

107TH CONGRESS
1ST SESSION

H. R. 2579

To prevent the use of certain bank instruments for Internet gambling, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2001

Mr. LAFALCE introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, 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 prevent the use of certain bank instruments for Internet
gambling, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) Internet gambling is primarily funded
2 through personal use of bank instruments, including
3 credit cards and wire transfers.

4 (2) The National Gambling Impact Study Com-
5 mission in 1999 recommended the passage of legisla-
6 tion to prohibit wire transfers to Internet gambling
7 sites or the banks which represent them.

8 (3) Internet gambling is a major cause of debt
9 collection problems for insured depository institu-
10 tions and the consumer credit industry.

11 (4) Internet gambling conducted through off-
12 shore jurisdictions has been identified by United
13 States law enforcement officials as a significant
14 money laundering vulnerability.

15 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY BANK IN-**
16 **STRUMENT FOR INTERNET GAMBLING.**

17 (a) IN GENERAL.—No person engaged in a gambling
18 business may knowingly accept, in connection with the
19 participation of another person in Internet gambling—

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

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

1 money transmitting service, from or on behalf of the
2 other person;

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

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

12 (b) DEFINITIONS.—For purposes of this Act, the fol-
13 lowing definitions shall apply:

14 (1) BETS OR WAGERS.—The term “bets or
15 wagers”—

16 (A) means the staking or risking by any
17 person of something of value upon the outcome
18 of a contest of others, a sporting event, or a
19 game predominantly subject to chance, upon an
20 agreement or understanding that the person or
21 another person will receive something of greater
22 value than the amount staked or risked in the
23 event of a certain outcome;

24 (B) includes the purchase of a chance or
25 opportunity to win a lottery or other prize

1 (which opportunity to win is predominantly sub-
2 ject to chance);

3 (C) includes any scheme of a type de-
4 scribed in section 3702 of title 28; and

5 (D) does not include—

6 (i) any bona fide business transaction
7 governed by the securities laws (as that
8 term is defined in section 3(a)(47) of the
9 Securities Exchange Act of 1934) for the
10 purchase or sale at a future date of securi-
11 ties (as that term is defined in section
12 3(a)(10) of such Act);

13 (ii) any transaction on or subject to
14 the rules of a contract market designated
15 pursuant to section 5 of the Commodity
16 Exchange Act;

17 (iii) any over-the-counter derivative
18 instrument;

19 (iv) any contract of indemnity or
20 guarantee;

21 (v) any contract for life, health, or ac-
22 cident insurance; or

23 (vi) any participation in a simulation
24 sports game or an educational game or
25 contest that—

1 (I) is not dependent solely on the
2 outcome of any single sporting event
3 or nonparticipant's singular individual
4 performance in any single sporting
5 event;

6 (II) has an outcome that reflects
7 the relative knowledge and skill of the
8 participants with such outcome deter-
9 mined predominantly by accumulated
10 statistical results of sporting events;
11 and

12 (III) offers a prize or award to a
13 participant that is established in ad-
14 vance of the game or contest and is
15 not determined by the number of par-
16 ticipants or the amount of any fees
17 paid by those participants.

18 (2) GAMBLING BUSINESS.—The term “gam-
19 bling business” means—

20 (A) a business that is conducted at a gam-
21 bling establishment;

22 (B) a business that—

23 (i) involves—

24 (I) the placing, receiving, or oth-
25 erwise making of bets or wagers; or

1 (II) the offering to engage in the
2 placing, receiving, or otherwise mak-
3 ing of bets or wagers;

4 (ii) involves 1 or more persons who
5 conduct, finance, manage, supervise, direct,
6 or own all or part of such business; and

7 (iii) has been or remains in substan-
8 tially continuous operation for a period in
9 excess of 10 days or has a gross revenue
10 of \$2,000 or more from such business dur-
11 ing any 24-hour period; and

12 (C) any agent who knowingly solicits for a
13 business described in subparagraph (A) or (B).

14 (3) INTERNET.—The term “Internet” means
15 the international computer network of interoperable
16 packet switched data networks.

17 (4) INTERNET GAMBLING.—The term “Internet
18 gambling” means to place, receive, or otherwise
19 make a bet or wager by any means which involves
20 the use, at least in part, of the Internet.

21 (5) OTHER TERMS.—

22 (A) CREDIT; CREDITOR; AND CREDIT
23 CARD.—The terms “credit”, “creditor”, and
24 “credit card” have the meanings given such

1 terms in section 103 of the Truth in Lending
2 Act.

3 (B) ELECTRONIC FUND TRANSFER.—The
4 term “electronic fund transfer”—

5 (i) has the meaning given such term
6 in section 903 of the Electronic Fund
7 Transfer Act; and

8 (ii) includes any fund transfer covered
9 by Article 4 of the Uniform Commercial
10 Code, as in effect in any State.

11 (C) FINANCIAL INSTITUTION.—The term
12 “financial institution” has the meaning given
13 such term in section 903 of the Electronic
14 Fund Transfer Act.

15 (D) MONEY TRANSMITTING BUSINESS AND
16 MONEY TRANSMITTING SERVICE.—The terms
17 “money transmitting business” and “money
18 transmitting service”—

19 (i) have the meanings given such
20 terms in section 5330(d) of title 31,
21 United States Code; and

22 (ii) include any person involved in fa-
23 cilitating payments and fund transfers over
24 the Internet, such as third-party payment
25 facilitators.

1 (E) SECRETARY.—The term “Secretary”
2 means the Secretary of the Treasury.

3 (c) CIVIL REMEDIES.—

4 (1) JURISDICTION.—The district courts of the
5 United States shall have original and exclusive juris-
6 diction to prevent and restrain violations of this sec-
7 tion by issuing appropriate orders in accordance
8 with this section, regardless of whether a prosecu-
9 tion has been initiated under this section.

10 (2) PROCEEDINGS.—

11 (A) INSTITUTION BY FEDERAL GOVERN-
12 MENT.—

13 (i) IN GENERAL.—The United States,
14 acting through the Attorney General, may
15 institute proceedings under this subsection
16 to prevent or restrain a violation of this
17 section.

18 (ii) RELIEF.—Upon application of the
19 United States under this subparagraph,
20 the district court may enter a preliminary
21 injunction or an injunction against any
22 person to prevent or restrain a violation of
23 this section, in accordance with Rule 65 of
24 the Federal Rules of Civil Procedure.

1 (B) INSTITUTION BY STATE ATTORNEY
2 GENERAL.—

3 (i) IN GENERAL.—The attorney gen-
4 eral of a State (or other appropriate State
5 official) in which a violation of this section
6 allegedly has occurred or will occur may in-
7 stitute proceedings under this subsection to
8 prevent or restrain the violation.

9 (ii) RELIEF.—Upon application of the
10 attorney general (or other appropriate
11 State official) of an affected State under
12 this subparagraph, the district court may
13 enter a preliminary injunction or an in-
14 junction against any person to prevent or
15 restrain a violation of this section, in ac-
16 cordance with Rule 65 of the Federal
17 Rules of Civil Procedure.

18 (C) INDIAN LANDS.—Notwithstanding sub-
19 paragraphs (A) and (B), for a violation that is
20 alleged to have occurred, or may occur, on In-
21 dian lands (as that term is defined in section 4
22 of the Indian Gaming Regulatory Act)—

23 (i) the United States shall have the
24 enforcement authority provided under sub-
25 paragraph (A); and

1 (ii) the enforcement authorities speci-
2 fied in an applicable Tribal-State compact
3 negotiated under section 11 of the Indian
4 Gaming Regulatory Act shall be carried
5 out in accordance with that compact.

6 (3) EXPEDITED PROCEEDINGS.—

7 (A) IN GENERAL.—In addition to any pro-
8 ceeding under paragraph (2), a district court
9 may, in exigent circumstances, enter a tem-
10 porary restraining order against a person al-
11 leged to be in violation of this section upon ap-
12 plication of the United States under paragraph
13 (2)(A), or the attorney general (or other appro-
14 priate State official) of an affected State under
15 paragraph (2)(B), in accordance with Rule
16 65(b) of the Federal Rules of Civil Procedure.

17 (d) CRIMINAL PENALTY.—

18 (1) IN GENERAL.—Whoever violates this section
19 shall be fined under title 18, United States Code, or
20 imprisoned for not more than 5 years, or both.

21 (2) PERMANENT INJUNCTION.—Upon convic-
22 tion of a person under this subsection, the court
23 may enter a permanent injunction enjoining such
24 person from placing, receiving, or otherwise making

1 bets or wagers or sending, receiving, or inviting in-
2 formation assisting in the placing of bets or wagers.

3 (e) SAFE HARBOR FOR FINANCIAL INTER-
4 MEDIARIES.—

5 (1) IN GENERAL.—No creditor, credit card
6 issuer, financial institution, operator of a terminal at
7 which an electronic fund transfer may be initiated,
8 money transmitting business, or national, regional,
9 or local network utilized to effect a credit trans-
10 action, electronic fund transfer, or money transmit-
11 ting service shall be liable under this section for the
12 involvement of such person, or the use of the facili-
13 ties of such person—

14 (A) in any credit transaction, electronic
15 fund transfer, or money transmitting service de-
16 scribed in subsection (a); or

17 (B) in drawing, paying, transferring, or
18 collecting any check, draft, or other instrument
19 described in subsection (a) or in any regulation
20 prescribed under such subsection.

21 (2) EXCEPTION FOR KNOWING PARTICIPATION
22 IN A GAMBLING BUSINESS.—Paragraph (1) shall not
23 apply with respect to any person referred to in such
24 paragraph which is a gambling business or which
25 knowingly participates in any activity referred to in

1 **SEC. 5. ENFORCEMENT ACTIONS.**

2 Section 8 of the Federal Deposit Insurance Act (12
3 U.S.C. 1818) is amended by adding at the end the fol-
4 lowing new subsection:

5 “(x) DEPOSITORY INSTITUTION INVOLVEMENT IN
6 INTERNET GAMBLING.—Notwithstanding section 3(e) of
7 the Internet Gambling Payments Prohibition Act, if any
8 appropriate Federal banking agency determines that any
9 insured depository institution is engaged in any of the fol-
10 lowing activities, the agency may issue an order to such
11 institution prohibiting such institution from continuing to
12 engage in any of the following activities:

13 “(1) Extending credit, or facilitating an exten-
14 sion of credit, electronic fund transfer, or money
15 transmitting service with the actual knowledge that
16 any person is violating section 3(a) of the Internet
17 Gambling Payments Prohibition Act in connection
18 with such extension of credit, electronic fund trans-
19 fer, or money transmitting service.

20 “(2) Paying, transferring, or collecting on any
21 check, draft, or other instrument drawn on any de-
22 pository institution with the actual knowledge that
23 any person is violating section 3(a) of the Internet
24 Gambling Payments Prohibition Act in connection
25 with such check, draft, or other instrument.”.

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