

108TH CONGRESS
1ST SESSION

H. R. 2143

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2003

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Unlawful Internet
3 Gambling Funding Prohibition Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

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

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

13 (3) Internet gambling is a major cause of debt
14 collection problems for insured depository institu-
15 tions and the consumer credit industry.

16 (4) Internet gambling conducted through off-
17 shore jurisdictions has been identified by United
18 States law enforcement officials as a significant
19 money laundering vulnerability.

20 **SEC. 3. POLICIES AND PROCEDURES REQUIRED TO PRE-**
21 **VENT PAYMENTS FOR UNLAWFUL INTERNET**
22 **GAMBLING.**

23 (a) REGULATIONS.—Before the end of the 6-month
24 period beginning on the date of the enactment of this Act,
25 the Federal functional regulators shall prescribe regula-
26 tions requiring any designated payment system to estab-

1 lish policies and procedures reasonably designed to iden-
2 tify and prevent restricted transactions in any of the fol-
3 lowing ways:

4 (1) The establishment of policies and proce-
5 dures that—

6 (A) allow the payment system and any per-
7 son involved in the payment system to identify
8 restricted transactions by means of codes in au-
9 thorization messages or by other means; and

10 (B) block restricted transactions identified
11 as a result of the policies and procedures devel-
12 oped pursuant to subparagraph (A).

13 (2) The establishment of policies and proce-
14 dures that prevent the acceptance of the products or
15 services of the payment system in connection with a
16 restricted transaction.

17 (b) REQUIREMENTS FOR POLICIES AND PROCE-
18 DURES.—In prescribing regulations pursuant to sub-
19 section (a), the Federal functional regulators shall—

20 (1) identify types of policies and procedures, in-
21 cluding nonexclusive examples, which would be
22 deemed to be “reasonably designed to identify” and
23 “reasonably designed to block” or to “prevent the
24 acceptance of the products or services” with respect
25 to each type of transaction, such as, should credit

1 card transactions be so designated, identifying trans-
2 actions by a code or codes in the authorization mes-
3 sage and denying authorization of a credit card
4 transaction in response to an authorization message;

5 (2) to the extent practical, permit any partici-
6 pant in a payment system to choose among alter-
7 native means of identifying and blocking, or other-
8 wise preventing the acceptance of the products or
9 services of the payment system or participant in con-
10 nection with, restricted transactions; and

11 (3) consider exempting restricted transactions
12 from any requirement under subsection (a) if the
13 Federal functional regulators find that it is not rea-
14 sonably practical to identify and block, or otherwise
15 prevent, such transactions.

16 (c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES
17 AND PROCEDURES.—A creditor, credit card issuer, finan-
18 cial institution, operator of a terminal at which an elec-
19 tronic fund transfer may be initiated, money transmitting
20 business, or international, national, regional, or local net-
21 work utilized to effect a credit transaction, electronic fund
22 transfer, or money transmitting service, or a participant
23 in such network, meets the requirement of subsection (a)
24 if—

1 (1) such person relies on and complies with the
2 policies and procedures of a designated payment sys-
3 tem of which it is a member or participant to—

4 (A) identify and block restricted trans-
5 actions; or

6 (B) otherwise prevent the acceptance of
7 the products or services of the payment system,
8 member, or participant in connection with re-
9 stricted transactions; and

10 (2) such policies and procedures of the des-
11 ignated payment system comply with the require-
12 ments of regulations prescribed under subsection
13 (a).

14 (d) ENFORCEMENT.—

15 (1) IN GENERAL.—This section shall be en-
16 forced by the Federal functional regulators and the
17 Federal Trade Commission under applicable law in
18 the manner provided in section 505(a) of the
19 Gramm-Leach-Bliley Act.

20 (2) FACTORS TO BE CONSIDERED.—In consid-
21 ering any enforcement action under this subsection
22 against any payment system, or any participant in
23 a payment system that is a creditor, credit card
24 issuer, financial institution, operator of a terminal at
25 which an electronic fund transfer may be initiated,

1 money transmitting business, or international, na-
2 tional, regional, or local network utilized to effect a
3 credit transaction, electronic fund transfer, or money
4 transmitting service, or a participant in such net-
5 work, the Federal functional regulators and the Fed-
6 eral Trade Commission shall consider the following
7 factors:

8 (A) The extent to which such person is ex-
9 tending credit or transmitting funds knowing
10 the transaction is in connection with unlawful
11 Internet gambling.

12 (B) The history of such person in extend-
13 ing credit or transmitting funds knowing the
14 transaction is in connection with unlawful
15 Internet gambling.

16 (C) The extent to which such person has
17 established and is maintaining policies and pro-
18 cedures in compliance with regulations pre-
19 scribed under this subsection.

20 (D) The feasibility that any specific rem-
21 edy prescribed can be implemented by such per-
22 son without substantial deviation from normal
23 business practice.

24 (E) The costs and burdens the specific
25 remedy will have on such person.

1 **SEC. 4. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) **RESTRICTED TRANSACTION.**—The term “re-
5 stricted transaction” means any transaction or
6 transmittal to any person engaged in the business of
7 betting or wagering, in connection with the partici-
8 pation of another person in unlawful Internet gam-
9 bling, of—

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

14 (B) an electronic fund transfer or funds
15 transmitted by or through a money transmit-
16 ting business, or the proceeds of an electronic
17 fund transfer or money transmitting service,
18 from or on behalf of the other person;

19 (C) any check, draft, or similar instrument
20 which is drawn by or on behalf of the other per-
21 son and is drawn on or payable at or through
22 any financial institution; or

23 (D) the proceeds of any other form of fi-
24 nancial transaction as the Federal functional
25 regulators may prescribe by regulation which
26 involves a financial institution as a payor or fi-

1 nancial intermediary on behalf of or for the
2 benefit of the other person.

3 (2) BETS OR WAGERS.—The term “bets or wa-
4 gers”—

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

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

17 (C) includes any scheme of a type de-
18 scribed in section 3702 of title 28, United
19 States Code;

20 (D) includes any instructions or informa-
21 tion pertaining to the establishment or move-
22 ment of funds in an account by the bettor or
23 customer with the business of betting or wager-
24 ing; and

25 (E) does not include—

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

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

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

13 (iv) any other transaction that—

14 (I) is excluded or exempt from
15 regulation under the Commodity Ex-
16 change Act; or

17 (II) is exempt from State gaming
18 or bucket shop laws under section
19 12(e) of the Commodity Exchange Act
20 or section 28(a) of the Securities Ex-
21 change Act of 1934;

22 (v) any contract of indemnity or guar-
23 antee;

24 (vi) any contract for insurance;

1 (vii) any deposit or other transaction
2 with a depository institution (as defined in
3 section 3(e) of the Federal Deposit Insur-
4 ance Act);

5 (viii) any participation in a simulation
6 sports game or an educational game or
7 contest that—

8 (I) is not dependent solely on the
9 outcome of any single sporting event
10 or nonparticipant's singular individual
11 performance in any single sporting
12 event;

13 (II) has an outcome that reflects
14 the relative knowledge and skill of the
15 participants with such outcome deter-
16 mined predominantly by accumulated
17 statistical results of sporting events;
18 and

19 (III) offers a prize or award to a
20 participant that is established in ad-
21 vance of the game or contest and is
22 not determined by the number of par-
23 ticipants or the amount of any fees
24 paid by those participants; and

1 (ix) any lawful transaction with a
2 business licensed or authorized by a State.

3 (3) DESIGNATED PAYMENT SYSTEM DE-
4 FINED.—The term “designated payment system”
5 means any system utilized by any creditor, credit
6 card issuer, financial institution, operator of a ter-
7 minal at which an electronic fund transfer may be
8 initiated, money transmitting business, or inter-
9 national, national, regional, or local network utilized
10 to effect a credit transaction, electronic fund trans-
11 fer, or money transmitting service, or any partici-
12 pant in such network, that the Federal functional
13 regulators determine, by regulation or order, could
14 be utilized in connection with, or to facilitate, any
15 restricted transaction.

16 (4) FEDERAL FUNCTIONAL REGULATOR.—The
17 term “Federal functional regulator” has the same
18 meaning as in section 509(2) of the Gramm-Leach-
19 Bliley Act.

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

23 (6) UNLAWFUL INTERNET GAMBLING.—The
24 term “unlawful Internet gambling” means to place,
25 receive, or otherwise transmit 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 (7) 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 4A of the Uniform Commercial
19 Code, as in effect in any State.

20 (C) FINANCIAL INSTITUTION.—The term
21 “financial institution”—

22 (i) has the meaning given such term
23 in section 903 of the Electronic Fund
24 Transfer Act; and

1 (ii) includes any financial institution,
2 as defined in section 509(3) of the
3 Gramm-Leach-Bliley Act.

4 (D) MONEY TRANSMITTING BUSINESS AND
5 MONEY TRANSMITTING SERVICE.—The terms
6 “money transmitting business” and “money
7 transmitting service” have the meanings given
8 such terms in section 5330(d) of title 31,
9 United States Code.

10 **SEC. 5. COMMON SENSE RULE OF CONSTRUCTION.**

11 No provision of this Act shall be construed as alter-
12 ing, limiting, extending, changing the status of, or other-
13 wise affecting any law relating to, affecting, or regulating
14 gambling within the United States.

Passed the House of Representatives June 10, 2003.

Attest: JEFF TRANDAHL,
Clerk.