

Union Calendar No. 68

108TH CONGRESS
1ST SESSION

H. R. 2143

[Report No. 108-133]

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

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2003

Mr. BACHUS (for himself, Mr. OXLEY, and Ms. HOOLEY of Oregon) introduced the following bill; which was referred to the Committee on Financial Services

JUNE 2, 2003

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on May 19, 2003]

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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Unlawful Internet Gam-*
3 *bling 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 institutions*
15 *and the consumer credit industry.*

16 (4) *Internet gambling conducted through offshore*
17 *jurisdictions has been identified by United States law*
18 *enforcement officials as a significant money laun-*
19 *dering 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 pe-*
24 *riod beginning on the date of the enactment of this Act,*
25 *the Federal functional regulators shall prescribe regulations*
26 *requiring any designated payment system to establish poli-*

1 *cies and procedures reasonably designed to identify and*
2 *prevent restricted transactions in any of the following ways:*

3 *(1) The establishment of policies and procedures*
4 *that—*

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

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

12 *(2) The establishment of policies and procedures*
13 *that prevent the acceptance of the products or services*
14 *of the payment system in connection with a restricted*
15 *transaction.*

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

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

1 *by a code or codes in the authorization message and*
2 *denying authorization of a credit card transaction in*
3 *response to an authorization message;*

4 *(2) to the extent practical, permit any partici-*
5 *part in a payment system to choose among alter-*
6 *native means of identifying and blocking, or otherwise*
7 *preventing the acceptance of the products or services*
8 *of the payment system or participant in connection*
9 *with, restricted transactions; and*

10 *(3) consider exempting restricted transactions*
11 *from any requirement under subsection (a) if the Fed-*
12 *eral functional regulators find that it is not reason-*
13 *ably practical to identify and block, or otherwise pre-*
14 *vent, such transactions.*

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

13 (d) *ENFORCEMENT.—*

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

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

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

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

11 *(B) The history of such person in extending*
12 *credit or transmitting funds knowing the trans-*
13 *action is in connection with unlawful Internet*
14 *gambling.*

15 *(C) The extent to which such person has es-*
16 *tablished and is maintaining policies and proce-*
17 *dures in compliance with regulations prescribed*
18 *under this subsection.*

19 *(D) The feasibility that any specific remedy*
20 *prescribed can be implemented by such person*
21 *without substantial deviation from normal busi-*
22 *ness practice.*

23 *(E) The costs and burdens the specific rem-*
24 *edy will have on such person.*

1 **SEC. 4. DEFINITIONS.**

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

4 (1) *RESTRICTED TRANSACTION.*—*The term “re-*
5 *stricted transaction” means any transaction or trans-*
6 *mittal to any person engaged in the business of bet-*
7 *ting or wagering, in connection with the participa-*
8 *tion of another person in unlawful Internet gambling,*
9 *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 cred-*
13 *it card);*

14 (B) *an electronic fund transfer or funds*
15 *transmitted by or through a money transmitting*
16 *business, or the proceeds of an electronic fund*
17 *transfer or money transmitting service, from or*
18 *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 finan-*
24 *cial transaction as the Federal functional regu-*
25 *lators may prescribe by regulation which in-*
26 *volves a financial institution as a payor or fi-*

1 *nancial intermediary on behalf of or for the ben-*
2 *efit 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 of*
7 *a contest of others, a sporting event, or a game*
8 *subject to chance, upon an agreement or under-*
9 *standing that the person or another person will*
10 *receive something of greater value than the*
11 *amount staked or risked in the event of a certain*
12 *outcome;*

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

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

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

23 (E) *does not include*—

24 (i) *any activity governed by the securi-*
25 *ties laws (as that term is defined in section*

1 *3(a)(47) of the Securities Exchange Act of*
2 *1934) for the purchase or sale of securities*
3 *(as that term is defined in section 3(a)(10)*
4 *of such Act);*

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

9 *(iii) any over-the-counter derivative*
10 *instrument;*

11 *(iv) any other transaction that—*

12 *(I) is excluded or exempt from*
13 *regulation under the Commodity Ex-*
14 *change Act; or*

15 *(II) is exempt from State gaming*
16 *or bucket shop laws under section 12(e)*
17 *of the Commodity Exchange Act or sec-*
18 *tion 28(a) of the Securities Exchange*
19 *Act of 1934;*

20 *(v) any contract of indemnity or guar-*
21 *antee;*

22 *(vi) any contract for insurance;*

23 *(vii) any deposit or other transaction*
24 *with a depository institution (as defined in*

1 *section 3(c) of the Federal Deposit Insur-*
2 *ance Act);*

3 *(viii) any participation in a simula-*
4 *tion 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 or*
8 *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 not*
20 *determined by the number of partici-*
21 *pants or the amount of any fees paid*
22 *by those participants; and*

23 *(ix) any lawful transaction with a*
24 *business licensed or authorized by a State.*

1 (3) *DESIGNATED PAYMENT SYSTEM DEFINED.*—

2 *The term “designated payment system” means any*
3 *system utilized by any creditor, credit card issuer, fi-*
4 *nancial institution, operator of a terminal at which*
5 *an electronic fund transfer may be initiated, money*
6 *transmitting business, or international, national, re-*
7 *gional, or local network utilized to effect a credit*
8 *transaction, electronic fund transfer, or money trans-*
9 *mitting service, or any participant in such network,*
10 *that the Federal functional regulators determine, by*
11 *regulation or order, could be utilized in connection*
12 *with, or to facilitate, any restricted transaction.*

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

17 (5) *INTERNET.*—*The term “Internet” means the*
18 *international computer network of interoperable pack-*
19 *et switched data networks.*

20 (6) *UNLAWFUL INTERNET GAMBLING.*—*The term*
21 *“unlawful Internet gambling” means to place, receive,*
22 *or otherwise transmit a bet or wager by any means*
23 *which involves the use, at least in part, of the Inter-*
24 *net where such bet or wager is unlawful under any*
25 *applicable Federal or State law in the State in which*

1 *the bet or wager is initiated, received, or otherwise*
2 *made.*

3 (7) *OTHER TERMS.—*

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

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

11 (i) *has the meaning given such term in*
12 *section 903 of the Electronic Fund Transfer*
13 *Act; and*

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

17 (C) *FINANCIAL INSTITUTION.—The term “fi-*
18 *nancial institution”—*

19 (i) *has the meaning given such term in*
20 *section 903 of the Electronic Fund Transfer*
21 *Act; and*

22 (ii) *includes any financial institution,*
23 *as defined in section 509(3) of the Gramm-*
24 *Leach-Bliley Act.*

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

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