

# Union Calendar No. 356

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

# H. R. 3215

**[Report No. 107-591, Part I]**

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2001

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. SMITH of Texas, Ms. JACKSON-LEE of Texas, Mr. OXLEY, Mr. LAFALCE, Mr. LEACH, Mr. WOLF, Mr. ROEMER, Mr. GIBBONS, Mr. BACHUS, Mrs. JO ANN DAVIS of Virginia, Mr. DUNCAN, Mr. FLETCHER, Mr. FORBES, Mr. GOODE, Mr. GRAHAM, Mr. LEWIS of Kentucky, Mr. PITTS, Mr. ROGERS of Michigan, Mr. SHADEGG, Mr. SWEENEY, Mr. TAUZIN, Mr. VITTER, Mr. WAMP, Mr. PETERSON of Pennsylvania, Mrs. KELLY, and Mr. HASTINGS of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

JULY 18, 2002

Reported with an amendment and referred to the Committee on Energy and Commerce for a period ending not later than July 19, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X

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

JULY 19, 2002

Additional sponsors: Mr. EHLERS, Mr. BALLENGER, Mr. TANCREDO, Mr. STUMP, Mr. CALLAHAN, Mr. BROWN of South Carolina, Mr. CULBERSON, Mr. BOEHLERT, Mr. LATOURETTE, Mr. COBLE, Mr. LIPINSKI, Mr. DELAY, Mr. FOLEY, Mr. LAHOOD, Mr. BAKER, Mr. RILEY, Mr. EVERETT, Mr. DEAL of Georgia, Mr. COLLINS, Mr. JOHNSON of Illinois, Mr. REYNOLDS, Mr. COMBEST, Mr. TERRY, Mr. HANSEN, Mr. NETHERCUTT, Ms. PRYCE of Ohio, Mr. PENCE, Ms. HART, Mr. KELLER, Mr. HOSTETTLER, Mr. PICKERING, Mr. AKIN, Mr. BASS, Mr. WICKER, Mrs. NORTHUP, Mr. JEFF MILLER of Florida, Mr. CRENSHAW, Mr. MCINNIS, Mr. BARTLETT of Maryland, Mrs. ROUKEMA, Mr. PETERSON of Min-

nesota, Mr. HORN, Mr. HERGER, Mr. MANZULLO, Mr. JONES of North Carolina, Mr. THOMAS, Mr. QUINN, Mr. WALDEN of Oregon, Mr. NORWOOD, Mr. SHIMKUS, Mrs. JOHNSON OF CONNECTICUT, MRS. CAPITO, Mr. MCKEON, Mr. GILMAN, Mr. BOEHNER, Mr. DIAZ-BALART, Mrs. NAPOLITANO, Mr. WALSH, Mr. GUTKNECHT, Mr. HAYES, Mr. GRUCCI, Mr. ISAKSON, Mr. SCHROCK, Mrs. MYRICK, Mr. YOUNG of Alaska, Mr. RYUN of Kansas, Mr. KING, Mr. GILLMOR, Mr. SOUDER, Mr. WATTS of Oklahoma, Mr. WATKINS, Mr. SMITH of New Jersey, Mr. BERRY, Mr. HOBSON, Mr. HYDE, Mr. CUNNINGHAM, Mr. STENHOLM, Mr. SHAW, Mr. DEMINT, Mr. BEREUTER, Mr. SESSIONS, Mr. LARGENT, Mr. RAMSTAD, Mr. MCCRERY, Mr. DAN MILLER of Florida, Mr. TAYLOR of North Carolina, Mrs. EMERSON, Mr. FRELINGHUYSEN, Mr. TAYLOR of Mississippi, Mr. GILCHREST, Mr. PRICE of North Carolina, Mr. SHUSTER, Mr. LEWIS of California, Mr. REGULA, Mr. SIMMONS, Mr. ISTOOK, Mr. GOSS, Mr. BARCIA, Mr. REHBERG, Mr. THORNBERRY, Mr. BURTON of Indiana, Mr. WHITFIELD, Mr. HEFLEY, Mr. LUCAS of Kentucky, Mr. EDWARDS, Mr. GANSKE, Mr. BILIRAKIS, Mr. CHAMBLISS, Mr. SAXTON, Mr. WELDON of Florida, Mr. LINDER, Ms. DUNN, Mr. GEKAS, Mr. BRADY of Texas, Mr. TIAHRT, Ms. ROS-LEHTINEN, Mr. COOKSEY, Mrs. MORELLA, Mr. TURNER, Mr. SANDLIN, Mr. SPRATT, Mr. OSBORNE, Mr. NUSSLE, Mr. KENNEDY of Minnesota, Mr. MCINTYRE, Mr. MORAN of Virginia, Mr. BARR of Georgia, Mr. LATHAM, and Mr. PUTNAM

Deleted sponsors: Mr. GIBBONS (added November 1, 2001; deleted March 12, 2002), and Mr. GREEN of Wisconsin (added December 6, 2001; deleted May 15, 2002)

JULY 19, 2002

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

[For text of introduced bill, see copy of bill as introduced on November 1, 2001]

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## A BILL

To amend title 18, United States Code, to expand and modernize the prohibition against interstate 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 “Combating Illegal Gam-*  
3 *bling Reform and Modernization Act”.*

4 **SEC. 2. DEFINITIONS.**

5       *Section 1081 of title 18, United States Code, is*  
6 *amended—*

7           *(1) by designating the five undesignated para-*  
8 *graphs that begin with “The term” as paragraphs (1)*  
9 *through (5), respectively;*

10          *(2) in paragraph (5), as so designated—*

11            *(A) by striking “wire communication” and*  
12 *inserting “communication”;*

13            *(B) by inserting “satellite, microwave,”*  
14 *after “cable,”; and*

15            *(C) by inserting “(whether fixed or mobile)”*  
16 *after “connection”; and*

17          *(3) by adding at the end the following:*

18            *“(6) The term ‘bets or wagers’—*

19                *“(A) means the staking or risking by any*  
20 *person of something of value upon the outcome of*  
21 *a contest of others, a sporting event, or a game*  
22 *predominantly subject to chance, not skill, upon*  
23 *an agreement or understanding that the person*  
24 *or another person will receive something of great-*  
25 *er value than the amount staked or risked in the*  
26 *event of a certain outcome;*

1           “(B) includes the purchase of a chance or  
2           opportunity to win a lottery or other prize  
3           (which opportunity to win is predominantly  
4           subject to chance); and

5           “(C) does not include—

6           “(i) a bona fide business transaction  
7           governed by the securities laws (as that  
8           term is defined in section 3(a)(47) of the  
9           Securities Exchange Act of 1934 (15 U.S.C.  
10          78c(a)(47))) for the purchase or sale at a  
11          future date of securities (as that term is de-  
12          fined in section 3(a)(10) of the Securities  
13          Exchange Act of 1934 (15 U.S.C.  
14          78c(a)(10)));

15          “(ii) a transaction on or subject to the  
16          rules of a contract market designated pursu-  
17          ant to section 5 of the Commodity Exchange  
18          Act (7 U.S.C. 7) or to any transaction sub-  
19          ject to an exemption pursuant to section  
20          4(c) of such Act;

21          “(iii) any over-the-counter derivative  
22          instrument;

23          “(iv) a contract of indemnity or guar-  
24          antee;

1           “(v) a contract for life, health, or acci-  
2           dent insurance;

3           “(vi) participation in any game or  
4           contest in which participants do not stake  
5           or risk anything of value other than—

6                 “(I) personal efforts of the partici-  
7                 pants in playing the game or contest  
8                 or obtaining access to the Internet; or

9                 “(II) point or credits that the  
10                sponsor of the game or contest provides  
11                to participants free of charge and that  
12                can be used or redeemed only for par-  
13                ticipation in games or contests offered  
14                by the sponsor; or

15               “(vii) participation in any simulation  
16               sports game or educational game or contest  
17               in which (if the game or contest involves a  
18               team or teams) all teams are fictional and  
19               no team is a member of an amateur or pro-  
20               fessional sports organization (as those terms  
21               are defined in section 3701 of title 28) and  
22               that meets the following conditions:

23                         “(I) All prizes and awards offered  
24                         to winning participants are established  
25                         and made known to the participants

1           *in advance of the game or contest and*  
2           *their value is not determined by the*  
3           *number of participants or the amount*  
4           *of any fees paid by those participants.*

5           “(II) *All winning outcomes reflect*  
6           *the relative knowledge and skill of the*  
7           *participants and are determined pre-*  
8           *dominantly by accumulated statistical*  
9           *results of the performance of individ-*  
10          *uals (athletes in the case of sports*  
11          *events) in multiple real-world sporting*  
12          *or other events.*

13          “(III) *No winning outcome is*  
14          *based—*

15                 “(aa) *on the score, point-*  
16                 *spread or any performance or per-*  
17                 *formances of any single real-world*  
18                 *team or any combination of such*  
19                 *teams; or*

20                 “(bb) *solely on any single*  
21                 *performance of an individual ath-*  
22                 *lete in any single real-world*  
23                 *sporting or other event.*

24                 “(7) *The term ‘gambling business’ means a busi-*  
25                 *ness of betting or wagering;*

1           “(8) The term ‘information assisting in the plac-  
2           ing of bets or wagers’ means information knowingly  
3           transmitted by an individual in a gambling business  
4           for use in placing, receiving, making, or otherwise en-  
5           abling or facilitating a bet or wager and does not  
6           include—

7                   “(A) any posting or reporting of any edu-  
8                   cational information on how to make a legal bet  
9                   or wager or the nature of betting or wagering, as  
10                  long as such posting or reporting does not solicit  
11                  or provide information for the purpose of facili-  
12                  tating or enabling the placing or receipt of bets  
13                  or wagers in a jurisdiction where such betting is  
14                  illegal; or

15                  “(B) advertising relating to betting or wa-  
16                  gering in a jurisdiction where such betting or  
17                  wagering is legal, as long as such advertising  
18                  does not solicit or provide information for the  
19                  purpose of facilitating or enabling the placing or  
20                  receipt of bets or wagers in a jurisdiction where  
21                  such betting is illegal; or

22                  “(C) information that is exchanged between  
23                  or among 1 or more pari-mutuel wagering facili-  
24                  ties licensed by the State or approved by the for-  
25                  eign jurisdiction in which the facility is located,

1           *and any support services, wherever located, if the*  
2           *information exchanged is used exclusively for the*  
3           *pooling or processing of bets or wagers made by*  
4           *or with the facility or facilities under each*  
5           *State’s applicable law.*

6           “(9) *The term ‘person’ includes a government*  
7           *(including any governmental entity (as defined in*  
8           *section 3701(2) of title 28)).*

9           “(10) *The term ‘State’ means a State of the*  
10          *United States, the District of Columbia, or a com-*  
11          *monwealth, territory, or possession of the United*  
12          *States.*

13          “(11) *The terms ‘credit’, ‘creditor’, and ‘credit*  
14          *card’ have the meanings given such terms in section*  
15          *103 of the Truth in Lending Act.*

16          “(12) *The term ‘electronic fund transfer’—*

17                 “(A) *has the meaning given such term in*  
18                 *section 903 of the Electronic Fund Transfer Act;*  
19                 *or*

20                 “(B) *any fund transfer covered by Article*  
21                 *4A of the Uniform Commercial Code, as in effect*  
22                 *in any State.*

23          “(13) *The term ‘financial institution’ has the*  
24          *meaning given such term in section 903 of the Elec-*  
25          *tronic Fund Transfer Act.*



1           “(14) The terms ‘money transmitting business’  
 2           and ‘money transmitting service’ have the meanings  
 3           given such terms in section 5330(d) of title 31, United  
 4           States Code.

5           “(15) The term ‘Tribe’ or ‘tribal’ means an In-  
 6           dian tribe, as defined under section 4(5) of the Indian  
 7           Gaming Regulatory Act of 1988).”.

8   **SEC. 3. MODIFICATION OF EXISTING PROHIBITION.**

9           (a) *IN GENERAL.*—Section 1084 of title 18, United  
 10          States Code, is amended to read as follows:

11   **“§ 1084. Use of a communication facility to transmit**  
 12           **bets or wagers; Penalties**

13           “(a) Except as otherwise provided in this section, who-  
 14          ever, being engaged in a gambling business, knowingly uses  
 15          a communication facility—

16               “(1) for the transmission in interstate or foreign  
 17               commerce, within the special maritime and territorial  
 18               jurisdiction of the United States, or to or from any  
 19               place outside the jurisdiction of any nation with re-  
 20               spect to any transmission to or from the United  
 21               States, of bets or wagers, or information assisting in  
 22               the placing of bets or wagers; or

23               “(2) for the transmission of a communication in  
 24               interstate or foreign commerce, within the special  
 25               maritime and territorial jurisdiction of the United

1       *States, or to or from any place outside the jurisdic-*  
2       *tion of any nation with respect to any transmission*  
3       *to or from the United States, which entitles the recipi-*  
4       *ent to receive money or credit as a result of bets or*  
5       *wagers, or for information assisting in the placing of*  
6       *bets or wagers;*

7       *shall be fined under this title or imprisoned not more than*  
8       *five years, or both.*

9       “(b)(1) *Except as provided in paragraph (2), whoever,*  
10       *being engaged in a gambling business, knowingly accepts,*  
11       *in connection with the transmission of a communication*  
12       *in interstate or foreign commerce, within the special mari-*  
13       *time and territorial jurisdiction of the United States, or*  
14       *to or from any place outside the jurisdiction of any nation*  
15       *with respect to any transmission to or from the United*  
16       *States of bets or wagers or information assisting in the*  
17       *placing of bets or wagers—*

18               “(A) *credit, or the proceeds of credit, extended to*  
19       *or on behalf of another (including credit extended*  
20       *through the use of a credit card);*

21               “(B) *an electronic fund transfer or funds trans-*  
22       *mitted by or through a money transmitting business,*  
23       *or the proceeds of an electronic fund transfer or*  
24       *money transmitting service, from or on behalf of the*  
25       *other person;*

1           “(C) *any check, draft, or similar instrument*  
2           *which is drawn by or on behalf of the other person*  
3           *and is drawn on or payable through any financial*  
4           *institution; or*

5           “(D) *the proceeds of any other form of financial*  
6           *transaction as the Secretary of the Treasury may pre-*  
7           *scribe by regulation which involves a financial insti-*  
8           *tution as a payor or financial intermediary on behalf*  
9           *of or for the benefit of the other person,*  
10          *shall be fined under this title or imprisoned not more than*  
11          *five years, or both.*

12          “(2) *Paragraph (b)(1) does not apply if the use of a*  
13          *communication facility for the transmission of bets or wa-*  
14          *gers or information assisting in the placing of bets or wa-*  
15          *gers is permitted under subsections (c) or (d).*

16          “(c) *Nothing in this section prohibits—*

17                 “(1) *the transmission of information assisting in*  
18                 *the placing of bets or wagers for use in news reporting*  
19                 *if such transmission does not solicit or provide infor-*  
20                 *mation for the purpose of facilitating or enabling the*  
21                 *placing or receipt of bets or wagers in a jurisdiction*  
22                 *where such betting is illegal;*

23                 “(2) *the transmission of information assisting in*  
24                 *the placing of bets or wagers from a State or foreign*  
25                 *country where such betting or wagering is permitted*

1        *under Federal, State, tribal, or local law into a State*  
2        *or foreign country in which such betting on the same*  
3        *event is permitted under Federal, State, tribal, or*  
4        *local law; or*

5            *“(3) the interstate transmission of information*  
6        *relating to a State-specific lottery between a State or*  
7        *foreign country where such betting or wagering is*  
8        *permitted under Federal, State, tribal, or local law*  
9        *and an out-of-State data center for the purposes of as-*  
10       *sisting in the operation of such State-specific lottery.*

11        *“(d) Nothing in subsection (c) or (d) shall allow the*  
12       *use of a communication facility for the transmission of bets*  
13       *or wagers involving the purchase of a chance or opportunity*  
14       *to win a lottery, or the use of a communication facility*  
15       *for the transmission of information assisting in the placing*  
16       *of bets or wagers involving the purchase of a chance or op-*  
17       *portunity to win a lottery, except that communication fa-*  
18       *cilities may be used for the transmission of such bets or*  
19       *wagers and the transmission of information assisting such*  
20       *bets or wagers as long as such bets or wagers are placed*  
21       *on the premises of a retail outlet that is open to the public*  
22       *and licensed by the State in which it is located to sell*  
23       *chances or opportunities to win a lottery.*

24        *“(e) Nothing in this section prohibits the use of a com-*  
25       *munication facility for the transmission of bets or wagers*

1 *or information assisting in the placing of bets or wagers,*  
2 *if—*

3           “(1) *at the time the transmission occurs, the in-*  
4 *dividual or entity placing the bets or wagers or infor-*  
5 *mation assisting in the placing of bets or wagers, the*  
6 *gambling business, and any facility or support service*  
7 *processing those bets or wagers are physically located*  
8 *in the same State, and the State has a secure and ef-*  
9 *fective customer verification and age verification sys-*  
10 *tem to assure compliance with age and residence re-*  
11 *quirements, and for class II or class III gaming*  
12 *under the Indian Gaming Regulatory Act, are phys-*  
13 *ically located on Indian lands within that State;*

14           “(2) *the State or Tribe has explicitly authorized*  
15 *such bets and wagers;*

16           “(3) *the State has explicitly authorized and li-*  
17 *censed the operation of the gambling business, any fa-*  
18 *cility processing the bets and wagers, and the support*  
19 *service within its borders or the Tribe has explicitly*  
20 *authorized and licensed the operation of such gam-*  
21 *bling business, any facility processing the bets and*  
22 *wagers, and the support service on Indian lands with-*  
23 *in its jurisdiction;*

1           “(4) with respect to class II or class III gaming,  
2       the game is permitted under and conducted in accord-  
3       ance with the Indian Gaming Regulatory Act;

4           “(5) with respect to class III gaming under the  
5       Indian Gaming Regulatory Act, the game is author-  
6       ized under, and is conducted in accordance with, the  
7       respective Tribal-State compact of the Tribe having  
8       jurisdiction over the Indian lands where the indi-  
9       vidual or entity placing the bets or wagers or infor-  
10      mation assisting in the placing of bets or wagers, the  
11      gambling business, and any facility or support service  
12      processing those bets or wagers are physically located;  
13      and

14          “(6) with respect to class III gaming under the  
15      Indian Gaming Regulatory Act, each such Tribal-  
16      State compact expressly provides that the game may  
17      be conducted using a communication facility to trans-  
18      mit bets or wagers or information assisting in the  
19      placing of bets or wagers.

20          “(f) Nothing in this section creates immunity from  
21      criminal prosecution under any laws of any State or Tribe.

22          “(g) Nothing in this section authorizes activity that  
23      is prohibited under chapter 178 of title 28, United States  
24      Code.

1       “(h) When any common carrier, subject to the jurisdic-  
2       tion of the Federal Communications Commission, is noti-  
3       fied in writing by a Federal, State, tribal or local law en-  
4       forcement agency, acting within its jurisdiction, that any  
5       communication facility furnished by it is being used or will  
6       be used by its subscriber for the purpose of transmitting  
7       or receiving gambling information, in interstate or foreign  
8       commerce, within the special maritime and territorial ju-  
9       risdiction of the United States, or to or from any place out-  
10      side the jurisdiction of any nation with respect to any  
11      transmission to or from the United States in violation of  
12      Federal, State, tribal or local law, it shall discontinue or  
13      refuse, the leasing, furnishing, or maintaining of such facil-  
14      ity, after reasonable notice to the subscriber, but no dam-  
15      ages, penalty or forfeiture, civil or criminal, shall be found  
16      against any common carrier for any act done in compli-  
17      ance with any notice received from a law enforcement agen-  
18      cy. Nothing in this section shall be deemed to prejudice the  
19      right of any person affected thereby to secure an appro-  
20      priate determination, as otherwise provided by law, in a  
21      Federal court or in a State, tribal, or local tribunal or  
22      agency, that such facility should not be discontinued or re-  
23      moved, or should be restored.

24       “(i)(1) A Federal, State, tribal, or local law enforce-  
25      ment agency, acting within its jurisdiction may, in a civil

1 *action, obtain injunctive or declaratory relief to restrain*  
2 *or prevent any person from paying or assisting in the pay-*  
3 *ment of bets or wagers, or communicating information as-*  
4 *sisting in the placing of bets or wagers, in interstate or*  
5 *foreign commerce, within the special maritime and terri-*  
6 *torial jurisdiction of the United States, or to or from any*  
7 *place outside the jurisdiction of any nation with respect to*  
8 *any transmission to or from the United States in violation*  
9 *of Federal, State, tribal, or local law.*

10       “(2) *No damages, penalty, or forfeiture, civil or crimi-*  
11 *nal, shall be found against any person or entity for any*  
12 *act done in compliance with any notice received from a law*  
13 *enforcement agency.*

14       “(3) *Relief granted under paragraph (1) against an*  
15 *interactive computer service (as defined in section 230(f)*  
16 *of the Communications Act of 1934) shall—*

17               “(A) *be limited to the removal of, or disabling of*  
18 *access to, an online site violating this section, or a*  
19 *hypertext link to an online site violating this section,*  
20 *that resides on a computer server that such service*  
21 *controls or operates; except this limitation shall not*  
22 *apply if the service is violating this section or is in*  
23 *active concert with a person who is violating this sec-*  
24 *tion and receives actual notice of the relief;*



1           “(B) be available only after notice to the inter-  
2       active computer service and an opportunity for the  
3       service to appear are provided;

4           “(C) not impose any obligation on an interactive  
5       computer service to monitor its service or to affirma-  
6       tively seek facts indicating activity violating this sec-  
7       tion;

8           “(D) specify the interactive computer service to  
9       which it applies; and

10          “(E) specifically identify the location of the on-  
11       line site or hypertext link to be removed or access to  
12       which is to be disabled.

13          “(j) Nothing in this section allows the use of a commu-  
14       nication facility for the purpose of placing a bet or wager  
15       or the use of a communication facility for the purpose of  
16       transmitting information assisting in the placement of bets  
17       or wagers that was illegal as of June 6, 2002.”.

18          (b) CLERICAL AMENDMENT.—The table of sections at  
19       the beginning of chapter 50 of such title is amended so that  
20       the item relating to section 1084 reads as follows:

“1084. Use of a communication facility to transmit bets or wagers; penalties.”.

**Union Calendar No. 356**

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

**H. R. 3215**

**[Report No. 107–591, Part I]**

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**A BILL**

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

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JULY 18, 2002

Reported with an amendment and referred to the Committee on Energy and Commerce for a period ending no later than July 19, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X

JULY 19, 2002

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