

HR 2267 IH

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H. R. 2267

To amend title 31, United States Code, to provide for the licensing of Internet gambling activities by the Secretary of the Treasury, to provide for consumer protections on the Internet, to enforce the tax code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

May 6, 2009

Mr. FRANK of Massachusetts (for himself, Mr. PAUL, Mr. GUTIERREZ, Mr. KING of New York, Mr. WATT, Mr. ACKERMAN, Mr. CAPUANO, Mr. CARSON of Indiana, Mr. MCDERMOTT, Mr. DELAHUNT, Mr. MCGOVERN, Mr. WEXLER, Ms. BERKLEY, Mr. COHEN, Mr. PERRIELLO, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Energy and Commerce and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 31, United States Code, to provide for the licensing of Internet gambling activities by the Secretary of the Treasury, 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.

This Act may be cited as the 'Internet Gambling Regulation, Consumer Protection, and Enforcement Act'.

SEC. 2. FEDERAL LICENSING REQUIREMENT FOR INTERNET GAMBLING OPERATORS.

(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 LAWFUL INTERNET GAMBLING

` Sec. 5381. Congressional findings

` The Congress finds the following:

` (1) Since the development of the Internet, millions of people have chosen to gamble online, and today Internet gambling is offered by operators located in many different countries under a variety of licensing and regulatory regimes.

` (2) Despite the increasing use of the Internet for gambling by persons in the United States, there is no Federal or State regulatory regime in place to protect United States citizens who choose to engage in this interstate activity, or to oversee operators to establish and enforce standards of integrity and fairness.

` (3) In the United States, gambling activities, equipment, and operations have 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.

` (4) Internet gambling in the United States should be controlled by a strict Federal licensing and regulatory framework to protect underage and otherwise vulnerable individuals, to ensure the games are fair, to address the concerns of law enforcement, and to enforce any limitations on the activity established by the States and Indian tribes.

` (5) An effective Federal licensing system would ensure that licenses are issued only to Internet gambling operators which meet strict criteria to protect consumers, and which--

` (A) are in good financial and legal standing, and of good character, honesty, and integrity;

` (B) utilize appropriate technology to determine the age and location of users;

` (C) adopt and implement systems to protect minors and problem gamblers;

` (D) adopt and implement systems to enforce any applicable Federal, State, and Indian tribe limitations on Internet gambling; and

- (E) have in place risk-based methods to identify and combat money laundering and fraud relating to Internet gambling, and to protect the privacy and security of users.
- (6) There is a need to extend the regulatory provisions of this Act to all persons, locations, equipment, practices, and associations related to Internet gambling, with each State and Indian tribe having the ability to limit Internet gambling operators from offering Internet gambling to persons located within its territory by opting out of the provisions of this Act.

Sec. 5382. Definitions

- For purposes of this subchapter, the following definitions shall apply:
 - (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 same meaning as in section 5362(1).
 - (3) ENFORCEMENT AGENT- The term 'enforcement agent' means any individual authorized by the Secretary to enforce the provisions of this subchapter and regulations prescribed under this subchapter.
 - (4) INDIAN LANDS AND INDIAN TRIBE- The terms 'Indian lands' and 'Indian tribe' have the same meanings as in section 4 of the Indian Gaming Regulatory Act.
 - (5) INTERNET- The term 'Internet' has the same meaning as in section 5362(5).
 - (6) LICENSEE- The term 'licensee' means an entity authorized to operate an Internet gambling facility in accordance with this subchapter.
 - (7) OPERATE AN INTERNET GAMBLING FACILITY- The term 'operate an Internet gambling facility' or 'operation of an Internet gambling facility' means the direction, management, supervision, or control of an Internet site through which bets or wagers are initiated, received, or otherwise made, whether by telephone, Internet, satellite, or other wire or wireless communication.
 - (8) SECRETARY- The term 'Secretary' means the Secretary of the Treasury, or any person designated by the Secretary.
 - (9) 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.
 - (10) SPORTING EVENT- The term 'sporting event' means any athletic competition, whether professional, scholastic, or amateur.

` Sec. 5383. 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 gambling 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.

` (4) Enforcing the requirements of this subchapter through all appropriate means provided under this subchapter and other provisions of law.

` (b) Internet Gambling Licensing Program-

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

` (2) AUTHORITY UNDER VALID LICENSE- A licensee may accept bets or wagers from persons located in the United States, subject to the limitations set forth in this subchapter, so long as its license remains in good standing.

` (c) Application for License-

` (1) IN GENERAL- Any person seeking authority to operate an Internet gambling facility offering services to persons in the United States may apply for a license issued by the Secretary.

` (2) INFORMATION REQUIRED- Any application for a license under this subchapter shall contain such information as may be required by the Secretary, including the following:

` (A) The criminal and credit history of the applicant, any senior executive and director of the applicant, and any person deemed to be in control of the applicant.

` (B) The financial statements of the applicant.

` (C) Documentation showing the corporate structure of the applicant and all related businesses and affiliates.

` (D) Documentation containing detailed evidence of the applicant's plan for complying with all applicable regulations should a license be issued, with particular emphasis on the applicant's ability to--

` (i) protect underage and problem gamblers;

- ` (ii) ensure games are being operated fairly; and
- ` (iii) comply with and address the concerns of law enforcement.

` (E) Certification that the applicant agrees to submit to United States jurisdiction and all applicable United States laws relating to acceptance by the applicant of bets or wagers over the Internet from persons located in the United States and all 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- If the 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.

` (C) BACKGROUND CHECK AND INVESTIGATION- The Secretary shall establish standards and procedures for conducting background checks and investigations for purposes of this subsection.

` (2) SUITABILITY FOR LICENSING STANDARDS DESCRIBED- 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 the licensed activities; or

` (ii) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of the licensed activities or the carrying

on of the business and financial arrangements incidental to such activities;

` (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 gambling 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; or

` (D) is delinquent in filing any applicable Federal or State tax returns or in the payment of any taxes, penalties, additions to tax, or interest owed to a State or the United States.

` (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) 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 the operation of an Internet gambling facility licensed under this subchapter is controlled only by persons who are suitable for licensing.

` (6) ENFORCEMENT ACTIONS-

` (A) DETERMINATION OF UNSUITABILITY FOR CONTINUED LICENSURE- If the Secretary finds that an individual owner or holder of a security of a licensee, or of a holding or intermediary company of a licensee or any person with an economic interest in 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 may determine that the licensee is not qualified to continue as a licensee, the Secretary shall propose action necessary to protect the public interest, including, if deemed 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 interest in 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 subchapter, shall be assessed by the Secretary against the licensee institution by written notice in an amount appropriate to meet the Secretary's expenses in carrying out such administration, review, or examination.

` (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 all 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 shall recover the amount assessed by action in the appropriate United States district court.

`(ii) APPROPRIATENESS OF ASSESSMENT NOT REVIEWABLE- In any civil action under clause (i), the validity and appropriateness of the assessment shall not be subject to review.

`(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 set by the Secretary set forth in this subchapter and in any regulations promulgated thereunder.

`(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 5384, are met with respect to any Internet bet or wager:

`(1) LEGAL AGE- Appropriate safeguards to ensure that the individual placing a bet or wager is of legal age as defined by the law of the State or tribal area in which the individual is located at the time the bet or wager is placed.

`(2) PERMISSIBLE LOCATION- Appropriate safeguards to ensure that the individual placing a bet or wager is physically located in a jurisdiction that permits Internet gambling at the time the bet or wager is placed.

`(3) COLLECTION OF CUSTOMER TAXES- Appropriate mechanisms to ensure that all taxes relating to Internet gambling from persons engaged in Internet gambling are collected at the time of any payment of any proceeds of Internet gambling.

`(4) COLLECTION OF TAXES OF LICENSEE- Appropriate mechanisms to ensure that all taxes relating to Internet gambling 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 to combat fraud, money laundering, and terrorist finance.

- ` (6) SAFEGUARDS AGAINST COMPULSIVE GAMBLING- Appropriate safeguards to combat compulsive Internet gambling.
- ` (7) PRIVACY SAFEGUARDS- Appropriate safeguards to protect the privacy and security of any person engaged in Internet gambling.
- ` (8) PAYMENT OF ASSESSMENTS- Appropriate mechanisms 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.
- ` (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 the requirements prescribed by the Secretary pursuant to this subchapter.
- ` (i) Revocation 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 for licensing, within the meaning of this subchapter.
 - ` (2) FINAL ACTION- Any revocation of a license under paragraph (1) shall be treated as a final action by the Secretary.
- ` (j) Regulations- The regulations prescribed by the Secretary under this subchapter shall include regulations to fully implement--
 - ` (1) safeguards required for licensees under subsection (g); and
 - ` (2) the requirements for programs relating to the Problem Gambling, Responsible Gambling, and Self-Exclusion Program under section 5384.
- ` (k) 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 subchapter 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 subchapter.

` (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 or a designee of 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 subchapter or any application for a license under this subchapter.

` (E) Investigate any violation of this subchapter and any regulation under this subchapter and any other violation of law relating to the operation of an Internet gambling facility.

` (F) Conduct continuing reviews of applicants and licensees and the operation of Internet gambling facilities by use of technological means, onsite observation of facilities, including servers, or other reasonable means to assure compliance with this subchapter and any regulations promulgated hereunder.

` (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 at any business location of a licensee or applicant for a license or any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the licensee or applicant for a license operates or conducts business in the United States.

` (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 Secretary of the Treasury for referral 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 to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, to allow the Secretary to examine the business of a licensee, and 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.

` (I) 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 and unappealable 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 within 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) APPROPRIATENESS OF PENALTY NOT REVIEWABLE- In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

` (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.

` (m) 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, United States Code.

`(n) Suitability for Licensing Requirements for Certain Service Providers-

`(1) IN GENERAL- Any person that knowingly manages, administers, or controls bets or wagers that are initiated, received, or otherwise made within the United States or that otherwise manages or administers the games with which such bets or wagers are associated must 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 were itself a licensee.

`(2) SUBJECT TO SAME ENFORCEMENT JURISDICTION- Any failure on the part of such person to remain suitable for licensing shall 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).

`(o) 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 or tribal regulatory body with expertise in regulating gambling may--

`(i) notify the Secretary of its willingness to review prospective applicants to certify whether any such applicant meets the qualifications established under this subchapter; 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 is qualified to conduct such review and may be relied upon by the Secretary to make any such certification.

`(B) DETERMINATION AND NOTICE- Within 60 days after receiving any notice under subparagraph(A)(i), the Secretary shall--

`(i) make the determination as to whether a State or tribal regulatory body is qualified to conduct a review of prospective applicants and may be relied upon to certify whether any such applicant meets the qualifications established under this subchapter; and

`(ii) notify the 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 the applicant or any person associated with the applicant 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- Any applicant may provide a certification of suitability for licensing made by any State or tribal regulatory body under paragraph (2), together with all documentation the applicant has submitted to any such State or tribal regulatory body, to the Secretary, and any such certification and documentation shall be relied on by the Secretary as evidence that an applicant has met the suitability for licensing requirements under this section.

` (4) AUTHORITY OF SECRETARY TO REVIEW- Notwithstanding any certification of suitability for licensing made by any State or tribal regulatory body, the Secretary retains the authority to review, withhold, or revoke any license if the Secretary has reason to believe that any applicant or licensee does not meet the suitability requirements for licensing 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 any 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 any State or tribal regulatory body to certify or to conduct any other regulatory or enforcement activity to carry out the purposes of this subchapter.

` Sec. 5384. Problem Gambling, Responsible Gambling, and Self-Exclusion Program

` (a) Regulations Required- The Secretary and any State or tribal regulatory body that has been qualified under subsection 5383(o) shall prescribe regulations for the development of a Problem Gambling, Responsible Gambling, and Self-Exclusion Program on the basis of standards that each licensee shall implement as a condition of licensure.

` (b) Minimum Requirements- Any application for a license shall include a submission to the Secretary or qualified State or tribal regulatory body setting forth a comprehensive program that is intended--

` (1) to verify the identity and age of each customer;

` (2) to ensure that no customers under the legal age as defined by State or tribal law, as applicable, 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 5386 can initiate or otherwise make a bet or wager prohibited by such opt-out;

` (5) to ensure that responsible gambling materials are made available to customers upon request;

` (6) to make available individualized responsible gambling options that any customer may choose, including any stake limit, loss limit, deposit limit, and session time limit option, and any other similar option, that the Secretary or qualified State or tribal regulatory body may deem appropriate and require to be made available;

` (7) to protect the privacy and security of any customer in connection with any lawful Internet gambling activity; and

` (8) to protect against fraud and money laundering relating to Internet gambling activity.

` (c) List of Persons Self-Excluded From Gambling Activities-

` (1) ESTABLISHMENT-

` (A) IN GENERAL- The Secretary shall provide by regulation for the establishment of a list of persons self-excluded from gambling 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 gambling 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 gambling activity at any licensee sites.

` (2) PLACEMENT AND REMOVAL PROCEDURES- The regulations prescribed by 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, or a licensee, or any employee or agent of the United States, the Secretary, an enforcement agent, or a licensee, 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 gambling privileges from, or to restore gambling privileges to, a self-excluded person; or

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

` (B) RULE OF CONSTRUCTION- No provision of subparagraph (A) shall be construed as preventing the Director 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, any service provider, to the extent that the licensee ensures that any 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 or 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) Gambling by Prohibited Persons-

` (1) PROHIBITION BENEFITTING FROM PROHIBITED GAMBLING ACTIVITY- A person who is prohibited from gambling 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 as established 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 gambling 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 general fund of the Treasury.

` (e) Problem or Compulsive Gamblers 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 subsection 5383(o) 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 problem or compulsive gamblers 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 of a licensee, shall not be liable to any person in any proceeding for losses or other damages of any kind arising out of that person's gambling activities based on a claim that the person was a compulsive, problem, or pathological gambler.

` Sec. 5385. Financial transaction providers

` (a) In General- No financial transaction provider shall be held liable for engaging in financial activities and transactions for or on behalf of a licensee or involving a licensee, including payments processing activities, if such activities are performed in compliance with this subchapter and with applicable Federal and State laws.

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

` (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.

` (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, 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, 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; and

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

` (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).

` Sec. 5386. Limitation of licenses in States and Indian lands

` (a) State Opt-Out Exercise-

` (1) LIMITATIONS IMPOSED BY STATES-

` (A) IN GENERAL- No licensee may engage, under any license issued under this subchapter, in the operation of an Internet gambling facility that knowingly accepts bets or wagers initiated by persons who reside in any State which provides notice that it will limit such bets or wagers, if the Governor or other chief executive officer of such State informs the Director of such limitation, in a manner which clearly identifies the nature and extent of such limitation, before the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation, Consumer Protection, and Enforcement Act, or in accordance with paragraph (2), until such time as any notice of any amendment or repeal of such specific limitation becomes effective under paragraph (2).

` (B) COORDINATION BETWEEN STATE AND TRIBAL OPT-OUT EXERCISES- Any State limitation 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 opted out pursuant to subsection (b) (in which case the tribal opt-out exercise under such subsection shall apply); or

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

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

` (2) CHANGES TO STATE LIMITATIONS- The establishment, repeal, or amendment by any State of any limitation 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, repeal, or amendment 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, repeal, or amendment.

` (b) Indian Tribe Opt-Out Exercise-

` (1) LIMITATIONS IMPOSED BY INDIAN TRIBES- No Internet gambling licensee knowingly may accept a bet or wager from a person located in the tribal lands of any Indian tribe which limits such gambling activities or other contests if the principal chief or other chief executive officer of such Indian tribe informs the Secretary of such limitation, in a manner which clearly identifies the nature and extent of such limitation, before the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation, Consumer Protection, and Enforcement Act, or in accordance with paragraph (2), until such time as any notice of any amendment or repeal of such specific limitation becomes effective under paragraph (2).

` (2) CHANGES TO INDIAN TRIBE LIMITATIONS- The establishment, repeal, or amendment by any Indian tribe of any limitation 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, repeal, or amendment is provided by the principal chief or other chief executive officer of such Indian tribe in writing to the Secretary; or
- ` (B) the effective date of such establishment, repeal, or amendment.

` (c) Notification and Enforcement of State and Indian Tribe Limitations-

` (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 fewer 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 limitation or 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 bets or wagers initiated or otherwise made by persons located 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 of a State, or any State or local law enforcement agency authorized by the State attorney general 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, to--

` (A) enjoin that practice; or

` (B) enforce compliance with this subchapter.

` Sec. 5387. Professional and Amateur Sports Protection Act prohibitions

` No provision of this subchapter shall be construed as authorizing any licensee to operate an Internet gambling facility that knowingly accepts bets or wagers on sporting events from persons located in the United States in violation of section 3702 of title 28, United States Code, except for fantasy or simulation sports games (as defined in section 5362 of this title).

` Sec. 5388. Safe harbors

` It shall be a complete defense against any prosecution or enforcement action under any Federal or State law against any person possessing a valid license under this subchapter that the activity is authorized under and has been carried out lawfully under the terms of this subchapter.

` Sec. 5389. Relation to section 1084 of title 18 and the Unlawful Internet Gambling Enforcement Act

` Section 1084 of title 18 and subchapter IV of this chapter shall not apply to any Internet bet or wager occurring pursuant to a license issued by the Secretary under this subchapter.

` Sec. 5390. 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, knowingly shall 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, knowingly shall 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) of this section shall be fined under title 18 of the United States Code or imprisoned for not more than 5 years, or both.'

(b) Rules of Construction-

(1) TECHNICAL AND CONFORMING AMENDMENT- Section 310(b)(2) of title 31, United States Code is amended--

(A) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

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

` (J) Administer the requirements of subchapter V of chapter 53.'

(c) Clerical Amendment- The table of subchapters and sections for chapter 53 of title 31, United States Code, is amended by adding at the end the following:

` subchapter v--regulation of lawful internet gambling

- ` 5381. Congressional findings and purpose.
- ` 5382. Definitions.
- ` 5383. Establishment and administration of licensing program.
- ` 5384. Minimum requirements: Problem Gambling, Responsible Gambling, and Self-Exclusion Program.
- ` 5385. Financial transaction providers.
- ` 5386. Limitation of licenses in States and Indian lands.
- ` 5387. Professional and Amateur Sports Protection Act prohibitions.
- ` 5388. Safe harbors.
- ` 5389. Relation to section 1084 of title 18 and the Unlawful Internet Gambling Enforcement Act.
- ` 5390. Cheating and other fraud.'

SEC. 3. REPORT REQUIRED.

(a) In General- Before the end of the 1-year period beginning on the effective date of the regulations prescribed under section 4(a), and annually thereafter, the Secretary shall submit a report to the Congress on the licensing and regulation of Internet gambling operators.

(b) Information Required- Each report submitted under subsection (a) shall include the following information:

- (1) A comprehensive statement regarding the prohibitions notified by the States and Indian tribes pursuant to section 5386 of title 31, United States Code.
- (2) Relevant statistical information on applicants and licenses.
- (3) The amount of licensing and user fees collected during the period covered by the report.
- (4) Information on regulatory or enforcement actions undertaken during the period.
- (5) Any other information that may be useful to the Congress in evaluating the effectiveness of the Act 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. 4. EFFECTIVE DATE.

(a) Regulations- The Secretary of the Treasury shall prescribe such regulations as the Secretary may determine to be appropriate to implement subchapter V of chapter 53 of title 31, United States Code (as added by section 2(a) of this Act) and shall publish such

regulations in final form in the Federal Register before the end of the 180-day period beginning on the date of the enactment of this Act.

(b) Scope of Application- The amendment made by section 2(a) shall apply after the end of the 90-day period beginning on the date of the publication of the regulations in final form in accordance with subsection (a).