

Union Calendar No. 553

106TH CONGRESS
2^D SESSION

H. R. 4419

[Report No. 106-771, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2000

Mr. LEACH (for himself, Mr. LAFALCE, Mrs. ROUKEMA, and Mr. BAKER) introduced the following bill; which was referred to the Committee on Banking and 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

JULY 20, 2000

Reported from the Committee on Banking and Financial Services with
amendments

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

JULY 20, 2000

Referral to the Committee on the Judiciary extended for a period ending not
later than September 22, 2000

JULY 21, 2000

Referral to the Committee on the Judiciary extended for a period ending not
later than September 29, 2000

SEPTEMBER 29, 2000

Additional sponsor: Mr. GREEN of Wisconsin

SEPTEMBER 29, 2000

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

A BILL

To prevent the use of certain bank instruments for 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 a gambling*
7 *business may knowingly accept, in connection with the par-*
8 *ticipation of another person in unlawful Internet*
9 *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 *predominantly subject to chance, upon an agree-*
11 *ment or understanding that the person or an-*
12 *other person will receive something of greater*
13 *value than the amount staked or risked in the*
14 *event of a certain 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; and*

21 (D) *does not include—*

22 (i) *any 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) for the*

1 purchase or sale at a future date of securi-
2 ties (as that term is defined in section
3 3(a)(10) of such Act);

4 (ii) any transaction on or subject to
5 the rules of a contract market designated
6 pursuant to section 5 of the Commodity Ex-
7 change Act;

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

10 (iv) any contract of indemnity or
11 guarantee;

12 (v) any contract for life, health, or ac-
13 cident insurance; or

14 (vi) any participation in a simulation
15 sports game or an educational game or con-
16 test that—

17 (I) is not dependent solely on the
18 outcome of any single sporting event or
19 nonparticipant's singular individual
20 performance in any single sporting
21 event;

22 (II) has an outcome that reflects
23 the relative knowledge and skill of the
24 participants with such outcome deter-
25 mined predominantly by accumulated

1 *statistical results of sporting events;*

2 *and*

3 *(III) offers a prize or award to a*
4 *participant that is established in ad-*
5 *vance of the game or contest and is not*
6 *determined by the number of partici-*
7 *pants or the amount of any fees paid*
8 *by those participants.*

9 *(2) GAMBLING BUSINESS.—The term “gambling*
10 *business” means—*

11 *(A) a business that is conducted at a gam-*
12 *bling establishment;*

13 *(B) a business that—*

14 *(i) involves—*

15 *(I) the placing, receiving, or oth-*
16 *erwise making of bets or wagers; or*

17 *(II) the offering to engage in the*
18 *placing, receiving, or otherwise making*
19 *of bets or wagers;*

20 *(ii) involves 1 or more persons who*
21 *conduct, finance, manage, supervise, direct,*
22 *or own all or part of such business; and*

23 *(iii) has been or remains in substan-*
24 *tially continuous operation for a period in*
25 *excess of 10 days or has a gross revenue of*

1 \$2,000 or more from such business during
2 any 24-hour period; and

3 (C) any agent who knowingly solicits for a
4 business described in subparagraph (A) or (B).

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

8 (4) *UNLAWFUL INTERNET GAMBLING*.—The term
9 “unlawful Internet gambling” means to place, receive,
10 or otherwise make a bet or wager by any means
11 which involves the use, at least in part, of the Inter-
12 net where such bet or wager is unlawful under any
13 applicable Federal or State law in the State in which
14 the bet or wager is initiated, received, or otherwise
15 made.

16 (5) *OTHER TERMS*.—

17 (A) *CREDIT; CREDITOR; AND CREDIT*
18 *CARD*.—The terms “credit”, “creditor”, and
19 “credit card” have the meanings given such
20 terms in section 103 of the Truth in Lending
21 Act.

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

1 (i) *has the meaning given such term in*
2 *section 903 of the Electronic Fund Transfer*
3 *Act; and*

4 (ii) *includes any fund transfer covered*
5 *by Article 4 of the Uniform Commercial*
6 *Code, as in effect in any State.*

7 (C) *FINANCIAL INSTITUTION.*—*The term “fi-*
8 *nancial institution” has the meaning given such*
9 *term in section 903 of the Electronic Fund*
10 *Transfer Act.*

11 (D) *MONEY TRANSMITTING BUSINESS AND*
12 *MONEY TRANSMITTING SERVICE.*—*The terms*
13 *“money transmitting business” and “money*
14 *transmitting service” have the meanings given*
15 *such terms in section 5330(d) of title 31, United*
16 *States Code.*

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

19 (c) *CIVIL REMEDIES.*—

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

1 (2) *PROCEEDINGS.*—

2 (A) *INSTITUTION BY FEDERAL GOVERN-*
3 *MENT.*—

4 (i) *IN GENERAL.*—*The United States,*
5 *acting through the Attorney General, may*
6 *institute proceedings under this subsection*
7 *to prevent or restrain a violation of this sec-*
8 *tion.*

9 (ii) *RELIEF.*—*Upon application of the*
10 *United States under this subparagraph, the*
11 *district court may enter a preliminary in-*
12 *junction or an injunction against any per-*
13 *son to prevent or restrain a violation of this*
14 *section, in accordance with Rule 65 of the*
15 *Federal Rules of Civil Procedure.*

16 (B) *INSTITUTION BY STATE ATTORNEY GEN-*
17 *ERAL.*—

18 (i) *IN GENERAL.*—*The attorney general*
19 *of a State (or other appropriate State offi-*
20 *cial) in which a violation of this section al-*
21 *legedly has occurred or will occur may in-*
22 *stitute proceedings under this subsection to*
23 *prevent or restrain the violation.*

24 (ii) *RELIEF.*—*Upon application of the*
25 *attorney general (or other appropriate State*

1 *official) of an affected State under this sub-*
2 *paragraph, the district court may enter a*
3 *preliminary injunction or an injunction*
4 *against any person to prevent or restrain a*
5 *violation of this section, in accordance with*
6 *Rule 65 of the Federal Rules of Civil Proce-*
7 *dure.*

8 (C) *INDIAN LANDS.*—*Notwithstanding sub-*
9 *paragraphs (A) and (B), for a violation that is*
10 *alleged to have occurred, or may occur, on In-*
11 *dian lands (as that term is defined in section 4*
12 *of the Indian Gaming Regulatory Act)—*

13 *(i) the United States shall have the en-*
14 *forcement authority provided under sub-*
15 *paragraph (A); and*

16 *(ii) the enforcement authorities speci-*
17 *fied in an applicable Tribal-State compact*
18 *negotiated under section 11 of the Indian*
19 *Gaming Regulatory Act shall be carried out*
20 *in accordance with that compact.*

21 (3) *EXPEDITED PROCEEDINGS.*—

22 (A) *IN GENERAL.*—*In addition to any pro-*
23 *ceeding under paragraph (2), a district court*
24 *may, in exigent circumstances, enter a tem-*
25 *porary restraining order against a person al-*

1 *leged to be in violation of this section upon ap-*
2 *plication of the United States under paragraph*
3 *(2)(A), or the attorney general (or other appro-*
4 *priate State official) of an affected State under*
5 *paragraph (2)(B), in accordance with Rule 65(b)*
6 *of the Federal Rules of Civil Procedure.*

7 *(d) CRIMINAL PENALTY.—*

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

11 *(2) PERMANENT INJUNCTION.—Upon conviction*
12 *of a person under this subsection, the court may enter*
13 *a permanent injunction enjoining such person from*
14 *placing, receiving, or otherwise making bets or wagers*
15 *or sending, receiving, or inviting information assist-*
16 *ing in the placing of bets or wagers.*

17 *(e) SAFE HARBOR FOR FINANCIAL INTER-*
18 *MEDIARIES.—*

19 *(1) IN GENERAL.—No creditor, credit card*
20 *issuer, financial institution, operator of a terminal at*
21 *which an electronic fund transfer may be initiated,*
22 *money transmitting business, or national, regional, or*
23 *local network utilized to effect a credit transaction,*
24 *electronic fund transfer, or money transmitting serv-*
25 *ice shall be liable under this section for the involve-*

1 *ment of such person, or the use of the facilities of such*
2 *person—*

3 *(A) in any credit transaction, electronic*
4 *fund transfer, or money transmitting service de-*
5 *scribed in subsection (a); or*

6 *(B) in drawing, paying, transferring, or*
7 *collecting any check, draft, or other instrument*
8 *described in subsection (a) or in any regulation*
9 *prescribed under such subsection.*

10 *(2) EXCEPTION FOR KNOWING PARTICIPATION IN*
11 *A GAMBLING BUSINESS.—Paragraph (1) shall not*
12 *apply with respect to any person referred to in such*
13 *paragraph which is a gambling business or which*
14 *knowingly participates in any activity referred to in*
15 *subparagraph (A) or (B) of such paragraph as an*
16 *agent or representative of a gambling business.*

17 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JU-**
18 **RISDICTIONS.**

19 *(a) IN GENERAL.—In deliberations between the United*
20 *States Government and any other country on money laun-*
21 *dering, corruption, and crime issues, the United States Gov-*
22 *ernment should—*

23 *(1) encourage cooperation by foreign govern-*
24 *ments and relevant international fora in identifying*

1 *whether Internet gambling operations are being used*
2 *for money laundering, corruption, or other crimes;*

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

6 *(3) encourage the Financial Action Task Force*
7 *on Money Laundering, in its annual report on money*
8 *laundering typologies, to study the extent to which*
9 *Internet gambling operations are being used for*
10 *money laundering.*

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

15 **SEC. 5. ENFORCEMENT ACTIONS.**

16 *Section 8 of the Federal Deposit Insurance Act (12*
17 *U.S.C. 1818) is amended by adding at the end the following*
18 *new subsection:*

19 *“(x) DEPOSITORY INSTITUTION INVOLVEMENT IN*
20 *INTERNET GAMBLING.—Notwithstanding section 3(e) of the*
21 *Unlawful Internet Gambling Funding Prohibition Act, if*
22 *any appropriate Federal banking agency determines that*
23 *any insured depository institution is engaged in any of the*
24 *following activities, the agency may issue an order to such*

1 *institution prohibiting such institution from continuing to*
2 *engage in any of the following activities:*

3 “(1) *Extending credit, or facilitating an exten-*
4 *sion of credit, electronic fund transfer, or money*
5 *transmitting service with the actual knowledge that*
6 *any person is violating section 3(a) of the Unlawful*
7 *Internet Gambling Funding Prohibition Act in con-*
8 *nection with such extension of credit, electronic fund*
9 *transfer, or money transmitting service.*

10 “(2) *Paying, transferring, or collecting on any*
11 *check, draft, or other instrument drawn on any depos-*
12 *itory institution with the actual knowledge that any*
13 *person is violating section 3(a) of the Unlawful Inter-*
14 *net Gambling Funding Prohibition Act in connection*
15 *with such check, draft, or other instrument.”.*

Amend the title so as to read: “A bill to prevent the use of certain bank instruments for unlawful Internet gambling, and for other purposes.”.

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H. R. 4419

[Report No. 106-771, Part I]

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

SEPTEMBER 29, 2000

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