

Unlawful Internet Gambling Enforcement Act of 2006 – Fact Sheet

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) was enacted on October 13. The Internet must not be used as a mechanism to evade Federal and State gambling laws, but it is difficult to prosecute offshore gambling businesses. So this new enforcement law:

For more info see:


- Prohibits Internet gambling operators from accepting money related to any online gambling that violates State or Federal law. Violation is a crime, and the gambling business can be permanently enjoined from engaging in *any* gambling if convicted.
- Requires the Department of Treasury and Federal Reserve Board to issue regulations within nine months after enactment, which will oblige financial systems to block payments for unlawful Internet gambling. 
- Authorizes State and Federal Attorneys General to bring civil actions to stop facilitators of unlawful Internet gambling, without having to prove a criminal case.
- *Does not* make any gambling activity illegal that was previously legal, and does not make any gambling activity legal that was previously illegal.
- Preserves and facilitates the right of every State to determine and enforce the gambling policies that will apply within State borders. 
- Defends American laws against evasion and erosion by offshore operators who wish to profit from the law's demise.
- Has already caused a meltdown in the Internet gambling industry. Online gambling stocks lost over half their market value immediately after the law passed Congress. Many companies have withdrawn from the U.S. market already, and the financial regulations will restrict access to the remaining online gambling operators.

Common Myths About UIGEA

Myth: UIGEA was enacted by stealth without majority support or public consideration.

Fact: UIGEA was the culmination of a ten year Congressional effort that involved several votes of overwhelming support (including a 317-93 vote by the House of Representatives on July 11, 2006), numerous public hearings and many committee markups. 

Myth: UIGEA is only supported by the "religious right."

Fact: Internet gambling legislation was originally introduced at the request of the State Attorneys General. They were joined by groups as diverse as professional sports leagues and the NCAA, several major financial institutions and associations, and the Fraternal Order of Police. 

Myth: UIGEA does not affect gambling on poker.

Fact: UIGEA applies to all *bets or wagers* on a game subject to chance, if those bets or wagers are unauthorized by State law. No State currently authorizes online *gambling* on poker. But *playing* poker is perfectly permissible if no real money is wagered.

Myth: UIGEA has "carve-outs" for lotteries, horseracing, and fantasy sports.

Fact: UIGEA explicitly applies to lotteries. It does not change the law for horseracing. And it does not allow gambling on fantasy sports. 

Decide for yourself.
Read the law: Tab 6

Supporting Documents: Table of Contents

Tab 1	UIGEA: Financial Regulations Q&A
Tab 2	UIGEA: A Guide for State Lawmakers <i>(includes analysis of World Trade Organization dispute)</i>
Tab 3	Brief History of Internet Gambling Legislation
Tab 4	Public Supporters of UIGEA
Tab 5	UIGEA: Addressing the “Carve-Out” Myths
Tab 6	Text of UIGEA (Title VIII of H.R. 4954)

Unlawful Internet Gambling Enforcement Act of 2006: Financial Regulations Q&A

Most Internet gambling operators are located offshore, beyond the jurisdiction of Federal or State law enforcement. So the best way to stop these companies from flouting federal and state gambling laws is to cut off money transfers to them. Internet gamblers in the United States generally have to go through U.S. financial institutions to get their money to the offshore businesses. UIGEA requires the Department of Treasury and Federal Reserve Board to issue regulations aimed at choking off this flow, within nine months of enactment. **The effectiveness of UIGEA rests primarily on the strength of these regulations.**

Q. How can financial institutions block Internet gambling transactions?

A. The methods vary according to the payment system, and **many financial institutions already have implemented such policies voluntarily.** Some systems (particularly international systems such as MasterCard and Visa) code merchant accounts according to the type of business, and their computers systematically deny authorization between Internet gambling merchants and customer accounts with U.S. banks. Other systems refuse to issue merchant accounts to Internet gambling businesses at all. **The key to preventing Internet gambling payments is identifying the *payee* as an Internet gambling business,** *not* monitoring the activities of individuals who might be gambling.

Q. Will payment systems be required to implement impractical new procedures?

A. No. Treasury and Federal Reserve are instructed to exempt a payment system if it is not “reasonably practical” to block online gambling transactions through that type of payment system. However, **there are ways of regulating most payment systems that will *not* involve new technologies or large expenses.** For instance:

- Credit cards already have blocking technology in place—these procedures simply become mandatory.
- Third-party payers (or “e-wallets”) such as PayPal can deny accounts to Internet gambling websites, or block payments to them from U.S. account holders.
- Banks already have procedures for blocking fund transfers to designated international criminal organizations, such as drug cartels and terrorist organizations. Online gambling companies could simply be added to the list.

Q. What about offshore e-wallets, such as Neteller and FirePay?

A. The financial regulations will *only* be effective if offshore e-wallets are properly covered. FirePay has already announced that it will not allow U.S. consumer payments to online gambling merchants. But to ensure uniform compliance by offshore e-wallets, the regulations will need to block *all* payments from U.S. financial systems to any offshore e-wallets that refuse to abide by U.S. law for their American customers.

Q. Will payment systems have to determine whether transactions are illegal?

A. No. It is the job of the Treasury Department and Federal Reserve Board to determine what payment systems need to block. UIGEA instructs the agencies to write regulations designed to block illegal Internet gambling, but *not* block transactions for legal domestic gambling businesses.

The easiest way to implement this is to create a **presumption in the regulations that domestic gambling businesses are legal**. That way, financial systems only need to know the country where the merchant operates. The main point of the financial regulations, after all, is to get at the *offshore* operators who cannot otherwise be touched by the law. If a *domestic* business is breaking the law, law enforcement can use traditional options such as prosecution or civil actions to bring the business into compliance, so assistance from the payment systems is not necessary.

Unlawful Internet Gambling Enforcement Act of 2006: A Guide for State Lawmakers

On October 13, 2006, President Bush signed the Unlawful Internet Gambling Enforcement Act of 2006 into law, as part of a larger bill that focused on port security measures. Though the final legislation was tacked on to an unrelated bill, the text of the bill represents the culmination of ten years of Federal Congressional efforts, five bills that passed either the House of Representatives or Senate, and countless committee hearings and markups. The new law has had an immediate impact on the online gambling industry, causing their stocks to lose 50% of their value in a single day, and many operators have already withdrawn from the U.S. market.

This Federal law struck a blow against illegal online gambling by cutting off its payment mechanisms, but **the issue of online gambling really begins and ends with the States**. The original impetus for this bill was a request from State Attorneys General, who wanted Federal assistance for enforcing State laws against online gambling. The new law preserves the right of each State to determine and enforce its own policies prohibiting or regulating gambling. And citizens interested in legalizing or prohibiting additional forms of gambling will now turn to their State legislatures to argue their case.

There is a great deal of misinformation about this law circulating in the media. This guide reviews the facts. You are encouraged to read the law for yourself if you have any doubts about the veracity of any claims about it. It is only 11 pages long, and a copy is attached.

A Primer on the New Law

What is “unlawful Internet gambling”?

Unlawful Internet gambling means (1) placing or receiving a bet or wager (2) using the Internet at least in part (3) where the bet or wager is unlawful under *any* applicable Federal or State law in the location where the bet or wager is initiated *or* received.

In other words, if your State does not authorize online gambling, when a person located in your State wagers on a foreign gambling website, this is “unlawful Internet gambling.” If the gambler’s activity is not allowed by your State laws, it does not matter whether or not the foreign gambling website is appropriately licensed in the country where it is located.

What happens when someone engages in unlawful Internet gambling?

Unlawful Internet gambling triggers several new enforcement options under the law:

- If the *gambling business* accepts any financial instrument (credit card, check, e-cash, etc.) related to that unlawful Internet gambling, it has committed a **Federal felony**. If persons running the business come to the United States they can be arrested and prosecuted, and any assets they might have in the country can be seized.

- Your State Attorney General is authorized to seek **injunctions in federal court against any person** to stop or prevent unlawful Internet gambling. For instance, if a gambling website is running ads on a billboard, your Attorney General can get an injunction to require the billboard owner to take down the advertisement, because this facilitates unlawful Internet gambling. (The U.S. Attorney General can also request an injunction.)
- The Federal financial regulators will require credit cards, banks, and other payment systems to **block any money transfers** to gambling businesses who engage in unlawful Internet gambling. (This option requires new Federal regulations for financial institutions, which will be written within nine months of enactment. The regulations cannot go into effect until they are written, but the other options are effective immediately.)

What does not happen when someone engages in unlawful Internet gambling?

- The *gambler* has *not* committed a Federal crime. He *might* have committed a crime under your State law (in many States, this is a misdemeanor). It is up to the State, not the Federal government, to decide if any penalty might be applied to the gambler.
- The State Attorney General is *not* authorized to request an injunction to stop a payment system from making a prohibited payment. This would be redundant with the Federal financial regulations, and could disrupt interstate commerce. To protect the ability of payment systems to efficiently process millions of interstate transactions a day, they are held to a single set of Federal standards.

Focus on State's Rights

Federal gambling law has long recognized the rights of States to set their own policies for gambling in the State. The new law follows this tradition. This section focuses on your State's rights to continue to set State gambling policy after the enactment of this law.

What happens if my State prohibits gambling that other States allow?

The **prohibition in your State is fully enforceable**, regardless of the laws of other jurisdictions. If the bet or wager is initiated or received in your State, you can use the new enforcement options under this law. You can also use any enforcement options available under State law.

How does the law prevent States from imposing their policies on other States?

States that wish to legalize gambling generally must keep that activity within the borders of the State. They cannot offer access to people located out-of-state, because other States may prohibit that activity.

On the other hand, States that prohibit gambling are not authorized to bring enforcement actions against those activities if neither the gambler nor the gambling business is located in the State.

How will the law affect gambling that is already legalized in my State?

The new law has **no impact on gambling that is already legalized within a State**. It contains a rule of construction stating: “No provision of this subchapter shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.”

Some licensed gambling businesses use Internet technology to operate. For instance, an off-track-betting parlor may use the Internet for simulcasting, a lottery ticket retailer may connect with a central processing facility, or multiple casinos might link together their slot machines to provide bigger jackpots. The new law expressly permits these businesses to continue these practices, if they are following State law and verifying the age of players to keep minors out.

Are there any restrictions on what a State can legalize?

If a State legalizes any gambling activity that uses Internet technology, it needs to follow a few guidelines:

- The **State law needs to be explicit** about authorizing the type of bet or wager, and the method for initiating and receiving the bet or wager. For example, the State law might authorize playing poker and similar card games using computers located in licensed cardrooms. This law would *not* authorize residents to play online poker from home, unless the law explicitly added such authorization.
- The bet or wager needs to be initiated and received within the same State. The State law needs to include requirements reasonably designed to **prevent any persons located out of the State from accessing the system**.
- The State law needs to include requirements reasonably designed to **block access to minors**.
- The State law **cannot violate pre-existing Federal law**, including:
 - The Professional and Amateur Sports Protection Act of 1992 (prohibiting States from legalizing any sports gambling);
 - The Indian Gaming Regulatory Act of 1988 (giving regulatory authority for tribal gaming primarily to the Federal government); and
 - The Interstate Horseracing Act of 1978 (requiring permission and revenue sharing for simulcasting races at out-of-state tracks).

What about *interstate* horseracing wagers?

In 1978, Congress passed the Interstate Horseracing Act (“IHA”) to encourage cooperation between States that permit off-track betting. The effect of this law is disputed between the U.S. Department of Justice and the horseracing industry, particularly as it applies to

wagers placed on a website instead of a bricks-and-mortar off-track-betting parlor. The new law carefully avoids weighing in on the dispute over existing laws. However, the *new* enforcement options will not apply to transactions that comply with the IHA.

It is important to note the IHA only applies to wagers on out-of-state horseraces where those wagers are *lawful in each of the States involved*. No State is required to allow interstate horseracing wagers, but every State has the option.

A Threat to State's Rights: the WTO Decision

The United States is party to the General Agreement on Trade in Services (“GATS”), and multinational free trade treaty enforced by the World Trade Organization (“WTO”). Under this treaty, the U.S. agreed to free trade for “entertainment services,” among other things. At the time GATS was ratified, publicly-available Internet was in its nascency. In 2003, Antigua brought a complaint against the U.S. for not authorizing access to foreign gambling websites. In 2005, the Appellate Body of the WTO issued an opinion saying that the U.S. had agreed to free trade in gambling when it agreed to “entertainment” services. The *U.S.-Gambling* decision has troubling implications for State sovereignty.

What is the consequence of the WTO decision?

Because the WTO believes the U.S. committed to free trade in gambling services, it scrutinizes any limitations that Federal or State government places on access to foreign gambling websites. GATS *does* allow limitations for the purpose of protecting public morality and/or public order. But the limitations cannot be applied in a way that unjustifiably discriminates among countries. So the WTO has made itself the arbiter of whether any differential treatment of gambling in Federal or State laws is “justified.”

Does the WTO allow the U.S. to ban Internet gambling?

The WTO Appellate Body did recognize that Internet gambling (or other forms of “remote gambling”) raises unique concerns, including: the volume, speed, and international reach of the gambling transactions; low barriers to entry; and the isolated and anonymous environment in which such gambling takes place. These factors make Internet gambling particularly accessible to minors and addictive, justifying special treatment in order to protect public morals and order.

However, the WTO asserts that the U.S. cannot be inconsistent when it places restrictions on Internet gambling. The Appellate Body regards the Interstate Horseracing Act as inconsistent, because certain States allow Internet gambling on horseraces, but foreign websites are not authorized to participate. In short, the WTO has given the U.S. the option of either allowing all Internet gambling or repealing the IHA. Neither alternative is attractive to Congress, and the U.S. continues to dispute whether the IHA violates GATS in the first place.

How does this affect State's rights?

The WTO believes that State laws can be scrutinized for compliance with GATS. Therefore, if a State chooses to authorize some types of gambling online but not others, or licenses gambling businesses in-state but not out-of-state, the WTO might challenge the State law.

Currently, only one State (Oregon) explicitly permits any form of online gambling, and then only for horseracing. The more that States expand authorization for online gambling, the more reason the WTO will have to question the “unjustifiable” patchwork of gambling laws in the U.S. Unfortunately, the WTO does not recognize the federalist structure of the United States—nor the will of the people expressed through the legislatures—to be adequate justification. Thus, the WTO’s position is fundamentally incompatible with the historic right of States to formulate their own gambling policies without having to justify those policies to the Federal government, courts, or other outside arbiters.

Thus far, Congress has not shown interest in appeasing the WTO’s view. However, if diplomatic pressure becomes too great, Congress could shift its position. States need to be aware of the WTO threat and make their concerns known to Congress to protect their prerogatives to set gambling policies within the State.

State Legislatures as the New Battleground

The Unlawful Internet Gambling Enforcement Act of 2006 is similar to legislation that passed the House of Representatives 317-93 in July 2006. It is also similar to bills from previous Congresses that received anywhere from 60% support to unanimous consent. Nevertheless, there are opponents—particularly online gambling businesses and online gamblers. Opponents will inevitably take their disagreement to the State legislatures in hopes of gaining an in-state exemption for themselves, state-by-state.

The State’s rights language in the new law was aimed at preserving Internet hook-ups in and among brick-and-mortar facilities. But States are permitted under the new law to allow online gambling if they can find a way to make sure no persons out-of-state or minors can access the website. States that consider authorizing online gambling should keep in mind two possible pitfalls, in addition to the general cost-benefit analysis:

- As explained above, any additional legalization of online gambling by a State will increase WTO pressures on U.S. diplomatic relations, and this can threaten the rights of all States.
- The Wire Act still makes it a Federal crime for a gambling business to use a communication facility to transmit a bet or wager on a sporting event or other contest. The drafting of the Wire Act is ambiguous, making it unclear whether non-sports gambling is prohibited by this law. But the U.S. Department of Justice believes it covers all forms of gambling, so any online gambling businesses located in the U.S. has some risk of prosecution under the Wire Act.

Brief History of Internet Gambling Legislation

A Timeline of Key Congressional Actions

104th Congress

December 1995

Senator Jon Kyl introduces S. 1495, the Crime Prevention Act of 1995. Based on a request from the State Attorneys General, the bill includes a brief title amending the Wire Act to clarify that non-sports betting is prohibited.

On the same day, the House Committee on the Judiciary amends H.R. 497, the National Gambling Impact Study Commission Act, to include an assessment of Internet gambling.

August 1996

The National Gambling Impact Study Commission Act (Pub. L. 104-169) is signed into law by President Clinton, including the study of Internet gambling.

105th Congress

March 1997

Sen. Kyl introduces S. 474, the Internet Gambling Prohibition Act of 1997, expanding slightly on the legislation proposed in the previous Congress. Rep. Bob Goodlatte introduces a companion bill in September.

July 1998

Sen. Kyl and Sen. Richard Bryan offer the Internet Gambling Prohibition Act of 1998 as an amendment to an appropriations bill. This bill includes new injunctive authority aimed at taking down or disabling access to illegal gambling websites. The **amendment passes the Senate 90-10** (Record Vote 229).

106th Congress

June 1999

The National Gambling Impact Study Commission issues its report, recommending legislation that blocks money transfers to offshore gambling websites, and recommends against the legalization of any new forms of Internet gambling.

November 1999

S. 629, the Internet Gambling Prohibition Act of 1999, **passes the Senate by unanimous consent**. This bill continues to expand on injunctions against computer services as the method for enforcing the prohibition.

Summer 2000

The House Committee on Judiciary reports H.R. 3125, Rep. Bob Goodlatte's companion to the Senate-passed bill, by a vote of 21-8. House Leadership places the bill on the suspension calendar, which requires a 2/3 vote for passage. Rumors circulate on the Hill about "carve-outs" that would "expand gambling on the Internet." Unbeknownst to many at the time, many of these rumors originate with Jack Abramoff, who is trying to kill the bill on behalf of his client, eLottery. The bill **receives a favorable vote of 245-159** (Roll Call 404), but short of the 2/3 vote required.

Meanwhile, Rep. Jim Leach introduces H.R. 4419, the Internet Gambling Funding Prohibition Act. This is the first bill to focus on blocking financial transactions, based on the recommendations of the National Gambling Impact Study Commission. The Financial Services Committee holds a public hearing and revises the bill on that basis.

107th Congress

Throughout 2001

The House of Representatives considers and revises the reintroduced Leach bill (H.R. 556). The House Financial Services and Judiciary Committees both hold public hearings.

Meanwhile, Rep. Goodlatte reintroduces the Abramoff-scuttled bill as the Combating Illegal Gambling Reform and Modernization Act. The new Goodlatte bill includes revisions based on concerns raised by the Department of Justice in the previous Congress.

October 2002

H.R. 556, the Leach-LaFalce Internet Gambling Enforcement Act, is considered by the House of Representatives under suspension of the rules. The revised bill turns to regulations developed by the Department of Treasury as the central tool for blocking financial transactions. It also incorporates some elements of Rep. Goodlatte's bill. The bill **passes the House of Representatives by a voice vote**.

108th Congress

March 2003

The House Financial Services Committee reports the same bill that passed in October 2002, renamed the Unlawful Internet Gambling Funding Prohibition Act (H.R. 21). Senator Jon Kyl introduces companion legislation in the Senate (S. 627) and hearings are held in the Senate Banking Committee.

June 2003

After a "strengthening" amendment passes the House Committee on the Judiciary but proves to be a poison pill, Rep. Spencer Bachus introduces a similar bill that *only* authorizes financial regulations, to circumvent Judiciary jurisdiction. The Bachus version of the bill (H.R. 2143) **passes the House of Representatives 319-104** (Roll Call 255).

July 2003

The Senate version of the bill meets a similar fate to H.R. 21, succumbing to “strengthening” committee amendments that result in fatal opposition to the bill. The Bachus bill is never considered on the Senate side.

109th Congress

Fall 2005

The *Washington Post* publishes a front page exposé chronicling how Jack Abramoff had corrupted the Internet gambling votes in 2000. A few weeks later, Rep. Leach introduces H.R. 4411, the Unlawful Internet Gambling Enforcement Act of 2005, a further revision of his previous bills. In February 2006, Rep. Goodlatte reintroduces his bill from the 106th Congress, now H.R. 4777.

Spring 2006

The House Financial Services Committee reports H.R. 4411 by a voice vote. The House Judiciary Committee holds a hearing on H.R. 4777, and reports both bills. Then the sponsors and committees negotiate a merged bill, combining the Wire Act amendments from H.R. 4777 with the financial regulations from H.R. 4411, and injunctive remedies found in both bills.

July 2006

The **House of Representatives votes 317-93 in favor of the Goodlatte-Leach bill** (Roll Call 363). The chairmen of the Senate Banking and Judiciary Committees waive jurisdiction and the bill goes directly to the Senate calendar, but a few Senators place holds on the bill and express preference for the pre-merger version of H.R. 4411.

September 2006

Senate Majority Leader Bill Frist seeks to attach the text of the Leach bill to any available vehicle to expedite passage in the Senate. The conferees for a port security bill sign off on including the language in the conference report. The port security bill is passed by both Houses, and the Members are fully aware of the inclusion of Internet gambling provisions at the time of the vote. **President Bush signs it into law** on October 13, 2006.

Supporters of the Unlawful Internet Gambling Enforcement Act of 2006

Law Enforcement

- National Association of Attorneys General
- National District Attorneys Association
- Federal Criminal Investigators
- Fraternal Order of Police

319 out of 435 Members of the House of Representatives

E-Commerce

- Internet Commerce Coalition (includes AT&T, BellSouth, eBay, TimeWarner)
- US Telecom
- PayPal

Sports Organizations

- National Football League
- National Collegiate Athletic Association
- Major League Baseball
- National Basketball Association
- National Hockey League

Financial Organizations

- American Bankers Association
- America's Community Bankers
- Securities Industry of America
- American Express
- Citigroup
- MasterCard
- HSBC North America

Family and Social Welfare Organizations

- National Coalition Against Gambling Expansion
- Truth About Gambling Foundation
- Family Research Council
- Christian Coalition
- Concerned Women for America
- American Values
- Center for Moral Clarity
- Citizens for Community Values
- Eagle Forum
- Family Leader Network
- Family Resource Network
- Focus on the Family
- Religious Freedom Coalition
- American Association of Christian Schools
- Network of Politically Active Christians
- The Center for Arizona Policy
- Arkansas Family Council
- Hawaii Family Forum
- United Families Idaho
- Illinois Family Institute
- American Family Association of Indiana
- Iowa Family Policy Center
- The Family Foundation (Kentucky)
- Louisiana Family Forum
- Family Protection Lobby - Maryland
- Massachusetts Family Institute
- Minnesota Family Council
- New Jersey Family Policy Council
- North Carolina Family Policy Council
- Stronger Families for Oregon
- American Family Association of Pennsylvania
- The Family Research Institute of Wisconsin

Religious Organizations

- Presbyterian Church (U.S.A.)
- General Board of Church and Society of United Methodist Church
- Southern Baptist Ethics & Religious Liberty Commission
- Together with their co-members of The National Council of Churches, which include:
 - African Methodist Episcopal Church
 - The African Methodist Episcopal Zion Church
 - Alliance of Baptists
 - American Baptist Churches in the USA
 - The Antiochian Orthodox Christian Archdiocese of North America
 - Diocese of the Armenian Church of America
 - Christian Church (Disciples of Christ)
 - Christian Methodist Episcopal Church
 - Church of the Brethren
 - The Coptic Orthodox Church in North America
 - The Episcopal Church
 - Evangelical Lutheran Church in America
 - Friends United Meeting
 - Greek Orthodox Archdiocese of America
 - Hungarian Reformed Church in America
 - International Council of Community Churches
 - Korean Presbyterian Church in America
 - Malankara Orthodox Syrian Church
 - Mar Thoma Church
 - Moravian Church in America Northern Province and Southern Province
 - National Baptist Convention of America
 - National Baptist Convention, U.S.A., Inc.
 - National Missionary Baptist Convention of America
 - Orthodox Church in America
 - Patriarchal Parishes of the Russian Orthodox Church in the USA
 - Philadelphia Yearly Meeting of the Religious Society of Friends
 - Polish National Catholic Church of America
 - Progressive National Baptist Convention, Inc.
 - Reformed Church in America
 - Serbian Orthodox Church in the U.S.A. and Canada
 - The Swedenborgian Church
 - Syrian Orthodox Church of Antioch
 - Ukrainian Orthodox Church of America
 - United Church of Christ

Unlawful Internet Gambling Enforcement Act of 2006: Addressing the “Carve-Out” Myths

The media is incessantly repeating a critique of UIGEA from opponents of the law: it contains hypocritical “carve-outs” for Internet gambling on lotteries, horseracing, and fantasy sports—intentional protectionism for “special interest groups,” according to opponents. On the other hand, many online gamblers are spreading the rumor that the law does not cover poker—an accidental loophole, they say. It is easier for the media to repeat these self-serving myths than to investigate the facts. The facts may be more complicated than the sound bites, but they are critically important for honest discussion of the new law.

Q. Is UIGEA is full of “loopholes”? If not, why is that claim so common?

A. Like its name suggests, **the Unlawful Internet Gambling Enforcement Act is an enforcement bill.** There are no intentional or accidental “loopholes” resulting from *this* law, because this law only enforces against transactions that are already illegal under some *other* law.

Gambling law in the United States is a patchwork of Federal and State laws. To foreign online gambling operators, the result appears to be enigmatic swiss cheese. But **the patchwork reflects our federalist system of shared power between states and the federal government, and the democratic process.** It is the unique product of the American system and the American people, not a code centrally-designed for the benefit of gambling businesses.

Q. What does the federal Wire Act really prohibit?

A. The Wire Act is a 1961 statute that made it a Federal felony for gambling businesses to use a wire communication facility to transmit “bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest,” or related money, in interstate or foreign commerce. The statute has been criticized for some ambiguities: the Wire Act did not contemplate the Internet or wireless communication devices, and some have said that it applies only to sports-related gambling.

Proponents of online gambling often claim the 1961 statute might not apply to the Internet, but the definition of “wire communication facility” is very broad, and does not even require the use of a wire (despite the title). There is no reasonable argument that the Internet is not included.

The main ambiguity is the word “sporting.” Does it apply to the entire clause, or only “event”? The 5th Circuit Court of Appeals says only sports gambling is prohibited by the statute, but the Department of Justice strongly disagrees, and no other courts have considered the question.

In summary, **the Wire Act definitely prohibits all sports gambling on the Internet. It might prohibit other types of gambling on the Internet.** Prosecutors need to test the law in court to settle the interpretation.

Q. What *other* laws make online gambling unlawful?

A. The patchwork of state laws adds up to blanket prohibition on nearly all online gambling.

- **All 50 states forbid the conduct of any commercial gambling activity unless expressly authorized and licensed by the state.** Only 1 state (Oregon) authorizes the licensing of any online gambling businesses, for wagering on horseraces only. Apart from a handful of companies licensed by Oregon, no online gambling operators are licensed by any state.
- At least 7 states have updated their gambling laws to explicitly prohibit Internet gambling.
- In 37 states it is a misdemeanor or other type of offense for a person to gamble online, usually because all unauthorized gambling is an offense.

Q. What is the controversy about horseracing?

A. In 1978, Congress passed the Interstate Horseracing Act (IHA) to regulate interstate wagering on horseracing, to affirm that states have primary responsibility for regulating gambling within their borders, and to prevent states from interfering with the gambling policies of other states. (15 U.S.C. 3001) In 2000, Congress amended the IHA to clarify that Internet technology could be used in the transmission of interstate off-track wagers.

Consistent with the policy codified in the statute, the IHA only regulates “a legal wager placed or accepted in one State with respect to the outcome of a horserace taking place in another State... *where lawful in each State involved*, placed or transmitted by an individual in one State via telephone or other electronic media and accepted by an off-track betting system in the same or another State.” (15 U.S.C. 3002(3)) Therefore, **a wager on a horserace that violates any State law is *not* permitted under the IHA.**

The Executive Branch has taken the position that the 1961 Wire Act overrides the IHA, even though the IHA is a more recent statute, because neither statute expressly exempts IHA transactions from the Wire Act. The horseracing industry vigorously disagrees. **UIGEA has been very carefully drafted to maintain the status quo regarding horseracing**, preserving the ability of the Executive Branch and the horseracing industry to litigate the proper interpretation of these two statutes.

The new enforcement tools of UIGEA will not be used against any activity that is allowed under the IHA. But this language begs the question of what is “allowed” under the IHA, and the text of the bill also states: “It is the sense of Congress that this Act **does not change which activities related to horse racing may or may not be allowed under Federal law.**” Congress does not intend that the new enforcement tools be used against transactions that are apparently legal under IHA, but the Department of Justice could still attempt to prosecute a horseracing transaction under the Wire Act and test their interpretation in court.

Q. Will UIGEA permit online sales of lottery tickets?

A. As a practical matter, No. The law allows states to use Internet technology for state-authorized, regulated gambling within state borders, but only if they have age and

location verification systems reasonably designed to block out-of-state and underage gamblers. As stated in the Financial Services Committee report, this “is **intended to recognize current law which allows states jurisdiction over wholly intrastate activity.... This would, for example, allow retail lottery terminals to interact with a processing center within a state.**” If states wish to go beyond this intent, then developing, implementing, and marketing an adequate age and location verification system would be difficult and expensive. With lottery tickets available at any gas station or supermarket, it is highly unlikely that systems for online purchases would be cost-effective for a state.

Many critics specifically mention a “carve-out” for lotteries. There is no lottery-specific language in UIGEA. This claim probably originates with lottery language in the Internet gambling bill passed by the House of Representatives in July. However, the lottery language was intentionally dropped from the version of UIGEA that became law.

Q. Does UIGEA allow gambling on fantasy sports leagues?

A. No, it permits fantasy sports games only when they are *not* gambling. The typical fantasy sports league is not “gambling” because winning is based predominantly on skill and knowledge about the featured sport and its athletes, not on chance. In other words, fantasy sports leagues challenge the participants to exercise judgment-making skills similar to a coach or general manager.

To make sure that gambling businesses do not try to cloak their gambling in the clothing of “fantasy sports,” UIGEA places limits on how prizes may be awarded in fantasy sports leagues, if a participation fee is charged for the game. Beyond that, most fantasy games are free and any game that is free is not “gambling.” **Opponents of the law have characterized the fantasy sports language as a “carve-out” when it is actually a limitation on fantasy sports games.**

Q. How will this legislation affect online poker games?

A. Poker proponents often argue that their game should be exempt from the prohibition because it is a game of skill, based on understanding mathematical odds. UIGEA defines gambling as risking something of value on a “game subject to chance.” Though poker involves some skill, it is also subject to considerable chance. Therefore, real-money poker is within the definition of a bet or wager under UIGEA.

However, **free poker games are not “gambling” and not prohibited.** A “free” poker site can legally cover its costs and even turn a profit through other revenue sources such as merchandising, advertising, and education. Also, *if* the Wire Act does not apply, many states exempt “social gambling” from the definition of unlawful gambling. Social gambling requires that the “house” not receive any profits from the game, so *some* online poker games among friends might be permissible in *some* states, but not on the commercial websites that charge an entry fee or take a cut from the pot. The exact requirements for legality are highly state-specific.

One Hundred Ninth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the third day of January, two thousand and six*

An Act

To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Security and Accountability For Every Port Act of 2006” or the “SAFE Port Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

TITLE I—SECURITY OF UNITED STATES SEAPORTS

Subtitle A—General Provisions

- Sec. 101. Area Maritime Transportation Security Plan to include salvage response plan.
- Sec. 102. Requirements relating to maritime facility security plans.
- Sec. 103. Unannounced inspections of maritime facilities.
- Sec. 104. Transportation security card.
- Sec. 105. Study to identify redundant background records checks.
- Sec. 106. Prohibition of issuance of transportation security cards to persons convicted of certain felonies.
- Sec. 107. Long-range vessel tracking.
- Sec. 108. Establishment of interagency operational centers for port security.
- Sec. 109. Notice of arrival for foreign vessels on the Outer Continental Shelf.
- Sec. 110. Enhanced crewmember identification.

Subtitle B—Port Security Grants; Training and Exercise Programs

- Sec. 111. Risk assessment tool.
- Sec. 112. Port security grants.
- Sec. 113. Port Security Training Program.
- Sec. 114. Port Security Exercise Program.
- Sec. 115. Facility exercise requirements.

Subtitle C—Port Operations

- Sec. 121. Domestic radiation detection and imaging.
- Sec. 122. Inspection of car ferries entering from abroad.
- Sec. 123. Random searches of containers.
- Sec. 124. Work stoppages and employee-employer disputes.
- Sec. 125. Threat assessment screening of port truck drivers.
- Sec. 126. Border Patrol unit for United States Virgin Islands.
- Sec. 127. Report on arrival and departure manifests for certain commercial vessels in the United States Virgin Islands.
- Sec. 128. Center of Excellence for Maritime Domain Awareness.

TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

Subtitle A—General Provisions

- Sec. 201. Strategic plan to enhance the security of the international supply chain.

(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(v) procedures for providing monitoring results to—
(I) appropriate Federal, State, and local government agencies;

(II) appropriate response personnel; and
(III) the public;

(vi) responsibilities of Federal, State, and local agencies for—

(I) collecting and analyzing samples;

(II) reporting results; and

(III) taking appropriate response actions; and

(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(B) other issues specified by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

TITLE VIII—UNLAWFUL INTERNET GAMBLING ENFORCEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the “Unlawful Internet Gambling Enforcement Act of 2006”.

SEC. 802. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT INSTRUMENT FOR UNLAWFUL INTERNET GAMBLING.

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

“SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

“§ 5361. Congressional findings and purpose

“(a) FINDINGS.—Congress finds the following:

“(1) Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

“(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent such sites.

“(3) Internet gambling is a growing cause of debt collection problems for insured depository institutions and the consumer credit industry.

“(4) New mechanisms for enforcing gambling laws on the Internet are necessary because traditional law enforcement mechanisms are often inadequate for enforcing gambling

prohibitions or regulations on the Internet, especially where such gambling crosses State or national borders.

“(b) RULE OF CONSTRUCTION.—No provision of this subchapter shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.

“§ 5362. Definitions

“In this subchapter:

“(1) BET OR WAGER.—The term ‘bet or wager’—

“(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;

“(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

“(C) includes any scheme of a type described in section 3702 of title 28;

“(D) includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering; and

“(E) does not include—

“(i) any activity governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 for the purchase or sale of securities (as that term is defined in section 3(a)(10) of that Act);

“(ii) any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act;

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

“(iv) any other transaction that—

“(I) is excluded or exempt from regulation under the Commodity Exchange Act; or

“(II) is exempt from State gaming or bucket shop laws under section 12(e) of the Commodity Exchange Act or section 28(a) of the Securities Exchange Act of 1934;

“(v) any contract of indemnity or guarantee;

“(vi) any contract for insurance;

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

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

“(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

“(II) points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

“(ix) participation in any fantasy or simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

“(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

“(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

“(III) No winning outcome is based—

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

“(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

“(2) BUSINESS OF BETTING OR WAGERING.—The term ‘business of betting or wagering’ does not include the activities of a financial transaction provider, or any interactive computer service or telecommunications service.

“(3) DESIGNATED PAYMENT SYSTEM.—The term ‘designated payment system’ means any system utilized by a financial transaction provider that the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, jointly determine, by regulation or order, could be utilized in connection with, or to facilitate, any restricted transaction.

“(4) 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 designated payment system.

“(5) INTERNET.—The term ‘Internet’ means the international computer network of interoperable packet switched data networks.

“(6) INTERACTIVE COMPUTER SERVICE.—The term ‘interactive computer service’ has the meaning given the term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

“(7) RESTRICTED TRANSACTION.—The term ‘restricted transaction’ means any transaction or transmittal involving any

credit, funds, instrument, or proceeds described in any paragraph of section 5363 which the recipient is prohibited from accepting under section 5363.

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(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) UNLAWFUL INTERNET GAMBLING.—

“(A) IN GENERAL.—The term ‘unlawful Internet gambling’ means to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.

“(B) INTRASTATE TRANSACTIONS.—The term ‘unlawful Internet gambling’ does not include placing, receiving, or otherwise transmitting a bet or wager where—

“(i) the bet or wager is initiated and received or otherwise made exclusively within a single State;

“(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and placed in accordance with the laws of such State, and the State law or regulations include—

“(I) age and location verification requirements reasonably designed to block access to minors and persons located out of such State; and

“(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with such State’s law or regulations; and

“(iii) the bet or wager does not violate any provision of—

“(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

“(II) chapter 178 of title 28 (commonly known as the ‘Professional and Amateur Sports Protection Act’);

“(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

“(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

“(C) INTRATRIBAL TRANSACTIONS.—The term ‘unlawful Internet gambling’ does not include placing, receiving, or otherwise transmitting a bet or wager where—

“(i) the bet or wager is initiated and received or otherwise made exclusively—

“(I) within the Indian lands of a single Indian tribe (as such terms are defined under the Indian Gaming Regulatory Act); or

“(II) between the Indian lands of 2 or more Indian tribes to the extent that intertribal gaming is authorized by the Indian Gaming Regulatory Act;

“(ii) the bet or wager and the method by which the bet or wager is initiated and received or otherwise made is expressly authorized by and complies with the requirements of—

“(I) the applicable tribal ordinance or resolution approved by the Chairman of the National Indian Gaming Commission; and

“(II) with respect to class III gaming, the applicable Tribal-State Compact;

“(iii) the applicable tribal ordinance or resolution or Tribal-State Compact includes—

“(I) age and location verification requirements reasonably designed to block access to minors and persons located out of the applicable Tribal lands; and

“(II) appropriate data security standards to prevent unauthorized access by any person whose age and current location has not been verified in accordance with the applicable tribal ordinance or resolution or Tribal-State Compact; and

“(iv) the bet or wager does not violate any provision of—

“(I) the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.);

“(II) chapter 178 of title 28 (commonly known as the ‘Professional and Amateur Sports Protection Act’);

“(III) the Gambling Devices Transportation Act (15 U.S.C. 1171 et seq.); or

“(IV) the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

“(D) INTERSTATE HORSERACING.—

“(i) IN GENERAL.—The term ‘unlawful Internet gambling’ shall not include any activity that is allowed under the Interstate Horseracing Act of 1978 (15 U.S.C. 3001 et seq.).

“(ii) RULE OF CONSTRUCTION REGARDING PREEMPTION.—Nothing in this subchapter may be construed to preempt any State law prohibiting gambling.

“(iii) SENSE OF CONGRESS.—It is the sense of Congress that this subchapter shall not change which activities related to horse racing may or may not be allowed under Federal law. This subparagraph is intended to address concerns that this subchapter could have the effect of changing the existing relationship between the Interstate Horseracing Act and other Federal statutes in effect on the date of the enactment of this subchapter. This subchapter is not intended to change that relationship. This subchapter is not intended to resolve any existing disagreements over how to interpret the relationship between the Interstate Horseracing Act and other Federal statutes.

“(E) INTERMEDIATE ROUTING.—The intermediate routing of electronic data shall not determine the location or locations in which a bet or wager is initiated, received, or otherwise made.

“(11) OTHER TERMS.—

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

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

“(i) has the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a), except that the term includes transfers that would otherwise be excluded under section 903(6)(E) of that 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 (12 U.S.C. 1813(c)); 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 thereunder).

“§ 5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling

“No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

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

“(2) an electronic fund transfer, or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;

“(3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or

“(4) the proceeds of any other form of financial transaction, as the Secretary and the Board of Governors of the Federal Reserve System may jointly prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

“§ 5364. Policies and procedures to identify and prevent restricted transactions

“(a) REGULATIONS.—Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate) requiring each designated payment system, and all participants therein, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions in any of the following ways:

“(1) The establishment of policies and procedures that—

“(A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and

“(B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).

“(2) The establishment of policies and procedures that prevent or prohibit the acceptance of the products or services of the payment system in connection with a restricted transaction.

“(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations under subsection (a), the Secretary and the Board of Governors of the Federal Reserve System shall—

“(1) identify types of policies and procedures, including nonexclusive examples, which would be deemed, as applicable, to be reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of the products or services with respect to each type of restricted transaction;

“(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing or prohibiting the acceptance of the products or services of the payment system or participant in connection with, restricted transactions;

“(3) exempt certain restricted transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and the Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions; and

“(4) ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling in subparagraph (B), (C), or (D)(i) of section 5362(10) are not blocked or otherwise prevented or prohibited by the prescribed regulations.

“(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A financial transaction provider shall be considered to be in compliance with the regulations prescribed under subsection (a) if—

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

“(A) identify and block restricted transactions; or

“(B) otherwise prevent or prohibit the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

“(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

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

“(1) that is a restricted transaction;

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

“(3) as a designated payment system or a member of a designated payment system in reliance on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under subsection (a),

shall not be liable to any party for such action.

“(e) REGULATORY ENFORCEMENT.—The requirements under this section shall be enforced exclusively by—

“(1) the Federal functional regulators, with respect to the designated payment systems and financial transaction providers subject to the respective jurisdiction of such regulators under section 505(a) of the Gramm-Leach-Bliley Act and section 5g of the Commodities Exchange Act; and

“(2) the Federal Trade Commission, with respect to designated payment systems and financial transaction providers not otherwise subject to the jurisdiction of any Federal functional regulators (including the Commission) as described in paragraph (1).

“§ 5365. Civil remedies

“(a) JURISDICTION.—In addition to any other remedy under current law, the district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain restricted transactions by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

“(b) PROCEEDINGS.—

“(1) INSTITUTION BY FEDERAL GOVERNMENT.—

“(A) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this section to prevent or restrain a restricted transaction.

“(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

“(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

“(A) IN GENERAL.—The attorney general (or other appropriate State official) of a State in which a restricted transaction allegedly has been or will be initiated, received, or otherwise made may institute proceedings under this

section to prevent or restrain the violation or threatened violation.

“(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

“(3) INDIAN LANDS.—

“(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a restricted transaction that allegedly has been or will be initiated, received, or otherwise made on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

“(i) the United States shall have the enforcement authority provided under paragraph (1); and

“(ii) the enforcement authorities specified in an applicable Tribal-State Compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

“(B) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

“(c) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

“(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

“(A) be limited to the removal of, or disabling of access to, an online site violating section 5363, or a hypertext link to an online site violating such section, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section under section 5367;

“(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

“(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

“(D) specify the interactive computer service to which it applies; and

“(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

“(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084(d) of title 18, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

“(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful

bets or wagers are offered to be placed, received, or otherwise made; or

“(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

“(d) LIMITATION ON INJUNCTIONS AGAINST REGULATED PERSONS.—Notwithstanding any other provision of this section, and subject to section 5367, no provision of this subchapter shall be construed as authorizing the Attorney General of the United States, or the attorney general (or other appropriate State official) of any State to institute proceedings to prevent or restrain a restricted transaction against any financial transaction provider, to the extent that the person is acting as a financial transaction provider.

“§ 5366. Criminal penalties

“(a) IN GENERAL.—Any person who violates section 5363 shall be fined under title 18, imprisoned for not more than 5 years, or both.

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

“§ 5367. Circumventions prohibited

“Notwithstanding section 5362(2), a financial transaction provider, or any interactive computer service or telecommunications service, may be liable under this subchapter if such person has actual knowledge and control of bets and wagers, and—

“(1) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

“(2) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.”.

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

“SUBCHAPTER IV—PROHIBITION ON FUNDING OF UNLAWFUL INTERNET GAMBLING

“5361. Congressional findings and purpose.

“5362. Definitions.

“5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling.

“5364. Policies and procedures to identify and prevent restricted transactions.

“5365. Civil remedies.

“5366. Criminal penalties.

“5367. Circumventions prohibited.”.

SEC. 803. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

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

(1) encourage cooperation by foreign governments and relevant international fora in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes;

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act; and

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

(b) **REPORT REQUIRED.**—The Secretary of the Treasury shall submit an annual report to the Congress on any deliberations between the United States and other countries on issues relating to Internet gambling.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*