

[Rules Committee Print]

JULY 5, 2006

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4411

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Internet Gambling Prohibition and Enforcement Act”.

4 (b) TABLE OF CONTENTS.—The table of contents is
5 as follows:

Sec. 1. Short title and table of contents.

TITLE I—MODERNIZATION OF THE WIRE ACT OF 1961

- Sec. 101. Definitions.
- Sec. 102. Modification of existing prohibition.
- Sec. 103. Authorization of civil enforcement.
- Sec. 104. Authorization of appropriations.
- Sec. 105. Rules of construction.
- Sec. 106. Sense of Congress.

TITLE II—POLICIES AND PROCEDURES REQUIRED TO PREVENT PAYMENTS FOR UNLAWFUL GAMBLING

- Sec. 201. Policies and procedures required to prevent payments for unlawful gambling.
- Sec. 202. Technical and conforming amendment.

TITLE III—INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS

- Sec. 301. Internet gambling in or through foreign jurisdictions.

1 **TITLE I—MODERNIZATION OF**
2 **THE WIRE ACT OF 1961**

3 **SEC. 101. DEFINITIONS.**

4 Section 1081 of title 18, United States Code, is
5 amended—

6 (1) by designating the five undesignated para-
7 graphs that begin with “The term” as paragraphs
8 (1) through (5), respectively;

9 (2) by amending paragraph (5), as so des-
10 ignated, to read as follows:

11 “(5) The term ‘communication facility’ means
12 any and all instrumentalities, personnel, and services
13 (among other things, the receipt, forwarding, or de-
14 livery of communications) used or useful in the
15 transmission of writings, signs, pictures, and sounds
16 of all kinds by aid of wire, cable, radio, or an elec-
17 tromagnetic, photoelectronic or photooptical system,
18 or other like connection (whether fixed or mobile)
19 between the points of origin and reception of such
20 transmission.”; and

21 (3) by adding at the end the following:

22 “(6) The term ‘bets or wagers’—

23 “(A) means the staking or risking by any
24 person of something of value upon the outcome
25 of a contest of others, a sporting event, or a

1 game predominantly subject to chance, upon an
2 agreement or understanding that the person or
3 another person will receive something of value
4 in the event of a certain outcome;

5 “(B) includes the purchase of a chance or
6 opportunity to win a lottery or other prize
7 (which opportunity to win is predominantly sub-
8 ject to chance);

9 “(C) includes any scheme of a type de-
10 scribed in section 3702 of title 28; and

11 “(D) does not include—

12 “(i) any activity governed by the secu-
13 rities laws (as that term is defined in sec-
14 tion 3(a)(47) of the Securities Exchange
15 Act of 1934) for the purchase or sale of se-
16 curities (as that term is defined in section
17 3(a)(10) of that Act);

18 “(ii) any transaction conducted on or
19 subject to the rules of a registered entity
20 or exempt board of trade under the Com-
21 modity Exchange Act;

22 “(iii) any over-the-counter derivative
23 instrument;

24 “(iv) any other transaction that—

1 “(I) is excluded or exempt from
2 regulation under the Commodity Ex-
3 change Act; or

4 “(II) is exempt from State gam-
5 ing or bucket shop laws under section
6 12(e) of the Commodity Exchange Act
7 or section 28(a) of the Securities Ex-
8 change Act of 1934;

9 “(v) any contract of indemnity or
10 guarantee;

11 “(vi) any contract for insurance;

12 “(vii) any deposit or other transaction
13 with an insured depository institution;

14 “(viii) participation in any game or
15 contest in which participants do not stake
16 or risk anything of value other than—

17 “(I) personal efforts of the par-
18 ticipants in playing the game or con-
19 test or obtaining access to the Inter-
20 net; or

21 “(II) points or credits that the
22 sponsor of the game or contest pro-
23 vides to participants free of charge
24 and that can be used or redeemed

1 dividuals (athletes in the case of
2 sports events) in multiple real-world
3 sporting or other events.

4 “(III) No winning outcome is
5 based—

6 “(aa) on the score, point-
7 spread, or any performance or
8 performances of any single real-
9 world team or any combination of
10 such teams; or

11 “(bb) solely on any single
12 performance of an individual ath-
13 lete in any single real-world
14 sporting or other event.

15 “(7) The terms ‘credit’, ‘creditor’, ‘credit card’,
16 and ‘card issuer’ have the same meanings as in sec-
17 tion 103 of the Truth in Lending Act.

18 “(8) The term ‘electronic fund transfer’—

19 “(A) has the same meaning as in section
20 903 of the Electronic Fund Transfer Act, ex-
21 cept that such term includes transfers that
22 would otherwise be excluded under section
23 903(6)(E) of that Act; and

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

4 “(9) The term ‘financial institution’ has the
5 same meaning as in section 903 of the Electronic
6 Fund Transfer Act, except that such term does not
7 include a casino, sports book, or other business at or
8 through which bets or wagers may be placed or re-
9 ceived.

10 “(10) The term ‘financial transaction provider’
11 has the same meaning as in section 5361 of title 31
12 (as added by title II of this Act).

13 “(11) The term ‘foreign jurisdiction’ means a
14 jurisdiction of a foreign country or political subdivi-
15 sion thereof.

16 “(12) The term ‘gambling business’ means a
17 business of betting or wagering.

18 “(13) The term ‘information assisting in the
19 placing of bets or wagers’ means information know-
20 ingly transmitted by an individual in a gambling
21 business that enables or facilitates a bet or wager
22 and does not include—

23 “(A) any posting or reporting of any edu-
24 cational information on how to make a legal bet
25 or wager or the nature of betting or wagering,

1 as long as such posting or reporting does not
2 solicit or provide information for the purpose of
3 facilitating or enabling the placing or receipt of
4 bets or wagers in a jurisdiction where such bet-
5 ting is illegal; or

6 “(B) advertising relating to betting or wa-
7 gering in a jurisdiction where such betting or
8 wagering is legal, as long as such advertising
9 does not solicit or provide information for the
10 purpose of facilitating or enabling the placing
11 or receipt of bets or wagers in a jurisdiction
12 where such betting is illegal.

13 “(14) The term ‘insured depository
14 institution’—

15 “(A) has the same meaning as in section
16 3 of the Federal Deposit Insurance Act; and

17 “(B) includes an insured credit union (as
18 defined in section 101 of the Federal Credit
19 Union Act).

20 “(15) The term ‘interactive computer service’
21 has the same meaning as in section 230(f) of the
22 Communications Act of 1934.

23 “(16) The terms ‘money transmitting business’
24 and ‘money transmitting service’ have the same
25 meanings as in section 5330(d) (determined without

1 regard to any regulations prescribed by the Sec-
2 retary thereunder).

3 “(17) The terms ‘own or control’ and to be
4 ‘owned or controlled’ include circumstances within
5 the meaning of section 2(a)(2) of the Bank Holding
6 Company Act of 1956.

7 “(18) The term ‘person’ includes a government
8 (including any governmental entity (as defined in
9 section 3701(2) of title 28)).

10 “(19) The term ‘State’ means a State of the
11 United States, the District of Columbia, or a com-
12 monwealth, territory, or possession of the United
13 States.

14 “(20) The term ‘tribe’ or ‘tribal’ means an In-
15 dian tribe, as defined under section 4(5) of the In-
16 dian Gaming Regulatory Act of 1988).

17 “(21) For purposes of Section 1085(b), the
18 term ‘account’ means—

19 “(A) the unpaid balance of money or its
20 equivalent received or held by an insured depos-
21 itory institution in the usual course of business
22 and for which it has given or is obligated to
23 give credit, either conditionally or uncondition-
24 ally, to an account, including interest credited,
25 or which is evidenced by an instrument on

1 which the depository institution is primarily lia-
2 ble; and

3 “(B) money received or held by an insured
4 depository institution, or the credit given for
5 money or its equivalent received or held by the
6 insured depository institution in the usual
7 course of business for a special or specific pur-
8 pose, regardless of the legal relationships estab-
9 lished thereby, including escrow funds, funds
10 held as security for securities loaned by the de-
11 pository institution, funds deposited as advance
12 payment on subscriptions to United States Gov-
13 ernment securities, and funds held to meet its
14 acceptances.”.

15 **SEC. 102. MODIFICATION OF EXISTING PROHIBITION.**

16 Section 1084 of title 18, United States Code, is
17 amended to read as follows:

18 **“§ 1084. Use of a communication facility to transmit**
19 **bets or wagers; criminal penalties**

20 “(a) Except as otherwise provided in this section,
21 whoever, being engaged in a gambling business,
22 knowingly—

23 “(1) uses a communication facility for the
24 transmission in interstate or foreign commerce,
25 within the special maritime and territorial jurisdic-

1 tion of the United States, or to or from any place
2 outside the jurisdiction of any nation with respect to
3 any transmission to or from the United States, of—

4 “(A) bets or wagers;

5 “(B) information assisting in the placing
6 of bets or wagers; or

7 “(C) a communication, which entitles the
8 recipient to receive money or credit as a result
9 of bets or wagers, or for information assisting
10 in the placing of bets or wagers; or

11 “(2) accepts, in connection with the trans-
12 mission of a communication in interstate or foreign
13 commerce, within the special maritime and terri-
14 torial jurisdiction of the United States, or to or from
15 any place outside the jurisdiction of any nation with
16 respect to any transmission to or from the United
17 States of bets or wagers or information assisting in
18 the placing of bets or wagers—

19 “(A) credit, or the proceeds of credit, ex-
20 tended to or on behalf of another (including
21 credit extended through the use of a credit
22 card);

23 “(B) an electronic fund transfer or funds
24 transmitted by or through a money transmit-
25 ting business, or the proceeds of an electronic

1 fund transfer or money transmitting service,
2 from or on behalf of the other person;

3 “(C) any check, draft, or similar instru-
4 ment which is drawn by or on behalf of the
5 other person and is drawn on or payable
6 through any financial institution; or

7 “(D) the proceeds of any other form of fi-
8 nancial transaction as the Secretary of the
9 Treasury and the Board of Governors of the
10 Federal Reserve System may prescribe by regu-
11 lation which involves a financial institution as a
12 payor or financial intermediary on behalf of or
13 for the benefit of the other person,

14 shall be fined under this title or imprisoned not more than
15 five years, or both.

16 “(b) Nothing in this section prohibits—

17 “(1) the transmission of information assisting
18 in the placing of bets or wagers for use in news re-
19 porting if such transmission does not solicit or pro-
20 vide information for the purpose of facilitating or
21 enabling the placing or receipt of bets or wagers in
22 a jurisdiction where such betting is illegal;

23 “(2) the transmission of information assisting
24 in the placing of bets or wagers from a State or for-
25 eign country where such betting or wagering is per-

1 mitted under Federal, State, tribal, or local law into
2 a State or foreign country in which such betting on
3 the same event is permitted under Federal, State,
4 tribal, or local law; or

5 “(3) the interstate transmission of information
6 relating to a State-specific lottery between a State or
7 foreign country where such betting or wagering is
8 permitted under Federal, State, tribal, or local law
9 and an out-of-State data center for the purposes of
10 assisting in the operation of such State-specific lot-
11 tery.

12 “(c) Nothing in this section prohibits the use of a
13 communication facility for the transmission of bets or wa-
14 gers or information assisting in the placing of bets or wa-
15 gers, if—

16 “(1) at the time the transmission occurs, the
17 individual or entity placing the bets or wagers or in-
18 formation assisting in the placing of bets or wagers,
19 the gambling business, and, subject to section
20 1084(b)(3), any individual or entity acting in con-
21 cert with a gambling business to process the bets or
22 wagers are physically located in the same State, and
23 for class II or class III gaming under the Indian
24 Gaming Regulatory Act, are physically located on
25 Indian lands within that State;

1 “(2) the State or tribe has explicitly authorized
2 such bets and wagers, the State or tribal law re-
3 quires a secure and effective location and age ver-
4 ification system to assure compliance with age and
5 location requirements, and the gambling business
6 and any individual or entity acting in concert with
7 a gambling business to process the bets or wagers
8 complies with such law;

9 “(3) the State has explicitly authorized and li-
10 censed the operation of the gambling business and
11 any individual or entity acting in concert with a
12 gambling business to process the bets and wagers
13 within its borders or the tribe has explicitly author-
14 ized and licensed the operation of the gambling busi-
15 ness and any individual or entity acting in concert
16 with a gambling business to process the bets and
17 wagers, on Indian lands within its jurisdiction;

18 “(4) with respect to class II or class III gam-
19 ing, the game and gambling business complies with
20 the requirements of the Indian Gaming Regulatory
21 Act; and

22 “(5) with respect to class III gaming under the
23 Indian Gaming Regulatory Act, the game is author-
24 ized under, and is conducted in accordance with, the
25 respective Tribal-State compact of the Tribe having

1 jurisdiction over the Indian lands where the indi-
2 vidual or entity placing the bets or wagers or infor-
3 mation assisting in the placing of bets or wagers, the
4 gambling business, and any individual or entity act-
5 ing in concert with a gambling business to process
6 those bets or wagers are physically located, and such
7 Tribal-State compact expressly provides that the
8 game may be conducted using a communication fa-
9 cility to transmit bets or wagers or information as-
10 sisting in the placing of bets or wagers.

11 For purposes of this subsection, the intermediate routing
12 of electronic data constituting or containing all or part of
13 a bet or wager, or all or part of information assisting in
14 the placing of bets or wagers, shall not determine the loca-
15 tion or locations in which a bet or wager is transmitted,
16 initiated, received or otherwise made; or from or to which
17 a bet or wager, or information assisting in the placing of
18 bets or wagers, is transmitted.

19 “(d) Nothing in this section creates immunity from
20 criminal prosecution under any laws of any State or tribe.

21 “(e) Nothing in this section authorizes activity that
22 is prohibited under chapter 178 of title 28, United States
23 Code.

24 “(f) When any common carrier, subject to the juris-
25 diction of the Federal Communications Commission, is no-

1 tified in writing by a Federal, State, tribal, or local law
2 enforcement agency, acting within its jurisdiction, that
3 any communication facility furnished by it is being used
4 or will be used by its subscriber for the purpose of trans-
5 mitting or receiving gambling information in interstate or
6 foreign commerce, within the special maritime and terri-
7 torial jurisdiction of the United States, or to or from any
8 place outside the jurisdiction of any nation with respect
9 to any transmission to or from the United States in viola-
10 tion of Federal, State, tribal, or local law, it shall dis-
11 continue or refuse, the leasing, furnishing, or maintaining
12 of such facility, after reasonable notice to the subscriber,
13 but no damages, penalty or forfeiture, civil or criminal,
14 shall be found against any common carrier for any act
15 done in compliance with any notice received from a law
16 enforcement agency. Nothing in this section shall be
17 deemed to prejudice the right of any person affected there-
18 by to secure an appropriate determination, as otherwise
19 provided by law, in a Federal court or in a State, tribal,
20 or local tribunal or agency, that such facility should not
21 be discontinued or removed, or should be restored.”.

22 **SEC. 103. AUTHORIZATION OF CIVIL ENFORCEMENT.**

23 Chapter 50 of title 18, United States Code, is amend-
24 ed by adding at the end the following new section:

1 **“§ 1085. Civil remedies**

2 “(a) JURISDICTION.—The district courts of the
3 United States (in addition to any other remedies under
4 current law) shall have original and exclusive jurisdiction
5 to prevent and restrain violations of section 1084 by
6 issuing appropriate orders in accordance with this section,
7 regardless of whether a prosecution has been initiated
8 under section 1084.

9 “(b) PROCEEDINGS.—

10 “(1) The United States may institute pro-
11 ceedings under this section—

12 “(A) to obtain injunctive or declarative re-
13 lief, including but not limited to a temporary
14 restraining order and a preliminary injunction,
15 against any person (other than a financial
16 transaction provider) to prevent or restrain a
17 violation or a threatened violation of section
18 1084;

19 “(B) in the case of an insured depository
20 institution that is a financial transaction pro-
21 vider, to—

22 “(i) restrain an account maintained at
23 such insured depository institution if such
24 account is—

25 “(I) owned or controlled by a
26 gambling business; and

1 “(II) includes proceeds of, or is
2 used to facilitate a violation of, sec-
3 tion 1084; or

4 “(ii) seize funds in an account de-
5 scribed in subparagraph (i) if such funds—

6 “(I) are owned or controlled by a
7 gambling business; and

8 “(II) constitute the proceeds of,
9 were derived from, or facilitated, a
10 violation of section 1084.

11 “(C) The limitation in subparagraph (A)
12 shall not apply if the financial transaction pro-
13 vider is a gambling business within the meaning
14 of section 1081(12), in which case such finan-
15 cial transaction provider shall be subject to the
16 enforcement provisions under subparagraph
17 (A).

18 “(2) The attorney general (or other appropriate
19 State official) of a State in which a communication
20 in violation of section 1084 allegedly has been or will
21 be initiated or received may institute proceedings
22 under this section to obtain injunctive or declarative
23 relief to prevent or restrain the violation or threat-
24 ened violation. Upon application of the attorney gen-
25 eral (or other appropriate State official) of an af-

1 fected State under this paragraph, the district court
2 may enter a temporary restraining order, a prelimi-
3 nary injunction, an injunction, or declaratory relief
4 against any person (other than a financial trans-
5 action provider) to prevent or restrain a violation or
6 threatened violation of section 1084, in accordance
7 with rule 65 of the Federal Rules of Civil Procedure.

8 “(3) Notwithstanding paragraphs (1) and (2),
9 for a communication in violation of section 1084
10 that allegedly has been or will be initiated or re-
11 ceived on Indian lands (as that term is defined in
12 section 4 of the Indian Gaming Regulatory Act)—

13 “(A) the United States shall have the en-
14 forcement authority provided under paragraph
15 (1);

16 “(B) the enforcement authorities specified
17 in an applicable Tribal-State compact nego-
18 tiated under section 11 of the Indian Gaming
19 Regulatory Act (25 U.S.C. 2710) shall be car-
20 ried out in accordance with that compact; and

21 “(C) if there is no applicable Tribal-State
22 compact, an appropriate tribal official may in-
23 stitute proceedings in the same manner as an
24 attorney general of a State.

1 No provision of this section shall be construed as al-
2 tering, superseding, or otherwise affecting the appli-
3 cation of the Indian Gaming Regulatory Act.

4 “(4) Notwithstanding paragraph (3), no relief
5 shall be granted under this section against a finan-
6 cial transaction provider except as provided in para-
7 graph (1).

8 “(c) No damages, penalty, or forfeiture, civil or crimi-
9 nal, shall be found against any person or entity for any
10 act done in compliance with any notice received from a
11 law enforcement agency.

12 “(d) Relief granted under this section against an
13 interactive computer service (as defined in section 230(f)
14 of the Communications Act of 1934) shall—

15 “(1) be limited to the removal of, or disabling
16 of access to, an online site violating section 1084, or
17 a hypertext link to an online site violating such sec-
18 tion, that resides on a computer server that such
19 service controls or operates; except this limitation
20 shall not apply if the service is violating section
21 1084 or is in active concert with a person who is vio-
22 lating section 1084 and receives actual notice of the
23 relief;

1 “(2) be available only after notice to the inter-
2 active computer service and an opportunity for the
3 service to appear are provided;

4 “(3) not impose any obligation on an interactive
5 computer service to monitor its service or to affirma-
6 tively seek facts indicating activity violating section
7 1084;

8 “(4) specify the interactive computer service to
9 which it applies; and

10 “(5) specifically identify the location of the on-
11 line site or hypertext link to be removed or access
12 to which is to be disabled.”.

13 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

14 In addition to any other sums authorized to be appro-
15 priated for this purpose, there are authorized to be appro-
16 priated to the Department of Justice for each of fiscal
17 years 2007 through 2010 \$10,000,000 for investigations
18 and prosecutions of violations of section 1084 of title 18,
19 United States Code.

20 **SEC. 105. RULES OF CONSTRUCTION.**

21 (a) Nothing in this Act may be construed to prohibit
22 any activity that is allowed under Public Law 95–515 as
23 amended (15 U.S.C. 3001 et seq.).

24 (b) Nothing in this Act may be construed to preempt
25 State law prohibiting gambling.

1 **SEC. 106. SENSE OF CONGRESS.**

2 It is the sense of Congress that this Act does not
3 change which activities related to horse racing may or may
4 not be allowed under Federal law. Section 105 is intended
5 to address concerns that this Act could have the effect
6 of changing the existing relationship between the Inter-
7 state Horseracing Act (15 U.S.C. 3001 et seq.), and other
8 Federal statutes that were in effect at the time of this
9 Act's consideration; this Act is not intended to change that
10 relationship; and this Act is not intended to resolve any
11 existing disagreements over how to interpret the relation-
12 ship between the Interstate Horseracing Act and other
13 Federal statutes.

14 **TITLE II—POLICIES AND PROCE-**
15 **DURES REQUIRED TO PRE-**
16 **VENT PAYMENTS FOR UNLAW-**
17 **FUL GAMBLING**

18 **SEC. 201. POLICIES AND PROCEDURES REQUIRED TO PRE-**
19 **VENT PAYMENTS FOR UNLAWFUL GAMBLING.**

20 Chapter 53 of title 31, United States Code, is amend-
21 ed by adding at the end the following new subchapter:

1 “SUBCHAPTER IV—POLICIES AND PROCEDURES
2 REQUIRED TO PREVENT PAYMENTS FOR
3 UNLAWFUL GAMBLING

4 “§ 5361. **Definitions**

5 “For purposes of this subchapter, the following defi-
6 nitions shall apply:

7 “(1) CREDIT; CREDITOR; CREDIT CARD; AND
8 CARD ISSUER.—The terms ‘credit’, ‘creditor’, ‘credit
9 card’, and ‘card issuer’ have the same meanings as
10 in section 103 of the Truth in Lending Act.

11 “(2) DESIGNATED PAYMENT SYSTEM.—The
12 term ‘designated payment system’ means any system
13 utilized by a financial transaction provider that the
14 Secretary and the Board of Governors of the Fed-
15 eral Reserve System, in consultation with the Attor-
16 ney General, jointly determine, by regulation or
17 order, could be utilized in connection with, or to fa-
18 cilitate, any restricted transaction.

19 “(3) ELECTRONIC FUND TRANSFER.—The term
20 ‘electronic fund transfer’—

21 “(A) has the same meaning as in section
22 903 of the Electronic Fund Transfer Act, ex-
23 cept that such term includes transfers that
24 would otherwise be excluded under section
25 903(6)(E) of that Act; and

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

4 “(4) FINANCIAL INSTITUTION.—The term ‘fi-
5 nancial institution’ has the same meaning as in sec-
6 tion 903 of the Electronic Fund Transfer Act, ex-
7 cept that such term does not include a casino, sports
8 book, or other business at or through which bets or
9 wagers may be placed or received.

10 “(5) FINANCIAL TRANSACTION PROVIDER.—
11 The term ‘financial transaction provider’ means a
12 creditor, credit card issuer, financial institution, op-
13 erator of a terminal at which an electronic fund
14 transfer may be initiated, money transmitting busi-
15 ness, or international, national, regional, or local
16 payment network utilized to effect a credit trans-
17 action, electronic fund transfer, stored value product
18 transaction, or money transmitting service, or a par-
19 ticipant in such network, or other participant in a
20 designated payment system.

21 “(6) INSURED DEPOSITORY INSTITUTION.—The
22 term ‘insured depository institution’—

23 “(A) has the same meaning as in section
24 3 of the Federal Deposit Insurance Act; and

1 “(B) includes an insured credit union (as
2 defined in section 101 of the Federal Credit
3 Union Act).

4 “(7) MONEY TRANSMITTING BUSINESS AND
5 MONEY TRANSMITTING SERVICE.—The terms ‘money
6 transmitting business’ and ‘money transmitting serv-
7 ice’ have the same meanings as in section 5330(d)
8 (determined without regard to any regulations pre-
9 scribed by the Secretary thereunder).

10 “(8) RESTRICTED TRANSACTION.—The term
11 ‘restricted transaction’ means any transaction or
12 transmittal involving any credit, funds, instrument,
13 or proceeds described in any paragraph of section
14 5362 which the recipient is prohibited from accept-
15 ing under such section.

16 “(9) SECRETARY.—The term ‘Secretary’ means
17 the Secretary of the Treasury.

18 “(10) UNLAWFUL GAMBLING.—

19 “(A) IN GENERAL.—The term ‘unlawful
20 gambling’ means to place, receive, or otherwise
21 knowingly transmit a bet or wager by any
22 means which involves the use of a communica-
23 tion facility where such bet or wager is unlawful
24 under any applicable Federal or State law in

1 the State or tribal lands in which the bet or
2 wager is initiated, received, or otherwise made.

3 “(B) EXCLUSION OF CERTAIN AUTHOR-
4 IZED TRANSACTIONS.—The term ‘unlawful
5 gambling’ does not include any intrastate or
6 intratribal transactions authorized under sec-
7 tion 1084(c) of title 18, United States Code.

8 “(C) INTERMEDIATE ROUTING.—With re-
9 spect to section 5362, the intermediate routing
10 of electronic data shall not determine the loca-
11 tion or locations in which a bet or wager is ini-
12 tiated, received, or otherwise made.

13 “(11) OTHER TERMS.—The terms ‘bet or
14 wager’, ‘communication facility’, ‘gambling business’,
15 ‘own and control’, ‘person’, ‘State’, and ‘tribal’ have
16 the same meanings as in section 1081 of title 18.

17 **“§ 5362. Prohibition on acceptance of any financial**
18 **instrument for unlawful gambling**

19 “No person engaged in a gambling business may
20 knowingly accept, in connection with the participation of
21 another person in unlawful gambling—

22 “(1) credit, or the proceeds of credit, extended
23 to or on behalf of such other person (including credit
24 extended through the use of a credit card);

1 “(2) an electronic fund transfer, or funds trans-
2 mitted by or through a money transmitting business,
3 or the proceeds of an electronic fund transfer or
4 money transmitting service, from or on behalf of
5 such other person;

6 “(3) any check, draft, or similar instrument
7 which is drawn by or on behalf of such other person
8 and is drawn on or payable at or through any finan-
9 cial institution; or

10 “(4) the proceeds of any other form of financial
11 transaction, as the Secretary and the Board of Gov-
12 ernors of the Federal Reserve System may jointly
13 prescribe by regulation, which involves a financial in-
14 stitution as a payor or financial intermediary on be-
15 half of or for the benefit of such other person.

16 **“§ 5363. Policies and procedures to identify and pre-**
17 **vent restricted transactions**

18 “(a) REGULATIONS.—Before the end of the 270-day
19 period beginning on the date of the enactment of this sub-
20 chapter, the Secretary and the Board of Governors of the
21 Federal Reserve System, in consultation with the Attorney
22 General, shall prescribe regulations (which the Secretary
23 and the Board jointly determine to be appropriate) requir-
24 ing each designated payment system, and all participants
25 therein, to identify and block or otherwise prevent or pro-

1 hibit restricted transactions through the establishment of
2 policies and procedures reasonably designed to identify
3 and block or otherwise prevent or prohibit the acceptance
4 of restricted transactions in any of the following ways:

5 “(1) The establishment of policies and proce-
6 dures that—

7 “(A) allow the payment system and any
8 person involved in the payment system to iden-
9 tify restricted transactions by means of codes in
10 authorization messages or by other means; and

11 “(B) block restricted transactions identi-
12 fied as a result of the policies and procedures
13 developed pursuant to subparagraph (A).

14 “(2) The establishment of policies and proce-
15 dures that prevent or prohibit the acceptance of the
16 products or services of the payment system in con-
17 nection with a restricted transaction.

18 “(b) REQUIREMENTS FOR POLICIES AND PROCE-
19 DURES.—In prescribing regulations under subsection (a),
20 the Secretary and the Board of Governors of the Federal
21 Reserve System shall—

22 “(1) identify types of policies and procedures,
23 including nonexclusive examples, which would be
24 deemed, as applicable, to be reasonably designed to
25 identify and block or otherwise prevent or prohibit

1 the acceptance of the products or services with re-
2 spect to each type of restricted transaction;

3 “(2) to the extent practical, permit any partici-
4 pant in a payment system to choose among alter-
5 native means of identifying and blocking, or other-
6 wise preventing or prohibiting the acceptance of the
7 products or services of the payment system or par-
8 ticipant in connection with, restricted transactions;
9 and

10 “(3) consider exempting certain restricted
11 transactions or designated payment systems from
12 any requirement imposed under such regulations, if
13 the Secretary and the Board jointly find that it is
14 not reasonably practical to identify and block, or
15 otherwise prevent or prohibit the acceptance of, such
16 transactions.

17 “(c) COMPLIANCE WITH PAYMENT SYSTEM POLI-
18 CIES AND PROCEDURES.—A financial transaction provider
19 shall be considered to be in compliance with the regula-
20 tions prescribed under subsection (a), if—

21 “(1) such person relies on and complies with
22 the policies and procedures of a designated payment
23 system of which it is a member or participant to—

24 “(A) identify and block restricted trans-
25 actions; or

1 “(B) otherwise prevent or prohibit the ac-
2 ceptance of the products or services of the pay-
3 ment system, member, or participant in connec-
4 tion with restricted transactions; and

5 “(2) such policies and procedures of the des-
6 ignated payment system comply with the require-
7 ments of regulations prescribed under subsection
8 (a).

9 “(d) NO LIABILITY FOR BLOCKING OR REFUSING TO
10 HONOR RESTRICTED TRANSACTIONS.—A person that
11 identifies and blocks a transaction, prevents or prohibits
12 the acceptance of its products or services in connection
13 with a transaction, or otherwise refuses to honor a
14 transaction—

15 “(1) that is a restricted transaction;

16 “(2) that such person reasonably believes to be
17 a restricted transaction; or

18 “(3) as a designated payment system or a mem-
19 ber of a designated payment system in reliance on
20 the policies and procedures of the payment system,
21 in an effort to comply with regulations prescribed
22 under subsection (a),

23 shall not be liable to any party for such action.

24 “(e) REGULATORY ENFORCEMENT.—The require-
25 ments of this subchapter shall be enforced exclusively by—

1 “(1) the Federal functional regulators, with re-
2 spect to the designated payment systems and finan-
3 cial transaction providers subject to the respective
4 jurisdiction of such regulators under section 505(a)
5 of the Gramm-Leach-Bliley Act and section 5g of
6 the Commodities Exchange Act; and

7 “(2) the Federal Trade Commission, with re-
8 spect to designated payment systems and financial
9 transaction providers not otherwise subject to the ju-
10 risdiction of any Federal functional regulators (in-
11 cluding the Commission) as described in paragraph
12 (1).”.

13 **SEC. 202. TECHNICAL AND CONFORMING AMENDMENT.**

14 The table of sections for chapter 53 of title 31,
15 United States Code, is amended by adding at the end the
16 following:

“SUBCHAPTER IV—POLICIES AND PROCEDURES REQUIRED TO PREVENT
PAYMENTS FOR UNLAWFUL GAMBLING

“5361. Definitions.

“5362. Prohibition on acceptance of any financial instrument for unlawful
gambling.

“5363. Policies and procedures to identify and prevent restricted trans-
actions.”.

1 **TITLE III—INTERNET GAMBLING**
2 **IN OR THROUGH FOREIGN JU-**
3 **RISDICTIONS**

4 **SEC. 301. INTERNET GAMBLING IN OR THROUGH FOREIGN**
5 **JURISDICTIONS.**

6 (a) **IN GENERAL.**—In deliberations between the
7 United States Government and any other country on
8 money laundering, corruption, and crime issues, the
9 United States Government should—

10 (1) encourage cooperation by foreign govern-
11 ments and relevant international fora in identifying
12 whether Internet gambling operations are being used
13 for money laundering, corruption, or other crimes;

14 (2) advance policies that promote the coopera-
15 tion of foreign governments, through information
16 sharing or other measures, in the enforcement of
17 this Act; and

18 (3) encourage the Financial Action Task Force
19 on Money Laundering, in its annual report on
20 money laundering typologies, to study the extent to
21 which Internet gambling operations are being used
22 for money laundering purposes.

23 (b) **REPORT REQUIRED.**—The Secretary of the
24 Treasury shall submit an annual report to the Congress

- 1 on any deliberations between the United States and other
- 2 countries on issues relating to Internet gambling.