

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide for a substitute.

**IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.**

**S. 627**

To prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes.

Referred to the Committee on \_\_\_\_\_  
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SHELBY

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Unlawful Internet  
5 Gambling Funding Prohibition Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) Internet gambling is primarily funded  
9 through personal use of payment system instru-  
10 ments, credit cards, and wire transfers;

1           (2) the National Gambling Impact Study Com-  
2 mission in 1999 recommended the passage of legisla-  
3 tion to prohibit wire transfers to Internet gambling  
4 sites or the banks which represent them;

5           (3) Internet gambling is a growing cause of  
6 debt collection problems for insured depository insti-  
7 tutions and the consumer credit industry;

8           (4) Internet gambling conducted through off-  
9 shore jurisdictions has been identified by United  
10 States law enforcement officials as a significant  
11 money laundering vulnerability; and

12           (5) gambling through the Internet, which has  
13 grown rapidly in the half-decade preceding the en-  
14 actment of this Act, opens up the possibility of im-  
15 mediate, individual, 24-hour access in every home to  
16 the full range of wagering opportunities on sporting  
17 events or casino-like contests, such as roulette, slot  
18 machines, poker, or black-jack.

19 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**  
20 **SYSTEM INSTRUMENT, CREDIT CARD, OR**  
21 **FUND TRANSFER FOR UNLAWFUL INTERNET**  
22 **GAMBLING.**

23 Chapter 53 of title 31, United States Code, is amend-  
24 ed by adding at the end the following:



1           bettor or customer with regard to the business  
2           of betting or wagering; and

3           “(E) does not include—

4                   “(i) any activity governed by the secu-  
5                   rities laws (as that term is defined in sec-  
6                   tion 3(a)(47) of the Securities Exchange  
7                   Act of 1934) for the purchase or sale of se-  
8                   curities (as that term is defined in section  
9                   3(a)(10) of such Act);

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

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

16                   “(iv) any other transaction that—

17                           “(I) is excluded or exempt from  
18                           regulation under the Commodity Ex-  
19                           change Act; or

20                           “(II) is exempt from State gam-  
21                           ing or bucket shop laws under section  
22                           12(e) of the Commodity Exchange Act  
23                           or section 28(a) of the Securities Ex-  
24                           change Act of 1934;

1                   “(v) any contract of indemnity or  
2                   guarantee;

3                   “(vi) any contract for insurance;

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

6                   “(viii) any participation in a simula-  
7                   tion sports game, or an educational game  
8                   or contest, that—

9                   “(I) is not dependent solely on  
10                  the outcome of any single sporting  
11                  event or nonparticipant’s singular in-  
12                  dividual performance in any single  
13                  sporting event;

14                  “(II) has an outcome that re-  
15                  flects the relative knowledge and skill  
16                  of the participants, with such outcome  
17                  determined predominantly by accumu-  
18                  lated statistical results of sporting  
19                  events; and

20                  “(III) offers a prize or award to  
21                  a participant that is established in ad-  
22                  vance of the game or contest and is  
23                  not determined by the number of par-  
24                  ticipants or the amount of any fees  
25                  paid by those participants.

1           “(2) BUSINESS OF BETTING OR WAGERING.—

2           The term ‘business of betting or wagering’ does not  
3           include, other than for purposes of section 5366, any  
4           creditor, credit card issuer, insured institution, or  
5           other financial institution, operator of a terminal at  
6           which an electronic fund transfer may be initiated,  
7           money transmitting business, or international, na-  
8           tional, regional, or local network utilized to effect a  
9           credit transaction, electronic fund transfer, stored  
10          value product transaction, or money transmitting  
11          service, or any participant in such network, or any  
12          interactive computer service or telecommunications  
13          service.

14          “(3) DESIGNATED PAYMENT SYSTEM.—The  
15          term ‘designated payment system’ means any system  
16          utilized by any creditor, credit card issuer, financial  
17          institution, operator of a terminal at which an elec-  
18          tronic fund transfer may be initiated, money trans-  
19          mitting business, or international, national, regional,  
20          or local network utilized to effect a credit trans-  
21          action, electronic fund transfer, stored value product  
22          transaction, or money transmitting service, or any  
23          participant in such network, that the Secretary, in  
24          consultation with the Board of Governors of the  
25          Federal Reserve System and the Attorney General of

1 the United States, determines, by regulation or  
2 order, could be utilized in connection with, or to fa-  
3 cilitate, any restricted transaction.

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

7 “(5) INTERACTIVE COMPUTER SERVICE.—The  
8 term ‘interactive computer service’ has the same  
9 meaning as in section 230(f) of the Communications  
10 Act of 1934.

11 “(6) OFFICE.—The term ‘Office’ means the Of-  
12 fice of Electronic Funding Oversight, established  
13 under section 5362.

14 “(7) RESTRICTED TRANSACTION.—The term  
15 ‘restricted transaction’ means any transaction or  
16 transmittal involving any credit, funds, instrument,  
17 or proceeds described in any paragraph of section  
18 5363 which the recipient is prohibited from accept-  
19 ing under section 5363.

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

22 “(9) UNLAWFUL INTERNET GAMBLING.—The  
23 term ‘unlawful Internet gambling’ means the plac-  
24 ing, receipt, or other transmission of a bet or wager  
25 by any means which involves the use, at least in

1 part, of the Internet, where such bet or wager is un-  
2 lawful under any applicable Federal or State law in  
3 the State in which the bet or wager is initiated, re-  
4 ceived, or otherwise made.

5 “(10) OTHER TERMS.—

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

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

13 “(i) has the same meaning as in sec-  
14 tion 903 of the Electronic Fund Transfer  
15 Act, except that such term includes trans-  
16 fers that would otherwise be excluded  
17 under section 903(6)(E) of that Act; and

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

21 “(C) FINANCIAL INSTITUTION.—The term  
22 ‘financial institution’ has the same meaning as  
23 in section 903 of the Electronic Fund Transfer  
24 Act, except that such term does not include a  
25 casino, sports book, or other business at or

1 through which bets or wagers may be placed or  
2 received.

3 “(D) INSURED INSTITUTION.—The term  
4 ‘insured institution’ means—

5 “(i) an insured depository institution,  
6 as defined in section 3 of the Federal De-  
7 posit Insurance Act; and

8 “(ii) an insured credit union, as de-  
9 fined in section 101 of the Federal Credit  
10 Union Act.

11 “(E) MONEY TRANSMITTING BUSINESS  
12 AND MONEY TRANSMITTING SERVICE.—The  
13 terms ‘money transmitting business’ and  
14 ‘money transmitting service’ have the same  
15 meanings as in section 5330(d) (determined  
16 without regard to any regulations issued by the  
17 Secretary thereunder).

18 **“§ 5362. Office of electronic funding oversight; poli-**  
19 **cies and procedures to identify and pre-**  
20 **vent restricted transactions**

21 “(a) ESTABLISHMENT OF TREASURY OFFICE.—

22 “(1) IN GENERAL.—There is established within  
23 the Department of the Treasury, the Office of Elec-  
24 tronic Funding Oversight, the purposes of which  
25 are—

1           “(A) to coordinate Federal efforts to pro-  
2           hibit restricted transactions; and

3           “(B) otherwise to carry out the duties of  
4           the Office, as specified in this subchapter.

5           “(2) DIRECTOR.—The Office shall be headed by  
6           a Director, appointed by the Secretary. The director  
7           of the Office may serve as the designee of the Sec-  
8           retary, at the request of the Secretary, for any pur-  
9           pose under this subchapter.

10          “(b) REGULATIONS.—Not later than 270 days after  
11 the date of enactment of this subchapter, the Office, in  
12 consultation with the Board of Governors of the Federal  
13 Reserve System and the Attorney General of the United  
14 States, shall prescribe regulations requiring any des-  
15 ignated payment system, and all participants therein, to  
16 establish policies and procedures reasonably designed to  
17 identify and prevent restricted transactions through the  
18 establishment of policies and procedures that—

19           “(1) allow the payment system and any person  
20           involved in the payment system to identify restricted  
21           transactions by means of codes in authorization mes-  
22           sages or by other means;

23           “(2) block restricted transactions identified as a  
24           result of the policies and procedures developed pur-  
25           suant to paragraph (1); and

1           “(3) prevent the acceptance of the products or  
2 services of the payment system in connection with a  
3 restricted transaction.

4           “(c) REQUIREMENTS FOR POLICIES AND PROCE-  
5 DURES.—In prescribing regulations pursuant to sub-  
6 section (b), the Office shall—

7           “(1) identify types of policies and procedures,  
8 including nonexclusive examples, which would be  
9 deemed to be ‘reasonably designed to identify’ and  
10 ‘reasonably designed to block’ or to ‘prevent the ac-  
11 ceptance of the products or services’ with respect to  
12 each type of transaction;

13           “(2) to the extent practical, permit any partici-  
14 pant in a payment system to choose among alter-  
15 native means of identifying and blocking, or other-  
16 wise preventing the acceptance of the products or  
17 services of the payment system or participant in con-  
18 nection with, restricted transactions; and

19           “(3) consider exempting restricted transactions  
20 from any requirement imposed under such regula-  
21 tions, if the Office finds that it is not reasonably  
22 practical to identify and block, or otherwise prevent,  
23 such transactions.

24           “(d) COMPLIANCE WITH PAYMENT SYSTEM POLI-  
25 CIES AND PROCEDURES.—A creditor, credit card issuer,

1 financial institution, operator of a terminal at which an  
2 electronic fund transfer may be initiated, money transmit-  
3 ting business, or international, national, regional, or local  
4 network utilized to effect a credit transaction, electronic  
5 fund transfer, stored value product transaction, or money  
6 transmitting service, or a participant in such network,  
7 shall be considered to be in compliance with the regula-  
8 tions prescribed under subsection (b), if—

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

12                   “(A) to identify and block restricted trans-  
13                   actions; or

14                   “(B) to otherwise prevent the acceptance  
15                   of the products or services of the payment sys-  
16                   tem, member, or participant in connection with  
17                   restricted transactions; and

18           “(2) such policies and procedures of the des-  
19       ignated payment system comply with the require-  
20       ments of regulations prescribed under subsection  
21       (b).

22       “(e) NO LIABILITY FOR BLOCKING OR REFUSING TO  
23       HONOR RESTRICTED TRANSACTIONS.—A person that is  
24       subject to a regulation prescribed or order issued under  
25       this subchapter and blocks, or otherwise refuses to honor,

1 a restricted transaction (or a transaction that such person  
2 reasonably believes to be a restricted transaction), or as  
3 a member of a designated payment system relies on the  
4 policies and procedures of the payment system, in an ef-  
5 fort to comply with regulations prescribed under this sec-  
6 tion, shall not be liable to any party for such action.

7 “(f) REGULATORY ENFORCEMENT.—Regulations  
8 issued by the Office under this subchapter shall be en-  
9 forced by the Federal functional regulators and the Fed-  
10 eral Trade Commission, in the manner provided in section  
11 505(a) of the Gramm-Leach-Bliley Act.

12 “(g) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated to the Secretary such  
14 sums as may be necessary to carry out this section.

15 **“§ 5363. Prohibition on acceptance of any bank in-**  
16 **strument for unlawful Internet gambling**

17 “(a) PROHIBITION.—No person engaged in the busi-  
18 ness of betting or wagering may knowingly accept, in con-  
19 nection with the participation of another person in unlaw-  
20 ful Internet gambling—

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

24 “(2) an electronic fund transfer or funds trans-  
25 mitted by or through a money transmitting business,

1 or the proceeds of an electronic fund transfer or  
2 money transmitting service, from or on behalf of  
3 such other person;

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

8 “(4) the proceeds of any other form of financial  
9 transaction, as the Secretary may prescribe by regu-  
10 lation, which involves a financial institution as a  
11 payor or financial intermediary on behalf of or for  
12 the benefit of such other person.

13 “(b) RULE OF APPLICATION.—

14 “(1) LIMITATION.—Subject to paragraph (2),  
15 the prohibition in subsection (a) does not apply to  
16 any otherwise lawful bet or wager that is placed, re-  
17 ceived, or otherwise made on an interstate or intra-  
18 state basis on a live horse or a live dog race, or the  
19 sending, receiving, or inviting of information assist-  
20 ing in the placing of such a bet or wager, if such  
21 bet or wager, or the transmission of such informa-  
22 tion, as applicable, is—

23 “(A) expressly authorized, and licensed or  
24 regulated by the State in which such bet or

1           wager is received, under applicable Federal law  
2           and the laws of that State;

3           “(B) placed on a closed-loop subscriber-  
4           based service;

5           “(C) initiated from a State in which bet-  
6           ting or wagering on that same type of live horse  
7           or live dog racing is lawful and received in a  
8           State in which such betting or wagering is law-  
9           ful;

10          “(D) subject to the regulatory oversight of  
11          the State in which the bet or wager is received,  
12          and subject to minimum control standards for  
13          the accounting, regulatory inspection, and au-  
14          diting by such State of all such bets or wagers  
15          transmitted from 1 State to another; or

16          “(E) in the case of—

17                 “(i) live horse racing, made in accord-  
18                 ance with the Interstate Horse Racing Act  
19                 of 1978 (15 U.S.C. 3001 et seq.); or

20                 “(ii) live dog racing, subject to con-  
21                 sent agreements that are comparable to  
22                 those required by the Interstate Horse  
23                 Racing Act of 1978, approved by the ap-  
24                 propriate State regulatory agencies, in the

1 State receiving the signal, and in the State  
2 in which the bet or wager originates.

3 “(2) BETS OR WAGERS MADE BY AGENTS OR  
4 PROXIES.—

5 “(A) IN GENERAL.—The exception under  
6 paragraph (1) does not apply in any case in  
7 which a bet or wager is placed, received, or oth-  
8 erwise made by the use of an agent or proxy  
9 using the Internet or an interactive computer  
10 service.

11 “(B) QUALIFICATION.—Nothing in this  
12 paragraph may be construed to prohibit the  
13 owner operator of a parimutuel wagering facil-  
14 ity that is licensed by a State from employing  
15 an agent in the operation of the account wager-  
16 ing system owned or operated by the parimutuel  
17 facility.

18 “(c) OTHER RULES OF APPLICATION.—

19 “(1) LIMITATION.—Subject to paragraph (2),  
20 the prohibition in subsection (a) does not apply to  
21 any otherwise lawful bet or wager that is placed, re-  
22 ceived, or otherwise made on any game that con-  
23 stitutes class II gaming or class III gaming (as  
24 those terms are defined in section 4 of the Indian  
25 Gaming Regulatory Act, 25 U.S.C. 2703), or the

1 sending, receiving, or inviting of information assist-  
2 ing in the placing of any such bet or wager, as appli-  
3 cable, if—

4 “(A) the game is permitted under and con-  
5 ducted in accordance with the Indian Gaming  
6 Regulatory Act (25 U.S.C. 2701 et seq.);

7 “(B) each person placing, receiving, or oth-  
8 erwise making such bet or wager, or transmit-  
9 ting such information, is physically located on  
10 Indian lands (as that term is defined in section  
11 4 of the Indian Gaming Regulatory Act, 25  
12 U.S.C. 2703) when such person places, receives,  
13 or otherwise makes the bet or wager, or trans-  
14 mits such information;

15 “(C) the game is conducted on a closed-  
16 loop subscriber-based system or a private net-  
17 work; and

18 “(D) in the case of a game that constitutes  
19 class III gaming—

20 “(i) the game is authorized under,  
21 and is conducted in accordance with, the  
22 respective Tribal-State compacts (entered  
23 into and approved pursuant to section  
24 11(d) of the Indian Gaming Regulatory  
25 Act, 25 U.S.C. 2710) governing gaming

1 activity on the Indian lands, in each re-  
2 spective State, on which each person plac-  
3 ing, receiving, or otherwise making such  
4 bet or wager, or transmitting such infor-  
5 mation, is physically located when such  
6 person places, receives, or otherwise makes  
7 the bet or wager, or transmits such infor-  
8 mation; and

9 “(ii) each such Tribal-State compact  
10 expressly provides that the game may be  
11 conducted using the Internet or other  
12 interactive computer service only on a  
13 closed-loop subscriber-based system or a  
14 private network.

15 “(2) ACTIVITIES UNDER EXISTING COM-  
16 PACTS.—The requirement of paragraph (1)(D)(ii)  
17 does not apply in the case of gaming activity, other-  
18 wise subject to this section, that was being con-  
19 ducted on Indian lands on September 1, 1999, with  
20 the approval of the State gaming commission or like  
21 regulatory authority of the State in which such In-  
22 dian lands are located, but without such required  
23 compact approval, until the date on which the com-  
24 pact governing gaming activity on such Indian lands  
25 expires (exclusive of any automatic or discretionary

1 renewal or extension of such compact), so long as  
2 such gaming activity is conducted using the Internet  
3 or other interactive computer service only on a  
4 closed-loop subscriber-based system or a private net-  
5 work. For purposes of this subparagraph, the phrase  
6 ‘conducted on Indian lands’ shall refer to all Indian  
7 lands on which any person placing, receiving, or oth-  
8 erwise making a bet or wager, or sending, receiving,  
9 or inviting information assisting in the placing of a  
10 bet or wager, is physically located when such person  
11 places, receives, or otherwise makes the bet or  
12 wager, or sends, receives, or invites such informa-  
13 tion.

14 “(d) CLOSED-LOOP SUBSCRIBER-BASED SERV-  
15 ICE.—As used in this section, the term ‘closed-loop  
16 subscriber-based service’ means any information  
17 service or system that uses—

18 “(1) a device or combination of devices—

19 “(A) expressly authorized and operated in  
20 accordance with the laws of a State, exclusively  
21 for placing, receiving, or otherwise making a bet  
22 or wager described in subsection (b)(1) or  
23 (c)(1); and

24 “(ii) by which a person located within  
25 any State must subscribe and be registered

1 with the provider of the wagering service  
2 by name, address, and appropriate billing  
3 information to be authorized to place, re-  
4 ceive, or otherwise make a bet or wager,  
5 and must be physically located within that  
6 State in order to be authorized to do so;

7 “(B) an effective customer verification and  
8 age verification system, expressly authorized  
9 and operated in accordance with the laws of the  
10 State in which it is located, and a system rea-  
11 sonably designed to verify the location at which  
12 a bet or wager is made, to ensure that all appli-  
13 cable Federal and State legal and regulatory re-  
14 quirements for lawful gambling are met; and

15 “(C) appropriate data security standards  
16 to prevent unauthorized access by any person  
17 who has not subscribed or who is a minor.

18 **“§ 5364. Civil remedies**

19 “(a) JURISDICTION.—The district courts of the  
20 United States shall have original and exclusive jurisdiction  
21 to prevent and restrain violations of this subchapter or  
22 the rules or regulations issued under this subchapter by  
23 issuing appropriate orders in accordance with this section,  
24 regardless of whether a prosecution has been initiated  
25 under this subchapter.

1 “(b) PROCEEDINGS.—

2 “(1) INSTITUTION BY FEDERAL GOVERN-  
3 MENT.—

4 “(A) IN GENERAL.—The United States,  
5 acting through the Attorney General, or, in the  
6 case of rules or regulations issued under this  
7 subchapter, through an agency authorized to  
8 enforce such regulations in accordance with this  
9 subchapter, may institute proceedings under  
10 this section to prevent or restrain a violation or  
11 a threatened violation of this subchapter or  
12 such rules or regulations.

13 “(B) RELIEF.—Upon application of the  
14 United States under this paragraph, the district  
15 court may enter a preliminary injunction or an  
16 injunction against any person to prevent or re-  
17 strain a violation or threatened violation of this  
18 subchapter or the rules or regulations issued  
19 under this subchapter, in accordance with rule  
20 65 of the Federal Rules of Civil Procedure.

21 “(2) INSTITUTION BY STATE ATTORNEY GEN-  
22 ERAL.—

23 “(A) IN GENERAL.—The attorney general  
24 of a State (or other appropriate State official)  
25 in which a violation of this subchapter allegedly

1 has occurred or will occur may institute pro-  
2 ceedings under this section to prevent or re-  
3 strain the violation or threatened violation.

4 “(B) RELIEF.—Upon application of the at-  
5 torney general (or other appropriate State offi-  
6 cial) of an affected State under this paragraph,  
7 the district court may enter a preliminary in-  
8 junction or an injunction against any person to  
9 prevent or restrain a violation or threatened  
10 violation of this subchapter, in accordance with  
11 rule 65 of the Federal Rules of Civil Procedure.

12 “(3) INDIAN LANDS.—

13 “(A) IN GENERAL.—Notwithstanding  
14 paragraphs (1) and (2), for a violation of this  
15 subchapter or the rules or regulations issued  
16 under this subchapter that is alleged to have oc-  
17 curred, or may occur, on Indian lands (as that  
18 term is defined in section 4 of the Indian Gam-  
19 ing Regulatory Act)—

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

23 “(ii) the enforcement authorities spec-  
24 ified in an applicable Tribal-State compact  
25 negotiated under section 11 of the Indian

1                   Gaming Regulatory Act shall be carried  
2                   out in accordance with that compact.

3                   “(B) RULE OF CONSTRUCTION.—No provi-  
4                   sion of this subchapter shall be construed as al-  
5                   tering, superseding, or otherwise affecting the  
6                   application of the Indian Gaming Regulatory  
7                   Act.

8                   “(c) EXPEDITED PROCEEDINGS.—In addition to any  
9                   proceeding under subsection (b), a district court may, in  
10                  exigent circumstances, enter a temporary restraining  
11                  order against a person alleged to be in violation of this  
12                  subchapter or the rules or regulations issued under this  
13                  subchapter, upon application of the United States under  
14                  subsection (b)(1), or the attorney general (or other appro-  
15                  priate State official) of an affected State under subsection  
16                  (b)(2), in accordance with rule 65(b) of the Federal Rules  
17                  of Civil Procedure.

18                  “(d) LIMITATION RELATING TO INTERACTIVE COM-  
19                  PUTER SERVICES.—

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

23                  “(A) be limited to the removal of, or dis-  
24                  abling of access to, an online site violating this  
25                  subchapter, or a hypertext link to an online site

1           violating this subchapter, that resides on a com-  
2           puter server that such service controls or oper-  
3           ates, except that the limitation in this subpara-  
4           graph shall not apply if the service is subject to  
5           liability under this section pursuant to section  
6           5366;

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

10          “(C) not impose any obligation on an  
11          interactive computer service to monitor its serv-  
12          ice or to affirmatively seek facts indicating ac-  
13          tivity violating this subchapter;

14          “(D) specify the interactive computer serv-  
15          ice to which it applies; and

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

19          “(2) COORDINATION WITH OTHER LAW.—An  
20          interactive computer service that does not violate  
21          this subchapter shall not be liable under section  
22          1084 of title 18, United States Code, except that the  
23          limitation in this paragraph shall not apply if an  
24          interactive computer service has actual knowledge  
25          and control of bets and wagers and—

1           “(A) operates, manages, supervises, or di-  
2           rects an Internet website at which unlawful bets  
3           or wagers may be placed, received, or otherwise  
4           made or at which unlawful bets or wagers are  
5           offered to be placed, received, or otherwise  
6           made; or

7           “(B) owns or controls, or is owned or con-  
8           trolled by, any person who operates, manages,  
9           supervises, or directs an Internet website at  
10          which unlawful bets or wagers may be placed,  
11          received, or otherwise made, or at which unlaw-  
12          ful bets or wagers are offered to be placed, re-  
13          ceived, or otherwise made.

14          “(3) RULE OF CONSTRUCTION.—The provisions  
15          of paragraph (2) do not affect any potential liability  
16          of an interactive computer service or other person  
17          under any provision of title 18, United States Code,  
18          other than as specifically provided in paragraph (2).

19          “(e) FACTORS TO BE CONSIDERED IN CERTAIN  
20          CASES.—In considering granting relief under this section  
21          against any payment system, or any participant in a pay-  
22          ment system that is a creditor, credit card issuer, financial  
23          institution, operator of a terminal at which an electronic  
24          fund transfer may be initiated, money transmitting busi-  
25          ness, or international, national, regional, or local network

1 utilized to effect a credit transaction, electronic fund  
2 transfer, stored value product transaction, or money  
3 transmitting service, or a participant in such network, the  
4 court shall consider—

5           “(1) the extent to which the person extending  
6 credit or transmitting funds knew or should have  
7 known that the transaction was in connection with  
8 unlawful Internet gambling;

9           “(2) the history of such person in extending  
10 credit or transmitting funds when such person knew  
11 or should have known that the transaction is in con-  
12 nection with unlawful Internet gambling;

13           “(3) the extent to which such person has estab-  
14 lished and is maintaining policies and procedures in  
15 compliance with rules and regulations issued under  
16 this subchapter;

17           “(4) the extent to which it is feasible for any  
18 specific remedy prescribed as part of such relief to  
19 be implemented by such person without substantial  
20 deviation from normal business practice; and

21           “(5) the costs and burdens that the specific  
22 remedy will have on such person.

23           “(f) NOTICE TO REGULATORS AND FINANCIAL INSTI-  
24 TUTIONS.—Before initiating any proceeding under sub-  
25 section (b) or under subsection (c), in the case of an in-

1   sured institution or a broker or dealer or investment com-  
2   pany registered with the Securities and Exchange Com-  
3   mission, with respect to a violation or potential violation  
4   of this subchapter or the rules or regulations issued under  
5   this subchapter by any creditor, credit card issuer, finan-  
6   cial institution, operator of a terminal at which an elec-  
7   tronic fund transfer may be initiated, money transmitting  
8   business, or international, national, regional, or local net-  
9   work utilized to effect a credit transaction, electronic fund  
10  transfer, stored value product transaction, or money  
11  transmitting service, or any participant in such network,  
12  the Attorney General of the United States, an attorney  
13  general of a State (or other appropriate State official), or  
14  an agency authorized to initiate such proceeding under  
15  this subchapter, shall—

16           “(1) notify such person, and the appropriate  
17           regulatory agency (as determined in accordance with  
18           section 5362(f) for such person) of such violation or  
19           potential violation and the remedy to be sought in  
20           such proceeding; and

21           “(2) allow such person not longer than 60 days  
22           to implement a remedy for the violation or potential  
23           violation, consistent with the factors described in  
24           subsection (e), and in conjunction with such action  
25           as the appropriate regulatory agency may take, so

1 long as such person takes reasonable steps within  
2 that 60-day period to prevent the occurrence of such  
3 violation or potential violation pending implementa-  
4 tion of such remedy.

5 **“§ 5365. Criminal penalties**

6 “(a) IN GENERAL.—Whoever violates any provision  
7 of this subchapter or the rules or regulations issued under  
8 any provision of this subchapter shall be fined under title  
9 18, United States Code, or imprisoned for not more than  
10 5 years, or both.

11 “(b) PERMANENT INJUNCTION.—Upon conviction of  
12 a person under this section, the court may enter a perma-  
13 nent injunction enjoining such person from placing, receiv-  
14 ing, or otherwise making bets or wagers or sending, receiv-  
15 ing, or inviting information assisting in the placing of bets  
16 or wagers.

17 **“§ 5366. Circumventions prohibited**

18 “Notwithstanding section 5361(2), a creditor, credit  
19 card issuer, financial institution, operator of a terminal  
20 at which an electronic fund transfer may be initiated,  
21 money transmitting business, or international, national,  
22 regional, or local network utilized to effect a credit trans-  
23 action, electronic fund transfer, stored value product  
24 transaction, or money transmitting service, or any partici-  
25 pant in such network, or any interactive computer service

1 or telecommunications service, may be liable under this  
2 subchapter if such creditor, issuer, institution, operator,  
3 business, network, or participant has actual knowledge  
4 and control of bets and wagers, and—

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

10 “(2) owns or controls, or is owned or controlled  
11 by, any person who operates, manages, supervises,  
12 or directs an Internet website at which unlawful bets  
13 or wagers may be placed, received, or otherwise  
14 made, or at which unlawful bets or wagers are of-  
15 fered to be placed, received, or otherwise made.”.

16 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN**  
17 **JURISDICTIONS.**

18 (a) IN GENERAL.—In deliberations between the  
19 United States Government and any other country on  
20 money laundering, corruption, and crime issues, the  
21 United States Government should—

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

1           (2) advance policies that promote the coopera-  
2           tion of foreign governments, through information  
3           sharing or other measures, in the enforcement of  
4           this Act and the amendments made by this Act; and

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

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

14 **SEC. 5. AMENDMENTS TO CRIMINAL GAMBLING PROVI-**  
15 **SIONS.**

16          (a) AMENDMENT TO DEFINITION.—Section 1081 of  
17 title 18, United States Code, is amended—

18           (1) by designating the five undesignated para-  
19           graphs that begin with “The term” as paragraphs  
20           (1) through (5), respectively; and

21           (2) in paragraph (5), as so designated—

22                   (A) by striking “wire communication” and  
23                   inserting “communication”;

24                   (B) by inserting “satellite, microwave,”  
25                   after “cable,”; and

1                   (C) by inserting “(whether fixed or mo-  
2                   bile)” after “connection”.

3           (b) APPLICATION OF SECTION 1084(a) TO ALL COM-  
4   MUNICATIONS AND INCREASE IN PENALTY FOR UNLAW-  
5   FUL TRANSFERS OF WAGERING INFORMATION.—Section  
6   1084(a) of title 18, United States Code, is amended—

7           (1) by striking “wire” each place that term ap-  
8           pears; and

9           (2) by striking “two years” and inserting “5  
10          years”.