

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.

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 “Combatting Illegal
5 Gambling Reform and Modernization Act”.

1 **SEC. 2. DEFINITIONS.**

2 Section 1081 of title 18, United States Code, is
3 amended—

4 (1) by designating the five undesignated para-
5 graphs that begin with “The term” as paragraphs
6 (1) through (5), respectively;

7 (2) in paragraph (5), as so designated—

8 (A) by striking “wire communication” and
9 inserting “communication”;

10 (B) by inserting “satellite, microwave,”
11 after “cable,”; and

12 (C) by inserting “(whether fixed or mo-
13 bile)” after “connection”; and

14 (3) by adding at the end the following:

15 “(6) The term ‘bets or 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); and

3 “(C) does not include—

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

13 “(ii) a transaction on or subject to the
14 rules of a contract market designated pur-
15 suant to section 5 of the Commodity Ex-
16 change Act (7 U.S.C. 7) or to any trans-
17 action subject to an exemption pursuant to
18 section 4(e) of such Act;

19 “(iii) any over-the-counter derivative
20 instrument;

21 “(iv) a contract of indemnity or guar-
22 antee;

23 “(v) a contract for life, health, or ac-
24 cident insurance;

1 “(vi) participation in any game or
2 contest in which participants do not stake
3 or risk anything of value other than—

4 “(I) personal efforts of the par-
5 ticipants in playing the game or con-
6 test or obtaining access to the Inter-
7 net; or

8 “(II) point or credits that the
9 sponsor of the game or contest pro-
10 vides to participants free of charge
11 and that can be used or redeemed
12 only for participation in games or con-
13 tests offered by the sponsor; or

14 “(vii) participation in any simulation
15 sports game or educational game or con-
16 test in which (if the game or contest in-
17 volves a team or teams) all teams are fic-
18 tional and no team is a member of an
19 amateur or professional sports organiza-
20 tion (as those terms are defined in section
21 3701 of title 28) and that meets the fol-
22 lowing conditions:

23 “(I) All prizes and awards of-
24 fered to winning participants are es-
25 tablished and made known to the par-

1 participants in advance of the game or
2 contest and their value is not deter-
3 mined by the number of participants
4 or the amount of any fees paid by
5 those participants.

6 “(II) All winning outcomes re-
7 flect the relative knowledge and skill
8 of the participants and are determined
9 predominantly by accumulated statis-
10 tical results of the performance of in-
11 dividuals (athletes in the case of
12 sports events) in multiple real-world
13 sporting or other events.

14 “(III) No winning outcome is
15 based—

16 “(aa) on the score, point-
17 spread or any performance or
18 performances of any single real-
19 world team or any combination of
20 such teams; or

21 “(bb) solely on any single
22 performance of an individual ath-
23 lete in any single real-world
24 sporting or other event.

1 “(7) The term ‘foreign jurisdiction’ means a ju-
2 risdiction of a foreign country or political subdivision
3 thereof.

4 “(8) The term ‘gambling business’ means a
5 business of betting or wagering;

6 “(9) The term ‘information assisting in the
7 placing of bets or wagers’ means information know-
8 ingly transmitted by an individual in a gambling
9 business for use in placing, receiving, making, or
10 otherwise enabling or facilitating a bet or wager and
11 does not include—

12 “(A) any posting or reporting of any edu-
13 cational information on how to make a legal bet
14 or wager or the nature of betting or wagering,
15 as long as such posting or reporting does not
16 solicit or provide information for the purpose of
17 facilitating or enabling the placing or receipt of
18 bets or wagers in a jurisdiction where such bet-
19 ting is illegal; or

20 “(B) advertising relating to betting or wa-
21 gering in a jurisdiction where such betting or
22 wagering is legal, as long as such advertising
23 does not solicit or provide information for the
24 purpose of facilitating or enabling the placing

1 or receipt of bets or wagers in a jurisdiction
2 where such betting is illegal.

3 “(10) The term ‘person’ includes a government
4 (including any governmental entity (as defined in
5 section 3701(2) of title 28)).

6 “(11) The term ‘State’ means a State of the
7 United States, the District of Columbia, or a com-
8 monwealth, territory, or possession of the United
9 States.

10 “(12) The terms ‘credit’, ‘creditor’, and ‘credit
11 card’ have the meanings given such terms in section
12 103 of the Truth in Lending Act.

13 “(13) The term ‘electronic fund transfer’—

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

17 “(B) any fund transfer covered by Article
18 4A of the Uniform Commercial Code, as in ef-
19 fect in any State.

20 “(14) The term ‘financial institution’ has the
21 meaning given such term in section 903 of the Elec-
22 tronic Fund Transfer Act.

23 “(15) The term ‘insured depository
24 institution’—

1 “(A) has the same meaning as in section
2 3(e) of the Federal Deposit Insurance Act; and

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

6 “(16) The terms ‘money transmitting business’
7 and ‘money transmitting service’ have the meanings
8 given such terms in section 5330(d) of title 31,
9 United States Code.

10 “(17) The terms ‘own or control’ and to be
11 ‘owned or controlled’ have the same meanings as in
12 section 2(a)(2) of the Bank Holding Company Act
13 of 1956.

14 “(18) The term ‘Secretary’ means the Secretary
15 of the Treasury.

16 “(19) The term ‘Tribe’ or ‘tribal’ means an In-
17 dian tribe, as defined under section 4(5) of the In-
18 dian Gaming Regulatory Act of 1988).”.

19 **SEC. 3. MODIFICATION OF EXISTING PROHIBITION.**

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

1 **“§ 1084. Use of a communication facility to transmit**
2 **bets or wagers; Penalties**

3 “(a) Except as otherwise provided in this section,
4 whoever, being engaged in a gambling business, knowingly
5 uses a communication facility—

6 “(1) for the transmission in interstate or for-
7 eign commerce, within the special maritime and ter-
8 ritorial jurisdiction of the United States, or to or
9 from any place outside the jurisdiction of any nation
10 with respect to any transmission to or from the
11 United States, of bets or wagers, or information as-
12 sisting in the placing of bets or wagers; or

13 “(2) for the transmission of a communication in
14 interstate or foreign commerce, within the special
15 maritime and territorial jurisdiction of the United
16 States, or to or from any place outside the jurisdic-
17 tion of any nation with respect to any transmission
18 to or from the United States, which entitles the re-
19 cipient to receive money or credit as a result of bets
20 or wagers, or for information assisting in the placing
21 of bets or wagers;

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

24 “(b)(1) Except as provided in paragraph (2), who-
25 ever, being engaged in a gambling business, knowingly ac-
26 cepts, in connection with the transmission of a commu-

1 nication in interstate or foreign commerce, within the spe-
2 cial maritime and territorial jurisdiction of the United
3 States, or to or from any place outside the jurisdiction
4 of any nation with respect to any transmission to or from
5 the United States of bets or wagers or information assist-
6 ing in the placing of bets or wagers—

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

10 “(B) an electronic fund transfer or funds trans-
11 mitted by or through a money transmitting business,
12 or the proceeds of an electronic fund transfer or
13 money transmitting service, from or on behalf of the
14 other person;

15 “(C) any check, draft, or similar instrument
16 which is drawn by or on behalf of the other person
17 and is drawn on or payable through any financial in-
18 stitution; or

19 “(D) the proceeds of any other form of finan-
20 cial transaction as the Secretary of the Treasury
21 may prescribe by regulation which involves a finan-
22 cial institution as a payor or financial intermediary
23 on behalf of or for the benefit of the other person,
24 shall be fined under this title or imprisoned not more than
25 five years, or both.

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

5 “(c) Nothing in this section prohibits—

6 “(1) the transmission of information assisting
7 in the placing of bets or wagers for use in news re-
8 porting if such transmission does not solicit or pro-
9 vide information for the purpose of facilitating or
10 enabling the placing or receipt of bets or wagers in
11 a jurisdiction where such betting is illegal; or

12 “(2) the transmission of information assisting
13 in the placing of bets or wagers from a State or for-
14 eign country where such betting or wagering is per-
15 mitted under Federal, State, tribal, or local law into
16 a State or foreign country in which such betting on
17 the same event is permitted under Federal, State,
18 tribal, or local law.

19 “(d) Nothing in this section prohibits the use of a
20 communication facility for the transmission of bets or wa-
21 gers or information assisting in the placing of bets or wa-
22 gers, if—

23 “(1) at the time the transmission occurs, the
24 individual or entity placing the bets or wagers or in-
25 formation assisting in the placing of bets or wagers,

1 the gambling business, and any facility or support
2 service processing those bets or wagers is physically
3 located in the same State, and the State has a se-
4 cure and effective customer verification and age
5 verification system to assure compliance with age
6 and residence requirements, and for class II or class
7 III gaming under the Indian Gaming Regulatory
8 Act, are physically located on Indian lands within
9 that State;

10 “(2) the State or Tribe has explicitly authorized
11 such bets and wagers;

12 “(3) the State has explicitly authorized and li-
13 censed the operation of the gambling business, any
14 facility processing the bets and wagers, and the sup-
15 port service within its borders or the Tribe has ex-
16 plicitly authorized and licensed the operation of such
17 gambling business, any facility processing the bets
18 and wagers, and the support service on Indian lands
19 within its jurisdiction;

20 “(4) with respect to class II or class III gam-
21 ing, the game is permitted under and conducted in
22 accordance with the Indian Gaming Regulatory Act;

23 “(5) with respect to class III gaming under the
24 Indian Gaming Regulatory Act, the game is author-
25 ized under, and is conducted in accordance with, the

1 respective Tribal-State compact of the Tribe having
2 jurisdiction over the Indian lands where the indi-
3 vidual or entity placing the bets or wagers or infor-
4 mation assisting in the placing of bets or wagers, the
5 gambling business, and any facility or support serv-
6 ice processing those bets or wagers are physically lo-
7 cated; and

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

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

16 “(f) Nothing in this section shall be construed to pro-
17 hibit an activity allowed under Public Law 95–515 (15
18 U.S.C. 3001 et seq.).

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

22 “(h) When any common carrier, subject to the juris-
23 diction of the Federal Communications Commission, is no-
24 tified in writing by a Federal, State, tribal or local law
25 enforcement agency, acting within its jurisdiction, that

1 any communication facility furnished by it is being used
2 or will be used by its subscriber for the purpose of trans-
3 mitting or receiving gambling information, in interstate or
4 foreign commerce, within the special maritime and terri-
5 torial jurisdiction of the United States, or to or from any
6 place outside the jurisdiction of any nation with respect
7 to any transmission to or from the United States in viola-
8 tion of Federal, State, tribal or local law, it shall dis-
9 continue or refuse, the leasing, furnishing, or maintaining
10 of such facility, after reasonable notice to the subscriber,
11 but no damages, penalty or forfeiture, civil or criminal,
12 shall be found against any common carrier for any act
13 done in compliance with any notice received from a law
14 enforcement agency. Nothing in this section shall be
15 deemed to prejudice the right of any person affected there-
16 by to secure an appropriate determination, as otherwise
17 provided by law, in a Federal court or in a State, tribal,
18 or local tribunal or agency, that such facility should not
19 be discontinued or removed, or should be restored.

20 “(i)(1) A Federal, State, tribal, or local law enforce-
21 ment agency, acting within its jurisdiction may, in a civil
22 action, obtain injunctive or declaratory relief to restrain
23 or prevent any person from paying or assisting in the pay-
24 ment of bets or wagers, or communicating information as-
25 sisting in the placing of bets or wagers, in interstate or

1 foreign commerce, within the special maritime and terri-
2 torial jurisdiction of the United States, or to or from any
3 place outside the jurisdiction of any nation with respect
4 to any transmission to or from the United States in viola-
5 tion of Federal, State, tribal, or local law.

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

10 “(3) No relief requiring the blocking of websites may
11 be granted under paragraph (1) against an interactive
12 computer service (as defined in section 230(f) of the Com-
13 munications Act of 1934), unless the service is acting in
14 concert with a person who is violating the law and the
15 service receives actual notice of the relief.”

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