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Online Gambling: With State Regulation, All Bets are Off –

The Need for Federal Regulation

Ryan Lang

Introduction Gambling is nerve-racking and thrilling, scary yet exciting, fun but addicting, gambling is dangerous. Gambling that takes place in a land-based casino, at a race track, or even on a steamboat has its risks. There is always a possibility of a game being fixed, spending more money than one's budget allows, and becoming addicted. Most gambling venues have staff trained to spot the perils of gambling, while additionally minimizing the threats to maximize enjoyment. When the gambling venue is removed, all that remains is simply a person in front of a computer gambling through one of many websites, with the precautions taken to protect the gambler removed. This can be changed with more careful regulation and supervision of online gambling. One means of accomplishing this goal is through federal legislation, similar to a bill recently proposed by Republic Congressman Peter King.¹ Online gambling is going to occur, and with the current confusion among state and federal government, legalizing online gambling on a federal level would allow for better regulation of all online gambling. This paper takes the view that online gambling creates a hazardous arena for people of all ages to gamble without the supervision typically provided in land-based casinos or similar venues and federal legislation should be passed that would make online gambling simpler to regulate while reaping the benefits already enjoyed by some state governments.

The particular issue discussed in this paper is that the time has come that federal legislators must legalize online gambling to ensure that it is regulated in a safer manner. The reason I chose to focus on legalizing online gambling is to focus on how dangerous gambling truly is, especially on the Internet, and how these dangers can be minimized through proper regulation and supervision. Online gambling is growing exponentially, and until the federal government takes control to legalize and address some of the key issues with online gambling, the epidemic will continue to spiral out of control.

This paper will address various topics regarding the federal legalization of online gambling in the following order: Section II will provide a general overview of gambling and its history, as well as discuss the current state of online gambling, Section III will discuss the current federal laws regarding online gambling, Section IV will discuss the current state laws regarding online gambling with a focus on the recent legalization of online gambling and transition period in New Jersey, Section V will discuss the current proposed legislation to legalize and regulate online gambling on a federal level and why this legislation must be passed, Section VI will discuss the dangers of online gambling and how federal regulation and security could mitigate those dangers, and Section VII will conclude the paper.

History of Gambling Gambling involves wagering money or other valuable goods on an event that's outcome is uncertain with the main intent to win more money or value. Gambling comes in many shapes and sizes. Gambling can be found in a number of forms, including; games, such as craps, roulette, blackjack or poker, betting on races or sports, including the surge in fantasy sports and more. There are three primary elements necessary to constitute gambling; there must be a (1)

¹ <http://swampland.time.com/2013/12/10/will-congress-go-all-in-on-online-gaming/> (last visited Dec. 19, 2013).

prize, (2) a chance, and (3) consideration given.² The earliest known example of gambling dates back to 3000 BC in Mesopotamia, where six-sided dice were found.³ Additionally, there was gambling prevalent throughout China in 2300 BC, in India in 1500 BC, and remained popular throughout the Roman Empire and the Crusades.⁴ Today, gambling is as prevalent as ever and is becoming increasingly more popular.

Federal Statutes Regulating Online Gambling There are four federal statutes that are used to prohibit all forms of online gambling; the Interstate Wire Act of 1961⁴, the Travel Act of 1961⁵, the Illegal Gambling Business Act⁶, and the Unlawful Internet Gambling Enforcement Act.⁷ None of the four statutes overtly outlaws online gambling, however, courts have interpreted that they in fact do so.⁸

The Interstate Wire Act of 1961 is a United States federal law that bans the process of certain types of gambling in the United States, mainly sports gambling.⁹ This statute has been found by a District Court for the Eastern District of Louisiana to only prohibit sports gambling and not pertain to other games of chance.¹⁰ The Federal Wire Act states:

Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.¹¹

Federal courts have held that the Wire Act forbids the transmission of bets or wagers through wire communication, including the Internet.¹² The Department of Justice, however, has held that the Act does not pertain to placing bets via the Internet, rather only to those taking the bets.¹³

The Travel Act of 1961 is another federal criminal statute that prohibits the use of United States mail, or interstate or foreign travel, in order to commit a crime.¹⁴ The Travel Act does not have as much authority as the Wire Act when it comes to banning Internet gambling because the government has the burden of proving that an individual is involved in “(1) interstate travel or use of a facility in commerce (2) with the intent to promote an unlawful activity and (3) that the defendant thereafter performed or attempted to perform or facilitated the performance of an overt

² <http://www.gamblingandthelaw.com/> (last visited Dec. 19, 2013).

³ <http://gamblinghistory.info> (last visited Dec. 19, 2013).

⁴ 18 U.S.C. § 1084 (2006).

⁵ 18 U.S.C. § 1952 (2006).

⁶ 18 U.S.C. § 1955 (2006).

⁷ 18 U.S.C. § 5364 (2006).

⁸ Kiran S. Raj, *Drawing a Line in the Sand: How the Federal Government Can Work With the States to Regulate Internet Gambling*, 56 Emory L.J. 777, 783 (2006).

⁹ 18 U.S.C. § 1084 (2006).

¹⁰ *In re MasterCard Intern. Inc., Internet Gambling Litigation*, 132 F.Supp.2d 468, 480 (E.D. LA 2001).

¹¹ 18 U.S.C. § 1084 (2006).

¹² *United States v. Corrar*, 512 F. Supp.2d 1280 (N.D. Ga. 2007).

¹³ Alex Binkley, REMOTE GAME LEGISLATION IN THE UNITED STATES, A BURDEN ON THE SYSTEM, 27 Rev. Banking & Fin. L. 537, 540 (2008).

¹⁴ http://en.wikipedia.org/wiki/Travel_Act.

act in furtherance of the unlawful activity.”¹⁵ It has been difficult for the government to prove that any interstate travel has been in “furtherance of an unlawful activity.”¹⁶ In order to avoid having to prove this difficult requirement to individuals, federal courts have allowed the definition to apply to gambling enterprises in general.¹⁷ The Travel Act still fails to prosecute most gamblers because they are usually just consumers of gambling operations.¹⁸

The Illegal Gambling Business Act was passed by Congress in 1970 and prohibited the operation of an illegal gambling enterprise.¹⁹ An illegal gambling business under the Act is defined as “five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of \$2,000 in any single day.”²⁰ The Illegal Gambling Business Act, similar to the Travel Act of 1961, also only pursues those who operate the gambling businesses, not the individuals who do the gambling.²¹

Lastly, the Unlawful Internet Gambling Enforcement act was enacted in 2006 in an attempt by Congress to put a halt to the ever-growing online gambling craze.²² The Unlawful Internet Gambling Enforcement Act has been exceptionally controversial since its inception since it was passed as part of the Safe Port Act, a bill not in regards to online gambling.²³ The Unlawful Internet Gambling Enforcement Act states:

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.²⁴

Thus, the Unlawful Internet Gambling Enforcement Act prohibits organizations from receiving funds produced by online gambling but does not forbid the actions of placing wagers or taking part in online gambling.²⁵ The Act has done little to prohibit American players from participating in

¹⁵ United States v. Childress, 58 F.3d 693, 719 (D.C. Cir. 1995).

¹⁶ Raj, *supra* note 8, at 786.

¹⁷ Raj, *supra* note 8, at 787.

¹⁸ *Id.*

¹⁹ *Id.* at 787.

²⁰ 18 U.S.C. § 1084 (2006).

²¹ Raj, *supra* note 8, at 788.

²² <http://www.pokerstop.com/blog/poker-law/uigea-and-its-effects-a-month-after-d-day/> (last visited Dec. 19, 2013).

²³ Ross A. Crutchfield, *Folding a Losing Hand: Why Congress Should Replace the Unlawful Internet Gaming Act with a Regulatory Scheme*, 45 Tulsa L. Rev. 161, 163-164 (2009).

²⁴ 18 U.S.C. § 5363 (2006).

²⁵ *Id.*

online gambling other than making it more difficult to deposit money.²⁶ Aware that there would be a huge backlash if the bill went after the individual players, the drafters targeted the commercial institutions that controlled the operation's money and outlawed dealing in gambling proceeds.²⁷ The Unlawful Internet Gambling Enforcement Act, although it lacked the teeth to affect and charge the individual gamblers, did have an enormous impact on the online poker industry in 2011.²⁸ The largest site in the world, Party Poker, decided to pay a \$105 million fine and further agreed to leave the United States market to avoid prosecution.²⁹ With the largest site out of the way, Pokerstars and Full Tilt decided to ignore the legal risks and step in to corner the market because they believed that their operations, located in the United Kingdom, fell outside of the United States' prosecutorial reach.³⁰ The two sites were making around \$2 billion a year and now had control of around 70 percent of the United States online poker marketplace.³¹ Due to the current federal laws in place, it became more difficult to find payment processors to control the money of the operations.³² The money of the different website corporations, including Full Tilt, continued to have their money seized and soon did not have enough money to pay out their customers.³³ Not too long afterwards, the industry came crashing down.³⁴

On April 14, 2011, in *United States v. Scheinberg*, the federal government killed a \$2.5 billion industry.³⁵ As a result of this case, the United States federal government took action against the world of online poker, a massive and ever growing industry in the United States.³⁶ The next day, a day now known as "Black Friday," the United States Department of Justice shut down and seized all of the assets of the three largest poker companies operating in the American market; Absolute Poker, Full Tilt Poker, and PokerStars.³⁷ The three poker companies were charged with bank fraud, money laundering and illegal gambling under the Unlawful Internet Gambling Enforcement Act.³⁸ Shortly after the federal crackdown, PokerStars returned \$100 million to the United States players and continued to operate abroad.³⁹ Full Tilt never returned any of the money because it had all been seized and the owner's of the corporation were accused of running a "global Ponzi scheme" by the federal government, the company owed American players alone \$150 million.⁴⁰ Absolute Poker also had no money to pay back their users and one of the owners pleaded guilty to lying to banks regarding the nature of the transactions.⁴¹ This marked the biggest success for the federal government against online gambling in the infancy of the industry.

²⁶ UEGA *supra* note 22.

²⁷ <http://www.laweekly.com/2012-03-01/news/online-poker-shutdown-black-friday-internet-gambling/2/> (last visited Dec. 19, 2013).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *United States v. Scheinberg*, S3 No. 10 Cr. 336 (S.D.N.Y. Apr. 14, 2011).

³⁶ <http://www.laweekly.com/2012-03-01/news/online-poker-shutdown-black-friday-internet-gambling/2/> (last visited Dec. 19, 2013).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

Later that year, the Department of Justice issued a legal opinion discussing the legality of online gambling in response to requests by New York and Illinois to clarify whether the Wire Act of 1961 prevents states from selling lottery tickets to their citizens within their border.⁴² The ruling dictated: “nothing in the materials supplied by the Criminal Division suggests that New York or Illinois lottery plans involve sports wagering, rather than garden-variety lotteries. Accordingly, we conclude that the proposed lotteries are not within the prohibitions of the Wire Act.”⁴³ The Unlawful Internet Gambling Enforcement Act of 2006, which made it illegal for banking institutions to process online gambling websites, only allows the Justice Department to invoke authority over interstate wagers and gambling.⁴⁴ Mark Hichar, a partner at a gambling law group at Edwards Wildman, said that this will not open the door for states to not only allow the lottery online but also to offer poker and other casino games on the internet, stating “the Department of Justice at long last has removed a cloud that existed with respect to intrastate Internet wagering and we have yet to see how far reaching its implications will be.”⁴⁵ Thus, the federal government has lost its ability to prosecute states for legalizing online gambling within the state under current federal laws.⁴⁶ This must change; the federal government must legalize online gambling on a federal level and regulate the activity to help limit the dangers associated with online gambling.

Current State of Online Gambling in States, Focusing on Newly Enacted Legislation in New

Jersey Online gambling remains a massive industry in the United States. Internet gambling is estimated to have grown from a \$300 million industry in 1997 to a \$4 billion industry in 2003.⁴⁷ In 2010 it was estimated that the global gambling revenue was around \$30 billion, with \$4 billion originating in the United States.⁴⁸

New Jersey was the third state in the United States to legalize and regulate online gambling, joining Nevada and Delaware.⁴⁹ Eight other states have legislation pending that would allow Internet gambling.⁵⁰ New Jersey, as the first state to allow a full scale of online casino games, is supposed to serve as a large test for the future of online gambling, but only allows gamblers to participate if located inside the state.⁵¹

Senator Raymond Lesniak first attempted to pass legislation in New Jersey to allow and regulate online gambling in January of 2010.⁵¹ Senator Lesniak’s bill in Senate and the state Assembly were seeking the allowance of licenses for Atlantic City casinos to offer New Jersey residents the ability to gamble online.⁵² The bill passed the New Jersey Senate in November 2010 by a vote of 29 to 5.⁵³

⁴² <http://www.nytimes.com/2011/12/25/us/online-gaming-loses-obstacle-at-justice-department.html> (last visited Dec. 19, 2013).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ <http://www.forbes.com/sites/nathanvardi/2011/12/23/departement-of-justice-flip-flops-on-internet-gambling/> (last visited Dec. 19, 2013).

⁴⁶ *Id.*

⁴⁷ Letter from Sue Schneider, Chairman, and Rick Smith, Executive Director, Interactive Gaming Council, to Susan Nolan, Deputy Executive Director, National Conference of Legislators of Gaming States (Jan. 14, 2004).

⁴⁸ See David O. Stewart, Online Gambling Five Years After UIGEA (*May 2011*),

⁴⁹http://www.nj.com/onlinegamblingnj/index.ssf/2013/09/history_of_online_gambling_in.html (last visited Dec. 19, 2013).

⁵⁰ http://www.nytimes.com/2013/11/27/nyregion/new-jersey-opens-up-for-online-gambling.html?_r=0 (last visited Dec. 19, 2013).

⁵¹http://www.nj.com/onlinegamblingnj/index.ssf/2013/09/history_of_online_gambling_in.html (last visited Dec. 19, 2013).

⁵² *Id.*

New Jersey was the first state legislative body to pass a bill allowing Internet gambling.⁵⁴ The bill initially failed to be brought to the floor in 2010 but was passed in 2011 by a vote of 63 to 11 and the Senate then passed the revised bill by a vote of 34 to 2.⁵⁵

As a follow up, Senator Lesniak introduced two more bills; Senate Bill S1565 and Assembly Bill A2578. The Assembly bill was adopted and passed the legislative body again.⁵⁶ Governor Chris Christie conditionally vetoed the bill, stating that change needed to be made, ranging from an increase in tax rates to more money and supervision allocated to help those with gambling problems.⁵⁷

After the New Jersey Legislature modified the bill to include Governor Christie's adaptations the bill passed the Senate and Assembly and was signed by Governor Christie on February 26, 2013.⁵⁸ The law required that the online operators and Atlantic City casinos not launch their online gambling websites within three months of the passage of the bill, however provisions pushed the launching of the websites back to 9 months.⁵⁹ The 9-month provision allowed Atlantic City casinos to legally launch online gambling websites on November 26, 2013.⁶⁰

Less than a month after online gambling websites launched on November 26 over 90,000 online gambling accounts had been created according to the New Jersey Gaming Enforcement Division. Seven casinos in New Jersey are currently offering online gambling, including the Golden Nugget, the Borgata Hotel Casino and Spa, the Tropicana Casino and Resort, the Trump Plaza Hotel and Casino, the Trump Taj Mahal Casino Resort, Caesar's Atlantic City and Bally's Atlantic City.⁶¹ The Resorts Casino Hotel has received approval to offer Internet gambling but their online partner, Pokerstars, has been placed on a two-year suspension in New Jersey due to an indictment against the company's founder.⁶²

The casinos are currently running advertisements on multiple venues.⁶³ PartyPoker, who is partnered with the Borgata Hotel Casino & Spa, have become the biggest advertisers among the New Jersey Online gamblers.⁶⁴ Partypoker has launched commercials, online advertisements through social media, mail pamphlets, and even flyers on pizza boxes.⁶⁵ Many of the other casinos have similar methods of advertisement but the Borgata and Partypoker's advertisement's stating that anyone could become "New Jersey's Next Poker Millionaire" coupled with their overly generous promotions have lead to a noticeable lead among their competitors.⁶⁶ All casinos as well

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ http://www.philly.com/philly/business/20131216_ap_1a71d8e6328a40f6ad769f6c18b9333f.html?c=r (last visited December 13, 2013).

⁶¹ *Id.*

⁶² *Id.*

⁶³ <http://www.casino.org/news/partypoker-grabs-early-edge-in-new-jersey-online-gambling-market> (last visited Dec. 19, 2013).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

as the state of New Jersey believe that through effective advertising there will inevitably be an increase in revenue for the casinos.⁶⁷



(Photo above: A recent PartyPoker advertisement delivered on pizza boxes.)

New Jersey Legislature is hoping that online gambling run by the casinos will help the casinos to raise revenue and remain successful despite an increase in casinos in neighboring states.⁶⁸ Wall Street analysts currently predict that Internet gambling in New Jersey will raise around \$200 to \$300 million in its first year, but the analysts remain undecided as to whether this will be new revenue or simply mark a shift in gambler's spending habits via money online rather than in land-based casinos.⁶⁹ This new revenue in the first year from online gambling is less than Governor Christie originally projected but is still a positive sign for the land-based casinos and many are hopeful that it will continue to increase yearly.⁷⁰ Governor Christie believed that online gambling would generate \$1 billion for the state's casinos in its first year, which would in turn bring in \$150 million in tax revenue to the state of New Jersey.⁷¹ Currently, the \$300 million projected revenue for the year would lead to around \$45 million in tax revenue.⁷²

Senator Lesniak, who introduced the original online gambling bills in New Jersey, would now like to take New Jersey's online gambling global.⁷³ Senator Lesniak plans to introduce a bill that would allow international companies base an organization within New Jersey and offer Internet gambling to people in other countries.⁷⁴ It is the belief of Senator Lesniak and many other politicians that America's financial security and honest reputation will gain the trust of gambler's from other countries who are not afraid that the host will keep the money or that the website will subsequently be shut down.⁷⁵ The bill, which Lesniak expects to be passed in the spring of 2014, would further allow international corporations operating within New Jersey to take sports bets from citizens of other countries.⁷⁶ New Jersey may be setting the groundwork and creating a successful plan for the federal government if the state's plans do come to fruition and the ventures run smoothly and effectively.⁷⁷

Current Proposed Federal Legislation and Why It Should Be Passed The current laws regarding online poker only protect gamblers in Nevada, New Jersey, and Delaware, who have legalized forms of online gambling, while the rest of the gamblers across the United States are vulnerable to many

⁶⁷http://www.philly.com/philly/business/20131216_ap_1a71d8e6328a40f6ad769f6c18b9333f.html?c=r (last visited December 19, 2013).

⁶⁸*Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹http://www.nj.com/politics/index.ssf/2013/11/online_gambling_revenue_vastly_overstated_by_christie_administration_ratings_agency_says.html (last visited Dec. 19, 2013).

⁷² *Id.*

⁷³ <http://www.businessweek.com/articles/2013-11-22/can-new-jersey-become-the-online-gambling-capital-of-the-world> (last visited Dec. 19, 2013).

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

of the dangers associated with online gambling that lacks regulation and supervision.⁷⁸ Although there have been a few attempts to have legislation passed that would legalize online poker across the United States and give the power to the Federal government to control the gambling in order to limit the dangers and ensure regulations, this section will focus specifically on one piece of legislation introduced by Republican Congressman Peter King.⁷⁹

In June of 2013 Congressman King proposed the Internet Gambling Regulation, Consumer Protection and Enforcement Act of 2013, a federal regulation that would legalize online gambling on a national level.⁸⁰ Congressman King believes that this legislation is needed to help regulate the world of online gambling and protect the gamblers from the dangers currently associated with Internet gambling.⁸¹ Congressman King stated: “a common federal standard will ensure strong protections for consumers, protect against problem and underage gambling, and make it easier for businesses, players, lawmakers and regulators to navigate and freely participate.”⁸² The proposed legislation would give the power of oversight to the Treasury Department, who would be in charge of ensuring safeguards against underage and compulsive gambling while also managing the interstate wagering.⁸³ States that would like to continue to ban online gambling would be allowed to continue to outlaw the gambling or refuse to cooperate across their borders, having the option to opt out within 120 days of the bill’s passage.⁸⁴ One of the reasons for the legislation is that the current state laws make it impossible for the large worldwide corporations that have the power in the gambling industry to do their business.⁸⁵ Poker Players Alliance said that the Internet Gambling Regulation, Consumer Protection and Enforcement Act of 2013 “would empower states to license intrastate online poker and casino-style games under appropriate federal regulatory oversight.”⁸⁶ The bill will allow equal access to licenses “for all providers, including Indian tribes and lotteries.”⁸⁷

This bill would be taking a stance to legalize online gambling on a federal level and ensure oversight while also allowing the nation to create jobs and tax the revenue gained.⁸⁸ Michael Waxman of the Safe and Secure Internet Gambling Initiative stated, “without consistent regulations, federal and state governments are being deprived of valuable tax revenue, while offshore Internet gambling operators continue to benefit from an uncertain and untaxed marketplace.”⁸⁹ Waxman went on to say that “with all of the fighting in D.C. over funding issues, you’d hope this opportunity to generate

⁷⁸ <http://www.pocketfives.com/articles/peter-king-introduces-new-u-s-internet-gambling-legislation-588433/> (last visited Dec. 19, 2013).

⁷⁹ <http://swampland.time.com/2013/12/10/will-congress-go-all-in-on-online-gaming/> (last visited Dec. 19, 2013).

⁸⁰ http://www.denverpost.com/ci_23411505/bill-legalize-online-gambling-introduced-congress (last visited Dec. 19, 2013).

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ <http://www.pocketfives.com/articles/peter-king-introduces-new-u-s-internet-gambling-legislation-588433/> (last visited Dec. 19, 2013).

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ <http://www.pocketfives.com/articles/peter-king-introduces-new-u-s-internet-gambling-legislation-588433/> (last visited Dec. 19, 2013).

billions in economic activity and new government revenues will get serious consideration.”⁹⁰ Morgan Stanley predicts that by 2020 online gambling in the United States will generate \$9.3 billion annually, the same amount of revenue that Las Vegas and Atlantic City produce combined, all of which would be taxable by the state and federal government.⁹¹ Geoff Freeman, the President and CEO of the American Gaming Association stated, “a regulated online gaming environment is estimated to create more than 22,000 American jobs and generate more than \$26 billion in tax revenue. The American Gaming Association supports a strong regulatory regime insisting on player identification, age verification, geo-location, responsible gaming standards, help for those with gambling disorders and punishment for companies that flouted American law.”⁹²

Although the passing of this legislation or any legislation suggesting federal legalization and supervision of online gambling is doubted by many, the time is now for the passing of this legislation.⁹³ Congressman King’s proposed bill would allow the federal government to regulate and supervise all online gambling websites in the United States and to protect its gamblers from the dangers presented by online gambling.⁹⁴ This bill is exactly what the United States needs to successfully transition into the world of online gambling.

Dangers of Gambling in Online Casinos and How These Dangers Can Be Limited There is always an element of danger involved when gambling. Gambling involves a high degree of uncertainty and risk, which is why many are drawn to its thrill. It is not just the nature of gambling that is dangerous; it can also be the environment, the other gamblers, and those in charge of the operations. With online casinos now starting in New Jersey, and already in operation in Nevada and Delaware, online casinos within the United States must take precautions to protect its gamblers, ensure a safe gaming environment, and limit the overall dangers associated with gambling.⁹⁵ It is currently very difficult to ensure safety to online gamblers in the United States because of the differing laws among states and the lack of federal legislation and oversight.⁹⁶ Legalization of online gaming at a federal level with government regulation is needed to limit the dangers associated with online gaming. The current state of online gambling in America is putting gamblers in unregulated and dangerous situations on a daily basis. This section will discuss some of the dangers associated with online gambling and how federal legislation would limit the dangers associated with online gambling.

There are many dangers associated with online gambling due to its impersonal nature and lack of trained supervision. Geoff Freeman, the President and CEO of the American Gaming Association has been in support of regulation within the gaming industry, declaring “make no mistake: online gaming is here to stay. Americans spent nearly \$3 billion with illegal offshore gambling operators in 2012. It is time for Congress to adopt sensible online gaming regulations that open the internet to the millions who wish to play responsibly – while protecting children, assisting those with

⁹⁰ <http://online.wsj.com/article/APbe78d9eefc1f4a2eb5642a882696e3ea.html> (last visited Dec. 19, 2013).

⁹¹ http://www.denverpost.com/ci_23411505/bill-legalize-online-gambling-introduced-congress (last visited Dec. 19, 2013).

⁹² <http://www.igamingplayer.com/issue/january-2014/article/congress-holds-online-gaming-hearing> (last visited Dec. 19, 2013).

⁹³ <http://swampland.time.com/2013/12/10/will-congress-go-all-in-on-online-gaming/> (last visited Dec. 19, 2013).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ http://www.helpguide.org/mental/gambling_addiction.php (last visited Dec. 19, 2013).

gambling disorders, and empowering law enforcement.”⁹⁷ He also stated that these offshore gambling operations “expose millions of Americans to a risky gaming environment that lacks integrity.”⁹⁸

Sheldon Adelson, the CEO of Las Vegas Sands, feels that online gambling is going to be a “toxic train wreck.”⁹⁹ Adelson, as the CEO of a land-based casino, clearly has a reason to be biased in the matter, but does make valid points in discussing the dangers and the need for strong federal regulation within the online gambling marketplace.¹⁰⁰ When asked in an interview of whether he believes that there are more dangers in online gambling than there are on land-based casinos, Mr. Adelson stated:

Of course it is... No land-based casino would let somebody that’s out of control of themselves sit and gamble... Let’s say one thing for sure, it’s an adult who gets dressed, gets in the car, comes with friends, goes to a place, they have a buffet, they play, they go bowling and they play for a couple of hours on the tables and they enjoy themselves in entertainment. This is not dressing in your birthday suit, taking your computer into bed, and it is not underage kids that get set up by of-age kids, and they play until they lose all of their money. I believe that poker and other forms of gambling, poker particularly since it’s considered a social activity and not gambling per se, kids will get up in the middle of the night if they cannot sleep, or they come home late, and they challenge each other to say, let’s play some poker or some blackjack. They are going to lose.¹⁰¹

Sheldon Adelson, as someone who has a vast amount of knowledge regarding the operation and protections of land-based casinos, touched upon many but not all of the dangers associated with online gambling in his interview.¹⁰² He further stated that “when someone goes to a casino, it takes physical initiative. Once at a casino, individuals can be identified to make sure they are who they are and not under-aged. Casinos are highly controlled environments. Security cameras mark every move, and professionals watch patrons to make sure they are not getting in over their heads. None of these protections are available to the same extent when gambling is done over the Internet.”¹⁰³

The dangers on online gambling are similar to those associated with casinos, but the in-person aspect no longer exists and access is much easier.¹⁰⁴ There are many dangers that come with online gambling; especially online gambling that is not regulated to ensure the integrity of the games.¹⁰⁵ Since the United States has not uniformly legalized online gambling, most gamblers use websites that are run abroad, which do not afford gamblers the

⁹⁷ <http://www.americangaming.org/newsroom/press-releases/online-gaming-is-here-time-to-regulate-american-gaming-association-tells-us> (last visited Dec. 19, 2013).

⁹⁸ *Id.*

⁹⁹ <http://www.businessinsider.com/sheldon-adelson-attacks-online-gambling-2013-6> (last visited Dec. 19, 2013).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ <http://www.pokernews.com/news/2013/12/ppa-s-pappas-pleased-with-igaming-congressional-hearing-17003.htm> (last visited Dec. 19, 2013).

¹⁰⁴ http://www.americangaming.org/sites/default/files/uploads/docs/final_online_gambling_white_paper_5-18-11.pdf (last visited Dec. 19, 2013).

¹⁰⁵ *Id.*

same protections if run on federally controlled websites.¹⁰⁶ If the federal government legalized and regulated online gambling, the first way to limit the dangers of online gambling would be for the government to force those who desire to have commercial casino licenses to meet a list of suitability requirements.¹⁰⁷ In order to gain a license to operate an online casino an organization must satisfy their personal and business background checks and prove that they will operate their casino websites in a legal manner.¹⁰⁸ The federal government would then look through their professional business history and decide whether the organization is suitable or not.¹⁰⁹ This type of federal supervision would allow online gamblers to feel a sense of security and know that they are engaging in gambling on a government backed website.¹¹⁰

Underage gambling is a fear of many across the United States. Unlike in casinos where there is trained staff to check identifications and keep underage gamblers out, it is easy for underage gamblers to have someone of age set up an account for them to access online gambling websites.¹¹¹ Although underage gambling is undoubtedly going to occur, as does underage consumption of tobacco and alcohol, there are measures that can be taken to limit underage gambling on online casinos.¹¹² Unlike foreign websites where underage gambling regulations are relaxed, federally operated websites would require customer identification to attempt to exclude underage customers from gambling.¹¹³ Federally backed website casinos would have to implement customer identification procedures, a process that would exclude underage gamblers, exclude gamblers from states that may opt out of online gambling, exclude known cheaters or rule violators, and ensure that money laundering is not taking place.¹¹⁴ Gamblers would have to enter their name, address, telephone number, and credit card information or bank account information that would be submitted to verification firms such as Equifax, First Union, and Experian.¹¹⁵ These firms operate as databases that check and confirm the customer's identity and if more information is needed they can check a social security number or require customers to fax driver's licenses or to speak to customer service to further confirm the gambler's identity.¹¹⁶ Although imperfect, since underage gamblers may have someone set up their account, it does create multiple hoops to jump through as protection and allow the government to prosecute harshly to deter people from aiding underage gambling.¹¹⁷

Cheating in online gambling venues has existed for a long time causing the odds to be against gamblers.¹¹⁸ This cheating has come from both online casinos and poker rooms as well as

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ http://www.americangaming.org/sites/default/files/uploads/docs/final_online_gambling_white_paper_5-18-11.pdf (last visited Dec. 19, 2013).

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ <http://www.casino.org/cheating.php> (last visited Dec. 19, 2013).

from other gamblers.¹¹⁹ This danger can be limited through testing and auditing of the software that operates online games to ensure that the players are gambling in accordance with the rules.¹²⁰ Constant testing must occur by outside testing laboratories to ensure that the dealing of cards are distributed using random number generators.¹²¹ Additionally, outside auditing companies must look at the payouts to make sure that the casino is paying jackpots out as required, that the rules of the games have been applied fairly, and that taxes are being paid.¹²² Since all online gambling is recorded electronically, Internet gambling operators can be audited easily.¹²³ Some casinos, especially those that are not run within the United States, are susceptible to cheating within online gambling.¹²⁴ On one website, Ultimatebet.com, based in Costa Rica, a former poker champion and advisor to the website, Russ Hamilton, was using software called “God Mode” that allowed him to see other player’s hands and essentially cheat the other players out of millions of dollars.¹²⁵ Robots are another big problem within online games, particularly poker, because players cannot see one another as they can in a land-based casino.¹²⁶ There have been recorded instances of robots on both PokerStars and Full Tilt, two of the larger online gambling websites.¹²⁷ These robots are for sale online for \$129 per year from a company named Shanky Technologies.¹²⁸ The co-founder of Shanky Technologies, Brian Jetter, has stated that over 400 users who were using his robots were banned from the Full Tilt poker’s website alone and seized over \$50,000 of his customer’s money.¹²⁹ Poker robots are getting better and better by the year and yet many poker websites still look the other way and allow players using these robots to play.¹³⁰ Professor Thomas Sandholm, who runs a poker research group at Carnegie Mellon University, stated that poker robots “can rival good players, but not the best – yet.”¹³¹ Outside auditing, studying the manners and type of gambling recorded will show those who are using robots and will block them from gambling websites across the United States.¹³² The robots tend to use identifiable patterns and show signs of their mechanical nature, such as a lack of bluffing or taking of breaks; things are easily detectable by other players and especially by auditors.¹³³ This type of cheating could be limited by legalizing online

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ http://www.americangaming.org/sites/default/files/uploads/docs/final_online_gambling_white_paper_5-18-11.pdf (last visited Dec. 19, 2013).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ http://www.slate.com/blogs/crime/2013/05/29/ultimatepoker_and_ultimatebet_the_online_poker_scandal_that_never_ends.html (last visited Dec. 19, 2013).

¹²⁵ *Id.*

¹²⁶ <http://www.nytimes.com/2011/03/14/science/14poker.html> (last visited Dec. 19, 2013).

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² http://www.americangaming.org/sites/default/files/uploads/docs/final_online_gambling_white_paper_5-18-11.pdf (last visited Dec. 19, 2013).

¹³³ *Id.*

gambling and allowing all Americans to gamble on reliable, secure websites that will be regulated and where cheating will not be allowed.¹³⁴

The last and most dangerous aspect of online gambling is how easily accessible it is and how enormous of a problem this can present to those who exhibit signs of dangerous and addictive gambling habit.¹³⁵ Any type of game can cause “problem” gambling and two to three percent of all Americans meet the criteria of problem gambling.¹³⁶ The number of problem gamblers is around 6 million adults and a half of a million teens.¹³⁷ Each week around 15 percent of all Americans gamble at least once.¹³⁸ Youth are at a much higher risk of developing a gambling problem, at a rate about two or three times higher than that of adults, and approximately 6 percent of college students currently have a gambling problem in America.¹³⁹ Of those Americans with a gambling problem, nearly 40 percent of those began gambling before the age of 17.¹⁴⁰ The effects of problem gambling do not only affect the gambler, it also affects the gamblers family as well as society as a whole.¹⁴¹ Over three quarters of those with gambling problems are likely to have a major depressive disorder and are at a higher risk of tobacco and drug use.¹⁴² Nearly 50 percent of problem gamblers commit crimes, two thirds of which are related to gambling, and nearly three quarters of those currently in jail in the United States are identified as problem gamblers.¹⁴³ The families of those with gambling problems are put at risk as well, with 10 to 17 percent of children of gamblers having been abused by the gambler and as high as fifty percent of spouses having been abused.¹⁴⁴ Additionally, the burden on society is astronomical; with \$17 billion a year due to gambling related crime, addiction, and bankruptcy.¹⁴⁵ Those numbers are even worse for online gambling.¹⁴⁶ Nearly one quarter of college students have gambled online, with 6 percent doing so weekly.¹⁴⁷ Of those who gambled frequently online, over sixty percent were pathological gamblers; comparatively only 5 percent of non-internet gamblers were considered to have a gambling problem.¹⁴⁸ A survey in Australia shows that 30 percent of online gamblers were at risk of a gambling problem, double the 15 percent of offline gamblers that risk developing a gambling problem.¹⁴⁹ These statistics are frightening and must be limited by the government; those with gambling problems must be limited in their use of online gambling.

¹³⁴*Id.*

¹³⁵ *Id.*

¹³⁶ http://addiction.lovetoknow.com/wiki/Gambling_Addiction_Statistics (last visited Dec. 19, 2013).

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

There are many reasons that online gambling is particularly addictive.¹⁵⁰ One problem with online gambling is that it makes gambling a lot easier to access for those with gambling problems.¹⁵¹ The easy accessibility and frequency of play of online gambling present a significant risk of problem gambling, especially due to the use of smartphones to gamble.¹⁵² When gamblers win money it stimulates the brain, creating a high similar to that which a drug user experiences when consuming a substance.¹⁵³ The feeling of playing internet games satisfies this high by stimulating the brain, creating an addictive feeling satisfied only by gambling.¹⁵⁴ This is a huge problem due to how convenient and anonymous online gambling is, with gambling now accessible via iPads and smartphones.¹⁵⁵ When a gambler enters a casino and gambles for multiple days it is noticed by family members, co-workers, and especially the staff of the casino, now, gamblers are free to gamble at all hours of the day in complete anonymity.¹⁵⁶ Further, online gambling does not require cash, there is no physical exchange of money like there is in casinos, the online websites connect you directly to your credit card or bank account.¹⁵⁷ At one click of a mouse people can gamble away large sums of money and life savings without realizing just how much money they are actually losing, it almost creates the illusion that gamblers are using pretend money than the real thing.¹⁵⁸ The last reason online gambling addiction problems are prevalent is due to advertising and marketing.¹⁵⁹ Online gambling websites are flashy, often drawing younger, more susceptible gamblers, showing people celebrating winning tons of money in glamorous fashion.¹⁶⁰ As has been seen in New Jersey, online gambling advertisements are everywhere, on television, all over unrelated Internet websites, and especially on pamphlets and flyers flooding mailboxes.¹⁶¹ This is the equivalent of cigarette commercials depicting Joe Camel commercials making it look cool and awesome to smoke cigarettes, reminding people at every turn to purchase their cigarettes.¹⁶² There is no reprieve for online gamblers with gambling problems, especially those in New Jersey who are constantly reminded to gamble, with the source of gambling, usually their cell phones, already in their hands knowing that gambling is one click away.¹⁶³ Although gambling problems, such as addiction are extremely dangerous to the gambler, their family, and society as a whole, there is no true answer as to how to limit online gambling for those with gambling problems but there are steps that can

¹⁵⁰ <http://www.addictiontreatmentmagazine.com/addiction-news/dangers-online-addiction-gambling/> (last visited Dec. 19, 2013).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ <http://www.dailyrecord.com/article/20131202/NJNEWS10/312020015/Bet-Online-gaming-ads-swamp-market> (last visited Dec. 19, 2013).

¹⁶² http://tobacco.stanford.edu/tobacco_main/images.php?token2=fm_st138.php&token1=fm_img4072.php&theme_file=fm_mt015.php&theme_name=Targeting%20Teens&subtheme_name=Joe%20Camel (last visited Dec. 19, 2013).

¹⁶³ *Id.*

be taken.¹⁶⁴ One way of accomplishing this is to place a limit on how much a person can deposit on a betting site, as research has shown, those with limits on online betting tend to reduce the amount spent on betting as well as reducing the amount of time spent gambling.¹⁶⁵ If the federal government regulated websites, then steps could be taken to advertise Gambler's Anonymous as well as other methods of therapy for gamblers and gamblers' families.¹⁶⁶ Those with known gambling problems and histories of addiction could also be limited in their use while applying to use online gambling websites, with casinos or addiction programs entering their names into databases.¹⁶⁷ Although addiction to online gambling is dangerous and will never fully be diminished, if the federal government controlled and regulated the online gambling websites they could take as many measures as possible to help those with problems.

In sum, there are many dangers associated with online gambling, some of which can be greatly diminished by federal legalization and regulation, while others can only be limited. These dangers are currently more prevalent and affect more gamblers across the United States due to the lack of well regulated websites and protection taken by the online gambling venues, demonstrating a great need for the legalization and regulation of online gambling on a federal level.

Conclusion In conclusion, it is time for the United States to legalize and regulate online gambling on a federal level to ensure the safety of gamblers across the country. Many of the dangers associated with online gambling could be minimized through proper regulation and supervision by the federal government. Online gambling is an ever-growing industry and if the federal government does not act swiftly to legalize and address the dangers of online gambling then the dangers will continue to hurt gamblers in America.

¹⁶⁴ http://addictions.about.com/od/compulsivegambling/f/online_betting.htm (last visited Dec. 19, 2013).

¹⁶⁵ *Id.*

¹⁶⁶ http://www.helpguide.org/mental/gambling_addiction.php. (last visited Dec. 19, 2013).

¹⁶⁷ <http://www.addictiontreatmentmagazine.com/addiction-news/dangers-online-addiction-gambling/> (last visited Dec. 19, 2013).