

107TH CONGRESS
1ST SESSION

H. R. 556

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2001

Mr. LEACH 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 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”.

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 UNLAWFUL INTERNET GAM-**
17 **BLING.**

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

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

1 (2) an electronic fund transfer or funds trans-
2 mitted by or through a money transmitting business,
3 or the proceeds of an electronic fund transfer or
4 money transmitting service, from or on behalf of the
5 other person;

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

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

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

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

19 (A) means the staking or risking by any
20 person of something of value upon the outcome
21 of a contest of others, a sporting event, or a
22 game predominantly subject to chance, upon an
23 agreement or understanding that the person or
24 another person will receive something of greater

1 value than the amount staked or risked in the
2 event of a certain outcome;

3 (B) includes the purchase of a chance or
4 opportunity to win a lottery or other prize
5 (which opportunity to win is predominantly sub-
6 ject to chance);

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

9 (D) does not include—

10 (i) any bona fide business transaction
11 governed by the securities laws (as that
12 term is defined in section 3(a)(47) of the
13 Securities Exchange Act of 1934) for the
14 purchase or sale at a future date of securi-
15 ties (as that term is defined in section
16 3(a)(10) of such Act);

17 (ii) any transaction on or subject to
18 the rules of a contract market designated
19 pursuant to section 5 of the Commodity
20 Exchange Act;

21 (iii) any over-the-counter derivative
22 instrument;

23 (iv) any contract of indemnity or
24 guarantee;

1 (v) any contract for life, health, or ac-
2 cident insurance; or

3 (vi) 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.

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

1 (A) a business that is conducted at a gam-
2 bling establishment;

3 (B) a business that—

4 (i) involves—

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

7 (II) the offering to engage in the
8 placing, receiving, or otherwise mak-
9 ing of bets or wagers;

10 (ii) involves 1 or more persons who
11 conduct, finance, manage, supervise, direct,
12 or own all or part of such business; and

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

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

20 (3) INTERNET.—The term “Internet” means
21 the international computer network of interoperable
22 packet switched data networks.

23 (4) UNLAWFUL INTERNET GAMBLING.—The
24 term “unlawful Internet gambling” means to place,
25 receive, or otherwise make a bet or wager by any

1 means which involves the use, at least in part, of the
2 Internet where such bet or wager is unlawful under
3 any applicable Federal or State law in the State in
4 which the bet or wager is initiated, received, or oth-
5 erwise made.

6 (5) OTHER TERMS.—

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

12 (B) ELECTRONIC FUND TRANSFER.—The
13 term “electronic fund transfer”—

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

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

20 (C) FINANCIAL INSTITUTION.—The term
21 “financial institution” has the meaning given
22 such term in section 903 of the Electronic
23 Fund Transfer Act.

24 (D) MONEY TRANSMITTING BUSINESS AND
25 MONEY TRANSMITTING SERVICE.—The terms

1 “money transmitting business” and “money
2 transmitting service” have the meanings given
3 such terms in section 5330(d) of title 31,
4 United States Code.

5 (E) SECRETARY.—The term “Secretary”
6 means the Secretary of the Treasury.

7 (c) CIVIL REMEDIES.—

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

14 (2) PROCEEDINGS.—

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

17 (i) IN GENERAL.—The United States,
18 acting through the Attorney General, may
19 institute proceedings under this subsection
20 to prevent or restrain a violation of this
21 section.

22 (ii) RELIEF.—Upon application of the
23 United States under this subparagraph,
24 the district court may enter a preliminary
25 injunction or an injunction against any

1 person to prevent or restrain a violation of
2 this section, in accordance with Rule 65 of
3 the Federal Rules of Civil Procedure.

4 (B) INSTITUTION BY STATE ATTORNEY
5 GENERAL.—

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

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

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

1 (i) the United States shall have the
2 enforcement authority provided under sub-
3 paragraph (A); and

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

9 (3) EXPEDITED PROCEEDINGS.—

10 (A) IN GENERAL.—In addition to any pro-
11 ceeding under paragraph (2), a district court
12 may, in exigent circumstances, enter a tem-
13 porary restraining order against a person al-
14 leged to be in violation of this section upon ap-
15 plication of the United States under paragraph
16 (2)(A), or the attorney general (or other appro-
17 priate State official) of an affected State under
18 paragraph (2)(B), in accordance with Rule
19 65(b) of the Federal Rules of Civil Procedure.

20 (d) CRIMINAL PENALTY.—

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

24 (2) PERMANENT INJUNCTION.—Upon convic-
25 tion of a person under this subsection, the court

1 may enter a permanent injunction enjoining such
2 person from placing, receiving, or otherwise making
3 bets or wagers or sending, receiving, or inviting in-
4 formation assisting in the placing of bets or wagers.

5 (e) SAFE HARBOR FOR FINANCIAL INTER-
6 MEDIARIES.—

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

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

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

23 (2) EXCEPTION FOR KNOWING PARTICIPATION
24 IN A GAMBLING BUSINESS.—Paragraph (1) shall not
25 apply with respect to any person referred to in such

1 paragraph which is a gambling business or which
2 knowingly participates in any activity referred to in
3 subparagraph (A) or (B) of such paragraph as an
4 agent or representative of a gambling business.

5 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN**
6 **JURISDICTIONS.**

7 (a) **IN GENERAL.**—In deliberations between the
8 United States Government and any other country on
9 money laundering, corruption, and crime issues, the
10 United States Government should—

11 (1) encourage cooperation by foreign govern-
12 ments and relevant international fora in identifying
13 whether Internet gambling operations are being used
14 for money laundering, corruption, or other crimes;

15 (2) advance policies that promote the coopera-
16 tion of foreign governments, through information
17 sharing or other measures, in the enforcement of
18 this Act; and

19 (3) encourage the Financial Action Task Force
20 on Money Laundering, in its annual report on
21 money laundering typologies, to study the extent to
22 which Internet gambling operations are being used
23 for money laundering.

24 (b) **REPORT REQUIRED.**—The Secretary of the
25 Treasury shall submit an annual report to the Congress

1 on the deliberations between the United States and other
2 countries on issues relating to Internet gambling.

3 **SEC. 5. ENFORCEMENT ACTIONS.**

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

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

15 “(1) Extending credit, or facilitating an exten-
16 sion of credit, electronic fund transfer, or money
17 transmitting service with the actual knowledge that
18 any person is violating section 3(a) of the Unlawful
19 Internet Gambling Funding Prohibition Act in con-
20 nection with such extension of credit, electronic fund
21 transfer, or money transmitting service.

22 “(2) Paying, transferring, or collecting on any
23 check, draft, or other instrument drawn on any de-
24 pository institution with the actual knowledge that
25 any person is violating section 3(a) of the Unlawful

1 Internet Gambling Funding Prohibition Act in con-
2 nection with such check, draft, or other instru-
3 ment.”.

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