

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

# H. R. 5760

To create a commission on Internet gambling licensing and regulation.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2002

Mr. CONYERS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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

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## A BILL

To create a commission on Internet gambling licensing and regulation.

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 shall be known as the “Internet Gambling  
5        Licensing and Regulation Commission Act”.

6        **SEC. 2. FINDINGS AND POLICY.**

7        The Congress finds the following:

8                (1) Gambling is regulated primarily by State  
9        governments, whose statutes and regulations govern

1 the placement and acceptance of wagers within state  
2 boundaries.

3 (2) The advent of advanced telecommunications  
4 technologies, and the Internet in particular, has ren-  
5 dered state regulation less effective and confusing  
6 with respect to online wagering.

7 (3) Federal statutes governing interstate place-  
8 ment of wagers are contradictory and confusing, and  
9 they do not adequately address the issues involved  
10 with gambling over the Internet.

11 (4) Commercial casino operations, Native  
12 American tribal gaming operations, State lotteries,  
13 horse and dog racing tracks, jai alai, and card rooms  
14 have made legal land-based gambling available to the  
15 vast majority of Americans.

16 (5) Online gaming is an activity occurring in  
17 interstate commerce.

18 (6) Various forms of gambling, including *inter*  
19 *alia*, casino-style, sports wagering, pari-mutuel wa-  
20 gering (including horse and dog racing as well as jai  
21 alai), State lotteries, noncasino slot machines and  
22 others, are subject to disparate Federal and State  
23 laws and regulations.

24 (7) Because of the nature of the Internet, legis-  
25 lative attempts to prohibit Internet gambling are un-

1 likely to be effective, and may adversely impact  
2 American's rights to due process and individual pri-  
3 vacy.

4 (8) It is the policy of the Congress in this Act  
5 to establish a commission to study and resolve issues  
6 posed by the regulation of interstate commerce with  
7 respect to Internet gambling.

8 **SEC. 3. INTERNET GAMBLING LICENSING AND REGULA-**  
9 **TION STUDY COMMISSION.**

10 (a) ESTABLISHMENT OF COMMISSION.—There is es-  
11 tablished a commission to be known as the Internet Gam-  
12 bling Licensing and Regulation Study Commission  
13 (hereinafter referred to in this Act as the “Commission”).  
14 The Commission shall—

15 (1) be composed of 5 members appointed in ac-  
16 cordance with subsection (b); and

17 (2) conduct its business in accordance with the  
18 provisions of this Act.

19 (b) MEMBERSHIP.—

20 (1) IN GENERAL.—The Commissioners shall be  
21 appointed for the life of the Commission as follows:

22 (A) 1 shall be appointed by the Speaker of  
23 the House of Representatives.

24 (B) 1 shall be appointed by the Minority  
25 Leader of the House of Representatives.

1 (C) 1 shall be appointed by the Majority  
2 Leader of the Senate.

3 (D) 1 shall be appointed by the Minority  
4 Leader of the Senate.

5 (E) The 4 commissioners appointed in sub-  
6 paragraphs (A), (B), (C), and (D) shall select  
7 by consensus the fifth Commissioner, who shall  
8 be the Chairman of the Commission.

9 (2) PERSONS ELIGIBLE.—The members of the  
10 Commission shall be individuals who have knowledge  
11 or expertise, whether by experience or training, in  
12 matters to be studied by the Commission under sec-  
13 tion 4. The members may be from the public or pri-  
14 vate sector, and may include Federal, State, local, or  
15 Native American tribal officers or employees, mem-  
16 bers of academia, nonprofit organizations, industry,  
17 or other interested individuals.

18 (3) CONSULTATION REQUIRED.—The Speaker  
19 of the House of Representatives, the Minority Lead-  
20 er of the House of Representatives, the Majority  
21 Leader of the Senate, and the Minority Leader of  
22 the Senate shall consult among themselves prior to  
23 the appointment of the members of the Commission  
24 in order to achieve, to the maximum extent possible,  
25 fair and equitable representation of various points

1 of view with respect to the matters to be studied  
2 by the Commission under section 4.

3 (4) COMPLETION OF APPOINTMENTS; VACAN-  
4 CIES.—The Speaker of the House of Representa-  
5 tives, the Minority Leader of the House of Rep-  
6 resentatives, the Majority Leader of the Senate, and  
7 the Minority Leader of the Senate shall conduct the  
8 consultation required under paragraph (3) and shall  
9 each make their respective appointments not later  
10 than 60 days after the date of enactment of this  
11 Act. Any vacancy that occurs during the life of the  
12 Commission shall not affect the powers of the Com-  
13 mission, and shall be filled in the same manner as  
14 the original appointment not later than 60 days  
15 after the vacancy occurs.

16 (5) OPERATION OF THE COMMISSION.—

17 (A) MEETINGS.—The Commission shall  
18 meet at the call of the Chairman. The initial  
19 meeting of the Commission shall be conducted  
20 not later than 30 days after the appointment of  
21 the last member of the Commission, or not later  
22 than 30 days after the date on which appro-  
23 priated funds are available for the Commission,  
24 whichever is later.

1           (B) QUORUM; VOTING; RULES.—A major-  
2           ity of the members of the Commission shall  
3           constitute a quorum to conduct business, but  
4           the Commission may establish a lesser quorum  
5           for conducting hearings scheduled by the Com-  
6           mission. Each member of the Commission shall  
7           have 1 vote, and the vote of each member shall  
8           be accorded the same weight. The Commission  
9           may establish by majority vote any other rules  
10          for the conduct of the Commission’s business, if  
11          such rules are not inconsistent with this Act or  
12          other applicable law.

13 **SEC. 4. DUTIES OF THE COMMISSION.**

14          (a) STUDY.—

15           (1) IN GENERAL.—It shall be the duty of the  
16          Commission to conduct a comprehensive study of the  
17          existing legal framework governing Internet gam-  
18          bling and the issues involved with the licensing and  
19          regulation of Internet gambling.

20           (2) MATTERS TO BE STUDIED.—The matters  
21          studied by the Commission under paragraph (1)  
22          shall include, but not be limited to—

23           (A) a review of existing international, Fed-  
24          eral, State, and local laws governing various  
25          forms of wagering over the Internet, the effec-

1           tiveness of those laws, and their conformity  
2           with each other;

3           (B) an assessment of the impact of Inter-  
4           net gambling with respect to problem gambling;

5           (C) an assessment of the impact of Inter-  
6           net gambling on the availability of gambling to  
7           minors;

8           (D) an assessment of the susceptibility of  
9           Internet gambling to money laundering by ter-  
10          rorists or criminal enterprises;

11          (E) the potential of regulatory measures to  
12          minimize any adverse impacts of Internet gam-  
13          bling with respect to the problems identified in  
14          subparagraphs (B), (C), and (D);

15          (F) issues of federalism posed by the regu-  
16          lation of Internet gambling, and the reconcili-  
17          ation of a state-based legal framework with an  
18          inherently interstate and international medium  
19          such as the Internet; and

20          (G) the problems of unregulated inter-  
21          national Internet wagering, and options for the  
22          Federal Government to seek international co-  
23          operation in the licensing and regulation of  
24          such gambling.

1 (b) REPORT.—Not later than 1 year after the date  
2 on which the Commission first meets, the Commission  
3 shall submit to the President, the Congress, State Gov-  
4 ernors, and Native American tribal governments a com-  
5 prehensive report on the Commission’s findings and con-  
6 clusions.

7 (c) RECOMMENDATIONS.—Not later than 6 months  
8 after the submission of the report under subsection (b)  
9 the Commission shall issue proposed changes to Federal  
10 laws and regulations to provide for the licensing and regu-  
11 lation of Internet gambling in the United States. These  
12 proposals shall—

13 (1) preserve the prerogatives of States with re-  
14 spect to intrastate gambling and wagering within  
15 their borders, and the further prerogative of States  
16 to regulate the placement and acceptance of online  
17 wagers by their citizens;

18 (2) include measures to minimize adverse im-  
19 pacts of Internet gambling, including—

20 (A) measures to prevent minors from gam-  
21 bling online;

22 (B) measures to prevent the use of Inter-  
23 net gambling as a money laundering channel  
24 for terrorists and criminal enterprises; and

1 (C) measures to identify, and where pos-  
2 sible, provide assistance to problem gamblers  
3 online;

4 (3) preserve tribal sovereignty with respect to  
5 gaming and Internet gaming in a manner consistent  
6 with the decision of the Supreme Court of the  
7 *United States in California v. Cabazon Band of Mis-*  
8 *sion Indians*, 480 U.S. 202, 107 S. Ct. 1083 (1987);

9 (4) clarify and harmonize the Federal laws gov-  
10 erning gambling as they apply to Internet gambling,  
11 and eliminate the disparate treatment of various  
12 forms of Internet gambling, except in cases where  
13 the disparity serves a compelling State interest;

14 (5) provide for the appropriate taxation of  
15 Internet gambling enterprises in a manner com-  
16 parable to the taxation of land-based gambling en-  
17 terprises;

18 (6) provide for the licensing of enterprises both  
19 within the United States and outside of its borders;

20 (7) consider and, where possible, remain con-  
21 sistent with the United States goals, principles, and  
22 obligations in other international negotiations gov-  
23 erning electronic commerce; and

24 (8) include measures to discourage, prohibit, or  
25 prevent United States citizens from wagering with

1       unlicensed Internet gambling operations outside of  
2       the United States.

3   **SEC. 5. POWERS OF THE COMMISSION.**

4       (a) HEARINGS.—

5           (1) IN GENERAL.—The Commission may hold  
6       such hearings, sit and act at such times and places,  
7       administer such oaths, take such testimony, and re-  
8       ceive such evidence as the Commission considers ad-  
9       visable to carry out its duties under section 4.

10          (2) WITNESS EXPENSES.—Witnesses requested  
11       to appear before the Commission shall be paid the  
12       same fees as are paid to witnesses under section  
13       1821 of title 28, United States Code. The per diem  
14       and mileage allowances for witnesses shall be paid  
15       from funds appropriated to the Commission.

16       (b) SUBPOENAS.—

17           (1) IN GENERAL.—If a person fails to supply  
18       information requested by the Commission, the Com-  
19       mission may by majority vote require by subpoena  
20       the production of any written or recorded informa-  
21       tion, document, report, answer, record, account,  
22       paper, computer file, or other data or documentary  
23       evidence necessary to carry out its duties under sec-  
24       tion 4. The Commission shall transmit to the Attor-  
25       ney General a confidential, written notice at least 10

1 days in advance of the issuance of any such sub-  
2 poena. A subpoena under this paragraph may re-  
3 quire the production of materials from any place  
4 within the United States.

5 (2) INTERROGATORIES.—The Commission may,  
6 with respect only to information necessary to under-  
7 stand any materials obtained through a subpoena  
8 under paragraph (1), issue a subpoena requiring the  
9 person producing such materials to answer, either  
10 through a sworn deposition or through written an-  
11 swers provided under oath (at the election of the  
12 person upon whom the subpoena is served), to inter-  
13 rogatories from the Commission regarding such in-  
14 formation. A complete recording or transcription  
15 shall be made of any deposition made under this  
16 paragraph.

17 (3) CERTIFICATION.—Each person who submits  
18 materials or information to the Commission pursu-  
19 ant to a subpoena issued under paragraph (1) or (2)  
20 shall certify to the Commission the authenticity and  
21 completeness of all materials or information sub-  
22 mitted. The provisions of section 1001 of title 18,  
23 United States Code, shall apply to any false state-  
24 ments made with respect to the certification required  
25 under this paragraph.

1           (4) TREATMENT OF SUBPOENAS.—Any sub-  
2       poena issued by the Commission under paragraph  
3       (1) or (2) shall comply with the requirements for  
4       subpoenas issued by a United States district court  
5       under the Federal Rules of Civil Procedure.

6           (5) FAILURE TO OBEY A SUBPOENA.—If a per-  
7       son refuses to obey a subpoena issued by the Com-  
8       mission under paragraph (1) or (2), the Commission  
9       may apply to a United States district court for an  
10      order requiring that person to comply with such sub-  
11      poena. The application may be made within the judi-  
12      cial district in which that person is found, resides,  
13      or transacts business. Any failure to obey the order  
14      of the court may be punished by the court as civil  
15      contempt.

16          (c) INFORMATION FROM FEDERAL AGENCIES.—The  
17      Commission may secure directly from any Federal depart-  
18      ment or agency such information as the Commission con-  
19      siders necessary to carry out its duties under section 4.  
20      Upon the request of the Commission, the head of such  
21      department or agency may furnish such information to the  
22      Commission.

23          (d) INFORMATION TO BE KEPT CONFIDENTIAL.—  
24      The Commission shall be considered an agency of the Fed-  
25      eral Government for purposes of section 1905 of title 18,

1 United States Code, and any individual employed by an  
2 individual, entity, or organization under contract to the  
3 Commission under section 7 shall be considered an em-  
4 ployee of the Commission for the purposes of section 1905  
5 of title 18, United States Code. Information obtained by  
6 the Commission, other than information available to the  
7 public, shall not be disclosed to any person in any manner,  
8 except—

9 (1) to Commission employees or employees of  
10 any individual, entity, or organization under contract  
11 to the Commission under section 7 for the purpose  
12 of receiving, reviewing, or processing such informa-  
13 tion;

14 (2) upon court order; or

15 (3) when publicly released by the Commission  
16 in an aggregate or summary form that does not di-  
17 rectly or indirectly disclose—

18 (A) the identity of any person or business  
19 entity; or

20 (B) any information which could not be re-  
21 leased under section 1905 of title 18, United  
22 States Code.

23 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

24 (a) **COMPENSATION OF MEMBERS.**—Each member of  
25 the Commission who is not an officer or employee of the

1 Federal Government, or whose compensation is not pre-  
2 cluded by a State, local, or Native American tribal govern-  
3 ment position, shall be compensated at a rate equal to the  
4 daily equivalent of the annual rate of basic pay prescribed  
5 for level IV of the Executive Schedule under section 5315  
6 of title 5, United States Code, for each day (including  
7 travel time) during which such member is engaged in the  
8 performance of the duties of the Commission. All members  
9 of the Commission who are officers or employees of the  
10 United States shall serve without compensation in addi-  
11 tion to that received for their services as officers or em-  
12 ployees of the United States.

13 (b) TRAVEL EXPENSES.—The members of the Com-  
14 mission shall be allowed travel expenses, including per  
15 diem in lieu of subsistence, at rates authorized for employ-  
16 ees of agencies under subchapter I of chapter 57 of title  
17 5, United States Code, while away from their homes or  
18 regular places of business in the performance of service  
19 for the Commission.

20 (c) STAFF.—

21 (1) IN GENERAL.—The Chairman of the Com-  
22 mission may, without regard to the civil service laws  
23 and regulations, appoint and terminate an executive  
24 director and such other additional personnel as may  
25 be necessary to enable the Commission to perform

1 its duties. The employment and termination of an  
2 executive director shall be subject to confirmation by  
3 a majority of the members of the Commission.

4 (2) COMPENSATION.—The executive director  
5 shall be compensated at a rate not to exceed the rate  
6 payable for level V of the Executive Schedule under  
7 section 5316 of title 5, United States Code. The  
8 Chairman may fix the compensation of other per-  
9 sonnel without regard to the provisions of chapter  
10 51 and subchapter III of chapter 53 of title 5,  
11 United States Code, relating to classification of posi-  
12 tions and General Schedule pay rates, except that  
13 the rate of pay for such personnel may not exceed  
14 the rate payable for level V of the Executive Sched-  
15 ule under section 5316 of such title.

16 (3) DETAIL OF GOVERNMENT EMPLOYEES.—  
17 Any Federal Government employee, with the ap-  
18 proval of the head of the appropriate Federal agen-  
19 cy, may be detailed to the Commission without reim-  
20 bursement, and such detail shall be without inter-  
21 ruption or loss of civil service status, benefits, or  
22 privilege.

23 (d) PROCUREMENT OF TEMPORARY AND INTERMIT-  
24 TENT SERVICES.—The Chairman of the Commission may  
25 procure temporary and intermittent services under section

1 3109(b) of title 5, United States Code, at rates for individ-  
2 uals not to exceed the daily equivalent of the annual rate  
3 of basic pay prescribed for level V of the Executive Sched-  
4 ule under section 5316 of such title.

5 **SEC. 7. CONTRACTS FOR RESEARCH.**

6 (a) ADVISORY COMMISSION ON INTERGOVERN-  
7 MENTAL RELATIONS.—

8 (1) IN GENERAL.—In carrying out its duties  
9 under section 4, the Commission shall contract with  
10 the Advisory Commission on Intergovernmental Re-  
11 lations for—

12 (A) a thorough review and cataloging of all  
13 applicable Federal, State, local, and Native  
14 American tribal laws, regulations, and ordi-  
15 nances that pertain to gambling in the United  
16 States; and

17 (B) assistance in conducting the studies  
18 required by the Commission under section 4(a),  
19 and in particular the review and assessments  
20 required in subparagraphs (A), (E), and (F) of  
21 paragraph (2) of such section.

22 (2) REPORT REQUIRED.—The contract entered  
23 into under paragraph (1) shall require that the Advi-  
24 sory Commission on Intergovernmental Relations  
25 submit a report to the Commission detailing the re-

1 sults of its efforts under the contract not later than  
2 15 months after the date upon which the Commis-  
3 sion first meets.

4 (b) NATIONAL RESEARCH COUNCIL.—

5 (1) IN GENERAL.—In carrying out its duties  
6 under section 4, the Commission shall contract with  
7 the National Research Council of the National Acad-  
8 emy of Sciences for assistance in conducting the  
9 studies required by the Commission under section  
10 4(a).

11 (2) REPORT REQUIRED.—The contract entered  
12 into under paragraph (1) shall require that the Na-  
13 tional Research Council submit a report to the Com-  
14 mission detailing the results of its efforts under the  
15 contract not later than 15 months after the date  
16 upon which the Commission first meets.

17 (c) OTHER ORGANIZATIONS.—Nothing in this section  
18 shall be construed to limit the ability of the Commission  
19 to enter into contracts with other entities or organizations  
20 for research necessary to carry out the Commission's du-  
21 ties under section 4.

22 **SEC. 8. DEFINITIONS.**

23 For the purposes of this Act:

24 (1) GAMBLING.—The term “gambling” means  
25 any legalized form of wagering or betting conducted

1 in a casino, on a riverboat, on an Indian reservation,  
2 or at any other location under the jurisdiction of the  
3 United States. Such term includes any casino game,  
4 parimutuel betting, sports-related betting, lottery,  
5 pull-tab game, slot machine, any type of video gam-  
6 ing, computerized wagering or betting activities  
7 (including any such activity conducted over the  
8 Internet), and philanthropic or charitable gaming ac-  
9 tivities.

10 (2) NATIVE AMERICAN TRIBAL GOVERNMENT.—

11 The term “Native American tribal government”  
12 means an Indian tribe, as defined under section 4(5)  
13 of the Indian Gaming Regulatory Act of 1988 (25  
14 U.S.C. 2703(5)).

15 (3) STATE.—The term “State” means each of  
16 the several States of the United States, the District  
17 of Columbia, the Commonwealth of Puerto Rico, the  
18 Virgin Islands, Guam, American Samoa, and the  
19 Commonwealth of the Northern Mariana Islands.

20 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-  
22 priated to the Commission, the Advisory Commission on  
23 Intergovernmental Relations, and the National Academy  
24 of Sciences such sums as may be necessary to carry out  
25 the purposes of this Act. Any sums appropriated shall re-

1 main available, without fiscal year limitation, until ex-  
2 pended.

3 (b) LIMITATION.—No payment may be made under  
4 section 6 or 7 of this Act except to the extent provided  
5 for in advance in an appropriation Act.

6 **SEC. 10. TERMINATION OF THE COMMISSION.**

7 The Commission shall terminate 60 days after the  
8 Commission submits the report required under section  
9 4(b).

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