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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. BACHUS (for himself, [see insert for original cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To prevent the use of certain bank instruments for unlawful 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 “Unlawful Internet
5 Gambling Funding Prohibition Act”.



1 **SEC. 2. FINDINGS.**

2 The Congress finds as follows:

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

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

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

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

17 **SEC. 3. POLICIES AND PROCEDURES REQUIRED TO PRE-**
18 **VENT PAYMENTS FOR UNLAWFUL INTERNET**
19 **GAMBLING.**

20 (a) REGULATIONS.—Before the end of the 6-month
21 period beginning on the date of the enactment of this Act,
22 the Federal functional regulators shall prescribe regula-
23 tions requiring any designated payment system to estab-
24 lish policies and procedures reasonably designed to iden-
25 tify and prevent restricted transactions in any of the fol-
26 lowing ways:



1 (1) The establishment of policies and proce-
2 dures that—

3 (A) allow the payment system and any per-
4 son involved in the payment system to identify
5 restricted transactions by means of codes in au-
6 thorization messages or by other means; and

7 (B) block restricted transactions identified
8 as a result of the policies and procedures devel-
9 oped pursuant to clause (i).

10 (2) The establishment of policies and proce-
11 dures that prevent the acceptance of the products or
12 services of the payment system in connection with a
13 restricted transaction.

14 (b) REQUIREMENTS FOR POLICIES AND PROCE-
15 DURES.—In prescribing regulations pursuant to sub-
16 section (a), the Federal functional regulators shall—

17 (1) identify types of policies and procedures, in-
18 cluding nonexclusive examples, which would be
19 deemed to be “reasonably designed to identify” and
20 “reasonably designed to block” or to “prevent the
21 acceptance of the products or services” with respect
22 to each type of transaction, such as, should credit
23 card transactions be so designated, identifying trans-
24 actions by a code or codes in the authorization mes-



1 sage and denying authorization of a credit card
2 transaction in response to an authorization message;

3 (2) to the extent practical, permit any partici-
4 pant in a payment system to choose among alter-
5 native means of identifying and blocking, or other-
6 wise preventing the acceptance of the products or
7 services of the payment system or participant in con-
8 nection with, restricted transactions; and

9 (3) consider exempting restricted transactions
10 from any requirement subsection (a) if the Federal
11 functional regulators find that it is not reasonably
12 practical to identify and block, or otherwise prevent,
13 such transactions.

14 (c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES
15 AND PROCEDURES.—A creditor, credit card issuer, finan-
16 cial institution, operator of a terminal at which an elec-
17 tronic fund transfer may be initiated, money transmitting
18 business, or international, national, regional, or local net-
19 work utilized to effect a credit transaction, electronic fund
20 transfer, or money transmitting service, or a participant
21 in such network, meets the requirement of subsection (a)
22 if—

23 (1) such person relies on and complies with the
24 policies and procedures of a designated payment sys-
25 tem of which it is a member or participant to—



1 (A) identify and block restricted trans-
2 actions; or

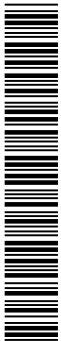
3 (B) otherwise prevent the acceptance of
4 the products or services of the payment system,
5 member, or participant in connection with re-
6 stricted transactions; and

7 (2) such policies and procedures of the des-
8 igned payment system comply with the require-
9 ments of regulations prescribed under subsection
10 (a).

11 (d) ENFORCEMENT.—

12 (1) IN GENERAL.—This section shall be en-
13 forced by the Federal functional regulators and the
14 Federal Trade Commission under applicable law in
15 the manner provided in section 505(a) of the
16 Gramm-Leach-Bliley Act.

17 (2) FACTORS TO BE CONSIDERED.—In consid-
18 ering any enforcement action under this subsection
19 against any payment system, or any participant in
20 a payment system that is a creditor, credit card
21 issuer, financial institution, operator of a terminal at
22 which an electronic fund transfer may be initiated,
23 money transmitting business, or international, na-
24 tional, regional, or local network utilized to effect a
25 credit transaction, electronic fund transfer, or money



1 transmitting service, or a participant in such net-
2 work, the Federal functional regulators and the Fed-
3 eral Trade Commission shall consider the following
4 factors:

5 (A) The extent to which such person is ex-
6 tending credit or transmitting funds knowing
7 the transaction is in connection with unlawful
8 Internet gambling.

9 (B) The history of such person in extend-
10 ing credit or transmitting funds knowing the
11 transaction is in connection with unlawful
12 Internet gambling.

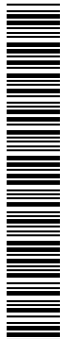
13 (C) The extent to which such person has
14 established and is maintaining policies and pro-
15 cedures in compliance with regulations pre-
16 scribed under this subsection.

17 (D) The feasibility that any specific rem-
18 edy prescribed can be implemented by such per-
19 son without substantial deviation from normal
20 business practice.

21 (E) The costs and burdens the specific
22 remedy will have on such person.

23 **SEC. 4. DEFINITIONS.**

24 For purposes of this Act, the following definitions
25 shall apply:



1 (1) RESTRICTED TRANSACTION.—The term “re-
2 stricted transaction” means any transaction or
3 transmittal to any person engaged in the business of
4 betting or wagering, in connection with the partici-
5 pation of another person in unlawful Internet gam-
6 bling, of—

7 (A) credit, or the proceeds of credit, ex-
8 tended to or on behalf of such other person (in-
9 cluding credit extended through the use of a
10 credit card);

11 (B) an electronic fund transfer or funds
12 transmitted by or through a money transmit-
13 ting business, or the proceeds of an electronic
14 fund transfer or money transmitting service,
15 from or on behalf of the other person;

16 (C) any check, draft, or similar instrument
17 which is drawn by or on behalf of the other per-
18 son and is drawn on or payable at or through
19 any financial institution; or

20 (D) the proceeds of any other form of fi-
21 nancial transaction as the Federal functional
22 regulators may prescribe by regulation which
23 involves a financial institution as a payor or fi-
24 nancial intermediary on behalf of or for the
25 benefit of the other person.



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

3 (A) means the staking or risking by any
4 person of something of value upon the outcome
5 of a contest of others, a sporting event, or a
6 game subject to chance, upon an agreement or
7 understanding that the person or another per-
8 son will receive something of greater value than
9 the amount staked or risked in the event of a
10 certain outcome;

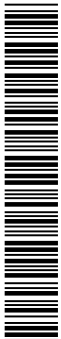
11 (B) includes the purchase of a chance or
12 opportunity to win a lottery or other prize
13 (which opportunity to win is predominantly sub-
14 ject to chance);

15 (C) includes any scheme of a type de-
16 scribed in section 3702 of title 28, United
17 States Code;

18 (D) includes any instructions or informa-
19 tion pertaining to the establishment or move-
20 ment of funds in an account by the bettor or
21 customer with the business of betting or wager-
22 ing; and

23 (E) does not include—

24 (i) any activity governed by the secu-
25 rities laws (as that term is defined in sec-



1 tion 3(a)(47) of the Securities Exchange
2 Act of 1934) for the purchase or sale of se-
3 curities (as that term is defined in section
4 3(a)(10) of such Act);

5 (ii) any transaction conducted on or
6 subject to the rules of a registered entity
7 or exempt board of trade pursuant to the
8 Commodity Exchange Act;

9 (iii) any over-the-counter derivative
10 instrument;

11 (iv) any other transaction that—

12 (I) is excluded or exempt from
13 regulation under the Commodity Ex-
14 change Act; or

15 (II) is exempt from State gaming
16 or bucket shop laws under section
17 12(e) of the Commodity Exchange Act
18 or section 28(a) of the Securities Ex-
19 change Act of 1934;

20 (v) any contract of indemnity or guar-
21 antee;

22 (vi) any contract for insurance;

23 (vii) any deposit or other transaction
24 with a depository institution (as defined in



1 section 3(c) of the Federal Deposit Insur-
2 ance Act);

3 (viii) any participation in a simulation
4 sports game or an educational game or
5 contest that—

6 (I) is not dependent solely on the
7 outcome of any single sporting event
8 or nonparticipant's singular individual
9 performance in any single sporting
10 event;

11 (II) has an outcome that reflects
12 the relative knowledge and skill of the
13 participants with such outcome deter-
14 mined predominantly by accumulated
15 statistical results of sporting events;
16 and

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

23 (ix) any lawful transaction with a
24 business licensed or authorized by a State.

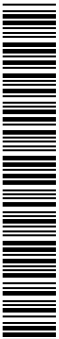


1 (3) DESIGNATED PAYMENT SYSTEM DE-
2 FINED.—The term “designated payment system”
3 means any system utilized by any creditor, credit
4 card issuer, financial institution, operator of a ter-
5 minal at which an electronic fund transfer may be
6 initiated, money transmitting business, or inter-
7 national, national, regional, or local network utilized
8 to effect a credit transaction, electronic fund trans-
9 fer, or money transmitting service, or any partici-
10 pant in such network, that the Federal functional
11 regulators determine, by regulation or order, could
12 be utilized in connection with, or to facilitate, any
13 restricted transaction.

14 (4) FEDERAL FUNCTIONAL REGULATOR.—The
15 term “Federal functional regulator” has the same
16 meaning as in section 509(2) of the Gramm-Leach-
17 Bliley Act.

18 (5) INTERNET.—The term “Internet” means
19 the international computer network of interoperable
20 packet switched data networks.

21 (6) UNLAWFUL INTERNET GAMBLING.—The
22 term “unlawful Internet gambling” means to place,
23 receive, or otherwise transmit a bet or wager by any
24 means which involves the use, at least in part, of the
25 Internet where such bet or wager is unlawful under



1 any applicable Federal or State law in the State in
2 which the bet or wager is initiated, received, or oth-
3 erwise made.

4 (7) OTHER TERMS.—

5 (A) CREDIT; CREDITOR; AND CREDIT
6 CARD.—The terms “credit”, “creditor”, and
7 “credit card” have the meanings given such
8 terms in section 103 of the Truth in Lending
9 Act.

10 (B) ELECTRONIC FUND TRANSFER.—The
11 term “electronic fund transfer”—

12 (i) has the meaning given such term
13 in section 903 of the Electronic Fund
14 Transfer Act; and

15 (ii) includes any fund transfer covered
16 by Article 4A of the Uniform Commercial
17 Code, as in effect in any State.

18 (C) FINANCIAL INSTITUTION.—The term
19 “financial institution”—

20 (i) has the meaning given such term
21 in section 903 of the Electronic Fund
22 Transfer Act; and

23 (ii) includes any financial institution,
24 as defined in section 509(3) of the
25 Gramm-Leach-Bliley Act.



1 (D) MONEY TRANSMITTING BUSINESS AND
2 MONEY TRANSMITTING SERVICE.—The terms
3 “money transmitting business” and “money
4 transmitting service” have the meanings given
5 such terms in section 5330(d) of title 31,
6 United States Code.

