

108TH CONGRESS  
1ST SESSION

# H. R. 2143

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2003

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

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Unlawful Internet  
5       Gambling 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.

1           (2) The National Gambling Impact Study Com-  
2 mission in 1999 recommended the passage of legisla-  
3 tion to prohibit wire transfers to Internet gambling  
4 sites or the banks which represent them.

5           (3) Internet gambling is a major cause of debt  
6 collection problems for insured depository institu-  
7 tions and the consumer credit industry.

8           (4) Internet gambling conducted through off-  
9 shore jurisdictions has been identified by United  
10 States law enforcement officials as a significant  
11 money laundering vulnerability.

12 **SEC. 3. POLICIES AND PROCEDURES REQUIRED TO PRE-**  
13 **VENT PAYMENTS FOR UNLAWFUL INTERNET**  
14 **GAMBLING.**

15       (a) REGULATIONS.—Before the end of the 6-month  
16 period beginning on the date of the enactment of this Act,  
17 the Federal functional regulators shall prescribe regula-  
18 tions requiring any designated payment system to estab-  
19 lish policies and procedures reasonably designed to iden-  
20 tify and prevent restricted transactions in any of the fol-  
21 lowing ways:

22           (1) The establishment of policies and proce-  
23 dures that—

24               (A) allow the payment system and any per-  
25 son involved in the payment system to identify

1           restricted transactions by means of codes in au-  
2           thorization messages or by other means; and

3                   (B) block restricted transactions identified  
4           as a result of the policies and procedures devel-  
5           oped pursuant to clause (i).

6           (2) The establishment of policies and proce-  
7           dures that prevent the acceptance of the products or  
8           services of the payment system in connection with a  
9           restricted transaction.

10          (b) REQUIREMENTS FOR POLICIES AND PROCE-  
11 DURES.—In prescribing regulations pursuant to sub-  
12 section (a), the Federal functional regulators shall—

13           (1) identify types of policies and procedures, in-  
14           cluding nonexclusive examples, which would be  
15           deemed to be “reasonably designed to identify” and  
16           “reasonably designed to block” or to “prevent the  
17           acceptance of the products or services” with respect  
18           to each type of transaction, such as, should credit  
19           card transactions be so designated, identifying trans-  
20           actions by a code or codes in the authorization mes-  
21           sage and denying authorization of a credit card  
22           transaction in response to an authorization message;

23           (2) to the extent practical, permit any partici-  
24           pant in a payment system to choose among alter-  
25           native means of identifying and blocking, or other-

1 wise preventing the acceptance of the products or  
2 services of the payment system or participant in con-  
3 nection with, restricted transactions; and

4 (3) consider exempting restricted transactions  
5 from any requirement subsection (a) if the Federal  
6 functional regulators find that it is not reasonably  
7 practical to identify and block, or otherwise prevent,  
8 such transactions.

9 (c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES  
10 AND PROCEDURES.—A creditor, credit card issuer, finan-  
11 cial institution, operator of a terminal at which an elec-  
12 tronic fund transfer may be initiated, money transmitting  
13 business, or international, national, regional, or local net-  
14 work utilized to effect a credit transaction, electronic fund  
15 transfer, or money transmitting service, or a participant  
16 in such network, meets the requirement of subsection (a)  
17 if—

18 (1) such person relies on and complies with the  
19 policies and procedures of a designated payment sys-  
20 tem of which it is a member or participant to—

21 (A) identify and block restricted trans-  
22 actions; or

23 (B) otherwise prevent the acceptance of  
24 the products or services of the payment system,

1 member, or participant in connection with re-  
2 stricted transactions; and

3 (2) such policies and procedures of the des-  
4 ignated payment system comply with the require-  
5 ments of regulations prescribed under subsection  
6 (a).

7 (d) ENFORCEMENT.—

8 (1) IN GENERAL.—This section shall be en-  
9 forced by the Federal functional regulators and the  
10 Federal Trade Commission under applicable law in  
11 the manner provided in section 505(a) of the  
12 Gramm-Leach-Bliley Act.

13 (2) FACTORS TO BE CONSIDERED.—In consid-  
14 ering any enforcement action under this subsection  
15 against any payment system, or any participant in  
16 a payment system that is a creditor, credit card  
17 issuer, financial institution, operator of a terminal at  
18 which an electronic fund transfer may be initiated,  
19 money transmitting business, or international, na-  
20 tional, regional, or local network utilized to effect a  
21 credit transaction, electronic fund transfer, or money  
22 transmitting service, or a participant in such net-  
23 work, the Federal functional regulators and the Fed-  
24 eral Trade Commission shall consider the following  
25 factors:

1           (A) The extent to which such person is ex-  
2           tending credit or transmitting funds knowing  
3           the transaction is in connection with unlawful  
4           Internet gambling.

5           (B) The history of such person in extend-  
6           ing credit or transmitting funds knowing the  
7           transaction is in connection with unlawful  
8           Internet gambling.

9           (C) The extent to which such person has  
10          established and is maintaining policies and pro-  
11          cedures in compliance with regulations pre-  
12          scribed under this subsection.

13          (D) The feasibility that any specific rem-  
14          edy prescribed can be implemented by such per-  
15          son without substantial deviation from normal  
16          business practice.

17          (E) The costs and burdens the specific  
18          remedy will have on such person.

19   **SEC. 4. DEFINITIONS.**

20          For purposes of this Act, the following definitions  
21   shall apply:

22          (1) RESTRICTED TRANSACTION.—The term “re-  
23          stricted transaction” means any transaction or  
24          transmittal to any person engaged in the business of  
25          betting or wagering, in connection with the partici-

1       pation of another person in unlawful Internet gam-  
2       bling, of—

3               (A) credit, or the proceeds of credit, ex-  
4       tended to or on behalf of such other person (in-  
5       cluding credit extended through the use of a  
6       credit card);

7               (B) an electronic fund transfer or funds  
8       transmitted by or through a money transmit-  
9       ting business, or the proceeds of an electronic  
10      fund transfer or money transmitting service,  
11      from or on behalf of the other person;

12              (C) any check, draft, or similar instrument  
13      which is drawn by or on behalf of the other per-  
14      son and is drawn on or payable at or through  
15      any financial institution; or

16              (D) the proceeds of any other form of fi-  
17      nancial transaction as the Federal functional  
18      regulators may prescribe by regulation which  
19      involves a financial institution as a payor or fi-  
20      nancial intermediary on behalf of or for the  
21      benefit of the other person.

22              (2) BETS OR WAGERS.—The term “bets or wa-  
23      gers”—

24              (A) means the staking or risking by any  
25      person of something of value upon the outcome

1 of a contest of others, a sporting event, or a  
2 game subject to chance, upon an agreement or  
3 understanding that the person or another per-  
4 son will receive something of greater value than  
5 the amount staked or risked in the event of a  
6 certain outcome;

7 (B) includes the purchase of a chance or  
8 opportunity to win a lottery or other prize  
9 (which opportunity to win is predominantly sub-  
10 ject to chance);

11 (C) includes any scheme of a type de-  
12 scribed in section 3702 of title 28, United  
13 States Code;

14 (D) includes any instructions or informa-  
15 tion pertaining to the establishment or move-  
16 ment of funds in an account by the bettor or  
17 customer with the business of betting or wager-  
18 ing; and

19 (E) does not include—

20 (i) any activity governed by the secu-  
21 rities laws (as that term is defined in sec-  
22 tion 3(a)(47) of the Securities Exchange  
23 Act of 1934) for the purchase or sale of se-  
24 curities (as that term is defined in section  
25 3(a)(10) of such Act);



1           (ii) any transaction conducted on or  
2           subject to the rules of a registered entity  
3           or exempt board of trade pursuant to the  
4           Commodity Exchange Act;

5           (iii) any over-the-counter derivative  
6           instrument;

7           (iv) any other transaction that—

8                 (I) is excluded or exempt from  
9                 regulation under the Commodity Ex-  
10                change Act; or

11               (II) is exempt from State gaming  
12                or bucket shop laws under section  
13                12(e) of the Commodity Exchange Act  
14                or section 28(a) of the Securities Ex-  
15                change Act of 1934;

16           (v) any contract of indemnity or guar-  
17           antee;

18           (vi) any contract for insurance;

19           (vii) any deposit or other transaction  
20           with a depository institution (as defined in  
21           section 3(c) of the Federal Deposit Insur-  
22           ance Act);

23           (viii) any participation in a simulation  
24           sports game or an educational game or  
25           contest that—

1 (I) is not dependent solely on the  
2 outcome of any single sporting event  
3 or nonparticipant's singular individual  
4 performance in any single sporting  
5 event;

6 (II) has an outcome that reflects  
7 the relative knowledge and skill of the  
8 participants with such outcome deter-  
9 mined predominantly by accumulated  
10 statistical results of sporting events;  
11 and

12 (III) offers a prize or award to a  
13 participant that is established in ad-  
14 vance of the game or contest and is  
15 not determined by the number of par-  
16 ticipants or the amount of any fees  
17 paid by those participants; and

18 (ix) any lawful transaction with a  
19 business licensed or authorized by a State.

20 (3) DESIGNATED PAYMENT SYSTEM DE-  
21 FINED.—The term “designated payment system”  
22 means any system utilized by any creditor, credit  
23 card issuer, financial institution, operator of a ter-  
24 minal at which an electronic fund transfer may be  
25 initiated, money transmitting business, or inter-

1 national, national, regional, or local network utilized  
2 to effect a credit transaction, electronic fund trans-  
3 fer, or money transmitting service, or any partici-  
4 pant in such network, that the Federal functional  
5 regulators determine, by regulation or order, could  
6 be utilized in connection with, or to facilitate, any  
7 restricted transaction.

8 (4) FEDERAL FUNCTIONAL REGULATOR.—The  
9 term “Federal functional regulator” has the same  
10 meaning as in section 509(2) of the Gramm-Leach-  
11 Bliley Act.

12 (5) INTERNET.—The term “Internet” means  
13 the international computer network of interoperable  
14 packet switched data networks.

15 (6) UNLAWFUL INTERNET GAMBLING.—The  
16 term “unlawful Internet gambling” means to place,  
17 receive, or otherwise transmit a bet or wager by any  
18 means which involves the use, at least in part, of the  
19 Internet where such bet or wager is unlawful under  
20 any applicable Federal or State law in the State in  
21 which the bet or wager is initiated, received, or oth-  
22 erwise made.

23 (7) OTHER TERMS.—

24 (A) CREDIT; CREDITOR; AND CREDIT  
25 CARD.—The terms “credit”, “creditor”, and

1 “credit card” have the meanings given such  
2 terms in section 103 of the Truth in Lending  
3 Act.

4 (B) ELECTRONIC FUND TRANSFER.—The  
5 term “electronic fund transfer”—

6 (i) has the meaning given such term  
7 in section 903 of the Electronic Fund  
8 Transfer Act; and

9 (ii) includes any fund transfer covered  
10 by Article 4A of the Uniform Commercial  
11 Code, as in effect in any State.

12 (C) FINANCIAL INSTITUTION.—The term  
13 “financial institution”—

14 (i) has the meaning given such term  
15 in section 903 of the Electronic Fund  
16 Transfer Act; and

17 (ii) includes any financial institution,  
18 as defined in section 509(3) of the  
19 Gramm-Leach-Bliley Act.

20 (D) MONEY TRANSMITTING BUSINESS AND  
21 MONEY TRANSMITTING SERVICE.—The terms  
22 “money transmitting business” and “money  
23 transmitting service” have the meanings given

1           such terms in section 5330(d) of title 31,  
2           United States Code.

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