

# Union Calendar No. 220

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 556

**[Report No. 107-339, Part I]**

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

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## 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

DECEMBER 13, 2001

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 13, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than December 21, 2001

DECEMBER 20, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than March 29, 2002

MARCH 29, 2002

Additional sponsors: Mr. PETRI, Mr. GREEN of Wisconsin, Mr. OXLEY, Mr. LAFALCE, Mr. WOLF, Mr. BACHUS, and Mr. OWENS

MARCH 29, 2002

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# 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 Gam-*  
5 *bling Funding Prohibition Act”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds as follows:*

8 (1) *Internet gambling is primarily funded*  
9 *through personal use of bank instruments, including*  
10 *credit cards and wire transfers.*

11 (2) *The National Gambling Impact Study Com-*  
12 *mission in 1999 recommended the passage of legisla-*  
13 *tion to prohibit wire transfers to Internet gambling*  
14 *sites or the banks which represent them.*

15 (3) *Internet gambling is a major cause of debt*  
16 *collection problems for insured depository institutions*  
17 *and the consumer credit industry.*

18 (4) *Internet gambling conducted through offshore*  
19 *jurisdictions has been identified by United States law*

1 enforcement officials as a significant money laun-  
2 dering vulnerability.

3 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY BANK IN-**  
4 **STRUMENT FOR UNLAWFUL INTERNET GAM-**  
5 **BLING.**

6 (a) *IN GENERAL.*—No person engaged in the business  
7 of betting or wagering may knowingly accept, in connection  
8 with the participation of another person in unlawful Inter-  
9 net gambling—

10 (1) credit, or the proceeds of credit, extended to  
11 or on behalf of such other person (including credit ex-  
12 tended through the use of a credit card);

13 (2) an electronic fund transfer or funds trans-  
14 mitted by or through a money transmitting business,  
15 or the proceeds of an electronic fund transfer or  
16 money transmitting service, from or on behalf of the  
17 other person;

18 (3) any check, draft, or similar instrument  
19 which is drawn by or on behalf of the other person  
20 and is drawn on or payable at or through any finan-  
21 cial institution; or

22 (4) the proceeds of any other form of financial  
23 transaction as the Secretary may prescribe by regula-  
24 tion which involves a financial institution as a payor

1        *or financial intermediary on behalf of or for the ben-*  
2        *efit of the other person.*

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

5            (1) *BETS OR WAGERS.—The term “bets or*  
6            *wagers” —*

7                    (A) *means the staking or risking by any*  
8                    *person of something of value upon the outcome of*  
9                    *a contest of others, a sporting event, or a game*  
10                   *subject to chance, upon an agreement or under-*  
11                   *standing that the person or another person will*  
12                   *receive something of greater value than the*  
13                   *amount staked or risked in the event of a certain*  
14                   *outcome;*

15                   (B) *includes the purchase of a chance or op-*  
16                   *portunity to win a lottery or other prize (which*  
17                   *opportunity to win is predominantly subject to*  
18                   *chance);*

19                   (C) *includes any scheme of a type described*  
20                   *in section 3702 of title 28, United States Code;*

21                   (D) *includes any instructions or informa-*  
22                   *tion pertaining to the establishment or movement*  
23                   *of funds in an account by the bettor or customer*  
24                   *with the business of betting or wagering; and*

25                   (E) *does not include—*

1           (i) any activity governed by the securi-  
2 ties laws (as that term is defined in section  
3 3(a)(47) of the Securities Exchange Act of  
4 1934) for the purchase or sale of securities  
5 (as that term is defined in section 3(a)(10)  
6 of such Act);

7           (ii) any transaction conducted on or  
8 subject to the rules of a registered entity or  
9 exempt board of trade pursuant to the Com-  
10modity Exchange Act;

11           (iii) any over-the-counter derivative  
12 instrument;

13           (iv) any other transaction that is ex-  
14 empt from State gaming or bucket shop  
15 laws under section 12(e) of the Commodity  
16 Exchange Act or section 28(a) of the Securi-  
17 ties Exchange Act of 1934;

18           (v) any contract of indemnity or guar-  
19 antee;

20           (vi) any contract for insurance;

21           (vii) any deposit or other transaction  
22 with a depository institution (as defined in  
23 section 3(c) of the Federal Deposit Insur-  
24 ance Act);

1                   (viii) any participation in a simula-  
2                   tion sports game or an educational game or  
3                   contest that—

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

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

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

21                  (ix) any transaction authorized under  
22                  State law with a business licensed or au-  
23                  thorized by a State.

24                  (2) *BUSINESS OF BETTING OR WAGERING.*—The  
25                  term “business of betting or wagering” does not in-

1        *clude, other than for purposes of subsection (e), any*  
2        *creditor, credit card issuer, insured depository insti-*  
3        *tution, financial institution, operator of a terminal*  
4        *at which an electronic fund transfer may be initiated,*  
5        *money transmitting business, or international, na-*  
6        *tional, regional, or local network utilized to effect a*  
7        *credit transaction, electronic fund transfer, stored*  
8        *value product transaction, or money transmitting*  
9        *service, or any participant in such network, or any*  
10       *interactive computer service or telecommunications*  
11       *service.*

12            (3) *INTERNET.*—*The term “Internet” means the*  
13        *international computer network of interoperable pack-*  
14        *et switched data networks.*

15            (4) *UNLAWFUL INTERNET GAMBLING.*—*The term*  
16        *“unlawful Internet gambling” means to place, receive,*  
17        *or otherwise transmit a bet or wager by any means*  
18        *which involves the use, at least in part, of the Inter-*  
19        *net where such bet or wager is unlawful under any*  
20        *applicable Federal or State law in the State in which*  
21        *the bet or wager is initiated, received, or otherwise*  
22        *made.*

23            (5) *OTHER TERMS.*—

24                    (A) *CREDIT; CREDITOR; AND CREDIT*  
25        *CARD.*—*The terms “credit”, “creditor”, and*

1           “credit card” have the meanings given such  
2 terms in section 103 of the Truth in Lending  
3 Act.

4           (B) *ELECTRONIC FUND TRANSFER.*—The  
5 term “electronic fund transfer”—

6                 (i) has the meaning given such term in  
7 section 903 of the *Electronic Fund Transfer*  
8 Act; and

9                 (ii) includes any fund transfer covered  
10 by Article 4A of the *Uniform Commercial*  
11 Code, as in effect in any State.

12           (C) *FINANCIAL INSTITUTION.*—The term “fi-  
13 nancial institution” has the meaning given such  
14 term in section 903 of the *Electronic Fund*  
15 *Transfer Act*.

16           (D) *MONEY TRANSMITTING BUSINESS AND*  
17 *MONEY TRANSMITTING SERVICE.*—The terms  
18 “money transmitting business” and “money  
19 transmitting service” have the meanings given  
20 such terms in section 5330(d) of title 31, *United*  
21 *States Code*.

22           (E) *SECRETARY.*—The term “Secretary”  
23 means the Secretary of the Treasury.

24           (c) *CIVIL REMEDIES.*—

1           (1) *JURISDICTION.*—*The district courts of the*  
2           *United States shall have original and exclusive juris-*  
3           *isdiction to prevent and restrain violations of this sec-*  
4           *tion by issuing appropriate orders in accordance with*  
5           *this section, regardless of whether a prosecution has*  
6           *been initiated under this section.*

7           (2) *PROCEEDINGS.*—

8           (A) *INSTITUTION BY FEDERAL GOVERN-*  
9           *MENT.*—

10           (i) *IN GENERAL.*—*The United States,*  
11           *acting through the Attorney General, may*  
12           *institute proceedings under this subsection*  
13           *to prevent or restrain a violation of this sec-*  
14           *tion.*

15           (ii) *RELIEF.*—*Upon application of the*  
16           *United States under this subparagraph, the*  
17           *district court may enter a preliminary in-*  
18           *junction or an injunction against any per-*  
19           *son to prevent or restrain a violation of this*  
20           *section, in accordance with Rule 65 of the*  
21           *Federal Rules of Civil Procedure.*

22           (B) *INSTITUTION BY STATE ATTORNEY GEN-*  
23           *ERAL.*—

24           (i) *IN GENERAL.*—*The attorney general*  
25           *of a State (or other appropriate State offi-*

1            *cial) in which a violation of this section al-*  
2            *legedly has occurred or will occur may in-*  
3            *stitute proceedings under this subsection to*  
4            *prevent or restrain the violation.*

5            *(ii) RELIEF.—Upon application of the*  
6            *attorney general (or other appropriate State*  
7            *official) of an affected State under this sub-*  
8            *paragraph, the district court may enter a*  
9            *preliminary injunction or an injunction*  
10           *against any person to prevent or restrain a*  
11           *violation of this section, in accordance with*  
12           *Rule 65 of the Federal Rules of Civil Proce-*  
13           *dure.*

14           *(C) INDIAN LANDS.—*

15           *(i) IN GENERAL.—Notwithstanding*  
16           *subparagraphs (A) and (B), for a violation*  
17           *that is alleged to have occurred, or may*  
18           *occur, on Indian lands (as that term is de-*  
19           *finied in section 4 of the Indian Gaming*  
20           *Regulatory Act)—*

21                    *(I) the United States shall have*  
22                    *the enforcement authority provided*  
23                    *under subparagraph (A); and*

24                    *(II) the enforcement authorities*  
25                    *specified in an applicable Tribal-State*

1                   *compact negotiated under section 11 of*  
2                   *the Indian Gaming Regulatory Act*  
3                   *shall be carried out in accordance with*  
4                   *that compact.*

5                   *(ii) RULE OF CONSTRUCTION.—No pro-*  
6                   *vision of this section shall be construed as*  
7                   *altering, superseding, or otherwise affecting*  
8                   *the application of the Indian Gaming Regu-*  
9                   *latory Act.*

10                  *(D) BANKING REGULATORS.—Before initi-*  
11                  *ating any proceeding under this paragraph with*  
12                  *respect to a violation or potential violation of*  
13                  *subsection (e) by an insured depository institu-*  
14                  *tion (as defined in section 3 of the Federal De-*  
15                  *posit Insurance Act), the Attorney General of the*  
16                  *United States or an attorney general of a State*  
17                  *(or other appropriate State official) shall—*

18                         *(i) notify the appropriate Federal*  
19                         *banking agency (as defined in such section)*  
20                         *of such violation or potential violation; and*

21                         *(ii) allow such agency a reasonable*  
22                         *time to issue an order to such insured de-*  
23                         *pository institution under section 8(x) of*  
24                         *the Federal Deposit Insurance Act.*

1           (3) *EXPEDITED PROCEEDINGS.*—*In addition to*  
2 *any proceeding under paragraph (2), a district court*  
3 *may, in exigent circumstances, enter a temporary re-*  
4 *straining order against a person alleged to be in vio-*  
5 *lation of this section upon application of the United*  
6 *States under paragraph (2)(A), or the attorney gen-*  
7 *eral (or other appropriate State official) of an af-*  
8 *fected State under paragraph (2)(B), in accordance*  
9 *with Rule 65(b) of the Federal Rules of Civil Proce-*  
10 *dure.*

11           (4) *LIMITATION.*—*No provision of this section*  
12 *shall be construed as authorizing an injunction*  
13 *against an interactive computer service (as defined in*  
14 *section 230(f) of the Communications Act of 1934)*  
15 *unless such interactive computer service is acting in*  
16 *concert or participation with a person who violates*  
17 *this section and such service receives actual notice of*  
18 *the order.*

19           (d) *CRIMINAL PENALTY.*—

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

23           (2) *PERMANENT INJUNCTION.*—*Upon conviction*  
24 *of a person under this subsection, the court may enter*  
25 *a permanent injunction enjoining such person from*

1        *placing, receiving, or otherwise making illegal bets or*  
2        *wagers or sending, receiving, or inviting information*  
3        *assisting in the placing of bets or wagers.*

4        *(e) CIRCUMVENTIONS PROHIBITED.—Notwithstanding*  
5        *subsection (b)(2), a creditor, credit card issuer, financial*  
6        *institution, operator of a terminal at which an electronic*  
7        *fund transfer may be initiated, money transmitting busi-*  
8        *ness, or international, national, regional, or local network*  
9        *utilized to effect a credit transaction, electronic fund trans-*  
10       *fer, or money transmitting service, or any participant in*  
11       *such network, or any interactive computer service or tele-*  
12       *communications service, may be liable under this section*  
13       *if such creditor, issuer, institution, operator, business, net-*  
14       *work, or participant has actual knowledge and control of*  
15       *bets and wagers and—*

16                *(1) operates, manages, supervises, or directs an*  
17        *Internet website at which unlawful bets or wagers*  
18        *may be placed, received, or otherwise made or at*  
19        *which unlawful bets or wagers are offered to be*  
20        *placed, received, or otherwise made; or*

21                *(2) owns or controls, or is owned or controlled*  
22        *by, any person who operates, manages, supervises, or*  
23        *directs an Internet website at which unlawful bets or*  
24        *wagers may be placed, received, or otherwise made or*

1       *at which unlawful bets or wagers are offered to be*  
2       *placed, received, or otherwise made.*

3       (f) *ENFORCEMENT ACTIONS.*—*Section 8 of the Federal*  
4       *Deposit Insurance Act (12 U.S.C. 1818) is amended by add-*  
5       *ing at the end the following new subsection:*

6       “(x) *DEPOSITORY INSTITUTION INVOLVEMENT IN*  
7       *INTERNET GAMBLING.*—*If any appropriate Federal bank-*  
8       *ing agency determines that any insured depository institu-*  
9       *tion is engaged in any of the following activities, the agency*  
10       *may issue an order to such institution prohibiting such in-*  
11       *stitution from continuing to engage in any of the following*  
12       *activities:*

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

20               “(2) *Paying, transferring, or collecting on any*  
21               *check, draft, or other instrument drawn on any depos-*  
22               *itory institution with the actual knowledge that any*  
23               *person is violating section 3(a) of the Unlawful Inter-*  
24               *net Gambling Funding Prohibition Act in connection*  
25               *with such check, draft, or other instrument.”.*

1 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JU-**  
2 **RISDICTIONS.**

3 (a) *IN GENERAL.*—*In deliberations between the United*  
4 *States Government and any other country on money laun-*  
5 *dering, corruption, and crime issues, the United States Gov-*  
6 *ernment should—*

7 (1) *encourage cooperation by foreign govern-*  
8 *ments and relevant international fora in identifying*  
9 *whether Internet gambling operations are being used*  
10 *for money laundering, corruption, or other crimes;*

11 (2) *advance policies that promote the cooperation*  
12 *of foreign governments, through information sharing*  
13 *or other measures, in the enforcement of this Act; and*

14 (3) *encourage the Financial Action Task Force*  
15 *on Money Laundering, in its annual report on money*  
16 *laundering typologies, to study the extent to which*  
17 *Internet gambling operations are being used for*  
18 *money laundering.*

19 (b) *REPORT REQUIRED.*—*The Secretary of the Treas-*  
20 *ury shall submit an annual report to the Congress on the*  
21 *deliberations between the United States and other countries*  
22 *on issues relating to Internet gambling.*

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**[Report No. 107-339, Part I]**

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