

H.R.2046

Internet Gambling Regulation and Enforcement Act of 2007

April 26, 2007

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

A BILL

To amend title 31, United States Code, to provide for the licensing of Internet gambling facilities by the Director of the Financial Crimes Enforcement Network, and for other purposes.

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

SECTION 1. SHORT TITLE.

This act may be cited as the `Internet Gambling Regulation and Enforcement Act of 2007'.

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

(a) In General- Chapter 53 of Title 31, United States Code, is amended by adding at the end the following new Subchapter:

` SUBCHAPTER V--REGULATION OF LAWFUL INTERNET GAMBLING

` Sec. 5381. Congressional findings and purpose

- ` (a) Findings- The Congress finds the following:
 - ` (1) Internet gambling is a \$13,000,000,000 and growing industry worldwide.
 - ` (2) Gambling is a popular activity domestically, with some form of gambling being permitted in nearly every State.

- ˘ (3) Internet gambling is a licensed, regulated activity in more than 50 countries, providing billions of dollars in tax revenue to those countries.
- ˘ (4) The global gaming market grossed about \$258,000,000,000 in 2005, with online revenues representing an estimated 5.0 percent. North American residents accounted for an estimated 47 percent of the global gross gaming yield in 2005.
- ˘ (5) A licensing and regulatory regime for Internet gambling in the United States is needed to provide appropriate protections against underage gambling, compulsive gambling, money laundering, and fraud for those citizens who choose to gamble online.
- ˘ (6) Licensing and regulating Internet gambling in the United States would provide additional tax revenues, and would reduce tax avoidance.

˘ **Sec. 5382. Definitions**

- ˘ For purposes of this subchapter, the following definitions shall apply:
 - ˘ (1) DIRECTOR- The term `director' means the Director of the Financial Crimes Enforcement Network.
 - ˘ (2) BET OR WAGER- The term `bet or wager' shall have the same meaning as in section 5362(1).
 - ˘ (3) LICENSEE- The term `licensee' shall mean an Internet gambling operator licensed by the Director in accordance with this subchapter.
 - ˘ (4) 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.
 - ˘ (5) INTERNET- The term `Internet' means the international computer network of interoperable packet switched data networks.
 - ˘ (6) SPORTING LEAGUE- The term `sporting league' shall mean any sporting association, whether professional, scholastic, or amateur.
 - ˘ (7) OPERATE AN INTERNET GAMBLING FACILITY- The term `operate an Internet gambling facility' means the direction, management, supervision, or control of an Internet site through which bets or wagers are placed, accepted, or otherwise made, whether by telephone, Internet or other wire communication.
 - ˘ (8) INDIAN LANDS AND INDIAN TRIBE- The terms `Indian lands' and `Indian tribe' have the same meanings as in section 4 of the Indian Gaming Regulatory Act.

˘ **Sec. 5383. Establishment and administration of licensing program**

- ˘ (a) Fincen Requirements- Subject to the oversight and direction of the Secretary of the Treasury, the Director shall prescribe such regulations as may be necessary to administer and enforce the requirements under this subchapter.
- ˘ (b) Internet Gambling Licensing Program- No person shall engage in the business of Internet betting or wagering in the United States without a license issued by the Director in accordance with this subchapter.
- ˘ (c) Application for License-

- ˘ (1) IN GENERAL- Any person seeking authority to engage in the business of betting or wagering in the United States may apply for a license issued by the Director.
- ˘ (2) INFORMATION REQUIRED- Any application for a license under this subchapter shall contain such information as may be required by the Director, including--
 - ˘ (A) a complete financial statements of the applicant;
 - ˘ (B) documentation showing the corporate structure of the applicant and all related businesses and affiliates; and
 - ˘ (C) a certification that the applicant agrees to be subject to United States jurisdiction and all applicable United States laws relating to Internet gambling activities.
- ˘ (d) Review of Licensees-
 - ˘ (1) IN GENERAL- After the filing of a complete application, the Director shall evaluate the general fitness of the applicant on the basis of such factors as the Director determines to be appropriate.
 - ˘ (2) FACTORS- The factors taken into account by the Director under paragraph (1) shall include--
 - ˘ (A) the financial condition of the applicant;
 - ˘ (B) the business experience and record of the applicant, including the applicant's compliance with similar laws and requirements in foreign jurisdictions;
 - ˘ (C) if the applicant is an individual, a background check to determine if the individual has any criminal record; and
 - ˘ (D) if the applicant is a corporation, partnership, or other business entity, such background check shall occur with respect to the president or other chief executive of the corporation, partnership, or other business entity and other partners or senior executives and directors of the corporation, partnership, or entity, as determined appropriate by the Director, in the Director's sole discretion.
- ˘ (e) Assessments for Administrative Expenses-
 - ˘ (1) IN GENERAL-
 - ˘ (A) IN GENERAL- The cost of administering this subchapter with respect to each licensee, including the cost of any review or examination of a licensee to ensure compliance with the terms of the license and this subchapter, shall be assessed by the Director against the licensee institution by written notice in an amount appropriate to meet the Director's expenses in carrying out such administration, review, or examination.
 - ˘ (B) DISPOSITION- Amounts assessed by the Director as user fees under subparagraph (A) shall--
 - ˘ (i) be maintained by the Director for solely for use in accordance with clause (ii);
 - ˘ (ii) be available to the Director to cover all expenses incurred by the Director in carrying out this subchapter; and
 - ˘ (iii) not be construed to be Government Funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 or any other authority.

˘ (C) HEARING- Any licensee against whom an assessment is assessed under this paragraph shall be afforded an agency hearing if such person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

˘ (D) COLLECTION-

˘ (i) REFERRAL- If any licensee fails to pay an assessment under this paragraph after the assessment has become final, the Director shall recover the amount assessed by action in the appropriate United States district court.

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

˘ (2) DIRECT AND EXCLUSIVE OBLIGATION OF LICENSEE- The user fee shall be the direct and exclusive obligation of the licensee and may not be deducted from amounts available as deposits to any person placing a bet.

˘ (f) Approval of License- The Director shall grant licenses under this subchapter if, in the Director's sole discretion, the applicant meets the criteria set by the Director and is generally fit to engage in the business of Internet gambling.

˘ (g) Safeguards Required of Licensee- No person shall receive or retain a license under this section unless the person implements and maintains the following requirements with respect to any Internet bet or wager:

˘ (1) Appropriate safeguards to ensure that the individual placing a bet or wager is 18 years of age or older.

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

˘ (3) Appropriate mechanisms to ensure that all taxes relating to Internet gambling due to Federal and State governments and to Indian tribes from persons engaged in Internet gambling are collected at the time of any payment of any proceeds of Internet gambling.

˘ (4) Appropriate mechanisms to ensure that all taxes relating to Internet gambling due to Federal and State governments and to Indian tribes from any licensee are collected as required by law.

˘ (5) Appropriate safeguards to combat fraud and money laundering as may be prescribed by regulations issued by the Director or a designee of the Director.

˘ (6) Appropriate safeguards to combat compulsive Internet gambling.

˘ (7) Appropriate safeguards to protect the privacy and security of any person engaged in Internet gambling.

˘ (8) Appropriate mechanisms to ensure that any assessment under subsection (e) is paid to the Director.

˘ (9) Such other requirements as the Director may establish by regulation or order.

˘ (h) Licenses Denied-

˘ (1) IN GENERAL- No license shall be granted to any individual who has been convicted under the laws of any foreign country, the United States, or any State for any criminal violation involving gambling laws, financial markets, or

financial laws, including any money laundering, fraud, privacy, or information security law.

` (2) APPLICABILITY TO BUSINESS ENTITIES- If an applicant for a license is a corporation, partnership, or other business entity, paragraph (1) shall apply with respect to each partner, officer, or director of such corporation, partnership, or entity.

` (i) Term and Renewal of License-

` (1) TERM- Any license issued under this section shall be issued for a 1-year term beginning on the date of issuance.

` (2) RENEWAL- Licenses may be renewed in accordance with the requirements prescribed by the Director pursuant to this subchapter.

` (j) Revocation of License-

` (1) IN GENERAL- Any license granted under this subchapter shall be terminated or revoked by the Director if--

` (A) the licensee fails to comply with any provision of this subchapter;
or

` (B) the licensee, or in any case in which the licensee the licensee is a corporation, partnership, or other business entity, any officer, partner, or director of that corporation, partnership, or other entity, is convicted of a crime involving the payments system, financial markets, or Internet gambling laws of the United States or of the jurisdiction in which the licensee is located.

` (2) FINAL ACTION- Any revocation of a license under paragraph (1) shall be treated as a final action by the Director.

` (k) Compliance With Federal Laws- Licensees shall be required to comply with anti-money laundering, anti-fraud, anti-terrorism, and such other regulations, requirements, and limitations as may be prescribed by the Director.

` (l) Administrative Provisions-

` (1) GENERAL POWERS OF DIRECTOR- Subject to the oversight and direction of the Secretary of the Treasury, the Director may--

` (A) require a class of licensees to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter;

` (B) examine any licensee and any books, papers, records, or other data of licensees relevant to any recordkeeping or reporting requirements imposed by the Director under this subchapter;

` (C) summon a licensee or an applicant for a license, an officer or employee of a licensee or any such applicant (including a former officer or employee), or any person having possession, custody, or care of the reports and records required by the Director under this subchapter, to appear before the Director or a designee of the Director at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to any investigation in connection with the enforcement of this subchapter or any application for a license under this subchapter.

` (2) ADMINISTRATIVE ASPECTS OF SUMMONS-

- ˘ (A) PRODUCTION AT DESIGNATED SITE- A summons issued pursuant to this subsection may require that books, papers, records, or other data stored or maintained at any place be produced at any business location of a licensee or applicant for a license or any designated location in any State or in any territory or other place subject to the jurisdiction of the United States not more than 500 miles distant from any place where the licensee or applicant for a license operates or conducts business in the United States.
- ˘ (B) NO LIABILITY FOR EXPENSES- The United States shall not be liable for any expense incurred in connection with the production of books, papers, records, or other data under this subsection.
- ˘ (C) SERVICE OF SUMMONS- Service of a summons issued under this subsection may be by registered mail or in such other manner calculated to give actual notice as the Director may prescribe by regulation.
- ˘ (3) CONTUMACY OR REFUSAL-
 - ˘ (A) REFERRAL TO ATTORNEY GENERAL- In case of contumacy by a person issued a summons under this subsection or a refusal by such person to obey such summons or to allow the Director to conduct an examination, the Director shall refer the matter to the Secretary of the Treasury for referral to the Attorney General.
 - ˘ (B) JURISDICTION OF COURT- The Attorney General may invoke the aid of any court of the United States within the jurisdiction of which--
 - ˘ (i) the investigation which gave rise to the summons or the examination is being or has been carried on;
 - ˘ (ii) the person summoned is an inhabitant; or
 - ˘ (iii) the person summoned carries on business or may be found,to compel compliance with the summons.
 - ˘ (C) COURT ORDER- The court may issue an order requiring the person summoned to appear before the Director or a delegate of the Director to produce books, papers, records, and other data, to give testimony as may be necessary to explain how such material was compiled and maintained, to allow the Director to examine the business of a licensee, and to pay the costs of the proceeding.
 - ˘ (D) FAILURE TO COMPLY WITH ORDER- Any failure to obey the order of the court may be punished by the court as a contempt thereof.
 - ˘ (E) SERVICE OF PROCESS- All process in any case under this subsection may be served in any judicial district in which such person may be found.

˘ Sec. 5384. Financial institutions

- ˘ (a) Investment Banking- No person shall be held liable for engaging in investment banking activities for or on behalf of a licensee or involving a licensee, if such activities are performed in compliance with this subchapter, the Sarbanes-Oxley Act, the Securities Act of 1933 Act, the Securities Exchange Act of 1934, and any other applicable laws governing securities.

` (b) Payment and Transaction Processing- No person shall be held liable for engaging in payments processing activities for or on behalf of a licensee or involving a licensee, if such activities are performed in compliance with this subchapter.

` (c) Financial Institutions- No financial institution shall be held liable for engaging in financial activities and transactions for or on behalf of a licensee or involving a licensee, if such activities are performed in compliance with this subchapter and with applicable Federal, State, and foreign banking laws and regulations.

` Sec. 5385. Prohibition and limitation of licenses in States and Indian lands

` (a) State Opt Out-

` (1) IN GENERAL- No Internet gambling licensee may engage, under any license issued under this subchapter, in the business of Internet betting or wagering in any State which prohibits such business within such State if the Governor or other chief executive officer of such State informs the Director of such prohibition before the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation and Enforcement Act of 2007, or in accordance with paragraph (3), until such time as any notice of any subsequent repeal of such prohibition becomes effective under paragraph (3).

` (2) LIMITATIONS IMPOSED BY STATES- No Internet gambling licensee may engage, under any license issued under this subchapter, in the business of conducting any particular types of gambling activities or other contests in any State which prohibits or limits such particular types of gambling activities or other contests if the Governor or other chief executive officer of such State informs the Director of such prohibition or limitation, in a manner which clearly identifies the nature and extent of such prohibition or limitation, before the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation and Enforcement Act of 2007, or in accordance with paragraph (3), until such time as any notice of any amendment or repeal of such specific prohibition or limitation becomes effective under paragraph (3).

` (3) CHANGES TO STATE LIMITATIONS- The establishment, repeal, or amendment by any State of any prohibition or limitation referred to in paragraph (1) or (2) after the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation and Enforcement Act of 2007 shall apply, for purposes of this subchapter, with respect to the business of Internet betting or wagering in such State by any licensee beginning on the first January 1 that occurs after the end of the 30-day period beginning on the later of--

` (A) the date a notice of such establishment, repeal, or amendment is provided by the Governor or other chief executive officer of such State in writing to the Director; or

` (B) the effective date of such establishment, repeal, or amendment.

` (b) Indian Tribe Opt Out-

- ˆ (1) IN GENERAL- No Internet gambling licensee may engage, under any license issued under this subchapter, in the business of Internet betting or wagering within the tribal lands of any Indian tribe which prohibits such business within such tribal lands if the principal chief or other chief executive officer of such Indian tribe informs the Director of such prohibition before the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation and Enforcement Act of 2007, or in accordance with paragraph (3), until such time as any notice of any repeal or amendment of such prohibition becomes effective under paragraph (3).
- ˆ (2) LIMITATIONS IMPOSED BY INDIAN TRIBES- No Internet gambling licensee may engage, under any license issued under this subchapter, in the business of conducting any particular types of gambling activities or other contests in the tribal lands of any Indian tribe which prohibits or limits such particular types of gambling activities or other contests if the principal chief or other chief executive officer of such Indian tribe informs the Director of such prohibition or limitation, in a manner which clearly identifies the nature and extent of such prohibition or limitation, before the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation and Enforcement Act of 2007, or in accordance with paragraph (3), until such time as any notice of any amendment or repeal of such specific prohibition or limitation becomes effective under paragraph (3).
- ˆ (3) CHANGES TO INDIAN TRIBE LIMITATIONS- The establishment, repeal, or amendment by any Indian tribe of any prohibition or limitation referred to in paragraph (1) or (2) after the end of the 90-day period beginning on the date of the enactment of the Internet Gambling Regulation and Enforcement Act of 2007 shall apply, for purposes of this subchapter, with respect to the business of Internet betting or wagering in the tribal lands of such Indian tribe by any licensee beginning on the first January 1 that occurs after the end of the 30-day period beginning on the later of--
 - ˆ (A) the date a notice of such establishment, repeal, or amendment is provided by the principal chief or other chief executive officer of such Indian tribe in writing to the Director; or
 - ˆ (B) the effective date of such establishment, repeal, or amendment.
- ˆ (c) Enforcing State and Indian Tribe Limitations-
 - ˆ (1) IN GENERAL- The Director shall take effective measures to ensure that any licensee under this subchapter, as a condition of the license, complies with any limitation or prohibition imposed by any State or Indian tribe to which the licensee is subject under paragraph (1), (2) or (3) of subsection (a) or (b), as the case may be.
 - ˆ (2) VIOLATIONS- It shall be a violation of this subchapter for any licensee knowingly to accept bets or wagers, or engage in any Internet gambling activity within any State or in the tribal lands of any Indian tribe for which a notice is in effect under paragraph (1), (2), or (3) of subsection (a) or (b), as the case may be.
- ˆ (d) 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.