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## Republicans' Bad Bet

A Proposed Internet Gambling Ban Would Trample on States' Rights and Individual Liberty—and Won't Stop Online Gambling

By Michelle Minton\*

It was unbearably hot on August 2, 1876 with the mercury reading over 90 degrees by 3:00 PM at the Nuttal & Mann's saloon. The regulars, well into a game of five-card stud, were joined by Wild Bill Hickok, who had arrived in Deadwood, South Dakota, just two months prior. As the next hand was dealt out, local drunk Jack McCall quietly entered the saloon, approached the game unnoticed, pulled his revolver, and fired at near-point blank range into the back of Hickok's head, killing him instantly. Before his hanging, McCall admitted that he shot Wild Bill because of a perceived slight at a card game the night before. We've come a long way since Wild Bill's demise. So why do some members of Congress want to regulate online gambling as if we were still living in Wild West?

The Restoration of America's Wire Act (H.R. 4301, S. 2159), introduced in March 2014 by Rep. Jason Chaffetz (R-UT) in the House and Sen. Lindsey Graham (R-S.C.) in the Senate, would modify a 1961 sports gambling Act, instituting a *de facto* federal online gambling ban. This would force the three states that already have legalized, regulated, and taxed online gambling—Delaware, Nevada, and New Jersey—to reverse the laws and regulations they instituted in the last year and prohibit other states from attempting to legalize the activity in the future. Not only does this heavy-handed proposal trample on state and individuals' rights to make such decisions, it will utterly fail to stop Americans from gambling online. By pushing net gambling into a black market where players illegally gamble on foreign-owned sites, the proposal leaves them with far fewer protections than they'd have in a legal and transparent online gambling market.

**History of Net Gambling Legislation.** Apart from Hawaii, every state in the nation has some form of legalized gambling—even Utah, Rep. Chaffetz's home state, has semi-legal poker rooms in addition to bingo parlors where players can win cash—and all but seven states operate lotteries.<sup>1</sup> Despite this, and the fact that many other countries have legalized and regulated online gambling without descending into bedlam, anti-gambling advocates in the U.S.—along with brick-and-mortar

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casinos interested in hobbling potential competitors—insist that online gambling is a step too far and allowing states to legalize the activity would lead to society’s ruin.

In the mid-1990s, the popularity of online gambling was on the rise, driven by the spread of personal computing and Internet access. Millions of Americans wagered on websites based outside the U.S. While certain states banned the activity, there were no federal statutes making it unambiguously illegal. At the height of its popularity in 2005, an estimated 15 to 20 million U.S. residents gambled online.<sup>2</sup> Beginning in 1998, lawmakers attempted to pass some form of regulation on online gambling, but Congress could not agree on a single bill.

In 2006, however, two bills were introduced, one by Rep. Jim Leach (R-IA) that sought to prohibit certain electronic financial transactions related to online gambling, and one by Rep. Bob Goodlatte (R-Va.) that sought to amend the Wire Act of 1961 to prohibit the offering of online casino “games of chance” in addition to the sport-gambling already prohibited by the Act. Polls conducted in 2006 showed that at least 85 percent of Americans opposed banning Internet gambling.<sup>3</sup> Yet despite the unpopularity of an online gambling ban, the House passed a combination of the Leach-Goodlatte bill and sent it to the Senate, where it faced an uphill battle.

However, minutes before Congress voted on the SAFE Port Act of 2006—a must-pass Homeland Security bill meant to protect ports of entry from terrorism—Senate Majority Leader Bill Frist (R-Tenn.) attached to it the completely unrelated Leach-Goodlatte bill, known now as the Unlawful Internet Gambling Enforcement Act (UIGEA). Near midnight the day before a Congressional recess, the Port Safety Act was approved along with UIGEA, which created civil and criminal liability for “financial transaction providers” that knowingly control wagers and operate websites on which “unlawful” betting occurs.

UIGEA defines “unlawful Internet gambling” thus:

To place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the state or tribal lands in which the bet or wager is initiated, received, or otherwise made.<sup>4</sup>

Of the existing federal laws governing gambling, only one, the Wire Act, has been deemed by courts as applicable to online gambling. While the Department of Justice has used the Wire Act to convict operators of foreign-operated sport betting businesses, in 2002 the United States Fifth Circuit Court of Appeals concluded that the Wire Act was relevant only to online wagering on sports, not to other types of gambling like casino games or poker.<sup>5</sup>

**The Department of Justice’s Interpretation.** In the aftermath of UIGEA’s passage, many operators of online gambling platforms, such as PartyGaming, 888poker, and Paradise Poker, which were licensed and regulated in the United Kingdom, either closed their doors to American players or sold their U.S. operations<sup>6</sup>. Others, however, like Full Tilt, Absolute Poker, and PokerStars (the largest online cardroom in the world) continued to operate business as usual, waiting to see how the Department of Justice would interpret the new statute.

On Friday April 15, 2011, a date known to many poker players as “Black Friday,”<sup>7</sup> the DOJ indicted 11 people working with the three largest online poker websites still offering play to U.S. residents, seized five domain names, and issued restraining orders against 75 bank accounts around the world.<sup>8</sup> The indictment charged the defendants with conspiracy to commit bank and wire fraud, money laundering, and illegal gambling offenses. DOJ also filed a civil complaint, alleging “the poker companies collectively obtained approximately \$3 billion from their illegal activities.”<sup>9</sup> Black Friday was supposed to represent a nail in the coffin for what remained of the online gambling industry in the U.S., but despite UIGEA and the DOJ crackdown on net gambling, Americans still reportedly spent an estimated \$4 billion wagering online in all of 2011.<sup>10</sup>

While UIGEA cast a dark shadow on the “gray” legality of interstate online gambling, it did not prohibit *intrastate* online gambling so long as state law allows such transactions and that age and location can be verified.<sup>11</sup> However, it did raise the question of whether lotteries using out-of-state Internet transaction processors would be in violation of the law even if the transaction originated and ended in the same state. Legislators wondered if states would be breaking the law if lottery ticket data travelled across state lines. In 2009 to clarify the applicability of UIGEA to this particular scenario, lawmakers in New York and Illinois wrote to the DOJ’s Criminal Division asking for clarification.<sup>12</sup>

**DOJ Reversal on the Wire Act.** On December 23, 2011, the Department of Justice released a memorandum signed by Assistant Attorney General Attorney Virginia A. Seitz that stated:

[W]e conclude that interstate transmissions of wire communications that do not relate to a “sporting event or contest,” 18 U.S.C. § 1084(a), fall outside of the reach of the Wire Act. ... [T]he text of the Wire Act and the relevant legislative materials support our conclusion that the Act’s prohibitions relate solely to sports-related gambling activities in interstate and foreign commerce.<sup>13</sup>

The same day, in a letter to Senate Majority Leader Harry Reid (D-Nev.), Seitz further noted:

[T]he Unlawful Internet Gambling Enforcement Act of 2006 provides that “unlawful internet gambling” does not include intra-state transactions, which

are authorized under state law and meet certain other requirements even if communications are routed across state lines.<sup>14</sup>

The letter marked a significant shift in DOJ's perspective on the legality of online gambling and paved the way for states to legalize, regulate, and tax online gambling within their borders as well as forming compacts to conduct interstate online gambling, an opportunity many acted to seize.

Unsurprisingly, Nevada was the first state in the nation to offer legalized intrastate online gambling, starting in 2013. It was quickly followed by New Jersey and Delaware, which in February 2014 signed an interstate compact to jointly regulate online poker in the two neighboring states.<sup>15</sup> Currently, a number of other states are considering legislation that would legalize online gambling, including California, Iowa, Illinois, Pennsylvania, Massachusetts, Minnesota, and New York. This legislative progress would be nullified, however, if a proposal under consideration is approved by Congress.

### **Neo-Prohibition: Graham-Chaffetz-Adelson Wire Act “Restoration.”**

Gambling in America is a multi-billion dollar industry, so it is not surprising that a lot of that money ends up in the political arena. Casino magnate Sheldon Adelson, the Chairman and CEO of the Las Vegas Sands Corp., which operates casinos in the U.S., Macau, and Singapore, has been dubbed a “super donor” because of the millions he gives to politicians and super PACs (Forbes has listed him as one of the top 10 wealthiest people in the world).<sup>16</sup> In January 2014, Adelson unveiled his Coalition to Stop Internet Gambling, an advocacy group headed by former Republican New York Governor George Pataki, former Democratic Arkansas Senator Blanche Lincoln, and former Democratic Denver Mayor Wellington Webb. Additionally, Adelson has hired an “army of lawyers and lobbyists” to convince Congress to ban online gambling.<sup>17</sup> Despite the obvious potential impact legalized online gambling would have on Adelson's financial interests, he insists that he opposes the activity on moral grounds, claiming that legalized Internet gambling would harm children, the poor, and those struggling with addiction.<sup>18</sup>

Furthermore, argues Adelson, Internet gambling removes the monitoring that occurs in live gambling. “Online gambling makes it possible for bets to be placed by anyone at any time. When gambling is available in every bedroom, every dorm room and every office space, there will be no way to fully determine that each wager has been placed in a rational and consensual manner.”<sup>19</sup> However, as Ranking Member Rep. Jan Schakowsky (D-Ill.) and Rep. Joe Barton (R-TX) noted at a December 2013 hearing of the House Energy and Commerce Committee's Subcommittee on Commerce, Manufacturing and Trade, Adelson's Venetian Casino promotes a mobile application that allows people to gamble on their smart phones from anywhere in Nevada, including in their rooms.<sup>20</sup>

Online gambling opponents scored a major victory on March 26, 2014 with the introduction in Congress of the Restoration of America's Wire Act, which would

amend the 1961 Wire Act to ban all online gambling activities. It would restore “the long-standing interpretation of the Wire Act,” which its supporters believe was reversed by the DOJ’s 2011 decision. However, as noted by *The Hill*, the original draft of the bill was actually written by Darryl Nirenberg, a registered lobbyist for Adelson’s company.<sup>21</sup> If passed, it would retroactively prohibit states from legalizing and regulating online gambling activities, nullifying the laws recently implemented in New Jersey, Delaware, and Nevada.<sup>22</sup>

**Stuck in the 60s: Wire Act Reinterpretation.** Proponents of the Wire Act reinterpretation proposal assert that it would simply restore the long-held meaning of the Act—that the Federal code prohibits all forms of online gambling, whether or not they are related to sports contests. However, as the United States Fifth Circuit Court of Appeals in 2002 and the Justice Department in 2011 made crystal clear, that understanding of the Wire Act cannot be drawn from its actual language, which states that it is a criminal offence to engage in “the business of betting or wagering” and to “knowingly [use] 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.*”<sup>23</sup> [Emphasis added] The Chaffetz-Graham bill would actually amend the statute by eliminating the mention of “sports” and adding language to extend the definition of “wire” communications to the Internet.

Graham and Chaffetz assert that the DOJ’s decision is representative of the Obama administration’s overreach and that their bill is necessary to restore state sovereignty. According to Graham, “This is yet another example of the Holder Justice Department and Obama Administration ignoring the law.” The irony of this rationale was not lost on observers such as *Reason Magazine*’s Jacob Sullum, who noted that Graham is essentially saying that by paying too close attention to the actual words of a statute you are ignoring the law, “Being true to the law evidently requires excising the inconvenient parts.”<sup>24</sup>

**Republicans Threaten States’ Rights.** Even more bewildering are Republicans’ assertions that their “restoration” proposals, which would forcibly nullify laws passed in New Jersey, Nevada, and Delaware, are necessary to protect states from federal intrusion. And it is downright bizarre when it comes from lawmakers supposedly committed to defending states’ rights, federalism, and the 10<sup>th</sup> Amendment to the Constitution, which states that powers not granted to the federal government by the Constitution are reserved to the states and to the people.

In a 2009 op-ed for CNN.com, Rep. Chaffetz, a member of the 10<sup>th</sup> Amendment Task Force (a group of Conservative House members that informs Congress and citizens about the importance of federalism), stated during his 2010 election campaign that his top priority was “increasing freedom” and having “less government intrusion.”<sup>25</sup> When discussing the Obama health care law, Chaffetz noted that, “Each state has unique demographics, resources and health challenges,” and that “federalism works because it allows state and local governments to tailor

their policy solutions to the needs of their population.”<sup>26</sup> In 2010, when speaking about alcohol regulation, Chaffetz declared, “I want to preserve states’ rights to decide the appropriate regulation of alcohol within their borders,” and to affirm the presumed validity of his state’s laws.<sup>27</sup> So why is gambling different?

Sen. Graham, too, has expressed his desire to preserve states’ rights on issues such as gay marriage, Common Core school standards, health care, and gun laws. Another co-sponsor, Sen. Mike Lee (R-Utah), in an April 2013 speech at the Heritage Foundation, called for “a new conservative reform agenda” based on three guiding principles, of which the second is federalism. As Lee put it, “The biggest reason the federal government makes too many mistakes is that it makes too many decisions. Most of these are decisions the federal government doesn’t have to make—and therefore shouldn’t.” Notably, he decried, “progressives who “insist on imposing *their* values on everyone.”<sup>28</sup> Yet, when it comes to imposing *their* values on other states, some Republicans seem to forget their professed belief in the importance of states’ rights.

In an April 3 letter opposing the Restoration of America’s Wire Act, the National Conference of State Legislatures urged Congress to “respect the sovereignty of states to decide whether or not to allow gambling, and in particular online gambling,” and declared that state governments are “effective regulators of the gambling industry.”<sup>29</sup>

**An Internet Gambling Ban Will Not Work.** While lawmakers insist that an online gambling ban would protect Americans from various crimes, the opposite is true. In short, prohibitions do not work—attempting to ban an online activity is especially futile. If the Restoration of America’s Wire Act is approved, it is unlikely that Americans will simply give up playing online. Rather, as we saw with the Department of Justice’s 2011 crackdown on Internet poker sites, play continued by moving over to illegal, foreign-operated platforms. Americans spent about \$2.6 billion on Internet gambling in 2012, according to a study commissioned by the American Gaming Association.<sup>30</sup> In a black market, crime is *more* likely to occur and holding offenders accountable is difficult, if not impossible. On the other hand, legalizing online gambling would give states a clear path to addressing the problems they believe online gambling causes including crime, minors having access, and the effect online gambling may have on low-income Americans.

**Crime.** While fraud and crime are not limited to online gambling, they are significantly more likely to occur when the activity occurs in a black or grey market. As Chuck Canterbury, President of the Fraternal Order of Police, noted in a March 2014 op-ed in *The Hill*, “Not only does the black market for Internet gaming include no consumer protections, it also operates entirely offshore with unlicensed operators, drastically increasing the threat of identity theft, fraud, or other criminal acts.”<sup>31</sup>

In a legalized and regulated environment, reputable operators have a financial incentive to comply with the law in order to protect their reputations and licensing. Because many other countries have legalized and regulated the activity, a wealth of proven technologies offer operators reliable ways to verify the age, location, and

identity of players. Operators can ask for a credit card or bank account upon registration, as well as follow-up verification through phone calls, hard-copy identification cards, or third-party verification sites such as Experian or Verify Me. In fact, the ability to instantly check a player's identification and age against multiple databases could make online gambling *safer* than brick-and-mortar casinos.

**Minors.** In a black market, it is *more* likely that minors will be able to gamble online. As already noted, the decades-long experience with regulated online gambling in other countries, in particular in the UK and Europe, has spurred the creation of effective technologies to make sure that only authorized customers gain access to online gambling platforms.

According to Michael Colopy, senior vice president of Aristotle Inc., a provider of online identity and age verification services, the technology has advanced so much that it is more effective than the traditional checks used by brick-and-mortar casinos. "As ever more efficient technologies and reliable databases have been developed, online transactions have become, in many instances, faster and less risky than the visual driver's licenses scan that suffices for alcohol or cigarette purchases in America's neighborhoods," he says. Experience backs up Colopy's claim. According to Andre Wilsenach, chief executive officer of the Alderney Gambling Control Commission, which is responsible for regulating online gambling in the Channel Island, "When GamCare in the U.K., posing as minors, tried to gain access to the sites of eGambling licensees based in Alderney a few years ago, they found it very difficult."<sup>32</sup>

For example, in the UK, age verification systems require users to enter their name, age, and address, which are then checked against government databases such as the electoral register and the Driver and Vehicle Licensing Agency. If the information does not check out, the user is denied access. The technology to prevent minors from gaining access exists; it is up to states that legalize online gambling to ensure the sites they license comply with the law—something that is immeasurably easier for sites operating legally within the U.S.

**Problem Gambling.** Opponents of online gambling often assert that legalizing the activity will result in an increase in pathological gambling, but there is no evidence to support that claim. In fact, evidence suggests the contrary. For nearly two decades, Americans anywhere in the country have been able to access to online gambling, any time day or night. In 2011 Americans spent \$4 billion and in 2012 \$2.6 billion on the activity, according to the American Gaming Association.<sup>33</sup> Yet, the rate of problem gambling in the U.S. has remained stable for the last 30 years, despite the growth of online and many other forms of gambling.<sup>34</sup> A study by the Institute for Research on Gambling Disorders found:

[E]stimates of pathological gambling in the general population, ranging from less than 1% to 1.9%, have been fairly stable over the past three decades from study to study, time to time, and place to place despite the various

methodologies employed by researchers. This constancy is surprising in view of the dramatic increase in legalized gambling in the United States during this period, and it belies the conventional wisdom that increased exposure to gambling necessarily results in higher rates of the disorder.<sup>35</sup>

Additionally, according to a 2009 study by Malcolm K. Sparrow of the Harvard Kennedy School of Government, not only is online gambling unlikely to lead to a rise in the rates of pathological gambling, it could make it easier for firms to address problem gambling by using software to spot patterns, set limits on time and money spent, and direct users with potential problems to seek assistance.<sup>36</sup>

**Conclusion.** Banning online gambling may win some Republican legislators some support among modern-day Bootleggers and Baptists,<sup>37</sup> but in the long run it will do more harm than good to their credibility and, more importantly, to Americans' freedom and safety.

There is no putting the genie back in the bottle; prohibiting Internet gambling will not make it go away. All it will do is push out legitimate companies and encourage players into the black market where they truly will have no protection. Worst of all, it would strip adults of their right to decide for themselves how to spend their own time and their money. There are already technological solutions to address any potential problems that might arise, and the 50 state governments are well-equipped to monitor and regulate legal online gambling markets, protect consumers, and the appropriate laws. Rather than undermine states' ability to decide, Congress ought to leave the matter to the states and their citizens.

## Notes

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<sup>1</sup> Dennis Romboy, "Utahns find ways to gambling despite it being illegal in the state—but the cost is high" *Deseret News*, July 5, 2013, <http://www.deseretnews.com/article/865582732/No-casino-no-lottery-yet-gambling-pervasive-in-Utah.html?pg=all>.

<sup>2</sup> Gerd Alexander, "The U.S. on tilt: why the unlawful internet gambling enforcement act is a bad bet," *Duke Law & Technology Review*, No. 5, 2008, <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1181&context=dltr>.

<sup>3</sup> Poll: "Should Congress ban Internet gambling?" *Wall Street Journal*, March 6, 2006, <http://discussions.wsj.com/n/mb/message.asp?webtag=wsjvoices&nav=messages&msg=3828>.

<sup>4</sup> 18 U.S.C § 5362(10).

<sup>5</sup> *In Re MasterCard International, Inc., Internet Gambling Litigation*, 132 F.Supp.2d 468 (E.D. La. 2001), *aff'd* 313 F.3d 257 (5<sup>th</sup> Cir. 2002).

<sup>6</sup> C. Krafcik, "The Infancy of Prohibition - Who's In, Who's Out," *Interactive Gaming News* (October 16, 2006),

<sup>7</sup> Elaine Chaivarlis, Matthew Kredell, "Online Poker's Big Three Indicted" *PokerNews*, April 18, 2011, <http://www.pokernews.com/news/2011/04/online-poker-big-three-indicted-10218.htm>.

<sup>8</sup> Press Release, "Manhattan U.S. Attorney Charges Principals of Three Largest Internet Poker Companies with Bank Fraud, Illegal Gambling Offenses, and Laundering Billions in Illegal Gambling Proceeds" *United States Attorney Southern District of New York*, April 15, 2011, <http://www.justice.gov/usao/nys/pressreleases/April11/scheinbergetalindictmentpr.pdf>.

<sup>9</sup> Press Release, "United States Enters Domain-Name Use Agreements With Two Online Poker Companies," *United States Attorney Southern District of New York*, April 20, 2011, <http://www.justice.gov/usao/nys/pressreleases/April11/pokerdomainnameuseagreementspr.pdf>.



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<sup>10</sup> “The 10<sup>th</sup> annual G2E future watch series “an insider look at new trends in gaming volume 10,” *American Gaming Association*, 2012, [http://www.americangaming.org/sites/default/files/uploads/docs/futurewatch/futurewatch\\_vol\\_10\\_exec\\_summ.pdf](http://www.americangaming.org/sites/default/files/uploads/docs/futurewatch/futurewatch_vol_10_exec_summ.pdf).

<sup>11</sup> § 5362(10)(B). “The term ‘unlawful Internet gambling’ does not include... a bet or wager... [that] is initiated and received or otherwise made exclusively within a single State.” [Emphasis added]

<sup>12</sup> Edward Wyatt, “Ruling by Justice Dept. Opens a Door on Online Gambling,” *The New York Times*, December 24, 2011, <http://www.nytimes.com/2011/12/25/us/online-gaming-loses-obstacle-at-justice-department.html?pagewanted=all>.

<sup>13</sup> DOJ, Memorandum Opinion for the Assistant Attorney General, Criminal Division, “Whether Proposals By Illinois and New York to use the Internet and Out-of-State Transaction Processors to Sell Lottery Tickets to In-State Adults Violate the Wire Act,” September 20, 2011, [www.justice.gov/olc/opiniondocs/state-lotteries-opinion.pdf](http://www.justice.gov/olc/opiniondocs/state-lotteries-opinion.pdf).

<sup>14</sup> Ronald Welch, Letter to Senate Majority Leader Harry Reid, Office of the Assistant Attorney General, U.S. Department of Justice Office of Legislative Affairs, December 23, 2011, [www.apcw.org/legal-documents/Online Gambling Letter to Senator Reid.pdf](http://www.apcw.org/legal-documents/Online%20Gambling%20Letter%20to%20Senator%20Reid.pdf)

<sup>15</sup> Brett Collson, “Nevada and Delaware Sign Online Poker Partnership; States to Share Player Pools,” *PokerNews*, February 25, 2014, <http://www.pokernews.com/news/2014/02/nevada-and-delaware-sign-online-poker-partnership-17589.htm>.

<sup>16</sup> “The World’s Billionaires,” *Forbes.com*, March 24, 2014, <http://www.forbes.com/billionaires>.

<sup>17</sup> Nathan Vardi, “Sheldon Adelson says he is ‘willing to spend whatever it takes’ to stop online gambling,” *Forbes.com*, November 11, 2013, <http://www.forbes.com/sites/nathanvardi/2013/11/22/sheldon-adelson-says-he-is-willing-to-spend-whatever-it-takes-to-stop-online-gambling/>.

<sup>18</sup> Steven Bertoni, “Sheldon Adelson: Online Gambling is Fool’s Gold,” *Forbes.com*, June 19, 2013, <http://www.forbes.com/sites/stevenbertoni/2013/06/19/sheldon-adelson-online-gambling-is-fools-gold/>

<sup>19</sup> *Ibid.*

<sup>20</sup> Dan Cypra, “Sheldon Adelson’s Witness Called Hypocritical during subcommittee hearing,” *Pocketfives*, December 10, 2013, <http://www.pocketfives.com/articles/sheldon-adelson-s-witness-called-hypocritical-during-subcommittee-hearing-589009/>.

<sup>21</sup> Kevin Bogardus and Kate Tummarello, “Adelson finds allies in gambling crusade,” *The Hill*, March 20, 2014, <http://thehill.com/business-a-lobbying/business-a-lobbying/201289-adelson-finds-allies-on-gambling-ban>.

<sup>22</sup> While Rep. Chaffetz has expressed some opposition to online gambling in the past (he opposed Harry Reid’s online gambling legalization bill in 2010), the issue is a new one for Sen. Lindsey Graham, which has prompted observers to question his motives. Chris Grove, “Why does Lindsey Graham Suddenly Care about Online Gambling? A Few Million Possible Reasons Come to Mind,” *Online Poker Report*, March 3, 2014, <http://www.onlinepokerreport.com/11235/lindsey-graham-adelson-online-gambling-ban-efforts>; Lisa Riley Rouche, “Online gambling in Utah will stay illegal, but new proposal still causing concern,” *Deseret News*, Dec. 9, 2010, <http://www.deseretnews.com/article/705362859/Online-gambling-in-Utah-will-stay-illegal-but-new-proposal-still-causing-concern.html?pg=all>. Graham, who is up for reelection in November 2014, received \$7,800 from Adelson and his wife Miriam in campaign contributions in May 2013. In addition, Adelson’s Las Vegas Sands PAC donated \$5,000 to Graham’s campaign, the legal maximum contribution. Federal Election Commission Itemized Disbursements for Las Vegas Sands Corp. (Sands PAC) <http://docquery.fec.gov/cgi-bin/fecimg/?13941303419>. Adelson also threw a \$1,000-a-ticket fundraiser for Graham in April 2013. Jon Ralston “Graham, McCain in Vegas tonight for event with the Adelsons” *Ralston Reports*, April 30, 2013, <http://www.ralstonreports.com/blog/graham-mccain-vegas-tonight-event-adelsons#.UYFpb6>.

<sup>23</sup> 18 U.S.C § §1084, <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/html/USCODE-2011-title18-partI-chap50-sec1084.htm>.

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<sup>24</sup> Jacob Sullum, “The Tortured Textualism and Faux Federalism of the Chaffetz-Graham-Adelson Online Gambling ban,” Reason Hit & Run, April 1, 2014, <http://reason.com/blog/2014/04/01/the-faux-federalism-of-the-chaffetz-grah>.

<sup>25</sup> 2010 Utah General election candidate profile, *Deseret News*, <http://deseretnews.com/election/candidate/2/496/Jason-Chaffetz.html>, accessed April 29, 2014.

<sup>26</sup> Jason Chaffetz, “Let states take lead on health care,” CNN.com, September 10, 2009, <http://www.cnn.com/2009/POLITICS/09/10/chaffetz.health.care.debate/index.html?iref=24hours>.

<sup>27</sup> Office of Rep. Jason Chaffetz, “Chaffetz joins bipartisan push to protect state regulation of alcohol,” press release, April 15, 2010, <http://chaffetz.house.gov/press-release/chaffetz-joins-bipartisan-push-protect-state-regulation-alcohol>.

<sup>28</sup> Mike Lee, “What Conservatives are for,” speech at the Heritage Foundation, April 22, 2013, <http://www.lee.senate.gov/public/index.cfm/speeches?ID=74d7c3e6-0970-420f-87fc-8500ad3aea2d>.

<sup>29</sup> National Conference of State Legislatures, Letter in Opposition to the Restoration of America’s Wire Act, April 3, 2014, <http://www.ncsl.org/research/financial-services-and-commerce/ncsl-opposition-to-the-restoration-of-america-s-wire-act.aspx>.

<sup>30</sup> “Americans spent \$2.6 bn gambling online in 2012: study,” *The International News*, September 25, 2013, [http://www.thenews.com.pk/article-119737-Americans-spent-\\$2.6-bn-gambling-online-in-2012:-study--](http://www.thenews.com.pk/article-119737-Americans-spent-$2.6-bn-gambling-online-in-2012:-study--).

<sup>31</sup> Chuck Canterbury, “Online gambling ban benefits criminals,” *The Hill*, March 28, 2014, [thehill.com/blogs/congress-blog/judicial/201949-online-gambling-ban-benefits-criminals](http://thehill.com/blogs/congress-blog/judicial/201949-online-gambling-ban-benefits-criminals).

<sup>32</sup> “Underage Gambling Can be Beat,” Online-Casinos.com, August 8, 2007, <http://www.online-casinos.com/news/news5082.asp>.

<sup>33</sup> Gary O. Stewart, “Online Gambling Five Years After UIGEA,” American Gaming Association White Paper, 2011, [http://www.americangaming.org/sites/default/files/uploads/docs/whitepapers/final\\_online\\_gambling\\_white\\_paper\\_5-18-11.pdf](http://www.americangaming.org/sites/default/files/uploads/docs/whitepapers/final_online_gambling_white_paper_5-18-11.pdf). Last accessed on April 29<sup>th</sup> 2014.

<sup>34</sup> National Center for Responsible Gaming “How Many Pathological Gamblers Are There?” <http://www.ncrg.org/press-room/media-kit/faq/how-many-pathological-gamblers-are-there>. Last accessed on April 29<sup>th</sup> 2014.

<sup>35</sup> National Center for Responsible Gaming, “Increasing the Odds: A Series Dedicated to Understanding Gambling Disorders,” 2009, [http://www.ncrg.org/sites/default/files/uploads/docs/faq/ncrg\\_monograph\\_vol3.pdf](http://www.ncrg.org/sites/default/files/uploads/docs/faq/ncrg_monograph_vol3.pdf).

<sup>36</sup> The study notes: “In a well-regulated online environment, gamblers could have opportunities and technologies made available to them to help curb addictive or problematic gambling behaviors. Such mechanisms would permit them to limit their gambling volume, deposit rates, loss rates, and the size of each wager. Users could also access online clinical and self-help resources from links provided at the gambling site. ... [W]e believe that the opportunities to mitigate problem gambling provide significant benefits not available under the status quo. These benefits provide a significant counterweight to any potential increases in problem gambling that result from legalization. Furthermore, the potential benefits of mitigation would become available to most existing online problem gamblers.” Malcolm K. Sparrow, “Can Internet Gambling Be Effectively Regulated? Managing the Risks,” WiredSafety.org, [https://www.wiredsafety.org/pdf/Can\\_Internet\\_Gambling\\_Be\\_Effectively\\_Regulated\\_Managing\\_the\\_Risks%20Final.pdf](https://www.wiredsafety.org/pdf/Can_Internet_Gambling_Be_Effectively_Regulated_Managing_the_Risks%20Final.pdf).

<sup>37</sup> The phrase “bootleggers and Baptists” was popularized by economist Bruce Yandle, to describe the phenomenon whereby disparate groups end up supporting the same regulations restricting some activity, one out of moral opposition to the activity itself, the other seeking to profit by providing the good or service in a restricted market. Bruce Yandle, “Bootleggers and Baptists—The Education of a Regulatory Economist,” *Regulation*, Vol. 7, No. 3 (1983), p. 12, <http://news.heartland.org/sites/default/files/v7n3-3.pdf>.