

106TH CONGRESS
1ST SESSION

H. R. 3125

To prohibit Internet gambling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1999

Mr. GOODLATTE (for himself, Mr. LOBIONDO, Mr. WOLF, Mr. BOUCHER, Mr. GIBBONS, and Mr. GOODE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit 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 Prohibition Act of 1999”.

6 **SEC. 2. PROHIBITION ON INTERNET GAMBLING.**

7 (a) IN GENERAL.—Chapter 50 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 1085. Internet gambling**

2 “(a) DEFINITIONS.—In this section the following
3 definitions apply:

4 “(1) BETS OR WAGERS.—The term ‘bets or
5 wagers’—

6 “(A) means the staking or risking by any
7 person of something of value other than in a de
8 minimis amount upon the outcome of a contest
9 of others, a sporting event, or a game predomi-
10 nantly subject to chance, upon an agreement or
11 understanding that the person or another per-
12 son will receive something of greater value than
13 the amount staked or risked in the event of a
14 certain outcome;

15 “(B) includes the purchase of a chance or
16 opportunity to win a lottery or other prize
17 (which opportunity to win is predominantly sub-
18 ject to chance);

19 “(C) includes any scheme of a type de-
20 scribed in section 3702 of title 28; and

21 “(D) does not include—

22 “(i) a bona fide business transaction
23 governed by the securities laws (as that
24 term is defined in section 3(a)(47) of the
25 Securities Exchange Act of 1934 (15
26 U.S.C. 78c(a)(47))) for the purchase or

1 sale at a future date of securities (as that
2 term is defined in section 3(a)(10) of the
3 Securities Exchange Act of 1934 (15
4 U.S.C. 78c(a)(10)));

5 “(ii) a transaction on or subject to the
6 rules of a contract market designated pur-
7 suant to section 5 of the Commodity Ex-
8 change Act (7 U.S.C. 7);

9 “(iii) a contract of indemnity or guar-
10 antee;

11 “(iv) a contract for life, health, or ac-
12 cident insurance; or

13 “(v) participation in a simulation
14 sports game or an educational game or
15 contest that—

16 “(I) is not dependent solely on
17 the outcome of any single sporting
18 event or nonparticipant’s singular in-
19 dividual performance in any single
20 sporting event;

21 “(II) has an outcome that re-
22 flects the relative knowledge and skill
23 of the participants; and

24 “(III) offers a prize or award to
25 a participant that is established in ad-

1 vance of the game or contest and is
2 not determined by the number of par-
3 ticipants or the amount of any fees
4 paid by those participants.

5 “(2) CLOSED-LOOP SUBSCRIBER-BASED SERV-
6 ICE.—The term ‘closed-loop subscriber-based service’
7 means any information service or system that uses—

8 “(A) a device or combination of devices—

9 “(i) expressly authorized and operated
10 in accordance with the laws of a State, ex-
11 clusively for placing, receiving, or otherwise
12 making a bet or wager described in sub-
13 section (f)(1)(B); and

14 “(ii) by which a person located within
15 any State must subscribe and be registered
16 with the provider of the wagering service
17 by name, address, and appropriate billing
18 information to be authorized to place, re-
19 ceive, or otherwise make a bet or wager,
20 and must be physically located within that
21 State in order to be authorized to do so;

22 “(B) an effective customer verification and
23 age verification system, expressly authorized
24 and operated in accordance with the laws of the
25 State in which it is located, to ensure that all

1 applicable Federal and State legal and regu-
2 latory requirements for lawful gambling are
3 met; and

4 “(C) appropriate data security standards
5 to prevent unauthorized access by any person
6 who has not subscribed or who is a minor.

7 “(3) FOREIGN JURISDICTION.—The term ‘for-
8 eign jurisdiction’ means a jurisdiction of a foreign
9 country or political subdivision thereof.

10 “(4) GAMBLING BUSINESS.—The term ‘gam-
11 bling business’ means—

12 “(A) a business that is conducted at a
13 gambling establishment, or that—

14 “(i) involves—

15 “(I) the placing, receiving, or
16 otherwise making of bets or wagers;
17 or

18 “(II) the offering to engage in
19 the placing, receiving, or otherwise
20 making of bets or wagers;

21 “(ii) involves 1 or more persons who
22 conduct, finance, manage, supervise, direct,
23 or own all or part of such business; and

24 “(iii) has been or remains in substan-
25 tially continuous operation for a period in

1 excess of 10 days or has a gross revenue
2 of \$2,000 or more from such business dur-
3 ing any 24-hour period; and

4 “(B) any soliciting agent of a business de-
5 scribed in subparagraph (A).

6 “(5) INFORMATION ASSISTING IN THE PLACING
7 OF A BET OR WAGER.—The term ‘information as-
8 sisting in the placing of a bet or wager’—

9 “(A) means information that is intended
10 by the sender or recipient to be used by a per-
11 son engaged in the business of betting or wa-
12 gering to place, receive, or otherwise make a bet
13 or wager; and

14 “(B) does not include—

15 “(i) information concerning pari-
16 mutuel pools that is exchanged exclusively
17 between or among 1 or more racetracks or
18 other parimutuel wagering facilities li-
19 censed by the State or approved by the for-
20 eign jurisdiction in which the facility is lo-
21 cated, and 1 or more parimutuel wagering
22 facilities licensed by the State or approved
23 by the foreign jurisdiction in which the fa-
24 cility is located, if that information is used

1 only to conduct common pool parimutuel
2 pooling under applicable law;

3 “(ii) information exchanged exclu-
4 sively between or among 1 or more race-
5 tracks or other parimutuel wagering facili-
6 ties licensed by the State or approved by
7 the foreign jurisdiction in which the facility
8 is located, and a support service located in
9 another State or foreign jurisdiction, if the
10 information is used only for processing
11 bets or wagers made with that facility
12 under applicable law;

13 “(iii) information exchanged exclu-
14 sively between or among 1 or more wager-
15 ing facilities that are licensed and regu-
16 lated by the State in which each facility is
17 located, and any support service, wherever
18 located, if the information is used only for
19 the pooling or processing of bets or wagers
20 made by or with the facility or facilities
21 under each State’s applicable law;

22 “(iv) any news reporting or analysis
23 of wagering activity, including odds, racing
24 or event results, race and event schedules,
25 or categories of wagering; or

1 “(v) any posting or reporting of any
2 educational information on how to make a
3 bet or wager or the nature of betting or
4 wagering.

5 “(6) INTERACTIVE COMPUTER SERVICE.—The
6 term ‘interactive computer service’ means any infor-
7 mation service, system, or access software provider
8 that operates in, or uses a channel or instrumen-
9 tality of, interstate or foreign commerce to provide
10 or enable access by multiple users to a computer
11 server, including specifically a service or system that
12 provides access to the Internet.

13 “(7) INTERACTIVE COMPUTER SERVICE PRO-
14 VIDER.—The term ‘interactive computer service pro-
15 vider’ means any person that provides an interactive
16 computer service, to the extent that such person of-
17 fers or provides such service.

18 “(8) INTERNET.—The term ‘Internet’ means
19 the international computer network of both Federal
20 and non-Federal interoperable packet switched data
21 networks.

22 “(9) PERSON.—The term ‘person’ means any
23 individual, association, partnership, joint venture,
24 corporation (or any affiliate of a corporation), State
25 or political subdivision thereof, department, agency,

1 or instrumentality of a State or political subdivision
2 thereof, or any other government, organization, or
3 entity (including any governmental entity (as defined
4 in section 3701(2) of title 28)).

5 “(10) PRIVATE NETWORK.—The term ‘private
6 network’ means a communications channel or chan-
7 nels, including voice or computer data transmission
8 facilities, that use either—

9 “(A) private dedicated lines; or

10 “(B) the public communications infrastruc-
11 ture, if the infrastructure is secured by means
12 of the appropriate private communications tech-
13 nology to prevent unauthorized access.

14 “(11) STATE.—The term ‘State’ means a State
15 of the United States, the District of Columbia, the
16 Commonwealth of Puerto Rico, or a commonwealth,
17 territory, or possession of the United States.

18 “(12) SUBSCRIBER.—The term ‘subscriber’—

19 “(A) means any person with a business re-
20 lationship with the interactive computer service
21 provider through which such person receives ac-
22 cess to the system, service, or network of that
23 provider, even if no formal subscription agree-
24 ment exists; and

1 “(B) includes registrants, students who are
2 granted access to a university system or net-
3 work, and employees or contractors who are
4 granted access to the system or network of
5 their employer.

6 “(b) INTERNET GAMBLING.—

7 “(1) PROHIBITION.—Subject to subsection (f),
8 it shall be unlawful for a person engaged in a gam-
9 bling business knowingly to use the Internet or any
10 other interactive computer service—

11 “(A) to place, receive, or otherwise make a
12 bet or wager; or

13 “(B) to send, receive, or invite information
14 assisting in the placing of a bet or wager.

15 “(2) PENALTIES.—A person engaged in a gam-
16 bling business who violates this section shall be—

17 “(A) fined in an amount equal to not more
18 than the greater of—

19 “(i) the total amount that such person
20 bet or wagered, or placed, received, or ac-
21 cepted in bets or wagers, as a result of en-
22 gaging in that business in violation of this
23 section; or

24 “(ii) \$20,000;

25 “(B) imprisoned not more than 4 years; or

1 “(C) both.

2 “(3) PERMANENT INJUNCTIONS.—Upon convic-
3 tion of a person under this section, the court may
4 enter a permanent injunction enjoining such person
5 from placing, receiving, or otherwise making bets or
6 wagers or sending, receiving, or inviting information
7 assisting in the placing of bets or wagers.

8 “(c) CIVIL REMEDIES.—

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

15 “(2) PROCEEDINGS.—

16 “(A) INSTITUTION BY FEDERAL GOVERN-
17 MENT.—

18 “(i) IN GENERAL.—The United States
19 may institute proceedings under this sub-
20 section to prevent or restrain a violation of
21 this section.

22 “(ii) RELIEF.—Upon application of
23 the United States under this subpara-
24 graph, the district court may enter a tem-
25 porary restraining order or an injunction

1 against any person to prevent or restrain a
2 violation of this section if the court deter-
3 mines, after notice and an opportunity for
4 a hearing, that there is a substantial prob-
5 ability that such violation has occurred or
6 will occur.

7 “(B) INSTITUTION BY STATE ATTORNEY
8 GENERAL.—

9 “(i) IN GENERAL.—The attorney gen-
10 eral of a State (or other appropriate State
11 official) in which a violation of this section
12 allegedly has occurred or will occur, after
13 providing written notice to the United
14 States, may institute proceedings under
15 this subsection to prevent or restrain the
16 violation.

17 “(ii) RELIEF.—Upon application of
18 the attorney general (or other appropriate
19 State official) of an affected State under
20 this subparagraph, the district court may
21 enter a temporary restraining order or an
22 injunction against any person to prevent or
23 restrain a violation of this section if the
24 court determines, after notice and an op-
25 portunity for a hearing, that there is a

1 substantial probability that such violation
2 has occurred or will occur.

3 “(C) INDIAN LANDS.—Notwithstanding
4 subparagraphs (A) and (B), for a violation that
5 is alleged to have occurred, or may occur, on
6 Indian lands (as that term is defined in section
7 4 of the Indian Gaming Regulatory Act (25
8 U.S.C. 2703))—

9 “(i) the United States shall have the
10 enforcement authority provided under sub-
11 paragraph (A); and

12 “(ii) the enforcement authorities spec-
13 ified in an applicable Tribal-State compact
14 negotiated under section 11 of the Indian
15 Gaming Regulatory Act (25 U.S.C. 2710)
16 shall be carried out in accordance with
17 that compact.

18 “(D) EXPIRATION.—Any temporary re-
19 straining order or preliminary injunction en-
20 tered pursuant to subparagraph (A) or (B)
21 shall expire if, and as soon as, the United
22 States, or the attorney general (or other appro-
23 priate State official) of the State, as applicable,
24 notifies the court that issued the order or in-
25 junction that the United States or the State,

1 as applicable, will not seek a permanent injunc-
2 tion.

3 “(3) EXPEDITED PROCEEDINGS.—

4 “(A) IN GENERAL.—In addition to any
5 proceeding under paragraph (2), a district court
6 may, in exigent circumstances, enter a tem-
7 porary restraining order against a person al-
8 leged to be in violation of this section upon ap-
9 plication of the United States under paragraph
10 (2)(A), or the attorney general (or other appro-
11 priate State official) of an affected State under
12 paragraph (2)(B), without notice and the op-
13 portunity for a hearing as provided in rule
14 65(b) of the Federal Rules of Civil Procedure
15 (except as provided in subsection (d)(3)), if the
16 United States or the State, as applicable, dem-
17 onstrates that there is probable cause to believe
18 that the use of the Internet or other interactive
19 computer service at issue violates this section.

20 “(B) HEARINGS.—A hearing requested
21 concerning an order entered under this para-
22 graph shall be held at the earliest practicable
23 time.

24 “(d) INTERACTIVE COMPUTER SERVICE PRO-
25 VIDERS.—

1 “(1) IMMUNITY FROM LIABILITY FOR USE BY
2 ANOTHER.—

3 “(A) IN GENERAL.—An interactive com-
4 puter service provider described in subpara-
5 graph (B) shall not be liable, under this section
6 or any other provision of Federal or State law
7 prohibiting or regulating gambling or gambling-
8 related activities, for the use of its facilities or
9 services by another person to engage in Internet
10 gambling activity that violates such law—

11 “(i) arising out of any transmitting,
12 routing, or providing of connections for
13 gambling-related material or activity (in-
14 cluding intermediate and temporary stor-
15 age in the course of such transmitting,
16 routing, or providing connections) by the
17 provider, if—

18 “(I) the material or activity was
19 initiated by or at the direction of a
20 person other than the provider;

21 “(II) the transmitting, routing,
22 or providing of connections is carried
23 out through an automatic process
24 without selection of the material or
25 activity by the provider;

1 “(III) the provider does not se-
2 lect the recipients of the material or
3 activity, except as an automatic re-
4 sponse to the request of another per-
5 son; and

6 “(IV) the material or activity is
7 transmitted through the system or
8 network of the provider without modi-
9 fication of its content; or

10 “(ii) arising out of any gambling-re-
11 lated material or activity at an online site
12 residing on a computer server owned, con-
13 trolled, or operated by or for the provider,
14 or arising out of referring or linking users
15 to an online location containing such mate-
16 rial or activity, if the material or activity
17 was initiated by or at the direction of a
18 person other than the provider, unless the
19 provider fails to take expeditiously, with
20 respect to the particular material or activ-
21 ity at issue, the actions described in para-
22 graph (2)(A) following the receipt by the
23 provider of a notice described in paragraph
24 (2)(B).

1 “(B) ELIGIBILITY.—An interactive com-
2 puter service provider is described in this sub-
3 paragraph only if the provider—

4 “(i) maintains and implements a writ-
5 ten or electronic policy that requires the
6 provider to terminate the account of a sub-
7 scriber of its system or network expedi-
8 tiously following the receipt by the provider
9 of a notice described in paragraph (2)(B)
10 alleging that such subscriber has violated
11 or is violating this section; and

12 “(ii) with respect to the particular
13 material or activity at issue, has not know-
14 ingly permitted its computer server to be
15 used to engage in activity that the provider
16 knows is prohibited by this section, with
17 the specific intent that such server be used
18 for such purpose.

19 “(2) NOTICE TO INTERACTIVE COMPUTER
20 SERVICE PROVIDERS.—

21 “(A) IN GENERAL.—If an interactive com-
22 puter service provider receives from a Federal
23 or State law enforcement agency, acting within
24 its authority and jurisdiction, a written or elec-
25 tronic notice described in subparagraph (B),

1 that a particular online site residing on a com-
2 puter server owned, controlled, or operated by
3 or for the provider is being used by another
4 person to violate this section, the provider shall
5 expeditiously—

6 “(i) remove or disable access to the
7 material or activity residing at that online
8 site that allegedly violates this section; or

9 “(ii) in any case in which the provider
10 does not control the site at which the sub-
11 ject material or activity resides, the pro-
12 vider, through any agent of the provider
13 designated in accordance with section
14 512(c)(2) of title 17, or other responsible
15 identified employee or contractor—

16 “(I) notify the Federal or State
17 law enforcement agency that the pro-
18 vider is not the proper recipient of
19 such notice; and

20 “(II) upon receipt of a subpoena,
21 cooperate with the Federal or State
22 law enforcement agency in identifying
23 the person or persons who control the
24 site.

1 “(B) NOTICE.—A notice is described in
2 this subparagraph only if it—

3 “(i) identifies the material or activity
4 that allegedly violates this section, and al-
5 leges that such material or activity violates
6 this section;

7 “(ii) provides information reasonably
8 sufficient to permit the provider to locate
9 (and, as appropriate, in a notice issued
10 pursuant to paragraph (3)(A) to block ac-
11 cess to) the material or activity;

12 “(iii) is supplied to any agent of a
13 provider designated in accordance with sec-
14 tion 512(c)(2) of title 17, if information
15 regarding such designation is readily avail-
16 able to the public;

17 “(iv) provides information that is rea-
18 sonably sufficient to permit the provider to
19 contact the law enforcement agency that
20 issued the notice, including the name of
21 the law enforcement agency, and the name
22 and telephone number of an individual to
23 contact at the law enforcement agency
24 (and, if available, the electronic mail ad-
25 dress of that individual); and

1 “(v) declares under penalties of per-
2 jury that the person submitting the notice
3 is an official of the law enforcement agency
4 described in clause (iv).

5 “(3) INJUNCTIVE RELIEF.—

6 “(A) IN GENERAL.—The United States, or
7 a State law enforcement agency acting within
8 its authority and jurisdiction, may, not less
9 than 24 hours following the issuance to an
10 interactive computer service provider of a notice
11 described in paragraph (2)(B), in a civil action,
12 obtain a temporary restraining order, or an in-
13 junction to prevent the use of the interactive
14 computer service by another person in violation
15 of this section.

16 “(B) LIMITATIONS.—Notwithstanding any
17 other provision of this section, in the case of
18 any application for a temporary restraining
19 order or an injunction against an interactive
20 computer service provider described in para-
21 graph (1)(B) to prevent a violation of this
22 section—

23 “(i) arising out of activity described in
24 paragraph (1)(A)(i), the injunctive relief is
25 limited to—

1 “(I) an order restraining the pro-
2 vider from providing access to an
3 identified subscriber of the system or
4 network of the interactive computer
5 service provider, if the court deter-
6 mines that there is probable cause to
7 believe that such subscriber is using
8 that access to violate this section (or
9 to engage with another person in a
10 communication that violates this sec-
11 tion), by terminating the specified ac-
12 count of that subscriber; and

13 “(II) an order restraining the
14 provider from providing access, by
15 taking reasonable steps specified in
16 the order to block access, to a specific,
17 identified, foreign online location;

18 “(ii) arising out of activity described
19 in paragraph (1)(A)(ii), the injunctive re-
20 lief is limited to—

21 “(I) the orders described in
22 clause (i)(I);

23 “(II) an order restraining the
24 provider from providing access to the
25 material or activity that violates this

1 section at a particular online site re-
2 siding on a computer server operated
3 or controlled by the provider; and

4 “(III) such other injunctive rem-
5 edies as the court considers necessary
6 to prevent or restrain access to speci-
7 fied material or activity that is pro-
8 hibited by this section at a particular
9 online location residing on a computer
10 server operated or controlled by the
11 provider, that are the least burden-
12 some to the provider among the forms
13 of relief that are comparably effective
14 for that purpose.

15 “(C) CONSIDERATIONS.—The court, in de-
16 termining appropriate injunctive relief under
17 this paragraph, shall consider—

18 “(i) whether such an injunction, either
19 alone or in combination with other such in-
20 junctions issued, and currently operative,
21 against the same provider would signifi-
22 cantly (and, in the case of relief under sub-
23 paragraph (B)(ii), taking into account,
24 among other factors, the conduct of the
25 provider, unreasonably) burden either the

1 provider or the operation of the system or
2 network of the provider;

3 “(ii) whether implementation of such
4 an injunction would be technically feasible
5 and effective, and would not materially
6 interfere with access to lawful material at
7 other online locations;

8 “(iii) whether other less burdensome
9 and comparably effective means of pre-
10 venting or restraining access to the illegal
11 material or activity are available; and

12 “(iv) the magnitude of the harm likely
13 to be suffered by the community through
14 the accessibility of illegal activity.

15 “(D) NOTICE AND EX PARTE ORDERS.—
16 Injunctive relief under this paragraph shall not
17 be available without notice to the service pro-
18 vider and an opportunity for such provider to
19 appear before the court, except for orders en-
20 suring the preservation of evidence or other or-
21 ders having no material adverse effect on the
22 operation of the communications network of the
23 service provider.

24 “(4) ADVERTISING OR PROMOTION OF NON-
25 INTERNET GAMBLING.—

1 “(A) DEFINITIONS.—In this paragraph:

2 “(i) CONDUCTED.—With respect to a
3 gambling activity, that activity is ‘con-
4 ducted’ in a State if the State is the State
5 in which the gambling establishment (as
6 defined in section 1081) that offers the
7 gambling activity being advertised or pro-
8 moted is physically located.

9 “(ii) NON-INTERNET GAMBLING AC-
10 TIVITY.—The term ‘non-Internet gambling
11 activity’ means—

12 “(I) a gambling activity in which
13 the placing of the bet or wager is not
14 conducted by the Internet; or

15 “(II) a gambling activity to
16 which the prohibitions of this section
17 do not apply.

18 “(B) IMMUNITY FROM LIABILITY FOR USE
19 BY ANOTHER.—

20 “(i) IN GENERAL.—An interactive
21 computer service provider described in
22 clause (ii) shall not be liable, under any
23 provision of Federal or State law prohib-
24 iting or regulating gambling or gambling-
25 related activities, or under any State law

1 prohibiting or regulating advertising and
2 promotional activities, for—

3 “(I) content, provided by another
4 person, that advertises or promotes
5 non-Internet gambling activity that
6 violates such law (unless the provider
7 is engaged in the business of such
8 gambling), arising out of any of the
9 activities described in paragraph
10 (1)(A) (i) or (ii); or

11 “(II) content, provided by an-
12 other person, that advertises or pro-
13 motes non-Internet gambling activity
14 that is lawful under Federal law and
15 the law of the State in which such
16 gambling activity is conducted.

17 “(ii) ELIGIBILITY.—An interactive
18 computer service is described in this clause
19 only if the provider—

20 “(I) maintains and implements a
21 written or electronic policy that re-
22 quires the provider to terminate the
23 account of a subscriber of its system
24 or network expeditiously following the
25 receipt by the provider of a notice de-

1 scribed in paragraph (2)(B) alleging
2 that such subscriber maintains a
3 website on a computer server con-
4 trolled or operated by the provider for
5 the purpose of engaging in advertising
6 or promotion of non-Internet gam-
7 bling activity prohibited by a Federal
8 law or a law of the State in which
9 such activity is conducted;

10 “(II) with respect to the par-
11 ticular material or activity at issue,
12 has not knowingly permitted its com-
13 puter server to be used to engage in
14 the advertising or promotion of non-
15 Internet gambling activity that the
16 provider knows is prohibited by a
17 Federal law or a law of the State in
18 which the activity is conducted, with
19 the specific intent that such server be
20 used for such purpose; and

21 “(III) at reasonable cost, offers
22 residential customers of the provider’s
23 Internet access service, if the provider
24 provides Internet access service to
25 such customers, computer software, or

1 another filtering or blocking system
2 that includes the capability of filtering
3 or blocking access by minors to online
4 Internet gambling sites that violate
5 this section.

6 “(C) NOTICE TO INTERACTIVE COMPUTER
7 SERVICE PROVIDERS.—

8 “(i) NOTICE FROM FEDERAL LAW EN-
9 FORCEMENT AGENCY.—If an interactive
10 computer service provider receives from a
11 Federal law enforcement agency, acting
12 within its authority and jurisdiction, a
13 written or electronic notice described in
14 paragraph (2)(B), that a particular online
15 site residing on a computer server owned,
16 controlled, or operated by or for the pro-
17 vider is being used by another person to
18 advertise or promote non-Internet gam-
19 bling activity that violates a Federal law
20 prohibiting or regulating gambling or gam-
21 bling-related activities, the provider shall
22 expeditiously take the actions described in
23 paragraph (2)(A) (i) or (ii) with respect to
24 the advertising or promotion identified in
25 the notice.

1 “(ii) NOTICE FROM STATE LAW EN-
2 FORCEMENT AGENCY.—If an interactive
3 computer service provider receives from a
4 State law enforcement agency, acting with-
5 in its authority and jurisdiction, a written
6 or electronic notice described in paragraph
7 (2)(B), that a particular online site resid-
8 ing on a computer server owned, con-
9 trolled, or operated by or for the provider
10 is being used by another person to adver-
11 tise or promote non-Internet gambling ac-
12 tivity that is conducted in that State and
13 that violates a law of that State prohib-
14 iting or regulating gambling or gambling-
15 related activities, the provider shall expedi-
16 tiously take the actions described in para-
17 graph (2)(A) (i) or (ii) with respect to the
18 advertising or promotion identified in the
19 notice.

20 “(D) INJUNCTIVE RELIEF.—The United
21 States, or a State law enforcement agency, act-
22 ing within its authority and jurisdiction, may,
23 not less than 24 hours following the issuance to
24 an interactive computer service provider of a
25 notice described in paragraph (2)(B), in a civil

1 action, obtain a temporary restraining order, or
2 an injunction, to prevent the use of the inter-
3 active computer service by another person to
4 advertise or promote non-Internet gambling ac-
5 tivity that violates a Federal law, or a law of
6 the State in which such activity is conducted
7 that prohibits or regulates gambling or gam-
8 bling-related activities, as applicable. The proce-
9 dures described in paragraph (3)(D) shall apply
10 to actions brought under this subparagraph,
11 and the relief in such actions shall be limited
12 to—

13 “(i) an order requiring the provider to
14 remove or disable access to the advertising
15 or promotion of non-Internet gambling ac-
16 tivity that violates Federal law, or the law
17 of the State in which such activity is con-
18 ducted, as applicable, at a particular online
19 site residing on a computer server con-
20 trolled or operated by the provider;

21 “(ii) an order restraining the provider
22 from providing access to an identified sub-
23 scriber of the system or network of the
24 provider, if the court determines that such
25 subscriber maintains a website on a com-

1 puter server controlled or operated by the
2 provider that the subscriber is knowingly
3 using or knowingly permitting to be used
4 to advertise or promote non-Internet gam-
5 bling activity that violates Federal law or
6 the law of the State in which such activity
7 is conducted; and

8 “(iii) an order restraining the provider
9 of the content of the advertising or pro-
10 motion of such illegal gambling activity
11 from disseminating such advertising or
12 promotion on the computer server con-
13 trolled or operated by the provider of such
14 interactive computer service.

15 “(E) APPLICABILITY.—The provisions of
16 subparagraphs (C) and (D) do not apply to the
17 content described in subparagraph (B)(i)(II).

18 “(5) EFFECT ON OTHER LAW.—

19 “(A) IMMUNITY FROM LIABILITY FOR COM-
20 PLIANCE.—An interactive computer service pro-
21 vider shall not be liable for any damages, pen-
22 alty, or forfeiture, civil or criminal, under Fed-
23 eral or State law for taking in good faith any
24 action described in paragraph (2)(A) to comply
25 with a notice described in paragraph (2)(B), or

1 complying with any court order issued under
2 paragraph (3).

3 “(B) DISCLAIMER OF OBLIGATIONS.—
4 Nothing in this section may be construed to im-
5 pose or authorize an obligation on an inter-
6 active computer service provider described in
7 paragraph (1)(B)—

8 “(i) to monitor material or use of its
9 service; or

10 “(ii) except as required by a notice or
11 an order of a court under this subsection,
12 to gain access to, to remove, or to disable
13 access to material.

14 “(C) RIGHTS OF SUBSCRIBERS.—Nothing
15 in this section may be construed to prejudice
16 the right of a subscriber to secure an appro-
17 priate determination, as otherwise provided by
18 law, in a Federal court or in a State or local
19 tribunal or agency, that the account of such
20 subscriber should not be terminated pursuant
21 to this subsection, or should be restored.

22 “(e) AVAILABILITY OF RELIEF.—The availability of
23 relief under subsections (c) and (d) shall not depend on,
24 or be affected by, the initiation or resolution of any action

1 under subsection (b), or under any other provision of Fed-
2 eral or State law.

3 “(f) APPLICABILITY.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 the prohibition in this section does not apply to—

6 “(A) any otherwise lawful bet or wager
7 that is placed, received, or otherwise made
8 wholly intrastate for a State lottery, or for a
9 multi-State lottery operated jointly between 2
10 or more States in conjunction with State lot-
11 teries if—

12 “(i) each such lottery is expressly au-
13 thorized, and licensed or regulated, under
14 applicable State law;

15 “(ii) the bet or wager is placed on an
16 interactive computer service that uses a
17 private network or a closed-loop subscriber
18 based service regulated and operated by
19 the State lottery or its expressly des-
20 ignated agent for such activity;

21 “(iii) each person placing or otherwise
22 making that bet or wager—

23 “(I) is physically located when
24 such bet or wager is placed at a facil-

1 ity that is open to the general public;
2 or

3 “(II) receives from the State lot-
4 tery a user name and password spe-
5 cific to the individual player for use in
6 betting and wagering in the State lot-
7 tery or multi-State lottery; and

8 “(iv) each such lottery complies with
9 sections 1301 through 1304, and other ap-
10 plicable provisions of Federal law;

11 “(B) any otherwise lawful bet or wager
12 that is placed, received, or otherwise made on
13 an interstate or intrastate basis on a live horse
14 or a live dog race or on jai alai, or the sending,
15 receiving, or inviting of information assisting in
16 the placing of such a bet or wager, if such bet
17 or wager, or the transmission of such informa-
18 tion, as applicable, is—

19 “(i) expressly authorized, and licensed
20 or regulated by the State in which such bet
21 or wager is received, under applicable Fed-
22 eral and such State’s laws;

23 “(ii) placed on a closed-loop sub-
24 scriber-based service;

1 “(iii) initiated from a State in which
2 betting or wagering on that same type of
3 live horse or live dog racing or on jai alai
4 is lawful and received in a State in which
5 such betting or wagering is lawful;

6 “(iv) subject to the regulatory over-
7 sight of the State in which the bet or
8 wager is received and subject by such
9 State to minimum control standards for
10 the accounting, regulatory inspection, and
11 auditing of all such bets or wagers trans-
12 mitted from 1 State to another; and

13 “(v) in the case of—

14 “(I) live horse racing, made in
15 accordance with the Interstate Horse
16 Racing Act of 1978 (15 U.S.C. 3001
17 et seq.); or

18 “(II) live dog racing, subject to
19 consent agreements that are com-
20 parable to those required by the Inter-
21 state Horse Racing Act of 1978, ap-
22 proved by the appropriate State regu-
23 latory agencies, in the State in which
24 the live dog race takes place, and in

1 the State in which the bet or wager is
2 accepted;

3 “(C) any otherwise lawful bet or wager
4 that is placed, received, or otherwise made
5 wholly intrastate, or the sending, receiving, or
6 inviting of information assisting in the placing
7 of such a bet or wager, if such bet or wager,
8 or the transmission of such information, as ap-
9 plicable is—

10 “(i) expressly authorized, and licensed
11 or regulated by the State in which such bet
12 or water is initiated and received, under
13 applicable Federal and such State’s laws;
14 and

15 “(ii) placed on a closed-loop sub-
16 scriber based service; or

17 “(D) any otherwise lawful bet or wager
18 that is placed, received, or otherwise made for
19 a fantasy sports league game or contest.

20 “(2) BETS OR WAGERS MADE BY AGENTS OR
21 PROXIES.—

22 “(A) IN GENERAL.—Paragraph (1) does
23 not apply in any case in which a bet or wager
24 is placed, received, or otherwise made by the

1 use of an agent or proxy using the Internet or
2 an interactive computer service.

3 “(B) QUALIFICATION.—Nothing in this
4 paragraph may be construed to prohibit the
5 owner operator of a parimutuel wagering facil-
6 ity that is licensed by a State from employing
7 an agent in the operation of the account wager-
8 ing system owned or operated by the parimutuel
9 facility.

10 “(3) ADVERTISING AND PROMOTION.—The pro-
11 hibition of subsection (b)(1)(B) does not apply to
12 advertising, promotion, or other communication by,
13 or authorized by, anyone licensed to operate a gam-
14 bling business in a State.

15 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion may be construed to affect any prohibition or remedy
17 applicable to a person engaged in a gambling business
18 under any other provision of Federal or State law.”.

19 (b) TECHNICAL AMENDMENT.—The analysis for
20 chapter 50 of title 18, United States Code, is amended
21 by adding at the end the following:

“1085. Internet gambling.”.

22 **SEC. 3. REPORT ON ENFORCEMENT.**

23 Not later than 3 years after the date of enactment
24 of this Act, the Attorney General shall submit to Congress
25 a report, which shall include—

1 (1) an analysis of the problems, if any, associ-
2 ated with enforcing section 1085 of title 18, United
3 States Code, as added by section 2 of this Act;

4 (2) recommendations for the best use of the re-
5 sources of the Department of Justice to enforce that
6 section; and

7 (3) an estimate of the amount of activity and
8 money being used to gamble on the Internet.

9 **SEC. 4. SEVERABILITY.**

10 If any provision of this Act, an amendment made by
11 this Act, or the application of such provision or amend-
12 ment to any person or circumstance is held to be unconsti-
13 tutional, the remainder of this Act, the amendments made
14 by this Act, and the application of this Act and the provi-
15 sions of such amendments to any other person or cir-
16 cumstance shall not be affected thereby.

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