

Combatting Illegal Gambling Reform and Modernization Act (Introduced in House)

HR 3215 IH

107th CONGRESS
1st Session
H. R. 3215

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 1, 2001

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SMITH of Texas, Ms. JACKSON-LEE of Texas, Mr. OXLEY, Mr. LAFALCE, Mr. LEACH, Mr. WOLF, Mr. ROEMER, Mr. GIBBONS, Mr. BACHUS, Mrs. JO ANN DAVIS of Virginia, Mr. DUNCAN, Mr. FLETCHER, Mr. FORBES, Mr. GOODE, Mr. GRAHAM, Mr. LEWIS of Kentucky, Mr. PITTS, Mr. ROGERS of Michigan, Mr. SHADEGG, Mr. SWEENEY, Mr. TAUZIN, Mr. VITTER, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mrs. KELLY, and Mr. HASTINGS of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Combatting Illegal Gambling Reform and Modernization Act'.

SEC. 2. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended--

(1) by designating the five undesignated paragraphs that begin with 'The term' as paragraphs (1) through (5), respectively;

(2) in paragraph (5), as so designated--

(A) by striking `wire communication' and inserting `communication';

(B) by inserting `satellite, microwave,' after `cable,'; and

(C) by inserting `(whether fixed or mobile)' after `connection'; and

(3) by adding at the end the following:

`(6) The term `bets or wagers'--

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

`(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance); and

`(C) does not include--

`(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

`(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

`(iii) any over-the-counter derivative instrument;

`(iv) a contract of indemnity or guarantee;

`(v) a contract for life, health, or accident insurance;

`(vi) participation in any game or contest in which participants do not stake or risk anything of value other than--

`(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

`(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

`(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

`(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

`(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

`(III) No winning outcome is based--

`(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

`(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

`(7) The term `foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

`(8) The term `gambling business' means a business of betting or wagering;

`(9) The term `information assisting in the placing of bets or wagers' means information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making, or otherwise enabling or facilitating a bet or wager and does not include--

`(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

`(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal.

`(10) The term `person' includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

`(11) The term `State' means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

`(12) The terms `credit', `creditor', and `credit card' have the meanings given such terms in section 103 of the Truth in Lending Act.

`(13) The term `electronic fund transfer'--

`(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

`(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

`(14) The term `financial institution' has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

`(15) The term `insured depository institution'--

`(A) has the same meaning as in section 3(c) of the Federal Deposit Insurance Act; and

`(B) includes any insured credit union (as defined in section 101 of the Federal Credit Union Act).

`(16) The terms `money transmitting business' and `money transmitting service' have the meanings given such terms in section 5330(d) of title 31, United States Code.

`(17) The terms `own or control' and to be `owned or controlled' have the same meanings as in section 2(a)(2) of the Bank Holding Company Act of 1956.

`(18) The term `Secretary' means the Secretary of the Treasury.

`(19) The term `Tribe' or `tribal' means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988).'.

SEC. 3. MODIFICATION OF EXISTING PROHIBITION.

Section 1084 of title 18, United States Code, is amended to read as follows:

`Sec. 1084. Use of a communication facility to transmit bets or wagers; Penalties

`(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility--

`(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

`(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers; shall be fined under this title or imprisoned not more than five years, or both.

`(b)(1) Except as provided in paragraph (2), whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers--

`(A) credit, or the proceeds of credit, extended to or on behalf of another (including credit extended through the use of a credit card);

`(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

`(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable through any financial institution; or

`(D) the proceeds of any other form of financial transaction as the Secretary of the Treasury may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person,

shall be fined under this title or imprisoned not more than five years, or both.

`(2) Paragraph (b)(1) does not apply if the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers is permitted under subsections (c) or (d).

`(c) Nothing in this section prohibits--

`(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

`(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law.

`(d) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if--

`(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers is physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

`(2) the State or Tribe has explicitly authorized such bets and wagers;

`(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the support service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

`(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

`(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

`(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such Tribal-State compact expressly provides that the game may be conducted using a communication facility to transmit bets or wagers or information assisting in the placing of bets or wagers.

`(e) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

`(f) Nothing in this section shall be construed to prohibit an activity allowed under Public Law 95-515 (15 U.S.C. 3001 et seq.).

`(g) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

`(h) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the

subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

`(i)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

`(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

`(3) No relief requiring the blocking of websites may be granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934), unless the service is acting in concert with a person who is violating the law and the service receives actual notice of the relief.'.