to any
19 person placing a bet.

20 “(f) APPROVAL OF LICENSE.—The Secretary shall
21 grant licenses under this subchapter if the applicant meets
22 the criteria set by the Secretary set forth in this sub-
23 chapter and in any regulations promulgated thereunder.

24 “(g) SAFEGUARDS REQUIRED OF LICENSEE.—No
25 person may operate an Internet gambling facility in ac-

1 cordance with this subchapter unless the person maintains
2 or requires mechanisms so that the following require-
3 ments, and the standards established under section 5384,
4 are met with respect to any Internet bet or wager:

5 “(1) LEGAL AGE.—Appropriate safeguards to
6 ensure that the individual placing a bet or wager is
7 of legal age as defined by the law of the State or
8 tribal area in which the individual is located at the
9 time the bet or wager is placed.

10 “(2) PERMISSIBLE LOCATION.—Appropriate
11 safeguards to ensure that the individual placing a
12 bet or wager is physically located in a jurisdiction
13 that permits Internet gambling at the time the bet
14 or wager is placed.

15 “(3) COLLECTION OF CUSTOMER TAXES.—Ap-
16 propriate mechanisms to ensure that all taxes relat-
17 ing to Internet gambling from persons engaged in
18 Internet gambling are collected at the time of any
19 payment of any proceeds of Internet gambling.

20 “(4) COLLECTION OF TAXES OF LICENSEE.—
21 Appropriate mechanisms to ensure that all taxes re-
22 lating to Internet gambling from any licensee are
23 collected and disbursed as required by law, and that
24 adequate records to enable later audit or verification
25 are maintained.

1 “(5) SAFEGUARDS AGAINST FINANCIAL
2 CRIME.—Appropriate safeguards to combat fraud,
3 money laundering, and terrorist finance.

4 “(6) SAFEGUARDS AGAINST COMPULSIVE GAM-
5 BLING.—Appropriate safeguards to combat compul-
6 sive Internet gambling.

7 “(7) PRIVACY SAFEGUARDS.—Appropriate safe-
8 guards to protect the privacy and security of any
9 person engaged in Internet gambling.

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

13 “(9) OTHER REQUIREMENTS.—Such other re-
14 quirements as the Secretary may establish by regula-
15 tion or order.

16 “(h) TERM AND RENEWAL OF LICENSE.—

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

20 “(2) RENEWAL.—Licenses may be renewed in
21 accordance with the requirements prescribed by the
22 Secretary pursuant to this subchapter.

23 “(i) REVOCATION OF LICENSE.—

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

4 “(A) the licensee fails to comply with any
5 provision of this subchapter;

6 “(B) the licensee is determined to be un-
7 suitable for licensing, within the meaning of
8 this subchapter; or

9 “(C) the licensee is determined to be tar-
10 geting marketing or advertising materials at in-
11 dividuals who are not of legal age to place a bet
12 or wager, as defined by the law of the State or
13 tribal area in which the individuals are located.

14 “(2) FINAL ACTION.—Any revocation of a li-
15 cense under paragraph (1) shall be treated as a final
16 action by the Secretary.

17 “(j) REGULATIONS.—The regulations prescribed by
18 the Secretary under this subchapter shall include regula-
19 tions to fully implement—

20 “(1) safeguards required for licensees under
21 subsection (g); and

22 “(2) the requirements for programs relating to
23 the Problem Gambling, Responsible Gambling, and
24 Self-Exclusion Program under section 5384.

25 “(k) ADMINISTRATIVE PROVISIONS.—

1 “(1) GENERAL POWERS OF SECRETARY.—

2 “(A) IN GENERAL.—The Secretary shall
3 have the authority to engage in the following:

4 “(i) Investigate the suitability of each
5 licensee to ensure compliance with this
6 subchapter and regulations prescribed
7 under this subchapter.

8 “(ii) Require licensees to maintain ap-
9 propriate procedures to ensure compliance
10 with this subchapter and regulations pre-
11 scribed under this subchapter.

12 “(iii) Require licensees to maintain
13 substantial facilities involved with the proc-
14 essing of bets or wagers from the United
15 States within the United States.

16 “(iv) Require that a majority of all of
17 the employees of the applicant or licensee,
18 and of its affiliated business entities, be
19 residents or citizens of the United States.
20 All entities under common control shall be
21 considered affiliated business entities for
22 the purposes of this subparagraph.

23 “(v) Require licensees to maintain in
24 the United States all facilities that are es-
25 sential to the regulation of bets or wagers

1 placed from the United States at a location
2 that is accessible to the appropriate regu-
3 latory personnel at all times.

4 “(vi) Examine any licensee and any
5 books, papers, records, or other data of li-
6 censees relevant to any recordkeeping or
7 reporting requirements imposed by the
8 Secretary under this subchapter.

9 “(vii) Require licensees to maintain all
10 facilities within the United States for proc-
11 essing of bets or wagers made or placed
12 from the United States.

13 “(viii) When determined by the Sec-
14 retary to be necessary, summon a licensee
15 or an applicant for a license, an officer or
16 employee of a licensee or any such appli-
17 cant (including a former officer or em-
18 ployee), or any person having possession,
19 custody, or care of the reports and records
20 required by the Secretary under this sub-
21 chapter, to appear before the Secretary or
22 a designee of the Secretary at a time and
23 place named in the summons and to
24 produce such books, papers, records, or
25 other data, and to give testimony, under

1 oath, as may be relevant or material to any
2 investigation in connection with the en-
3 forcement of this subchapter or any appli-
4 cation for a license under this subchapter.

5 “(ix) Investigate any violation of this
6 subchapter and any regulation under this
7 subchapter and any other violation of law
8 relating to the operation of an Internet
9 gambling facility.

10 “(x) Conduct continuing reviews of
11 applicants and licensees and the operation
12 of Internet gambling facilities by use of
13 technological means, onsite observation of
14 facilities, including servers, or other rea-
15 sonable means to assure compliance with
16 this subchapter and any regulations pro-
17 mulgated hereunder.

18 “(xi) Prohibit inappropriate adver-
19 tising practices by licensees, including un-
20 solicited emails targeting members of vul-
21 nerable populations, including problem
22 gamblers and minors, or Internet adver-
23 tising linked to search terms associated
24 with children, problem gamblers, or other
25 topics deemed inappropriate.

1 “(B) EFFECT OF WTO RULING.—Clauses
2 (iii) and (iv) of subparagraph (A) shall cease to
3 have effect if a tribunal of the World Trade Or-
4 ganization of final arbitration rules that the im-
5 plementation of such clauses would violate the
6 trade commitments of the United States under
7 the World Trade Organization.

8 “(2) CONSULTATION WITH INDIAN TRIBES.—In
9 implementing this subchapter, the Secretary shall
10 conduct meaningful consultation with Indian tribes
11 regarding all aspects of this subchapter which affect
12 Indian tribes, both as potential licensing entities or
13 operating entities.

14 “(3) ADMINISTRATIVE ASPECTS OF SUM-
15 MONS.—

16 “(A) PRODUCTION AT DESIGNATED
17 SITE.—A summons issued pursuant to this sub-
18 section may require that books, papers, records,
19 or other data stored or maintained at any place
20 be produced at any business location of a li-
21 censee or applicant for a license or any des-
22 ignated location in any State or in any territory
23 or other place subject to the jurisdiction of the
24 United States not more than 500 miles distant
25 from any place where the licensee or applicant

1 for a license operates or conducts business in
2 the United States.

3 “(B) NO LIABILITY FOR EXPENSES.—The
4 United States shall not be liable for any ex-
5 pense incurred in connection with the produc-
6 tion of books, papers, records, or other data
7 under this subsection.

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

13 “(4) CONTUMACY OR REFUSAL.—

14 “(A) REFERRAL TO ATTORNEY GEN-
15 ERAL.—In case of contumacy by a person
16 issued a summons under this subsection or a
17 refusal by such person to obey such summons
18 or to allow the Secretary to conduct an exam-
19 ination, the Secretary shall refer the matter to
20 the Secretary of the Treasury for referral to the
21 Attorney General.

22 “(B) JURISDICTION OF COURT.—The At-
23 torney General may invoke the aid of any court
24 of the United States to compel compliance with
25 the summons within the jurisdiction of which—

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

4 “(ii) the person summoned is an in-
5 habitant; or

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

8 “(C) COURT ORDER.—The court may issue
9 an order requiring the person summoned to ap-
10 pear before the Secretary or a delegate of the
11 Secretary to produce books, papers, records,
12 and other data, to give testimony as may be
13 necessary to explain how such material was
14 compiled and maintained, to allow the Secretary
15 to examine the business of a licensee, and to
16 pay the costs of the proceeding.

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

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

24 “(5) COMPILATION OF DATASETS ON PLAYER
25 BEHAVIOR.—

1 “(A) IN GENERAL.—The Secretary shall
2 compile and make available to the public, on the
3 website of the Secretary, datasets on player be-
4 havior.

5 “(B) REGULATIONS REQUIRING SUBMIS-
6 SION OF INFORMATION.—The Secretary shall
7 prescribe regulations to require licensees under
8 this subchapter to provide information on play-
9 er behavior that the Secretary determines is ap-
10 propriate for the datasets under subparagraph
11 (A).

12 “(C) INFORMATION REQUIRED TO BE IN-
13 CLUDED.—Datasets prepared under this para-
14 graph shall include information on any indi-
15 vidual player, if requested by the Secretary, in-
16 cluding but not limited to information con-
17 cerning gambling frequency, gaming duration,
18 the amount wagered, the number of bets placed,
19 and net losses, provided that such request com-
20 plies with the provisions of subparagraph (D).

21 “(D) PROTECTION OF PRIVACY.—All infor-
22 mation provided pursuant to this paragraph
23 shall be aggregated and anonymized, and shall
24 not contain information that either alone or in

1 combination with other data elements would
2 permit identification of any individual player.

3 “(1) CIVIL MONEY PENALTIES.—

4 “(1) IN GENERAL.—The Secretary may assess
5 upon any licensee or other person subject to the re-
6 quirements of this subchapter for any willful viola-
7 tion of this subchapter or any regulation prescribed
8 or order issued under this subchapter, a civil penalty
9 of not more than the greater of—

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

12 “(B) \$25,000.

13 “(2) ASSESSMENT.—

14 “(A) WRITTEN NOTICE.—Any penalty im-
15 posed under paragraph (1) may be assessed and
16 collected by the Secretary by written notice.

17 “(B) FINALITY OF ASSESSMENT.—If, with
18 respect to any assessment under paragraph (1),
19 a hearing is not requested pursuant to subpara-
20 graph (E) within the period of time allowed
21 under such subparagraph, the assessment shall
22 constitute a final and unappealable order.

23 “(C) AUTHORITY TO MODIFY OR REMIT
24 PENALTY.—The Secretary may compromise,
25 modify, or remit any penalty which the Sec-

1 retary may assess or has already assessed
2 under paragraph (1).

3 “(D) MITIGATING FACTORS.—In deter-
4 mining the amount of any penalty imposed
5 under paragraph (1), the Secretary shall take
6 into account the appropriateness of the penalty
7 with respect to—

8 “(i) the size of the financial resources
9 and the good faith of the person against
10 whom the penalty is assessed;

11 “(ii) the gravity of the violation;

12 “(iii) the history of previous viola-
13 tions; and

14 “(iv) such other matters as justice
15 may require.

16 “(E) HEARING.—The person against
17 whom any penalty is assessed under paragraph
18 (1) shall be afforded an agency hearing if such
19 person submits a request for such hearing with-
20 in 20 days after the issuance of the notice of
21 assessment.

22 “(F) COLLECTION.—

23 “(i) REFERRAL.—If any person fails
24 to pay an assessment after any penalty as-
25 sessed under this paragraph has become

1 final, the Secretary shall recover the
2 amount assessed by action in the appro-
3 priate United States district court.

4 “(ii) APPROPRIATENESS OF PENALTY
5 NOT REVIEWABLE.—In any civil action
6 under clause (i), the validity and appro-
7 priateness of the penalty shall not be sub-
8 ject to review.

9 “(G) DISBURSEMENT.—All penalties col-
10 lected under authority of this subsection shall
11 be deposited into the Treasury.

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

16 “(m) TREATMENT OF RECORDS.—In light of busi-
17 ness competition, confidentiality, and privacy concerns,
18 the Secretary shall protect from disclosure information
19 submitted in support of a license application under this
20 subchapter and information collected in the course of reg-
21 ulating licensees to the full extent permitted by sections
22 552 and 552a of title 5.

23 “(n) SUITABILITY FOR LICENSING REQUIREMENTS
24 FOR CERTAIN SERVICE PROVIDERS.—

1 “(1) IN GENERAL.—Any person that know-
2 ingly—

3 “(A) manages, administers, or controls
4 bets or wagers that are initiated, received, or
5 otherwise made within the United States,

6 “(B) otherwise manages or administers the
7 games with which such bets or wagers are asso-
8 ciated, or

9 “(C) develops, maintains or operates, or
10 distributes or makes available for downloading
11 software, other system programs or hardware
12 that create, operate, or otherwise affect the out-
13 come of a game,

14 shall meet all of the suitability for licensing criteria
15 established under this section in the same manner
16 and to the same extent as if that person were itself
17 a licensee.

18 “(2) SUITABILITY FOR LICENSING REQUIRE-
19 MENTS FOR CERTAIN SERVICE PROVIDERS.—Any
20 failure on the part of person described in any sub-
21 paragraph of paragraph (1) to remain suitable for li-
22 censing shall be grounds for revocation of the au-
23 thority of the licensee for whom such service is pro-
24 vided to operate an Internet gambling facility, in the
25 same manner and in accordance with subsection (i).

1 “(o) RELIANCE ON STATE AND TRIBAL REGULATORY
2 BODY CERTIFICATIONS OF SUITABILITY FOR APPLI-
3 CANTS.—

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

6 “(A) APPLICATION FOR DETERMINA-
7 TION.—Any State or tribal regulatory body with
8 expertise in regulating gambling may—

9 “(i) notify the Secretary of its willing-
10 ness to review prospective applicants to
11 certify whether any such applicant meets
12 the qualifications established under this
13 subchapter; and

14 “(ii) provide the Secretary with such
15 documentation as the Secretary determines
16 necessary for the Secretary to determine
17 whether such State or tribal regulatory
18 body is qualified to conduct such review
19 and may be relied upon by the Secretary to
20 make any such certification.

21 “(B) DETERMINATION AND NOTICE.—
22 Within 60 days after receiving any notice under
23 subparagraph(A)(i), the Secretary shall—

24 “(i) make the determination as to
25 whether a State or tribal regulatory body

1 is qualified to conduct a review of prospec-
2 tive applicants and may be relied upon to
3 certify whether any such applicant meets
4 the qualifications established under this
5 subchapter; and

6 “(ii) notify the State or tribal regu-
7 latory body of such determination.

8 “(2) ACTIONS BY QUALIFIED AUTHORITIES.—
9 During the period that any determination of quali-
10 fication under paragraph (1)(B) is in effect with re-
11 spect to any such State or tribal regulatory body,
12 the State or tribal regulatory body—

13 “(A) may undertake reviews of any appli-
14 cant to determine whether the applicant or any
15 person associated with the applicant meets the
16 criteria for suitability for licensing established
17 under this subchapter;

18 “(B) may impose on each such applicant
19 an administrative fee or assessment for con-
20 ducting such review in an amount the regu-
21 latory body determines to be necessary to meet
22 its expenses in the conduct of such review; and

23 “(C) shall process and assess each appli-
24 cant fairly and equally based on objective cri-

1 teria, regardless of any prior licensing of an ap-
2 plicant by the State or tribal regulatory body.

3 “(3) RELIANCE ON STATE OR TRIBAL CERTIFI-
4 CATION.—Any applicant may provide a certification
5 of suitability for licensing made by any State or trib-
6 al regulatory body under paragraph (2), together
7 with all documentation the applicant has submitted
8 to any such State or tribal regulatory body, to the
9 Secretary, and any such certification and docu-
10 mentation shall be relied on by the Secretary as evi-
11 dence that an applicant has met the suitability for
12 licensing requirements under this section.

13 “(4) AUTHORITY OF SECRETARY TO REVIEW.—
14 Notwithstanding any certification of suitability for
15 licensing made by any State or tribal regulatory
16 body, the Secretary retains the authority to review,
17 withhold, or revoke any license if the Secretary has
18 reason to believe that any applicant or licensee does
19 not meet the suitability requirements for licensing
20 established under this section, or any other require-
21 ment of a licensee.

22 “(5) RELIANCE ON QUALIFIED REGULATORY
23 BODY FOR OTHER PURPOSES, INCLUDING EXAMINA-
24 TION AND ENFORCEMENT.—The Secretary shall rely
25 on any State and tribal regulatory body found quali-

1 fied under this subsection for such other regulatory
2 and enforcement activities as the Secretary finds to
3 be useful and appropriate to carry out the purposes
4 of this subchapter, including authority under para-
5 graph (6).

6 “(6) ADDITIONAL AUTHORITY OF QUALIFIED
7 STATE OR TRIBAL AUTHORITIES.—The qualified
8 state or tribal authorities may—

9 “(A) examine licensees who are licensed
10 under a State or tribal program referred to in
11 paragraph (1);

12 “(B) employ enforcement agents with suf-
13 ficient training and experience to administer the
14 requirements of this subchapter; and

15 “(C) enforce any requirement of this sub-
16 chapter that is within the jurisdiction of the
17 qualified state or tribal authority through all
18 appropriate means provided under this sub-
19 chapter and other provisions of law.

20 “(7) REVOCATION OF QUALIFICATION.—The
21 Secretary may revoke, at any time and for any rea-
22 son, the qualification of any State or tribal regu-
23 latory body to certify or to conduct any other regu-
24 latory or enforcement activity to carry out the pur-
25 poses of this subchapter.

1 “(p) PREVENTION OF MINORS FROM PLACING BETS
2 OR WAGERS.—The Secretary shall—

3 “(1) frequently monitor, evaluate, and measure
4 compliance effectiveness of each licensee’s software,
5 mechanisms, and other systems for preventing mi-
6 nors from placing bets or wagers through the Inter-
7 net site of the licensee; and

8 “(2) impose a sanction of either a fine, a rev-
9 ocation of license, or both, on a licensee whose minor
10 protection software, mechanisms, and other systems
11 are found to be insufficiently effective.

12 “(q) REQUIREMENTS WITH RESPECT TO CHILD SUP-
13 PORT DELINQUENTS.—

14 “(1) IN GENERAL.—When it is made known to
15 the Secretary by a Federal or State court or a com-
16 petent State agency involved with the administration
17 or enforcement of a court-ordered child support pay-
18 ment that a particular individual is delinquent with
19 respect to court-ordered child support payments, the
20 Secretary shall include that individual on the list es-
21 tablished under section 5384(c)(1)(A).

22 “(2) REMOVAL FROM LIST.—Individuals placed
23 on the list pursuant to paragraph (1) shall be re-
24 moved from such list if the court or agency that
25 made such individual’s delinquency known to the

1 Secretary notifies the Secretary that such individual
2 is no longer delinquent.

3 **“§ 5384. Problem Gambling, Responsible Gambling,**
4 **Consumer Safeguards, and Self-Exclusion**
5 **Program**

6 “(a) REGULATIONS REQUIRED.—The Secretary and
7 any State or tribal regulatory body that has been qualified
8 under subsection 5383(o) shall prescribe regulations for
9 the development of a Problem Gambling, Responsible
10 Gambling, Consumer Safeguards, and Self-Exclusion Pro-
11 gram on the basis of standards that each licensee shall
12 implement as a condition of licensure.

13 “(b) MINIMUM REQUIREMENTS.—

14 “(1) IN GENERAL.—Any application for a li-
15 cense shall include a submission to the Secretary or
16 qualified State or tribal regulatory body setting forth
17 a comprehensive program that is intended—

18 “(A) to verify the identity and age of each
19 customer through the use of commercially avail-
20 able data sources or any approved government
21 database that is available for access in real-time
22 through an automated process;

23 “(B) to ensure that no customers under
24 the legal age 21 may initiate or otherwise make
25 any bets or wagers for real money;

1 “(C) to verify the State or tribal land in
2 which the customer is located at the time the
3 customer attempts to initiate a bet or wager;

4 “(D) to ensure that no customer who is lo-
5 cated in a State or tribal land that opts out
6 pursuant to section 5387 can initiate or other-
7 wise make a bet or wager prohibited by such
8 opt-out;

9 “(E) to ensure that responsible gambling
10 materials including materials on problem gam-
11 bling, services and resources to address problem
12 gambling, descriptions of games offered by the
13 licensee, and when appropriate, odds of winning
14 or payout rates of games, and any other mate-
15 rials that the Secretary or qualified State or
16 tribal regulatory body may deem appropriate
17 are made available to customers;

18 “(F) to make available player-selectable re-
19 sponsible gambling options that may include, as
20 appropriate to specific gambling games, a stake
21 limit, loss limit, time-based loss limits, deposit
22 limit, session time limit, time-based exclusion
23 from all gambling and other similar options
24 that the Secretary or qualified State or tribal

1 regulatory body may deem appropriate and re-
2 quire to be made available;

3 “(G) to require each customer, before mak-
4 ing or placing any bet or wager, to establish
5 personal limits as a condition of play that apply
6 across all betting sites, which may be in hourly,
7 daily, weekly or monthly increments, at the dis-
8 cretion of the customer;

9 “(H) to protect the privacy and security of
10 any customer in connection with any lawful
11 Internet gambling activity;

12 “(I) to protect against fraud and to pro-
13 vide for dispute resolution relating to internet
14 gambling activity through programs to insure
15 the integrity and fairness of the games; and

16 “(J) to protect against money laundering
17 relating to Internet gambling activities.

18 “(2) REQUIREMENTS FOR PROGRAMS ENSURING
19 INTEGRITY AND FAIRNESS.—The programs referred
20 to in paragraph (1)(I) to insure the integrity and
21 fairness of the games shall include requirements
22 for—

23 “(A) real-time, multiparty cryptographic
24 protocols for random number generation where
25 1 of the parties is the player;

1 “(B) secure audit trails;

2 “(C) detailed player betting logs that
3 record and store each wager placed by the play-
4 er;

5 “(D) real time confirmation of high value
6 bets or wagers, where appropriate; or

7 “(E) equally effective options that the Sec-
8 retary or qualified State or tribal regulatory of-
9 ficer or agency may determine to be appro-
10 priate.

11 “(c) PERIODIC REVIEW.—

12 “(1) IN GENERAL.—The Secretary shall, on a
13 regular basis, review the minimum requirements
14 under this section and may, based on the best avail-
15 able technology, update the standards that each li-
16 censee shall implement as a condition of licensure.

17 “(2) CONSULTATION.—In conducting the review
18 required under paragraph (1), the Secretary shall
19 consult with—

20 “(A) State and tribal gaming regulatory
21 officials;

22 “(B) law enforcement officials;

23 “(C) experts in underage and problem
24 gaming;

25 “(D) experts on individual privacy;

1 “(E) consumers;

2 “(F) on-line retailers of other age re-
3 stricted materials such as tobacco and alcohol
4 products;

5 “(G) licensees and other representatives of
6 the gaming industry;

7 “(H) software developers with expertise in
8 gaming, privacy, the payments systems avail-
9 able, and other relevant areas; and

10 “(I) such other relevant individuals as the
11 Secretary may determine to be appropriate.

12 “(d) LIST OF PERSONS SELF-EXCLUDED FROM GAM-
13 BLING ACTIVITIES.—

14 “(1) ESTABLISHMENT.—

15 “(A) IN GENERAL.—The Secretary shall
16 provide by regulation for the establishment of a
17 list of persons self-excluded from gambling ac-
18 tivities at all licensee sites.

19 “(B) PLACEMENT REQUEST.—Any person
20 may request placement on the list of self-ex-
21 cluded persons by—

22 “(i) acknowledging in a manner to be
23 established by the Secretary that the per-
24 son wishes to be denied gambling privi-
25 leges; and

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

6 “(2) PLACEMENT AND REMOVAL PROCE-
7 DURES.—The regulations prescribed by the Sec-
8 retary under paragraph (1)(A) shall establish proce-
9 dures for placements on, and removals from, the list
10 of self-excluded persons.

11 “(3) LIMITATION ON LIABILITY.—

12 “(A) IN GENERAL.—The United States,
13 the Secretary, an enforcement agent, or a li-
14 censee, or any employee or agent of the United
15 States, the Secretary, an enforcement agent, or
16 a licensee, shall not be liable to any self-ex-
17 cluded person or to any other party in any judi-
18 cial or administrative proceeding for any harm,
19 monetary or otherwise, which may arise as a re-
20 sult of—

21 “(i) any failure to withhold gambling
22 privileges from, or to restore gambling
23 privileges to, a self-excluded person; or

24 “(ii) otherwise permitting a self-ex-
25 cluded person to engage in gambling activ-

1 ity while on the list of self-excluded per-
2 sons.

3 “(B) RULE OF CONSTRUCTION.—No provi-
4 sion of subparagraph (A) shall be construed as
5 preventing the Director from assessing any reg-
6 ulatory sanction against a licensee for failing to
7 comply with the minimum standards prescribed
8 pursuant to this subsection.

9 “(4) DISCLOSURE PROVISIONS.—

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

14 “(B) AFFILIATE DISCLOSURE.—Any li-
15 censees may disclose the identities of persons on
16 the self-excluded list to any affiliated company
17 or, where required to comply with this sub-
18 section, any service provider, to the extent that
19 the licensee ensures that any affiliated company
20 or service provider maintains such information
21 under confidentiality provisions comparable to
22 those in this subsection.

23 “(5) LIMITATION ON LIABILITY FOR DISCLO-
24 SURE.—A licensee or an employee, agent, or affiliate
25 of a licensee shall not be liable to any self-excluded

1 person or to any other party in any judicial pro-
2 ceeding for any harm, monetary or otherwise, which
3 may arise as a result of disclosure or publication in
4 any manner.

5 “(e) GAMBLING BY PROHIBITED PERSONS.—

6 “(1) PROHIBITION BENEFITTING FROM PRO-
7 HIBITED GAMBLING ACTIVITY.—A person who is
8 prohibited from gambling with a licensee by law, or
9 by order of the Secretary or any court of competent
10 jurisdiction, including any person on the self-exclu-
11 sion list as established in accordance with subsection
12 (d), shall not collect, in any manner or proceeding,
13 any winnings or recover any losses arising as a re-
14 sult of any prohibited gambling activity.

15 “(2) FORFEITURE.—In addition to any other
16 penalty provided by law, any money or thing of value
17 that has been obtained by, or is owed to, any prohib-
18 ited person by a licensee as a result of bets or wa-
19 gers made by a prohibited person shall be subject to
20 forfeiture by order of the Secretary, following notice
21 to the prohibited person and opportunity to be
22 heard.

23 “(3) DEPOSIT OF FORFEITED FUNDS.—Any
24 funds forfeited pursuant to this subsection shall be
25 deposited into the general fund of the Treasury.

1 “(4) PERSONS SELF-EXCLUDED.—Licensees
2 may not accept bets or wagers from persons on the
3 list established pursuant to subsection (d)(1)(A).

4 “(f) PROBLEM OR COMPULSIVE GAMBLERS NOT ON
5 THE LIST OF SELF-EXCLUDED PERSONS.—

6 “(1) PUBLIC AWARENESS PROGRAM.—

7 “(A) IN GENERAL.—The Secretary and
8 any State or tribal regulatory body that has
9 been qualified under subsection 5383(o) shall
10 provide by regulation for the establishment of a
11 program to alert the public to the existence,
12 consequences, and availability of the self-exclu-
13 sion list, and shall prepare and promulgate
14 written materials to be used in such a program.

15 “(B) LICENSEE-PROVIDED PUBLICITY.—
16 Regulations prescribed under subparagraph (A)
17 may require a licensee to make available lit-
18 erature or screen displays relating to the exist-
19 ence of the program.

20 “(2) RULE OF CONSTRUCTION.—No provision
21 of this subsection shall be construed as creating a
22 legal duty in the Secretary, a qualified State or trib-
23 al regulatory body, a licensee, or any representative
24 of a licensee to identify or to exclude problem or

1 compulsive gamblers not on the list of self-excluded
2 persons.

3 “(3) IMMUNITY.—The United States, the Sec-
4 retary, a qualified State or tribal regulatory body, a
5 licensee, and any employee or agent of a licensee,
6 shall not be liable to any person in any proceeding
7 for losses or other damages of any kind arising out
8 of that person’s gambling activities based on a claim
9 that the person was a compulsive, problem, or patho-
10 logical gambler.

11 **“§ 5385. Financial transaction providers**

12 “(a) IN GENERAL.—No financial transaction pro-
13 vider shall be held liable for engaging in financial activities
14 and transactions for or on behalf of a licensee or involving
15 a licensee, including payments processing activities, unless
16 such provider has knowledge that the specific financial ac-
17 tivities or transactions are conducted in violation of this
18 subchapter and with applicable Federal and State laws.

19 “(b) DEFINITIONS.—For purposes of this section, the
20 following definitions shall apply:

21 “(1) FINANCIAL TRANSACTION PROVIDER.—
22 The term ‘financial transaction provider’ means a
23 creditor, credit card issuer, financial institution, op-
24 erator of a terminal at which an electronic fund
25 transfer may be initiated, money transmitting busi-

1 ness, or international, national, regional, or local
2 payment network utilized to effect a credit trans-
3 action, electronic fund transfer, stored value product
4 transaction, or money transmitting service, or a par-
5 ticipant in such network, or other participant in a
6 payment system.

7 “(2) OTHER TERMS.—

8 “(A) CREDIT, CREDITOR, CREDIT CARD,
9 AND CARD ISSUER.—The terms ‘credit’, ‘cred-
10 itor’, ‘credit card’, and ‘card issuer’ have the
11 meanings given the terms in section 103 of the
12 Truth in Lending Act.

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

15 “(i) has the meaning given the term
16 in section 903 of the Electronic Fund
17 Transfer Act, except that the term includes
18 transfers that would otherwise be excluded
19 under section 903(6)(E) of such Act; and

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

23 “(C) FINANCIAL INSTITUTION.—The term
24 ‘financial institution’ has the meaning given the
25 term in section 903 of the Electronic Fund

1 Transfer Act, except that such term does not
2 include a casino, sports book, or other business
3 at or through which bets or wagers may be
4 placed or received.

5 “(D) INSURED DEPOSITORY INSTITU-
6 TION.—The term ‘insured depository institu-
7 tion’—

8 “(i) has the meaning given the term
9 in section 3(e) of the Federal Deposit In-
10 surance Act; and

11 “(ii) includes an insured credit union
12 (as defined in section 101 of the Federal
13 Credit Union Act).

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

21 **“§ 5386. List of unlawful Internet gambling enter-**
22 **prises**

23 “(a) DEFINITIONS.—For purposes of this section, the
24 following definitions shall apply:

1 “(1) UNLAWFUL INTERNET GAMBLING ENTER-
2 PRISE.—The term ‘unlawful Internet gambling en-
3 terprise’ means any person who, more than 10 days
4 after the date of the enactment of this section—

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

6 “(B) knowingly receives or transmits funds
7 intended primarily for a person described in
8 subparagraph (A); or

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

11 “(2) DIRECTOR.—The term ‘Director’ means
12 the Director of the Financial Crimes Enforcement
13 Network.

14 “(b) LIST OF UNLAWFUL INTERNET GAMBLING EN-
15 TERPRISES.—

16 “(1) IN GENERAL.—Not later than 120 days
17 after the date of the enactment of this section, the
18 Director shall submit to the Secretary a list of un-
19 lawful Internet gambling enterprises and shall regu-
20 larly update such list in accordance with the proce-
21 dures described in paragraph (3).

22 “(2) CONTENTS OF LIST.—The list prepared
23 under paragraph (1) shall include the following in-
24 formation for each such unlawful Internet gambling
25 enterprise:

1 “(A) All known Internet website addresses
2 of the enterprise.

3 “(B) The names of all known owners and
4 operators of the enterprise.

5 “(C) To the extent known, information
6 identifying the financial agents and account
7 numbers of the enterprise and the persons list-
8 ed under subparagraph (B).

9 “(3) DISTRIBUTION OF LIST BY SECRETARY.—
10 The Secretary shall make available—

11 “(A) a copy of the information provided
12 under subparagraphs (A) and (B) of paragraph
13 (2) on the Internet website of the Secretary of
14 the Treasury;

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

22 “(C) any information required under this
23 paragraph not later than 10 days after receiv-
24 ing any new or updated list from the Director.

1 “(4) PROCEDURES.—The procedures described
2 in this paragraph are the following:

3 “(A) INVESTIGATION.—The Director shall
4 investigate entities that appear to be unlawful
5 Internet gambling enterprises. An initial inves-
6 tigation shall be completed before the end of the
7 60-day period beginning on the date of enact-
8 ment of this section. After the initial investiga-
9 tion, the Director shall regularly investigate en-
10 tities that appear to be unlawful Internet gam-
11 bling enterprises. If the Director discovers evi-
12 dence sufficient to prove a prima facie case that
13 any person is an unlawful Internet gambling
14 enterprise, the Director shall provide the notice
15 required under subparagraph (C).

16 “(B) REQUESTS.—Any Federal, State,
17 tribal, or local law enforcement official, any af-
18 fected sports organization, any person directly
19 harmed by unlawful Internet gambling, any fi-
20 nancial transaction provider, and any inter-
21 active computer service (as such terms are de-
22 fined in section 5362) shall have the right, but
23 not the obligation, to make a written request to
24 the Director for the addition of any person to
25 the list of unlawful Internet gambling enter-

1 prises. If the Director determines that the evi-
2 dence submitted is sufficient to prove a prima
3 facie case that such person is an unlawful
4 Internet gambling enterprise, the Director shall
5 provide the notice required under subparagraph
6 (C) to each person identified as an alleged un-
7 lawful Internet gambling enterprise. The Direc-
8 tor also shall provide written notice of its deci-
9 sion under this subparagraph, including a deci-
10 sion not to add a person to the list required
11 under paragraph (1), to the requesting party no
12 later than 30 days after the request is received.

13 “(C) NOTICE.—Not fewer than 30 days
14 before adding an unlawful Internet gambling
15 enterprise, or an owner or operator thereof, to
16 the list required under paragraph (1), the Di-
17 rector shall provide written notice to such en-
18 terprise, owner, or operator. Any enterprise,
19 owner, or operator receiving such notice may
20 contest the Director’s determination by written
21 appeal to the Director not more than 30 days
22 after receiving notice.

23 “(D) OPPORTUNITY FOR HEARING.—If a
24 person properly submits a written appeal under
25 subparagraph (C), the Director shall not in-

1 clude such person in the list required under
2 paragraph (1) unless and until the Director
3 provides such person with an opportunity for a
4 hearing not more than 30 days after receiving
5 written notice of appeal. Not more than 10 days
6 after an opportunity for hearing is afforded,
7 whether or not the person requesting the hear-
8 ing appears at such hearing, the Director shall
9 proceed to add such person to the list of unlaw-
10 ful Internet gambling enterprises unless the Di-
11 rector determines, based on a preponderance of
12 the evidence, that such person is not an unlaw-
13 ful Internet gambling enterprise.

14 “(E) INJUNCTIVE RELIEF.—Any person
15 that the Director determines shall be included
16 in the list required under paragraph (1) after
17 such person appears at a hearing described in
18 subparagraph (D) and any person included in
19 such list who did not receive the notice required
20 under subparagraph (C), may petition for in-
21 junctive relief in the United States District
22 Court for the District of Columbia, which shall
23 have exclusive jurisdiction to hear challenges
24 pursuant to this section. The petitioner shall
25 have the burden of establishing by a preponder-

1 ance of the evidence that such person is not an
2 unlawful Internet gambling enterprise. Only
3 persons designated by the Director for inclusion
4 on the list of unlawful Internet gambling enter-
5 prises, and other owners or operators of an en-
6 terprise to be so listed, shall have standing to
7 contest the Director's determination. The court
8 may enjoin the Director and the Secretary not
9 to add or remove the petitioner from the list of
10 unlawful Internet gambling enterprises, and no
11 other judicial recourse shall be permitted.

12 “(c) EFFECT OF LIST.—A financial transaction pro-
13 vider shall be deemed to have actual knowledge that a per-
14 son is an unlawful Internet gambling enterprise to the ex-
15 tent that such person is identified on the list available to
16 the public, or on a non-public list made available to such
17 financial transaction provider, by the Secretary as de-
18 scribed in subsection (b)(2), provided that the list shall
19 not be deemed to be the sole source of actual knowledge.

20 **“§ 5387. Limitation of licenses in States and Indian**
21 **lands**

22 “(a) STATE OPT-OUT EXERCISE.—

23 “(1) LIMITATIONS IMPOSED BY STATES.—

24 “(A) IN GENERAL.—No licensee may en-
25 gage, under any license issued under this sub-

1 chapter, in the operation of an Internet gam-
2 bling facility that knowingly accepts bets or wa-
3 gers initiated by persons who reside in any
4 State which provides notice that it will limit
5 such bets or wagers, if the Governor or other
6 chief executive officer of such State informs the
7 Director of such limitation, in a manner which
8 clearly identifies the nature and extent of such
9 limitation, before the end of the period begin-
10 ning on the date of the enactment of the Inter-
11 net Gambling Regulation, Consumer Protection,
12 and Enforcement Act and ending on the date
13 on which such State's legislature has conducted
14 one full general legislative session, where such
15 session began after the date of the enactment
16 of such Act, or in accordance with paragraph
17 (2), until such time as any notice of any
18 amendment or repeal of such specific limitation
19 becomes effective under paragraph (2).

20 “(B) COORDINATION BETWEEN STATE AND
21 TRIBAL OPT-OUT EXERCISES.—Any State limi-
22 tation under subparagraph (A) shall not apply
23 to the acceptance by a licensee of bets or wa-
24 gers from persons located within the tribal
25 lands of an Indian tribe that—

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

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

9 “(C) COORDINATION WITH INDIAN GAMING
10 REGULATORY ACT.—No decision by a State
11 under this subsection shall be considered in
12 making any determination with regard to the
13 ability of an Indian tribe to offer any class of
14 gambling activity pursuant to section 11 of the
15 Indian Gaming Regulatory Act.

16 “(D) TRIBAL STATUS OR CATEGORY NOT
17 IMPACTED.—Tribal operations of Internet gam-
18 bling facilities under this subchapter shall not
19 impact an Indian tribe’s status or category or
20 class under its land-based activities.

21 “(E) NEW NEGOTIATIONS NOT RE-
22 QUIRED.—Operating under a license issued pur-
23 suant to this subchapter shall not require, or
24 impose any requirement on, an Indian tribe to
25 negotiate a new agreement, or renegotiate any

1 existing agreement, limitation or other provision
2 of a tribal-State compact, agreement, or other
3 understanding with respect to gaming or rev-
4 enue-sharing, with regard to any Internet bet or
5 wager occurring pursuant to a license issued by
6 the Secretary under this subchapter.

7 “(2) CHANGES TO STATE LIMITATIONS.—The
8 establishment, repeal, or amendment by any State of
9 any limitation referred to in paragraph (1) after the
10 end of the period referred to in paragraph (1) shall
11 apply, for purposes of this subchapter, beginning on
12 the first January 1 that occurs after the end of the
13 60-day period beginning on the later of—

14 “(A) the date a notice of such establish-
15 ment, repeal, or amendment is provided by the
16 Governor or other chief executive officer of such
17 State in writing to the Secretary; or

18 “(B) the effective date of such establish-
19 ment, repeal, or amendment.

20 “(b) INDIAN TRIBE OPT-OUT EXERCISE.—

21 “(1) LIMITATIONS IMPOSED BY INDIAN
22 TRIBES.—No Internet gambling licensee knowingly
23 may accept a bet or wager from a person located in
24 the tribal lands of any Indian tribe which limits such
25 gambling activities or other contests if the principal

1 chief or other chief executive officer of such Indian
2 tribe informs the Secretary of such limitation, in a
3 manner which clearly identifies the nature and ex-
4 tent of such limitation, before the end of the 90-day
5 period beginning on the date of the enactment of the
6 Internet Gambling Regulation, Consumer Protection,
7 and Enforcement Act, or in accordance with para-
8 graph (2), until such time as any notice of any
9 amendment or repeal of such specific limitation be-
10 comes effective under paragraph (2).

11 “(2) CHANGES TO INDIAN TRIBE LIMITA-
12 TIONS.—The establishment, repeal, or amendment
13 by any Indian tribe of any limitation referred to in
14 paragraph (1) after the end of the 90-day period be-
15 ginning on the date of the enactment of this sub-
16 chapter shall apply, for purposes of this subchapter,
17 beginning on the first January 1 that occurs after
18 the end of the 60-day period beginning on the later
19 of—

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

24 “(B) the effective date of such establish-
25 ment, repeal, or amendment.

1 “(c) NOTIFICATION AND ENFORCEMENT OF STATE
2 AND INDIAN TRIBE LIMITATIONS.—

3 “(1) IN GENERAL.—The Secretary shall notify
4 all licensees and applicants of all States and Indian
5 tribes that have provided notice pursuant to para-
6 graph (1) or (2) of subsection (a) or (b), as the case
7 may be, promptly upon receipt of such notice and in
8 no event fewer than 30 days before the effective date
9 of such notice.

10 “(2) COMPLIANCE.—The Secretary shall take
11 effective measures to ensure that any licensee under
12 this subchapter, as a condition of the license, com-
13 plies with any limitation or prohibition imposed by
14 any State or Indian tribe to which the licensee is
15 subject under subsection (a) or (b), as the case may
16 be.

17 “(3) VIOLATIONS.—It shall be a violation of
18 this subchapter for any licensee knowingly to accept
19 bets or wagers initiated or otherwise made by per-
20 sons located within any State or in the tribal lands
21 of any Indian tribe for which a notice is in effect
22 under subsection (a) or (b), as the case may be.

23 “(4) STATE ATTORNEY GENERAL ENFORCE-
24 MENT.—In any case in which the attorney general of
25 a State, or any State or local law enforcement agen-

1 cy authorized by the State attorney general or by
2 State statute to prosecute violations of consumer
3 protection law, has reason to believe that an interest
4 of the residents of that State has been or is threat-
5 ened or adversely affected by a violation by a li-
6 censee pursuant to paragraph (2), the State, or the
7 State or local law enforcement agency on behalf of
8 the residents of the agency's jurisdiction, may bring
9 a civil action on behalf of the residents of that State
10 or jurisdiction in a district court of the United
11 States located therein, to—

12 “(A) enjoin that practice; or

13 “(B) enforce compliance with this sub-
14 chapter.

15 **“§ 5388. Sports betting prohibited on Internet**

16 “No licensee under this subchapter shall accept Inter-
17 net bets or wagers on sporting events, with the exception
18 of pari-mutuel racing as permitted by law.

19 **“§ 5389. Prohibition on the use of credit cards for**
20 **Internet gambling**

21 “(a) IN GENERAL.—No licensee, no person operating
22 on behalf of a licensee, and no person accepting payment
23 for or settlement of a bet or wager who intends to transmit
24 such payment to a person licensee, may accept a bet or
25 wager or payment for or settlement of a bet or wager that

1 is transmitted or otherwise facilitated with a credit card
2 (as defined in section 5362(11)).

3 “(b) EXCEPTION.—

4 “(1) CLARIFICATION OF SCOPE.—For any per-
5 son licensed to take bets or wagers in accordance
6 with the Interstate Horseracing Act of 1978, the
7 prohibition in subsection (a) shall only apply to
8 those activities conducted pursuant to a license
9 under this subchapter.

10 “(2) INTRASTATE ACTIVITIES.—For any person
11 involved in legal, land-based or State- or tribal-regu-
12 lated intrastate gambling, the prohibition in sub-
13 section (a) shall only apply to those activities con-
14 ducted pursuant to a license under this subchapter.

15 **“§ 5390. State and tribal lotteries**

16 “(a) IN GENERAL.—Notwithstanding any other pro-
17 vision of this subchapter, this subchapter shall not apply
18 to Internet gambling conducted by any State or tribal lot-
19 tery authority when conducted in accordance with sub-
20 paragraph (B) or (C) of section 5362(10), as clarified by
21 section 5362(10)(E).

22 “(b) RULE OF CONSTRUCTION.—For purposes of the
23 clarification made by subparagraph (E) of section
24 5362(10) to the meaning and intent of subparagraphs (B)
25 and (C) of such section, Internet gambling described in

1 subsection (a) is hereby expressly permitted, and operators
2 of any State or tribal lottery authority conducting Internet
3 gambling facilities operating in accordance with such sub-
4 paragraph (B) or (C), as clarified by such subparagraph
5 (E), and vendors, suppliers and service providers to such
6 State or tribal lottery authority, shall not be required to
7 be licensed under this subchapter.

8 “(c) APPLICABILITY OF OTHER PROVISIONS TO LOT-
9 TERY ACTIVITY.—To clarify existing law, section 1084 of
10 title 18 shall not apply to any of the following that occurs
11 in connection with any Internet gambling conducted by
12 any State or tribal lottery authority when conducted in
13 accordance with subparagraph (B) or (C) of section
14 5362(10), as clarified by section 5362(10)(E):

15 “(1) Any Internet bet or wager, including any
16 transmission thereof.

17 “(2) Any transmission of information assisting
18 in the placing of bets or wagers.

19 “(3) any transmission entitling the recipient to
20 receive money or credit as a result of bets or wagers,
21 or for information assisting in the placing of bets or
22 wagers.

23 “(d) AUTHORIZATION OF SPONSOR.—No licensee
24 may offer services relating to any lottery sponsored by a

1 State, tribal, or other governmental body without the au-
2 thorization of the official sponsor.

3 **“§ 5391. Safe harbors**

4 “It shall be a complete defense against any prosecu-
5 tion or enforcement action under any Federal or State law
6 against any person possessing a valid license under this
7 subchapter that the activity is authorized under and has
8 been carried out lawfully under the terms of this sub-
9 chapter.

10 **“§ 5392. Relation to section 1084 of title 18 and the**

11 **Unlawful Internet Gambling Enforcement**

12 **Act**

13 “Section 1084 of title 18 and subchapter IV of this
14 chapter shall not apply to any Internet bet or wager occur-
15 ring pursuant to a license issued in accordance with this
16 subchapter.

17 **“§ 5393. Cheating and other fraud**

18 “(a) ELECTRONIC CHEATING DEVICES PROHIB-
19 ITED.—No person initiating, receiving, or otherwise mak-
20 ing a bet or wager with a licensee, or sending, receiving,
21 or inviting information assisting with a bet or wager with
22 a licensee, knowingly shall use, or assist another in the
23 use of, an electronic, electrical, or mechanical device which
24 is designed, constructed, or programmed specifically for
25 use in obtaining an advantage in any game authorized

1 under this subchapter, where such advantage is prohibited
2 or otherwise violates the rules of play established by the
3 licensee.

4 “(b) ADDITIONAL OFFENSE.—No person initiating,
5 receiving, or otherwise making a bet or wager with a li-
6 censee, or sending, receiving, or inviting information as-
7 sisting with a bet or wager with a licensee, knowingly shall
8 use or possess any cheating device with intent to cheat
9 or defraud any licensee or other persons placing bets or
10 wagers with such licensee.

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

17 “(d) CRIMINAL PENALTY.—Whoever violates sub-
18 section (a) or (b) of this section shall be fined under title
19 18 or imprisoned for not more than 5 years, or both.”.

20 (b) REQUIREMENT.—

21 (1) IN GENERAL.—The Secretary of the Treas-
22 ury shall require independent testing and certifi-
23 cation of hardware, software, communications equip-
24 ment, and other necessary devices used by internet
25 gambling facilities regulated under subchapter V of

1 chapter 53 of title 31, United States Code, to ensure
2 the integrity, accountability, and security of play.

3 (2) DEFINITION OF INDEPENDENT TESTING.—

4 For the purposes of this subtitle, the term “inde-
5 pendent testing” means testing conducted by a sci-
6 entific laboratory that is accredited by a United
7 States accreditation body holding an internationally
8 recognized accreditation approved by the Secretary
9 of the Treasury. The laboratory must be competent
10 and qualified to scientifically test and evaluate
11 equipment, software, communications, and
12 functionality relating to the operation of an internet
13 gaming facility. An independent testing laboratory
14 shall not be owned, or controlled by an internet gam-
15 bling facility, an electronic gaming equipment ven-
16 dor, manufacturer, or retailer or an internet gaming
17 operator.

18 (c) RULES OF CONSTRUCTION.—

19 (1) TECHNICAL AND CONFORMING AMEND-
20 MENT.—Section 310(b)(2) of title 31, United States
21 Code is amended—

22 (A) by redesignating subparagraph (J) as
23 subparagraph (K); and

24 (B) by inserting after subparagraph (I) the
25 following new subparagraph:

1 “(J) Administer the requirements of sub-
2 chapter V of chapter 53.”.

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

“SUBCHAPTER V—REGULATION OF LAWFUL INTERNET GAMBLING

“5381. Congressional findings.

“5382. Definitions.

“5383. Establishment and administration of licensing program.

“5384. Problem Gambling, Responsible Gambling, Consumer Safeguards, and
Self-Exclusion Program.

“5385. Financial transaction providers.

“5386. List of unlawful Internet gambling enterprises.

“5387. Limitation of licenses in States and Indian lands.

“5388. Sports betting prohibited on Internet.

“5389. Prohibition on the use of credit cards for Internet gambling.

“5390. State and tribal lotteries.

“5391. Safe harbors.

“5392. Relation to section 1084 of title 18 and the Unlawful Internet Gambling
Enforcement Act.

“5393. Cheating and other fraud.”.

6 **SEC. 383. REPORT REQUIRED.**

7 (a) IN GENERAL.—Before the end of the 1-year pe-
8 riod beginning on the effective date of the regulations pre-
9 scribed under section 385(a), and annually thereafter, the
10 Secretary shall submit a report to the Congress on the
11 licensing and regulation of Internet gambling operators.

12 (b) INFORMATION REQUIRED.—Each report sub-
13 mitted under subsection (a) shall include the following in-
14 formation:

15 (1) A comprehensive statement regarding the
16 prohibitions notified by the States and Indian tribes

1 pursuant to section 5387 of title 31, United States
2 Code.

3 (2) Relevant statistical information on appli-
4 cants and licenses.

5 (3) The amount of licensing and user fees col-
6 lected during the period covered by the report.

7 (4) Information on regulatory or enforcement
8 actions undertaken during the period.

9 (5) Any other information that may be useful
10 to the Congress in evaluating the effectiveness of the
11 Act in meeting its purpose, including the provision
12 of protections against underage gambling, compul-
13 sive gambling, money laundering, and fraud, and in
14 combating tax avoidance relating to Internet gam-
15 bling.

16 **SEC. 384. FEASIBILITY STUDY.**

17 The Secretary of the Treasury, in consultation with
18 appropriate State or tribal officers or agencies, shall con-
19 duct a feasibility study on safeguards to address gambling
20 while impaired through programs such as periodic notices,
21 periodic testing of individuals to establish cognitive com-
22 petence, and any other similar option that the Secretary
23 or appropriate State or tribal officers or agencies may de-
24 termine to be appropriate.

1 **SEC. 385. EFFECTIVE DATE.**

2 (a) REGULATIONS.—The Secretary of the Treasury
3 shall prescribe such regulations as the Secretary may de-
4 termine to be appropriate to implement subchapter V of
5 chapter 53 of title 31, United States Code (as added by
6 section 382(a) of this subtitle) and shall publish such reg-
7 ulations in final form in the Federal Register before the
8 end of the 180-day period beginning on the date of enact-
9 ment of this subtitle.

10 (b) SCOPE OF APPLICATION.—The amendment made
11 by section 382(a) shall apply after the end of the 90-day
12 period beginning on the date of the publication of the reg-
13 ulations in final form in accordance with subsection (a).



