H. R. 3125

To prohibit Internet gambling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1999

Mr. GOODLATTE (for himself, Mr. LoBiondo, Mr. Wolf, Mr. Boucher, Mr. Gibbons, and Mr. Goode) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit 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 "Internet Gambling
- 5 Prohibition Act of 1999".
- 6 SEC. 2. PROHIBITION ON INTERNET GAMBLING.
- 7 (a) In General.—Chapter 50 of title 18, United
- 8 States Code, is amended by adding at the end the fol-
- 9 lowing:

1 "§ 1085. Internet gambling

| 2 | "(a) Definitions.—In this section the following |
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| 3 | definitions apply: |
| 4 | "(1) Bets or wagers.—The term 'bets or |
| 5 | wagers'— |
| 6 | "(A) means the staking or risking by any |
| 7 | person of something of value other than in a de |
| 8 | minimis amount upon the outcome of a contest |
| 9 | of others, a sporting event, or a game predomi- |
| 10 | nantly subject to chance, upon an agreement or |
| 11 | understanding that the person or another per- |
| 12 | son will receive something of greater value than |
| 13 | the amount staked or risked in the event of a |
| 14 | certain outcome; |
| 15 | "(B) includes the purchase of a chance or |
| 16 | opportunity to win a lottery or other prize |
| 17 | (which opportunity to win is predominantly sub- |
| 18 | ject to chance); |
| 19 | "(C) includes any scheme of a type de- |
| 20 | scribed in section 3702 of title 28; and |
| 21 | "(D) does not include— |
| 22 | "(i) a bona fide business transaction |
| 23 | governed by the securities laws (as that |
| 24 | term is defined in section 3(a)(47) of the |
| 25 | Securities Exchange Act of 1934 (15 |
| 26 | U.S.C. $78e(a)(47)$) for the purchase or |

| 1 | sale at a future date of securities (as that |
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| 2 | term is defined in section 3(a)(10) of the |
| 3 | Securities Exchange Act of 1934 (15 |
| 4 | U.S.C. 78c(a)(10))); |
| 5 | "(ii) a transaction on or subject to the |
| 6 | rules of a contract market designated pur- |
| 7 | suant to section 5 of the Commodity Ex- |
| 8 | change Act (7 U.S.C. 7); |
| 9 | "(iii) a contract of indemnity or guar- |
| 10 | antee; |
| 11 | "(iv) a contract for life, health, or ac- |
| 12 | cident insurance; or |
| 13 | "(v) participation in a simulation |
| 14 | sports game or an educational game or |
| 15 | contest that— |
| 16 | "(I) is not dependent solely on |
| 17 | the outcome of any single sporting |
| 18 | event or nonparticipant's singular in- |
| 19 | dividual performance in any single |
| 20 | sporting event; |
| 21 | "(II) has an outcome that re- |
| 22 | flects the relative knowledge and skill |
| 23 | of the participants; and |
| 24 | "(III) offers a prize or award to |
| 25 | a participant that is established in ad- |

| 1 | vance of the game or contest and is |
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| 2 | not determined by the number of par- |
| 3 | ticipants or the amount of any fees |
| 4 | paid by those participants. |
| 5 | "(2) Closed-loop subscriber-based serv- |
| 6 | ICE.—The term 'closed-loop subscriber-based service' |
| 7 | means any information service or system that uses— |
| 8 | "(A) a device or combination of devices— |
| 9 | "(i) expressly authorized and operated |
| 10 | in accordance with the laws of a State, ex- |
| 11 | clusively for placing, receiving, or otherwise |
| 12 | making a bet or wager described in sub- |
| 13 | section $(f)(1)(B)$; and |
| 14 | "(ii) by which a person located within |
| 15 | any State must subscribe and be registered |
| 16 | with the provider of the wagering service |
| 17 | by name, address, and appropriate billing |
| 18 | information to be authorized to place, re- |
| 19 | ceive, or otherwise make a bet or wager, |
| 20 | and must be physically located within that |
| 21 | State in order to be authorized to do so; |
| 22 | "(B) an effective customer verification and |
| 23 | age verification system, expressly authorized |
| 24 | and operated in accordance with the laws of the |
| 25 | State in which it is located, to ensure that all |

| 1 | applicable Federal and State legal and regu- |
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| 2 | latory requirements for lawful gambling are |
| 3 | met; and |
| 4 | "(C) appropriate data security standards |
| 5 | to prevent unauthorized access by any person |
| 6 | who has not subscribed or who is a minor. |
| 7 | "(3) Foreign jurisdiction.—The term 'for- |
| 8 | eign jurisdiction' means a jurisdiction of a foreign |
| 9 | country or political subdivision thereof. |
| 10 | "(4) Gambling business.—The term 'gam- |
| 11 | bling business' means— |
| 12 | "(A) a business that is conducted at a |
| 13 | gambling establishment, or that— |
| 14 | "(i) involves— |
| 15 | "(I) the placing, receiving, or |
| 16 | otherwise making of bets or wagers; |
| 17 | or |
| 18 | "(II) the offering to engage in |
| 19 | the placing, receiving, or otherwise |
| 20 | making of bets or wagers; |
| 21 | "(ii) involves 1 or more persons who |
| 22 | conduct, finance, manage, supervise, direct, |
| 23 | or own all or part of such business; and |
| 24 | "(iii) has been or remains in substan- |
| 25 | tially continuous operation for a period in |

| 1 | excess of 10 days or has a gross revenue |
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| 2 | of \$2,000 or more from such business dur- |
| 3 | ing any 24-hour period; and |
| 4 | "(B) any soliciting agent of a business de- |
| 5 | scribed in subparagraph (A). |
| 6 | "(5) Information assisting in the placing |
| 7 | OF A BET OR WAGER.—The term 'information as- |
| 8 | sisting in the placing of a bet or wager'— |
| 9 | "(A) means information that is intended |
| 10 | by the sender or recipient to be used by a per- |
| 11 | son engaged in the business of betting or wa- |
| 12 | gering to place, receive, or otherwise make a bet |
| 13 | or wager; and |
| 14 | "(B) does not include— |
| 15 | "(i) information concerning pari- |
| 16 | mutuel pools that is exchanged exclusively |
| 17 | between or among 1 or more racetracks or |
| 18 | other parimutuel wagering facilities li- |
| 19 | censed by the State or approved by the for- |
| 20 | eign jurisdiction in which the facility is lo- |
| 21 | cated, and 1 or more parimutuel wagering |
| 22 | facilities licensed by the State or approved |
| 23 | by the foreign jurisdiction in which the fa- |
| 24 | cility is located, if that information is used |

| 1 | only to conduct common pool parimutuel |
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| 2 | pooling under applicable law; |
| 3 | "(ii) information exchanged exclu- |
| 4 | sively between or among 1 or more race- |
| 5 | tracks or other parimutuel wagering facili- |
| 6 | ties licensed by the State or approved by |
| 7 | the foreign jurisdiction in which the facility |
| 8 | is located, and a support service located in |
| 9 | another State or foreign jurisdiction, if the |
| 10 | information is used only for processing |
| 11 | bets or wagers made with that facility |
| 12 | under applicable law; |
| 13 | "(iii) information exchanged exclu- |
| 14 | sively between or among 1 or more wager- |
| 15 | ing facilities that are licensed and regu- |
| 16 | lated by the State in which each facility is |
| 17 | located, and any support service, wherever |
| 18 | located, if the information is used only for |
| 19 | the pooling or processing of bets or wagers |
| 20 | made by or with the facility or facilities |
| 21 | under each State's applicable law; |
| 22 | "(iv) any news reporting or analysis |
| 23 | of wagering activity, including odds, racing |
| 24 | or event results, race and event schedules, |
| 25 | or categories of wagering; or |

- 1 "(v) any posting or reporting of any 2 educational information on how to make a 3 bet or wager or the nature of betting or 4 wagering.
- term 'interactive computer service' means any information service, system, or access software provider that operates in, or uses a channel or instrumentality of, interstate or foreign commerce to provide or enable access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.
 - "(7) Interactive computer service pro-VIDER.—The term 'interactive computer service provider' means any person that provides an interactive computer service, to the extent that such person offers or provides such service.
 - "(8) Internet.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.
 - "(9) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation (or any affiliate of a corporation), State or political subdivision thereof, department, agency,

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| 1 | or instrumentality of a State or political subdivision |
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| 2 | thereof, or any other government, organization, or |
| 3 | entity (including any governmental entity (as defined |
| 4 | in section $3701(2)$ of title 28)). |
| 5 | "(10) Private Network.—The term 'private |
| 6 | network' means a communications channel or chan- |
| 7 | nels, including voice or computer data transmission |
| 8 | facilities, that use either— |
| 9 | "(A) private dedicated lines; or |
| 10 | "(B) the public communications infrastruc- |
| 11 | ture, if the infrastructure is secured by means |
| 12 | of the appropriate private communications tech- |
| 13 | nology to prevent unauthorized access. |
| 14 | "(11) State.—The term 'State' means a State |
| 15 | of the United States, the District of Columbia, the |
| 16 | Commonwealth of Puerto Rico, or a commonwealth, |
| 17 | territory, or possession of the United States. |
| 18 | "(12) Subscriber.—The term 'subscriber'— |
| 19 | "(A) means any person with a business re- |
| 20 | lationship with the interactive computer service |
| 21 | provider through which such person receives ac- |
| 22 | cess to the system, service, or network of that |
| 23 | provider, even if no formal subscription agree- |
| 24 | ment exists: and |

| 1 | "(B) includes registrants, students who are |
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| 2 | granted access to a university system or net- |
| 3 | work, and employees or contractors who are |
| 4 | granted access to the system or network of |
| 5 | their employer. |
| 6 | "(b) Internet Gambling.— |
| 7 | "(1) Prohibition.—Subject to subsection (f), |
| 8 | it shall be unlawful for a person engaged in a gam- |
| 9 | bling business knowingly to use the Internet or any |
| 10 | other interactive computer service— |
| l 1 | "(A) to place, receive, or otherwise make a |
| 12 | bet or wager; or |
| 13 | "(B) to send, receive, or invite information |
| 14 | assisting in the placing of a bet or wager. |
| 15 | "(2) Penalties.—A person engaged in a gam- |
| 16 | bling business who violates this section shall be— |
| 17 | "(A) fined in an amount equal to not more |
| 18 | than the greater of— |
| 19 | "(i) the total amount that such person |
| 20 | bet or wagered, or placed, received, or ac- |
| 21 | cepted in bets or wagers, as a result of en- |
| 22 | gaging in that business in violation of this |
| 23 | section; or |
| 24 | "(ii) \$20,000; |
| 25 | "(B) imprisoned not more than 4 years; or |

| 1 | "(C) both. |
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| 2 | "(3) Permanent injunctions.—Upon convic- |
| 3 | tion of a person under this section, the court may |
| 4 | enter a permanent injunction enjoining such person |
| 5 | from placing, receiving, or otherwise making bets or |
| 6 | wagers or sending, receiving, or inviting information |
| 7 | assisting in the placing of bets or wagers. |
| 8 | "(c) Civil Remedies.— |
| 9 | "(1) Jurisdiction.—The district courts of the |
| 10 | United States shall have original and exclusive juris- |
| 11 | diction to prevent and restrain violations of this sec- |
| 12 | tion by issuing appropriate orders in accordance |
| 13 | with this section, regardless of whether a prosecu- |
| 14 | tion has been initiated under this section. |
| 15 | "(2) Proceedings.— |
| 16 | "(A) Institution by federal govern- |
| 17 | MENT.— |
| 18 | "(i) IN GENERAL.—The United States |
| 19 | may institute proceedings under this sub- |
| 20 | section to prevent or restrain a violation of |
| 21 | this section. |
| 22 | "(ii) Relief.—Upon application of |
| 23 | the United States under this subpara- |
| 24 | graph, the district court may enter a tem- |
| 25 | porary restraining order or an injunction |

| 1 | against any person to prevent or restrain a |
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| 2 | violation of this section if the court deter- |
| 3 | mines, after notice and an opportunity for |
| 4 | a hearing, that there is a substantial prob- |
| 5 | ability that such violation has occurred or |
| 6 | will occur. |
| 7 | "(B) Institution by state attorney |
| 8 | GENERAL.— |
| 9 | "(i) In general.—The attorney gen- |
| 10 | eral of a State (or other appropriate State |
| 11 | official) in which a violation of this section |
| 12 | allegedly has occurred or will occur, after |
| 13 | providing written notice to the United |
| 14 | States, may institute proceedings under |
| 15 | this subsection to prevent or restrain the |
| 16 | violation. |
| 17 | "(ii) Relief.—Upon application of |
| 18 | the attorney general (or other appropriate |
| 19 | State official) of an affected State under |
| 20 | this subparagraph, the district court may |
| 21 | enter a temporary restraining order or an |
| 22 | injunction against any person to prevent or |
| 23 | restrain a violation of this section if the |
| 24 | court determines, after notice and an op- |

portunity for a hearing, that there is a

| 1 | substantial probability that such violation |
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| 2 | has occurred or will occur. |
| 3 | "(C) Indian Lands.—Notwithstanding |
| 4 | subparagraphs (A) and (B), for a violation that |
| 5 | is alleged to have occurred, or may occur, on |
| 6 | Indian lands (as that term is defined in section |
| 7 | 4 of the Indian Gaming Regulatory Act (25 |
| 8 | U.S.C. 2703))— |
| 9 | "(i) the United States shall have the |
| 10 | enforcement authority provided under sub- |
| 11 | paragraph (A); and |
| 12 | "(ii) the enforcement authorities spec- |
| 13 | ified in an applicable Tribal-State compact |
| 14 | negotiated under section 11 of the Indian |
| 15 | Gaming Regulatory Act (25 U.S.C. 2710) |
| 16 | shall be carried out in accordance with |
| 17 | that compact. |
| 18 | "(D) Expiration.—Any temporary re- |
| 19 | straining order or preliminary injunction en- |
| 20 | tered pursuant to subparagraph (A) or (B) |
| 21 | shall expire if, and as soon as, the United |
| 22 | States, or the attorney general (or other appro- |
| 23 | priate State official) of the State, as applicable, |
| 24 | notifies the court that issued the order or in- |
| 25 | junction that the United States or the State, |

1 as applicable, will not seek a permanent injunc-2 tion.

"(3) Expedited proceedings.—

"(A) IN GENERAL.—In addition to any proceeding under paragraph (2), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this section upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), without notice and the opportunity for a hearing as provided in rule 65(b) of the Federal Rules of Civil Procedure (except as provided in subsection (d)(3)), if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the use of the Internet or other interactive computer service at issue violates this section.

"(B) Hearings.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest practicable time.

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24 "(d) Interactive Computer Service Pro-25 viders.—

| 1 | "(1) Immunity from liability for use by |
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| 2 | ANOTHER.— |
| 3 | "(A) In General.—An interactive com- |
| 4 | puter service provider described in subpara- |
| 5 | graph (B) shall not be liable, under this section |
| 6 | or any other provision of Federal or State law |
| 7 | prohibiting or regulating gambling or gambling- |
| 8 | related activities, for the use of its facilities or |
| 9 | services by another person to engage in Internet |
| 10 | gambling activity that violates such law— |
| 11 | "(i) arising out of any transmitting, |
| 12 | routing, or providing of connections for |
| 13 | gambling-related material or activity (in- |
| 14 | cluding intermediate and temporary stor- |
| 15 | age in the course of such transmitting, |
| 16 | routing, or providing connections) by the |
| 17 | provider, if— |
| 18 | "(I) the material or activity was |
| 19 | initiated by or at the direction of a |
| 20 | person other than the provider; |
| 21 | "(II) the transmitting, routing, |
| 22 | or providing of connections is carried |
| 23 | out through an automatic process |
| 24 | without selection of the material or |
| 25 | activity by the provider; |

| 1 | "(III) the provider does not se- |
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| 2 | lect the recipients of the material or |
| 3 | activity, except as an automatic re- |
| 4 | sponse to the request of another per- |
| 5 | son; and |
| 6 | "(IV) the material or activity is |
| 7 | transmitted through the system or |
| 8 | network of the provider without modi- |
| 9 | fication of its content; or |
| 10 | "(ii) arising out of any gambling-re- |
| 11 | lated material or activity at an online site |
| 12 | residing on a computer server owned, con- |
| 13 | trolled, or operated by or for the provider, |
| 14 | or arising out of referring or linking users |
| 15 | to an online location containing such mate- |
| 16 | rial or activity, if the material or activity |
| 17 | was initiated by or at the direction of a |
| 18 | person other than the provider, unless the |
| 19 | provider fails to take expeditiously, with |
| 20 | respect to the particular material or activ- |
| 21 | ity at issue, the actions described in para- |
| 22 | graph (2)(A) following the receipt by the |
| 23 | provider of a notice described in paragraph |
| 24 | (2)(B). |

| 1 | "(B) Eligibility.—An interactive com- |
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| 2 | puter service provider is described in this sub- |
| 3 | paragraph only if the provider— |
| 4 | "(i) maintains and implements a writ- |
| 5 | ten or electronic policy that requires the |
| 6 | provider to terminate the account of a sub- |
| 7 | scriber of its system or network expedi- |
| 8 | tiously following the receipt by the provider |
| 9 | of a notice described in paragraph (2)(B) |
| 10 | alleging that such subscriber has violated |
| 11 | or is violating this section; and |
| 12 | "(ii) with respect to the particular |
| 13 | material or activity at issue, has not know- |
| 14 | ingly permitted its computer server to be |
| 15 | used to engage in activity that the provider |
| 16 | knows is prohibited by this section, with |
| 17 | the specific intent that such server be used |
| 18 | for such purpose. |
| 19 | "(2) Notice to interactive computer |
| 20 | SERVICE PROVIDERS.— |
| 21 | "(A) In general.—If an interactive com- |
| 22 | puter service provider receives from a Federal |
| 23 | or State law enforcement agency, acting within |
| 24 | its authority and jurisdiction, a written or elec- |
| 25 | tronic notice described in subparagraph (B), |

| 1 | that a particular online site residing on a com- |
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| 2 | puter server owned, controlled, or operated by |
| 3 | or for the provider is being used by another |
| 4 | person to violate this section, the provider shall |
| 5 | expeditiously— |
| 6 | "(i) remove or disable access to the |
| 7 | material or activity residing at that online |
| 8 | site that allegedly violates this section; or |
| 9 | "(ii) in any case in which the provider |
| 10 | does not control the site at which the sub- |
| 11 | ject material or activity resides, the pro- |
| 12 | vider, through any agent of the provider |
| 13 | designated in accordance with section |
| 14 | 512(c)(2) of title 17, or other responsible |
| 15 | identified employee or contractor— |
| 16 | "(I) notify the Federal or State |
| 17 | law enforcement agency that the pro- |
| 18 | vider is not the proper recipient of |
| 19 | such notice; and |
| 20 | "(II) upon receipt of a subpoena, |
| 21 | cooperate with the Federal or State |
| 22 | law enforcement agency in identifying |
| 23 | the person or persons who control the |
| 24 | site. |

| 1 | "(B) Notice.—A notice is described in |
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| 2 | this subparagraph only if it— |
| 3 | "(i) identifies the material or activity |
| 4 | that allegedly violates this section, and al- |
| 5 | leges that such material or activity violates |
| 6 | this section; |
| 7 | "(ii) provides information reasonably |
| 8 | sufficient to permit the provider to locate |
| 9 | (and, as appropriate, in a notice issued |
| 10 | pursuant to paragraph (3)(A) to block ac- |
| 11 | cess to) the material or activity; |
| 12 | "(iii) is supplied to any agent of a |
| 13 | provider designated in accordance with sec- |
| 14 | tion $512(c)(2)$ of title 17, if information |
| 15 | regarding such designation is readily avail- |
| 16 | able to the public; |
| 17 | "(iv) provides information that is rea- |
| 18 | sonably sufficient to permit the provider to |
| 19 | contact the law enforcement agency that |
| 20 | issued the notice, including the name of |
| 21 | the law enforcement agency, and the name |
| 22 | and telephone number of an individual to |
| 23 | contact at the law enforcement agency |
| 24 | (and, if available, the electronic mail ad- |
| 25 | dress of that individual): and |

| 1 | "(v) declares under penalties of per- |
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| 2 | jury that the person submitting the notice |
| 3 | is an official of the law enforcement agency |
| 4 | described in clause (iv). |
| 5 | "(3) Injunctive relief.— |
| 6 | "(A) IN GENERAL.—The United States, or |
| 7 | a State law enforcement agency acting within |
| 8 | its authority and jurisdiction, may, not less |
| 9 | than 24 hours following the issuance to an |
| 10 | interactive computer service provider of a notice |
| 11 | described in paragraph (2)(B), in a civil action, |
| 12 | obtain a temporary restraining order, or an in- |
| 13 | junction to prevent the use of the interactive |
| 14 | computer service by another person in violation |
| 15 | of this section. |
| 16 | "(B) Limitations.—Notwithstanding any |
| 17 | other provision of this section, in the case of |
| 18 | any application for a temporary restraining |
| 19 | order or an injunction against an interactive |
| 20 | computer service provider described in para- |
| 21 | graph (1)(B) to prevent a violation of this |
| 22 | section— |
| 23 | "(i) arising out of activity described in |
| 24 | paragraph (1)(A)(i), the injunctive relief is |
| 25 | limited to— |

| 1 | "(I) an order restraining the pro- |
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| 2 | vider from providing access to an |
| 3 | identified subscriber of the system or |
| 4 | network of the interactive computer |
| 5 | service provider, if the court deter- |
| 6 | mines that there is probable cause to |
| 7 | believe that such subscriber is using |
| 8 | that access to violate this section (or |
| 9 | to engage with another person in a |
| 10 | communication that violates this sec- |
| 11 | tion), by terminating the specified ac- |
| 12 | count of that subscriber; and |
| 13 | "(II) an order restraining the |
| 14 | provider from providing access, by |
| 15 | taking reasonable steps specified in |
| 16 | the order to block access, to a specific, |
| 17 | identified, foreign online location; |
| 18 | "(ii) arising out of activity described |
| 19 | in paragraph (1)(A)(ii), the injunctive re- |
| 20 | lief is limited to— |
| 21 | "(I) the orders described in |
| 22 | clause $(i)(I)$; |
| 23 | "(II) an order restraining the |
| 24 | provider from providing access to the |
| 25 | material or activity that violates this |

| 1 | section at a particular online site re- |
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| 2 | siding on a computer server operated |
| 3 | or controlled by the provider; and |
| 4 | "(III) such other injunctive rem- |
| 5 | edies as the court considers necessary |
| 6 | to prevent or restrain access to speci- |
| 7 | fied material or activity that is pro- |
| 8 | hibited by this section at a particular |
| 9 | online location residing on a computer |
| 10 | server operated or controlled by the |
| 11 | provider, that are the least burden- |
| 12 | some to the provider among the forms |
| 13 | of relief that are comparably effective |
| 14 | for that purpose. |
| 15 | "(C) Considerations.—The court, in de- |
| 16 | termining appropriate injunctive relief under |
| 17 | this paragraph, shall consider— |
| 18 | "(i) whether such an injunction, either |
| 19 | alone or in combination with other such in- |
| 20 | junctions issued, and currently operative, |
| 21 | against the same provider would signifi- |
| 22 | cantly (and, in the case of relief under sub- |
| 23 | paragraph (B)(ii), taking into account, |
| 24 | among other factors, the conduct of the |
| 25 | provider, unreasonably) burden either the |

| 1 | provider or the operation of the system or |
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| 2 | network of the provider; |
| 3 | "(ii) whether implementation of such |
| 4 | an injunction would be technically feasible |
| 5 | and effective, and would not materially |
| 6 | interfere with access to lawful material at |
| 7 | other online locations; |
| 8 | "(iii) whether other less burdensome |
| 9 | and comparably effective means of pre- |
| 10 | venting or restraining access to the illegal |
| 11 | material or activity are available; and |
| 12 | "(iv) the magnitude of the harm likely |
| 13 | to be suffered by the community through |
| 14 | the accessibility of illegal activity. |
| 15 | "(D) Notice and ex parte orders.— |
| 16 | Injunctive relief under this paragraph shall not |
| 17 | be available without notice to the service pro- |
| 18 | vider and an opportunity for such provider to |
| 19 | appear before the court, except for orders en- |
| 20 | suring the preservation of evidence or other or- |
| 21 | ders having no material adverse effect on the |
| 22 | operation of the communications network of the |
| 23 | service provider. |
| 24 | "(4) Advertising or promotion of non- |
| 25 | INTERNET GAMBLING.— |

| 1 | "(A) Definitions.—In this paragraph: |
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| 2 | "(i) Conducted.—With respect to a |
| 3 | gambling activity, that activity is 'con- |
| 4 | ducted' in a State if the State is the State |
| 5 | in which the gambling establishment (as |
| 6 | defined in section 1081) that offers the |
| 7 | gambling activity being advertised or pro- |
| 8 | moted is physically located. |
| 9 | "(ii) Non-internet gambling ac- |
| 10 | TIVITY.—The term 'non-Internet gambling |
| 11 | activity' means— |
| 12 | "(I) a gambling activity in which |
| 13 | the placing of the bet or wager is not |
| 14 | conducted by the Internet; or |
| 15 | "(II) a gambling activity to |
| 16 | which the prohibitions of this section |
| 17 | do not apply. |
| 18 | "(B) Immunity from liability for use |
| 19 | BY ANOTHER.— |
| 20 | "(i) In General.—An interactive |
| 21 | computer service provider described in |
| 22 | clause (ii) shall not be liable, under any |
| 23 | provision of Federal or State law prohib- |
| 24 | iting or regulating gambling or gambling- |
| 25 | related activities, or under any State law |

| 1 | prohibiting or regulating advertising and |
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| 2 | promotional activities, for— |
| 3 | "(I) content, provided by another |
| 4 | person, that advertises or promotes |
| 5 | non-Internet gambling activity that |
| 6 | violates such law (unless the provider |
| 7 | is engaged in the business of such |
| 8 | gambling), arising out of any of the |
| 9 | activities described in paragraph |
| 10 | (1)(A) (i) or (ii); or |
| 11 | "(II) content, provided by an- |
| 12 | other person, that advertises or pro- |
| 13 | motes non-Internet gambling activity |
| 14 | that is lawful under Federal law and |
| 15 | the law of the State in which such |
| 16 | gambling activity is conducted. |
| 17 | "(ii) Eligibility.—An interactive |
| 18 | computer service is described in this clause |
| 19 | only if the provider— |
| 20 | "(I) maintains and implements a |
| 21 | written or electronic policy that re- |
| 22 | quires the provider to terminate the |
| 23 | account of a subscriber of its system |
| 24 | or network expeditiously following the |
| 25 | receipt by the provider of a notice de- |

1 scribed in paragraph (2)(B) alleging 2 that such subscriber maintains a 3 website on a computer server controlled or operated by the provider for the purpose of engaging in advertising 6 or promotion of non-Internet gam-7 bling activity prohibited by a Federal 8 law or a law of the State in which 9 such activity is conducted; 10 "(II) with respect to the par-11 ticular material or activity at issue, 12 has not knowingly permitted its com-13 puter server to be used to engage in 14 the advertising or promotion of non-15 Internet gambling activity that the 16 provider knows is prohibited by a 17 Federal law or a law of the State in 18 which the activity is conducted, with 19 the specific intent that such server be 20 used for such purpose; and "(III) at reasonable cost, offers 21 22 residential customers of the provider's 23 Internet access service, if the provider 24 provides Internet access service to

such customers, computer software, or

another filtering or blocking system
that includes the capability of filtering
or blocking access by minors to online
Internet gambling sites that violate
this section.

"(C) NOTICE TO INTERACTIVE COMPUTER SERVICE PROVIDERS.—

"(i) Notice from federal law en-FORCEMENT AGENCY.—If an interactive computer service provider receives from a Federal law enforcement agency, acting within its authority and jurisdiction, a written or electronic notice described in paragraph (2)(B), that a particular online site residing on a computer server owned, controlled, or operated by or for the provider is being used by another person to advertise or promote non-Internet gambling activity that violates a Federal law prohibiting or regulating gambling or gambling-related activities, the provider shall expeditiously take the actions described in paragraph (2)(A) (i) or (ii) with respect to the advertising or promotion identified in the notice.

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1 "(ii) Notice from state law en-2 FORCEMENT AGENCY.—If an interactive 3 computer service provider receives from a 4 State law enforcement agency, acting within its authority and jurisdiction, a written 6 or electronic notice described in paragraph 7 (2)(B), that a particular online site residing on a computer server owned, con-8 9 trolled, or operated by or for the provider 10 is being used by another person to adver-11 tise or promote non-Internet gambling ac-12 tivity that is conducted in that State and 13 that violates a law of that State prohib-14 iting or regulating gambling or gambling-15 related activities, the provider shall expedi-16 tiously take the actions described in para-17 graph (2)(A) (i) or (ii) with respect to the 18 advertising or promotion identified in the 19 notice. 20 "(D) Injunctive relief.—The United 21

"(D) Injunctive relief.—The United States, or a State law enforcement agency, acting within its authority and jurisdiction, may, not less than 24 hours following the issuance to an interactive computer service provider of a notice described in paragraph (2)(B), in a civil

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action, obtain a temporary restraining order, or an injunction, to prevent the use of the interactive computer service by another person to advertise or promote non-Internet gambling activity that violates a Federal law, or a law of the State in which such activity is conducted that prohibits or regulates gambling or gambling-related activities, as applicable. The procedures described in paragraph (3)(D) shall apply to actions brought under this subparagraph, and the relief in such actions shall be limited to—

> "(i) an order requiring the provider to remove or disable access to the advertising or promotion of non-Internet gambling activity that violates Federal law, or the law of the State in which such activity is conducted, as applicable, at a particular online site residing on a computer server controlled or operated by the provider;

> "(ii) an order restraining the provider from providing access to an identified subscriber of the system or network of the provider, if the court determines that such subscriber maintains a website on a com-

30 1 puter server controlled or operated by the 2 provider that the subscriber is knowingly using or knowingly permitting to be used 3 to advertise or promote non-Internet gambling activity that violates Federal law or 6 the law of the State in which such activity 7 is conducted; and 8 "(iii) an order restraining the provider 9 of the content of the advertising or promotion of such illegal gambling activity 10 11 from disseminating such advertising or 12 promotion on the computer server con-

"(E) APPLICABILITY.—The provisions of subparagraphs (C) and (D) do not apply to the content described in subparagraph (B)(i)(II).

trolled or operated by the provider of such

"(5) Effect on other law.—

interactive computer service.

"(A) IMMUNITY FROM LIABILITY FOR COM-PLIANCE.—An interactive computer service provider shall not be liable for any damages, penalty, or forfeiture, civil or criminal, under Federal or State law for taking in good faith any action described in paragraph (2)(A) to comply with a notice described in paragraph (2)(B), or

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| 1 | complying with any court order issued under |
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| 2 | paragraph (3). |
| 3 | "(B) DISCLAIMER OF OBLIGATIONS.— |
| 4 | Nothing in this section may be construed to im- |
| 5 | pose or authorize an obligation on an inter- |
| 6 | active computer service provider described in |
| 7 | paragraph (1)(B)— |
| 8 | "(i) to monitor material or use of its |
| 9 | service; or |
| 10 | "(ii) except as required by a notice or |
| 11 | an order of a court under this subsection, |
| 12 | to gain access to, to remove, or to disable |
| 13 | access to material. |
| 14 | "(C) Rights of subscribers.—Nothing |
| 15 | in this section may be construed to prejudice |
| 16 | the right of a subscriber to secure an appro- |
| 17 | priate determination, as otherwise provided by |
| 18 | law, in a Federal court or in a State or local |
| 19 | tribunal or agency, that the account of such |
| 20 | subscriber should not be terminated pursuant |
| 21 | to this subsection, or should be restored. |
| 22 | "(e) Availability of Relief.—The availability of |
| 23 | relief under subsections (c) and (d) shall not depend on, |
| 24 | or be affected by the initiation or resolution of any action |

| 1 | under subsection (b), or under any other provision of Fed- |
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| 2 | eral or State law. |
| 3 | "(f) Applicability.— |
| 4 | "(1) In general.—Subject to paragraph (2) |
| 5 | the prohibition in this section does not apply to— |
| 6 | "(A) any otherwise lawful bet or wager |
| 7 | that is placed, received, or otherwise made |
| 8 | wholly intrastate for a State lottery, or for a |
| 9 | multi-State lottery operated jointly between 2 |
| 10 | or more States in conjunction with State lot- |
| 11 | teries if— |
| 12 | "(i) each such lottery is expressly au- |
| 13 | thorized, and licensed or regulated, under |
| 14 | applicable State law; |
| 15 | "(ii) the bet or wager is placed on an |
| 16 | interactive computer service that uses a |
| 17 | private network or a closed-loop subscriber |
| 18 | based service regulated and operated by |
| 19 | the State lottery or its expressly des- |
| 20 | ignated agent for such activity; |
| 21 | "(iii) each person placing or otherwise |
| 22 | making that bet or wager— |
| 23 | "(I) is physically located when |
| 24 | such bet or wager is placed at a facil- |

| 1 | ity that is open to the general public; |
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| 2 | or |
| 3 | "(II) recieves from the State lot- |
| 4 | tery a user name and password spe- |
| 5 | cific to the individual player for use in |
| 6 | betting and wagering in the State lot- |
| 7 | tery or multi-State lottery; and |
| 8 | "(iv) each such lottery complies with |
| 9 | sections 1301 through 1304, and other ap- |
| 10 | plicable provisions of Federal law; |
| 11 | "(B) any otherwise lawful bet or wager |
| 12 | that is placed, received, or otherwise made on |
| 13 | an interstate or intrastate basis on a live horse |
| 14 | or a live dog race or on jai alai, or the sending, |
| 15 | receiving, or inviting of information assisting in |
| 16 | the placing of such a bet or wager, if such bet |
| 17 | or wager, or the transmission of such informa- |
| 18 | tion, as applicable, is— |
| 19 | "(i) expressly authorized, and licensed |
| 20 | or regulated by the State in which such bet |
| 21 | or wager is received, under applicable Fed- |
| 22 | eral and such State's laws; |
| 23 | "(ii) placed on a closed-loop sub- |
| 24 | scriber-based service; |

| 1 | "(iii) initiated from a State in which |
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| 2 | betting or wagering on that same type of |
| 3 | live horse or live dog racing or on jai alai |
| 4 | is lawful and received in a State in which |
| 5 | such betting or wagering is lawful; |
| 6 | "(iv) subject to the regulatory over- |
| 7 | sight of the State in which the bet or |
| 8 | wager is received and subject by such |
| 9 | State to minimum control standards for |
| 10 | the accounting, regulatory inspection, and |
| 11 | auditing of all such bets or wagers trans- |
| 12 | mitted from 1 State to another; and |
| 13 | "(v) in the case of— |
| 14 | "(I) live horse racing, made in |
| 15 | accordance with the Interstate Horse |
| 16 | Racing Act of 1978 (15 U.S.C. 3001 |
| 17 | et seq.); or |
| 18 | "(II) live dog racing, subject to |
| 19 | consent agreements that are com- |
| 20 | parable to those required by the Inter- |
| 21 | state Horse Racing Act of 1978, ap- |
| 22 | proved by the appropriate State regu- |
| 23 | latory agencies, in the State in which |
| 24 | the live dog race takes place, and in |

| 1 | the State in which the bet or wager is |
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| 2 | accepted; |
| 3 | "(C) any otherwise lawful bet or wager |
| 4 | that is placed, received, or otherwise made |
| 5 | wholly intrastate, or the sending, receiving, or |
| 6 | inviting of information assisting in the placing |
| 7 | of such a bet or wager, if such bet or wager, |
| 8 | or the transmission of such information, as ap- |
| 9 | plicable is— |
| 10 | "(i) expressly authorized, and licensed |
| 11 | or regulated by the State in which such bet |
| 12 | or water is initiated and received, under |
| 13 | applicable Federal and such State's laws; |
| 14 | and |
| 15 | "(ii) placed on a closed-loop sub- |
| 16 | scriber based service; or |
| 17 | "(D) any otherwise lawful bet or wager |
| 18 | that is placed, received, or otherwise made for |
| 19 | a fantasy sports league game or contest. |
| 20 | "(2) Bets or wagers made by agents or |
| 21 | PROXIES.— |
| 22 | "(A) In General.—Paragraph (1) does |
| 23 | not apply in any case in which a bet or wager |
| 24 | is placed, received, or otherwise made by the |

- 1 use of an agent or proxy using the Internet or 2 an interactive computer service.
- "(B) QUALIFICATION.—Nothing in this
 paragraph may be construed to prohibit the
 owner operator of a parimutuel wagering facility that is licensed by a State from employing
 an agent in the operation of the account wagering system owned or operated by the parimutuel
 facility.
- "(3) ADVERTISING AND PROMOTION.—The prohibition of subsection (b)(1)(B) does not apply to advertising, promotion, or other communication by, or authorized by, anyone licensed to operate a gambling business in a State.
- "(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect any prohibition or remedy applicable to a person engaged in a gambling business under any other provision of Federal or State law.".
- (b) TECHNICAL AMENDMENT.—The analysis for
 chapter 50 of title 18, United States Code, is amended
 by adding at the end the following:
 "1085. Internet gambling.".

22 SEC. 3. REPORT ON ENFORCEMENT.

Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include—

| 1 | (1) an analysis of the problems, if any, associ- |
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| 2 | ated with enforcing section 1085 of title 18, United |
| 3 | States Code, as added by section 2 of this Act; |
| 4 | (2) recommendations for the best use of the re- |
| 5 | sources of the Department of Justice to enforce that |
| 6 | section; and |
| 7 | (3) an estimate of the amount of activity and |
| 8 | money being used to gamble on the Internet. |
| | |

9 SEC. 4. SEVERABILITY.

If any provision of this Act, an amendment made by
this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made
by this Act, and the application of this Act and the provisions of such amendments to any other person or circumstance shall not be affected thereby.

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