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108TH CONGRESS
1ST SESSION

S. 627

[Report No. 108-173]

To prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2003

Mr. KYL (for himself, Mr. SHELBY, and Mrs. FEINSTEIN) introduced the following bill; which was referred to the Committee on Banking, Housing, and Urban Affairs

OCTOBER 27, 2003

Reported by Mr. SHELBY, with an amendment

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

A BILL

To prevent the use of certain payment instruments, credit cards, and fund transfers 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”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) Internet gambling is primarily funded
4 through personal use of payment system instru-
5 ments, credit cards, and wire transfers;

6 (2) the National Gambling Impact Study Com-
7 mission in 1999 recommended the passage of legisla-
8 tion to prohibit wire transfers to Internet gambling
9 sites or the banks which represent them;

10 (3) Internet gambling is a growing cause of
11 debt collection problems for insured depository insti-
12 tutions and the consumer credit industry;

13 (4) Internet gambling conducted through off-
14 shore jurisdictions has been identified by United
15 States law enforcement officials as a significant
16 money laundering vulnerability;

17 (5) gambling through the Internet, which has
18 grown rapidly in the half-decade preceding the en-
19 actment of this Act, opens up the possibility of im-
20 mediate, individual, 24-hour access in every home to
21 the full range of wagering opportunities on sporting
22 events or casino-like contests, such as roulette, slot
23 machines, poker, or black-jack; and

24 (6) the extent to which gambling is permitted
25 and regulated in the United States has been pri-
26 marily a matter for determination by individual

1 States and, if applicable, Indian tribes, with Federal
 2 law serving to prevent interstate or other attempts
 3 to evade or avoid such determinations.

4 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**
 5 **SYSTEM INSTRUMENT, CREDIT CARD, OR**
 6 **FUND TRANSFER FOR UNLAWFUL INTERNET**
 7 **GAMBLING.**

8 Chapter 53 of title 31, United States Code, is amend-
 9 ed by adding at the end the following:

10 **“SUBCHAPTER IV—FUNDING OF ILLEGAL**
 11 **INTERNET GAMBLING**

12 **“§ 5361. Definitions**

13 “For purposes of this subchapter, the following defi-
 14 nitions shall apply:

15 “(1) **BET OR WAGER.**—The term ‘bet or
 16 wager’—

17 “(A) means the staking or risking by any
 18 person of something of value upon the outcome
 19 of a contest of others, a sporting event, or a
 20 game subject to chance, upon an agreement or
 21 understanding that the person or another per-
 22 son will receive something of value in the event
 23 of a certain outcome;

24 “(B) includes the purchase of a chance or
 25 opportunity to win a lottery or other prize

1 (which opportunity to win is predominantly sub-
2 ject to chance);

3 “(C) includes any scheme of a type de-
4 scribed in section 3702 of title 28, United
5 States Code;

6 “(D) includes any instructions or informa-
7 tion pertaining to the establishment or move-
8 ment of funds in, to, or from an account by the
9 bettor or customer with regard to the business
10 of betting or wagering; and

11 “(E) does not include—

12 “(i) any activity governed by the secu-
13 rities laws (as that term is defined in sec-
14 tion 3(a)(47) of the Securities Exchange
15 Act of 1934) for the purchase or sale of se-
16 curities (as that term is defined in section
17 3(a)(10) of such Act);

18 “(ii) any transaction conducted on or
19 subject to the rules of a registered entity
20 or exempt board of trade pursuant to the
21 Commodity Exchange Act;

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

24 “(iv) any other transaction that—

1 “(I) is excluded or exempt from
2 regulation under the Commodity Ex-
3 change Act; or

4 “(II) is exempt from State gam-
5 ing or bucket shop laws under section
6 12(e) of the Commodity Exchange Act
7 or section 28(a) of the Securities Ex-
8 change Act of 1934;

9 “(v) any contract of indemnity or
10 guarantee;

11 “(vi) any contract for insurance;

12 “(vii) any deposit or other transaction
13 with an insured institution;

14 “(viii) any participation in a simula-
15 tion sports game, or an educational game
16 or contest, that—

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

22 “(II) has an outcome that re-
23 flects the relative knowledge and skill
24 of the participants, with such outcome
25 determined predominantly by accumu-

1 lated statistical results of sporting
2 events; and

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

9 “~~(ix)~~ any lawful transaction with a
10 business licensed or authorized by a State.

11 “~~(2)~~ BUSINESS OF BETTING OR WAGERING.—

12 The term ‘business of betting or wagering’ does not
13 include, other than for purposes of section 5366, any
14 creditor, credit card issuer, insured institution, or
15 other financial institution, operator of a terminal at
16 which an electronic fund transfer may be initiated,
17 money transmitting business, or international, na-
18 tional, regional, or local network utilized to effect a
19 credit transaction, electronic fund transfer, stored
20 value product transaction, or money transmitting
21 service, or any participant in such network, or any
22 interactive computer service or telecommunications
23 service.

24 “~~(3)~~ DESIGNATED PAYMENT SYSTEM.—The
25 term ‘designated payment system’ means any system

1 utilized by any creditor, credit card issuer, financial
2 institution, operator of a terminal at which an elec-
3 tronic fund transfer may be initiated, money trans-
4 mitting business, or international, national, regional,
5 or local network utilized to effect a credit trans-
6 action, electronic fund transfer, stored value product
7 transaction, or money transmitting service, or any
8 participant in such network, that the Secretary, in
9 consultation with the Board of Governors of the
10 Federal Reserve System and the Attorney General of
11 the United States, determines, by regulation or
12 order, could be utilized in connection with, or to fa-
13 cilitate, any restricted transaction.

14 “(4) INTERNET.—The term ‘Internet’ means
15 the international computer network of interoperable
16 packet switched data networks.

17 “(5) INTERACTIVE COMPUTER SERVICE.—The
18 term ‘interactive computer service’ has the same
19 meaning as in section 230(f) of the Communications
20 Act of 1934.

21 “(6) OFFICE.—The term ‘Office’ means the Of-
22 fice of Electronic Funding Oversight, established
23 under section 5362.

24 “(7) RESTRICTED TRANSACTION.—The term
25 ‘restricted transaction’ means any transaction or

1 transmittal involving any credit, funds, instrument,
 2 or proceeds described in any paragraph of section
 3 5363 which the recipient is prohibited from accept-
 4 ing under section 5363.

5 “(8) SECRETARY.—The term ‘Secretary’ means
 6 the Secretary of the Treasury.

7 “(9) UNLAWFUL INTERNET GAMBLING.—The
 8 term ‘unlawful Internet gambling’ means the plac-
 9 ing, receipt, or other transmission of a bet or wager
 10 by any means which involves the use, at least in
 11 part, of the Internet, where such bet or wager is un-
 12 lawful under any applicable Federal or State law in
 13 the State in which the bet or wager is initiated, re-
 14 ceived, or otherwise made.

15 “(10) OTHER TERMS.—

16 “(A) CREDIT; CREDITOR; CREDIT CARD;
 17 AND CARD ISSUER.—The terms ‘credit’, ‘cred-
 18 itor’, ‘credit card’, and ‘card issuer’ have the
 19 same meanings as in section 103 of the Truth
 20 in Lending Act.

21 “(B) ELECTRONIC FUND TRANSFER.—The
 22 term ‘electronic fund transfer’—

23 “(i) has the same meaning as in sec-
 24 tion 903 of the Electronic Fund Transfer
 25 Act, except that such term includes trans-

1 fers that would otherwise be excluded
2 under section 903(6)(E) of that Act; and

3 “~~(ii)~~ includes any fund transfer cov-
4 ered by Article 4A of the Uniform Com-
5 mercial Code, as in effect in any State.

6 “~~(C)~~ FINANCIAL INSTITUTION.—The term
7 ‘financial institution’ has the same meaning as
8 in section 903 of the Electronic Fund Transfer
9 Act, except that such term does not include a
10 casino, sports book, or other business at or
11 through which bets or wagers may be placed or
12 received.

13 “~~(D)~~ INSURED INSTITUTION.—The term
14 ‘insured institution’ means—

15 “~~(i)~~ an insured depository institution,
16 as defined in section 3 of the Federal De-
17 posit Insurance Act; and

18 “~~(ii)~~ an insured credit union, as de-
19 fined in section 101 of the Federal Credit
20 Union Act.

21 “~~(E)~~ MONEY TRANSMITTING BUSINESS
22 AND MONEY TRANSMITTING SERVICE.—The
23 terms ‘money transmitting business’ and
24 ‘money transmitting service’ have the same
25 meanings as in section 5330(d) (determined

1 without regard to any regulations issued by the
2 Secretary thereunder).

3 **“§ 5362. Office of electronic funding oversight; poli-**
4 **cies and procedures to identify and pre-**
5 **vent restricted transactions**

6 “(a) ESTABLISHMENT OF TREASURY OFFICE.—

7 “(1) IN GENERAL.—There is established within
8 the Department of the Treasury, the Office of Elec-
9 tronic Funding Oversight, the purposes of which
10 are—

11 “(A) to coordinate Federal efforts to pro-
12 hibit restricted transactions; and

13 “(B) otherwise to carry out the duties of
14 the Office, as specified in this subchapter.

15 “(2) DIRECTOR.—The Office shall be headed by
16 a Director, appointed by the Secretary. The Director
17 of the Office may serve as the designee of the Sec-
18 retary, at the request of the Secretary, for any pur-
19 pose under this subchapter.

20 “(b) REGULATIONS.—Not later than 6 months after
21 the date of enactment of this subchapter, the Office, in
22 consultation with the Board of Governors of the Federal
23 Reserve System and the Attorney General of the United
24 States, shall prescribe regulations requiring any des-
25 ignated payment system, and all participants therein, to

1 establish policies and procedures reasonably designed to
2 identify and prevent restricted transactions through the
3 establishment of policies and procedures that—

4 “(1) allow the payment system and any person
5 involved in the payment system to identify restricted
6 transactions by means of codes in authorization mes-
7 sages or by other means;

8 “(2) block restricted transactions identified as a
9 result of the policies and procedures developed pur-
10 suant to paragraph (1); and

11 “(3) prevent the acceptance of the products or
12 services of the payment system in connection with a
13 restricted transaction.

14 “(e) REQUIREMENTS FOR POLICIES AND PROCE-
15 DURES.—In prescribing regulations pursuant to sub-
16 section (b), the Office shall—

17 “(1) identify types of policies and procedures,
18 including nonexclusive examples, which would be
19 deemed to be ‘reasonably designed to identify’ and
20 ‘reasonably designed to block’ or to ‘prevent the ac-
21 ceptance of the products or services’ with respect to
22 each type of transaction, such as, should credit card
23 transactions be so designated, identifying trans-
24 actions by a code or codes in the authorization mes-

1 sage and denying authorization of a credit card
2 transaction in response to an authorization message;

3 “(2) to the extent practical, permit any partici-
4 pant in a payment system to choose among alter-
5 native means of identifying and blocking, or other-
6 wise preventing the acceptance of the products or
7 services of the payment system or participant in con-
8 nection with, restricted transactions; and

9 “(3) consider exempting restricted transactions
10 from any requirement imposed under such regula-
11 tions, if the Office finds that it is not reasonably
12 practical to identify and block, or otherwise prevent,
13 such transactions.

14 “(d) COMPLIANCE WITH PAYMENT SYSTEM POLI-
15 CIES AND PROCEDURES.—A creditor, credit card issuer,
16 financial institution, operator of a terminal at which an
17 electronic fund transfer may be initiated, money transmit-
18 ting business, or international, national, regional, or local
19 network utilized to effect a credit transaction, electronic
20 fund transfer, stored value product transaction, or money
21 transmitting service, or a participant in such network,
22 shall be considered to be in compliance with the regula-
23 tions prescribed under subsection (b), if—

1 “(1) such person relies on and complies with
2 the policies and procedures of a designated payment
3 system of which it is a member or participant—

4 “(A) to identify and block restricted trans-
5 actions; or

6 “(B) to otherwise prevent the acceptance
7 of the products or services of the payment sys-
8 tem, member, or participant in connection with
9 restricted transactions; and

10 “(2) such policies and procedures of the des-
11 ignated payment system comply with the require-
12 ments of regulations prescribed under subsection
13 (b).

14 “(e) NO LIABILITY FOR BLOCKING OR REFUSING TO
15 HONOR RESTRICTED TRANSACTIONS.—A person that is
16 subject to a regulation prescribed or order issued under
17 this subchapter and blocks, or otherwise refuses to honor,
18 a restricted transaction, or as a member of a designated
19 payment system relies on the policies and procedures of
20 the payment system, in an effort to comply with regula-
21 tions prescribed under this section, shall not be liable to
22 any party for such action.

23 “(f) REGULATORY ENFORCEMENT.—Regulations
24 issued by the Office under this subchapter shall be en-
25 forced by the Federal functional regulators and the Fed-

1 eral Trade Commission, in the manner provided in section
2 505(a) of the Gramm-Leach-Bliley Act.

3 **“§ 5363. Prohibition on acceptance of any bank in-**
4 **strument for unlawful Internet gambling**

5 “No person engaged in the business of betting or wa-
6 gering may knowingly accept, in connection with the par-
7 ticipation of another person in unlawful Internet gam-
8 bling—

9 “(1) credit, or the proceeds of credit, extended
10 to or on behalf of such other person (including credit
11 extended through the use of a credit card);

12 “(2) an electronic fund transfer or funds trans-
13 mitted by or through a money transmitting business,
14 or the proceeds of an electronic fund transfer or
15 money transmitting service, from or on behalf of
16 such other person;

17 “(3) any check, draft, or similar instrument
18 which is drawn by or on behalf of such other person
19 and is drawn on or payable at or through any finan-
20 cial institution; or

21 “(4) the proceeds of any other form of financial
22 transaction, as the Secretary may prescribe by regu-
23 lation, which involves a financial institution as a
24 payor or financial intermediary on behalf of or for
25 the benefit of such other person.

1 **“§ 5364. Civil remedies**

2 “(a) JURISDICTION.—The district courts of the
3 United States shall have original and exclusive jurisdiction
4 to prevent and restrain violations of this subchapter or
5 the rules or regulations issued under this subchapter by
6 issuing appropriate orders in accordance with this section,
7 regardless of whether a prosecution has been initiated
8 under this subchapter.

9 “(b) PROCEEDINGS.—

10 “(1) INSTITUTION BY FEDERAL GOVERN-
11 MENT.—

12 “(A) IN GENERAL.—The United States,
13 acting through the Attorney General, or, in the
14 case of rules or regulations issued under this
15 subchapter, through an agency authorized to
16 enforce such regulations in accordance with this
17 subchapter, may institute proceedings under
18 this section to prevent or restrain a violation or
19 a threatened violation of this subchapter or
20 such rules or regulations.

21 “(B) RELIEF.—Upon application of the
22 United States under this paragraph, the district
23 court may enter a preliminary injunction or an
24 injunction against any person to prevent or re-
25 strain a violation or threatened violation of this
26 subchapter or the rules or regulations issued

1 under this subchapter, in accordance with rule
2 65 of the Federal Rules of Civil Procedure.

3 ~~“(2) INSTITUTION BY STATE ATTORNEY GEN-~~
4 ~~ERAL.—~~

5 “(A) IN GENERAL.—The attorney general
6 of a State (or other appropriate State official)
7 in which a violation of this subchapter allegedly
8 has occurred or will occur may institute pro-
9 ceedings under this section to prevent or re-
10 strain the violation or threatened violation.

11 “(B) RELIEF.—Upon application of the at-
12 torney general (or other appropriate State offi-
13 cial) of an affected State under this paragraph,
14 the district court may enter a preliminary in-
15 junction or an injunction against any person to
16 prevent or restrain a violation or threatened
17 violation of this subchapter, in accordance with
18 rule 65 of the Federal Rules of Civil Procedure.

19 ~~“(3) INDIAN LANDS.—~~

20 “(A) IN GENERAL.—Notwithstanding
21 paragraphs (1) and (2), for a violation of this
22 subchapter or the rules or regulations issued
23 under this subchapter that is alleged to have oc-
24 curred, or may occur, on Indian lands (as that

1 term is defined in section 4 of the Indian Gam-
2 ing Regulatory Act)—

3 “(i) the United States shall have the
4 enforcement authority provided under
5 paragraph (1); and

6 “(ii) the enforcement authorities spec-
7 ified in an applicable Tribal-State compact
8 negotiated under section 11 of the Indian
9 Gaming Regulatory Act shall be carried
10 out in accordance with that compact.

11 “(B) RULE OF CONSTRUCTION.—No provi-
12 sion of this subchapter shall be construed as al-
13 tering, superseding, or otherwise affecting the
14 application of the Indian Gaming Regulatory
15 Act.

16 “(c) EXPEDITED PROCEEDINGS.—In addition to any
17 proceeding under subsection (b), a district court may, in
18 exigent circumstances, enter a temporary restraining
19 order against a person alleged to be in violation of this
20 subchapter or the rules or regulations issued under this
21 subchapter, upon application of the United States under
22 subsection (b)(1), or the attorney general (or other appro-
23 priate State official) of an affected State under subsection
24 (b)(2), in accordance with rule 65(b) of the Federal Rules
25 of Civil Procedure.

1 “(d) LIMITATION RELATING TO INTERACTIVE COM-
2 PUTER SERVICES.—

3 “(1) IN GENERAL.—Relief granted under this
4 section against an interactive computer service
5 shall—

6 “(A) be limited to the removal of, or dis-
7 abling of access to, an online site violating this
8 subchapter, or a hypertext link to an online site
9 violating this subchapter, that resides on a com-
10 puter server that such service controls or oper-
11 ates, except that the limitation in this subpara-
12 graph shall not apply if the service is subject to
13 liability under this section pursuant to section
14 5366;

15 “(B) be available only after notice to the
16 interactive computer service and an opportunity
17 for the service to appear are provided;

18 “(C) not impose any obligation on an
19 interactive computer service to monitor its serv-
20 ice or to affirmatively seek facts indicating ac-
21 tivity violating this subchapter;

22 “(D) specify the interactive computer serv-
23 ice to which it applies; and

1 “(E) specifically identify the location of the
2 online site or hypertext link to be removed or
3 access to which is to be disabled.

4 “(2) COORDINATION WITH OTHER LAW.—An
5 interactive computer service that does not violate
6 this subchapter shall not be liable under section
7 1084 of title 18, United States Code, except that the
8 limitation in this paragraph shall not apply if an
9 interactive computer service has actual knowledge
10 and control of bets and wagers and—

11 “(A) operates, manages, supervises, or di-
12 rects an Internet website at which unlawful bets
13 or wagers may be placed, received, or otherwise
14 made or at which unlawful bets or wagers are
15 offered to be placed, received, or otherwise
16 made; or

17 “(B) owns or controls, or is owned or con-
18 trolled by, any person who operates, manages,
19 supervises, or directs an Internet website at
20 which unlawful bets or wagers may be placed,
21 received, or otherwise made, or at which unlaw-
22 ful bets or wagers are offered to be placed, re-
23 ceived, or otherwise made.

24 “(3) RULE OF CONSTRUCTION.—The provisions
25 of paragraph (2) do not affect any potential liability

1 of an interactive computer service or other person
2 under any provision of title 18, United States Code,
3 other than as specifically provided in paragraph (2).

4 “(e) FACTORS TO BE CONSIDERED IN CERTAIN
5 CASES.—In considering granting relief under this section
6 against any payment system, or any participant in a pay-
7 ment system that is a creditor, credit card issuer, financial
8 institution, operator of a terminal at which an electronic
9 fund transfer may be initiated, money transmitting busi-
10 ness, or international, national, regional, or local network
11 utilized to effect a credit transaction, electronic fund
12 transfer, stored value product transaction, or money
13 transmitting service, or a participant in such network, the
14 court shall consider—

15 “(1) the extent to which the person extending
16 credit or transmitting funds knew or should have
17 known that the transaction was in connection with
18 unlawful Internet gambling;

19 “(2) the history of such person in extending
20 credit or transmitting funds when such person knew
21 or should have known that the transaction is in con-
22 nection with unlawful Internet gambling;

23 “(3) the extent to which such person has estab-
24 lished and is maintaining policies and procedures in

1 compliance with rules and regulations issued under
2 this subchapter;

3 “(4) the extent to which it is feasible for any
4 specific remedy prescribed as part of such relief to
5 be implemented by such person without substantial
6 deviation from normal business practice; and

7 “(5) the costs and burdens that the specific
8 remedy will have on such person.

9 “(f) NOTICE TO REGULATORS AND FINANCIAL INSTI-
10 TUTIONS.—Before initiating any proceeding under sub-
11 section (b) with respect to a violation or potential violation
12 of this subchapter or the rules or regulations issued under
13 this subchapter by any creditor, credit card issuer, finan-
14 cial institution, operator of a terminal at which an elec-
15 tronic fund transfer may be initiated, money transmitting
16 business, or international, national, regional, or local net-
17 work utilized to effect a credit transaction, electronic fund
18 transfer, stored value product transaction, or money
19 transmitting service, or any participant in such network,
20 the Attorney General of the United States, an attorney
21 general of a State (or other appropriate State official), or
22 an agency authorized to initiate such proceeding under
23 this subchapter, shall—

24 “(1) notify such person, and the appropriate
25 regulatory agency (as determined in accordance with

1 section 5362(f) for such person) of such violation or
 2 potential violation and the remedy to be sought in
 3 such proceeding; and

4 “(2) allow such person 30 days to implement a
 5 reasonable remedy for the violation or potential vio-
 6 lation, consistent with the factors described in sub-
 7 section (e), and in conjunction with such action as
 8 the appropriate regulatory agency may take.

9 **“§ 5365. Criminal penalties**

10 “(a) IN GENERAL.—Whoever violates this subchapter
 11 or the rules or regulations issued under this subchapter
 12 shall be fined under title 18, United States Code, or im-
 13 prisoned for not more than 5 years, or both.

14 “(b) PERMANENT INJUNCTION.—Upon conviction of
 15 a person under this section, the court may enter a perma-
 16 nent injunction enjoining such person from placing, receiv-
 17 ing, or otherwise making bets or wagers or sending, receiv-
 18 ing, or inviting information assisting in the placing of bets
 19 or wagers.

20 **“§ 5366. Circumventions prohibited**

21 “Notwithstanding section 5361(2), a creditor, credit
 22 card issuer, financial institution, operator of a terminal
 23 at which an electronic fund transfer may be initiated,
 24 money transmitting business, or international, national,
 25 regional, or local network utilized to effect a credit trans-

1 action, electronic fund transfer, stored value product
 2 transaction, or money transmitting service, or any partici-
 3 pant in such network, or any interactive computer service
 4 or telecommunications service, may be liable under this
 5 subchapter if such creditor, issuer, institution, operator,
 6 business, network, or participant has actual knowledge
 7 and control of bets and wagers, and—

8 “(1) operates, manages, supervises, or directs
 9 an Internet website at which unlawful bets or wagers
 10 may be placed, received, or otherwise made, or at
 11 which unlawful bets or wagers are offered to be
 12 placed, received, or otherwise made; or

13 “(2) owns or controls, or is owned or controlled
 14 by, any person who operates, manages, supervises,
 15 or directs an Internet website at which unlawful bets
 16 or wagers may be placed, received, or otherwise
 17 made, or at which unlawful bets or wagers are of-
 18 fered to be placed, received, or otherwise made.”.

19 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN**
 20 **JURISDICTIONS.**

21 (a) **IN GENERAL.**—In deliberations between the
 22 United States Government and any other country on
 23 money laundering, corruption, and crime issues, the
 24 United States Government should—

1 (A) by striking “wire communication” and
2 inserting “communication”;

3 (B) by inserting “satellite, microwave,”
4 after “cable,”; and

5 (C) by inserting “(whether fixed or mo-
6 bile)” after “connection”.

7 (b) INCREASE IN PENALTY FOR UNLAWFUL WIRE
8 TRANSFERS OF WAGERING INFORMATION.—Section
9 1084(a) of title 18, United States Code, is amended by
10 striking “two years” and inserting “5 years”.

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Internet Gambling*
13 *Funding Prohibition Act”.*

14 **SEC. 2. FINDINGS.**

15 *Congress finds that—*

16 (1) *Internet gambling is primarily funded*
17 *through personal use of payment system instruments,*
18 *credit cards, and wire transfers;*

19 (2) *the National Gambling Impact Study Com-*
20 *mission in 1999 recommended the passage of legisla-*
21 *tion to prohibit wire transfers to Internet gambling*
22 *sites or the banks which represent them;*

23 (3) *Internet gambling is a growing cause of debt*
24 *collection problems for insured depository institutions*
25 *and the consumer credit industry;*

1 (4) *Internet gambling conducted through offshore*
 2 *jurisdictions has been identified by United States law*
 3 *enforcement officials as a significant money laun-*
 4 *dering vulnerability; and*

5 (5) *gambling through the Internet, which has*
 6 *grown rapidly in the half-decade preceding the enact-*
 7 *ment of this Act, opens up the possibility of imme-*
 8 *diate, individual, 24-hour access in every home to the*
 9 *full range of wagering opportunities on sporting*
 10 *events or casino-like contests, such as roulette, slot*
 11 *machines, poker, or blackjack.*

12 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**
 13 **SYSTEM INSTRUMENT, CREDIT CARD, OR**
 14 **FUND TRANSFER FOR INTERNET GAMBLING.**

15 (a) *IN GENERAL.*—Chapter 53 of title 31, United
 16 *States Code, is amended by adding at the end the following:*

17 “**SUBCHAPTER IV—PROHIBITION ON FUNDING**
 18 **OF INTERNET GAMBLING**

19 “**§ 5361. Definitions**

20 “*For purposes of this subchapter, the following defini-*
 21 *tions shall apply:*

22 “(1) *BET OR WAGER.*—The term ‘bet or wager’—

23 “(A) *means the staking or risking by any*
 24 *person of something of value upon the outcome of*
 25 *a contest of others, a sporting event, or a game*

1 *subject to chance, upon an agreement or under-*
2 *standing that the person or another person will*
3 *receive something of value in the event of a cer-*
4 *tain outcome;*

5 *“(B) includes the purchase of a chance or*
6 *opportunity to win a lottery or other prize*
7 *(which opportunity to win is predominantly*
8 *subject to chance);*

9 *“(C) includes any scheme of a type de-*
10 *scribed in section 3702 of title 28, United States*
11 *Code;*

12 *“(D) includes any instructions or informa-*
13 *tion pertaining to the establishment or movement*
14 *of funds in, to, or from an account by the bettor*
15 *or customer with regard to the business of betting*
16 *or wagering; and*

17 *“(E) does not include—*

18 *“(i) any activity governed by the secu-*
19 *rities laws (as that term is defined in sec-*
20 *tion 3(a)(47) of the Securities Exchange Act*
21 *of 1934) for the purchase or sale of securi-*
22 *ties (as that term is defined in section*
23 *3(a)(10) of that Act);*

24 *“(ii) any transaction conducted on or*
25 *subject to the rules of a registered entity or*

1 *exempt board of trade pursuant to the Com-*
2 *modity Exchange Act;*

3 “(iii) *any over-the-counter derivative*
4 *instrument;*

5 “(iv) *any other transaction that—*

6 “(I) *is excluded or exempt from*
7 *regulation under the Commodity Ex-*
8 *change Act; or*

9 “(II) *is exempt from State gam-*
10 *ing or bucket shop laws under section*
11 *12(e) of the Commodity Exchange Act*
12 *or section 28(a) of the Securities Ex-*
13 *change Act of 1934;*

14 “(v) *any contract of indemnity or*
15 *guarantee;*

16 “(vi) *any contract for insurance;*

17 “(vii) *any deposit or other transaction*
18 *with an insured institution; or*

19 “(viii) *any participation in a simula-*
20 *tion sports game, an educational game, or*
21 *a contest, that—*

22 “(I) *is not dependent solely on the*
23 *outcome of any single sporting event or*
24 *nonparticipant’s singular individual*

1 performance in any single sporting
2 event;

3 “(II) has an outcome that reflects
4 the relative knowledge of the partici-
5 pants, or their skill at physical reac-
6 tion or physical manipulation (but not
7 chance), and, in the case of a simula-
8 tion sports game, has an outcome that
9 is determined predominantly by accu-
10 mulated statistical results of sporting
11 events; and

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

18 “(2) BUSINESS OF BETTING OR WAGERING.—The
19 term ‘business of betting or wagering’ does not include
20 any creditor, credit card issuer, insured institution,
21 or other financial institution, operator of a terminal
22 at which an electronic fund transfer may be initiated,
23 money transmitting business, or international, na-
24 tional, regional, or local network utilized to effect a
25 credit transaction, electronic fund transfer, stored

1 *value product transaction, or money transmitting*
2 *service, or any participant in such network, or any*
3 *interactive computer service or telecommunications*
4 *service.*

5 “(3) *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 (b)(1) or (c)(1) of section 5363; 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 by*
17 *name, address, and appropriate billing in-*
18 *formation to be authorized to place, receive,*
19 *or otherwise make a bet or wager, and must*
20 *be physically located within that State in*
21 *order to be authorized to do so;*

22 “(B) *an effective customer verification and*
23 *age verification system, expressly authorized and*
24 *operated in accordance with the laws of the State*
25 *in which it is located, and a system reasonably*

1 *designed to verify the location at which a bet or*
2 *wager is made, to ensure that all applicable Fed-*
3 *eral and State legal and regulatory requirements*
4 *for lawful gambling are met; and*

5 “(C) *appropriate data security standards to*
6 *prevent unauthorized access by any person who*
7 *has not subscribed or who is a minor.*

8 “(4) *DESIGNATED PAYMENT SYSTEM.*—*The term*
9 *‘designated payment system’ means any system uti-*
10 *lized by any creditor, credit card issuer, financial in-*
11 *stitution, operator of a terminal at which an elec-*
12 *tronic fund transfer may be initiated, money trans-*
13 *mitting business, or international, national, regional,*
14 *or local network utilized to effect a credit transaction,*
15 *electronic fund transfer, stored value product trans-*
16 *action, or money transmitting service, or any partici-*
17 *part in such network, that the Secretary, in consulta-*
18 *tion with the Board of Governors of the Federal Re-*
19 *serve System and the Attorney General of the United*
20 *States, determines, by regulation or order, could be*
21 *utilized in connection with, or to facilitate, any re-*
22 *stricted transaction.*

23 “(5) *INTERNET.*—*The term ‘Internet’ means the*
24 *international computer network of interoperable pack-*
25 *et switched data networks.*

1 “(6) *INTERACTIVE COMPUTER SERVICE*.—The
2 term ‘interactive computer service’ has the same
3 meaning as in section 230(f) of the Communications
4 Act of 1934.

5 “(7) *INTERNET GAMBLING*.—The term ‘Internet
6 gambling’ means the placing, receipt, or other trans-
7 mission of a bet or wager by any means which in-
8 volves the use, at least in part, of the Internet.

9 “(8) *OFFICE*.—The term ‘Office’ means the Office
10 of Electronic Funding Oversight, established under
11 section 5362.

12 “(9) *PRIVATE NETWORK*.—The term ‘private net-
13 work’ means a communications channel or channels,
14 including voice or computer data transmission facili-
15 ties, that uses either—

16 “(A) private dedicated lines; or

17 “(B) the public communications infrastruc-
18 ture, if the infrastructure is secured by means of
19 the appropriate private communications tech-
20 nology to prevent unauthorized access.

21 “(10) *RESTRICTED TRANSACTION*.—The term ‘re-
22 stricted transaction’ means any transaction or trans-
23 mittal involving any credit, funds, instrument, or
24 proceeds described in any paragraph of section

1 5363(a) which the recipient is prohibited from accept-
2 ing under section 5363.

3 “(11) *SECRETARY*.—The term ‘Secretary’ means
4 the Secretary of the Treasury.

5 “(12) *OTHER TERMS*.—

6 “(A) *CREDIT; CREDITOR; CREDIT CARD; AND*
7 *CARD ISSUER*.—The terms ‘credit’, ‘creditor’,
8 ‘credit card’, and ‘card issuer’ have the same
9 meanings as in section 103 of the Truth in
10 Lending Act.

11 “(B) *ELECTRONIC FUND TRANSFER*.—The
12 term ‘electronic fund transfer’—

13 “(i) has the same meaning as in sec-
14 tion 903 of the Electronic Fund Transfer
15 Act, except that such term includes transfers
16 that would otherwise be excluded under sec-
17 tion 903(6)(E) of that Act; and

18 “(ii) includes any fund transfer cov-
19 ered by Article 4A of the Uniform Commer-
20 cial Code, as in effect in any State.

21 “(C) *FINANCIAL INSTITUTION*.—The term
22 ‘financial institution’ has the same meaning as
23 in section 903 of the Electronic Fund Transfer
24 Act, except that such term does not include a ca-

1 *sino, sports book, or other business at or through*
 2 *which bets or wagers may be placed or received.*

3 “(D) *INSURED INSTITUTION.*—*The term ‘in-*
 4 *sured institution’ means—*

5 “(i) *an insured depository institution,*
 6 *as defined in section 3 of the Federal De-*
 7 *posit Insurance Act; and*

8 “(ii) *an insured credit union, as de-*
 9 *fined in section 101 of the Federal Credit*
 10 *Union Act.*

11 “(E) *MONEY TRANSMITTING BUSINESS AND*
 12 *MONEY TRANSMITTING SERVICE.*—*The terms*
 13 *‘money transmitting business’ and ‘money trans-*
 14 *mitting service’ have the same meanings as in*
 15 *section 5330(d) (determined without regard to*
 16 *any regulations issued by the Secretary there-*
 17 *under).*

18 **“§ 5362. Office of electronic funding oversight; policies**
 19 ***and procedures to identify and prevent re-***
 20 ***stricted transactions***

21 “(a) *ESTABLISHMENT OF TREASURY OFFICE.*—

22 “(1) *IN GENERAL.*—*There is established within*
 23 *the Department of the Treasury, the Office of Elec-*
 24 *tronic Funding Oversight, the purposes of which*
 25 *are—*

1 “(A) to coordinate Federal efforts to pro-
2 hibit restricted transactions; and

3 “(B) otherwise to carry out the duties speci-
4 fied in this subchapter.

5 “(2) *DIRECTOR*.—The Office shall be headed by
6 a Director, appointed by the Secretary. The Director
7 of the Office may serve as the designee of the Sec-
8 retary, at the request of the Secretary, for any pur-
9 pose under this subchapter.

10 “(b) *REGULATIONS*.—Not later than 270 days after the
11 date of enactment of this subchapter, the Secretary, in con-
12 sultation with the Board of Governors of the Federal Re-
13 serve System and the Attorney General of the United States,
14 shall prescribe regulations requiring each designated pay-
15 ment system, and all participants therein, to identify and
16 prevent restricted transactions through the establishment of
17 policies and procedures reasonably designed to—

18 “(1) allow the payment system and any person
19 involved in the payment system to identify restricted
20 transactions by means of codes in authorization mes-
21 sages or by other means;

22 “(2) block restricted transactions identified as a
23 result of the policies and procedures developed pursu-
24 ant to paragraph (1); and

1 “(3) prevent the acceptance of the products or
2 services of the payment system in connection with a
3 restricted transaction.

4 “(c) *REQUIREMENTS FOR POLICIES AND PROCE-*
5 *DURES.*—*In prescribing regulations pursuant to subsection*
6 *(b), the Secretary shall—*

7 “(1) identify types of policies and procedures,
8 including nonexclusive examples, which would be
9 deemed, as applicable, to be ‘reasonably designed to
10 identify’ and ‘reasonably designed to block’, or ‘rea-
11 sonably designed to prevent the acceptance of the
12 products or services’ with respect to each type of re-
13 stricted transaction;

14 “(2) to the extent practical, permit any partici-
15 pant in a payment system to choose among alter-
16 native means of identifying and blocking, or otherwise
17 preventing the acceptance of the products or services
18 of the payment system or participant in connection
19 with, restricted transactions; and

20 “(3) consider exempting restricted transactions
21 from any requirement imposed under such regula-
22 tions, if the Secretary finds that it is not reasonably
23 practical to identify and block, or otherwise prevent,
24 such transactions.

1 “(d) *COMPLIANCE WITH PAYMENT SYSTEM POLICIES*
 2 *AND PROCEDURES.*—A creditor, credit card issuer, finan-
 3 cial institution, operator of a terminal at which an elec-
 4 tronic fund transfer may be initiated, money transmitting
 5 business, or international, national, regional, or local net-
 6 work utilized to effect a credit transaction, electronic fund
 7 transfer, stored value product transaction, or money trans-
 8 mitting service, or a participant in such network, shall be
 9 considered to be in compliance with the regulations pre-
 10 scribed under subsection (b), if—

11 “(1) such person relies on and complies with the
 12 policies and procedures of a designated payment sys-
 13 tem of which it is a member or participant—

14 “(A) to identify and block restricted trans-
 15 actions; and

16 “(B) to otherwise prevent the acceptance of
 17 the products or services of the payment system,
 18 member, or participant in connection with re-
 19 stricted transactions; and

20 “(2) such policies and procedures of the des-
 21 ignated payment system comply with the require-
 22 ments of regulations prescribed under subsection (b).

23 “(e) *NO LIABILITY FOR BLOCKING OR REFUSING TO*
 24 *HONOR RESTRICTED TRANSACTIONS.*—A person that is
 25 subject to a regulation prescribed or order issued under this

1 *subchapter and blocks, or otherwise refuses to honor, a re-*
 2 *stricted transaction (or a transaction that such person rea-*
 3 *sonably believes to be a restricted transaction), or as a mem-*
 4 *ber of a designated payment system relies on the policies*
 5 *and procedures of the payment system, in an effort to com-*
 6 *ply with regulations prescribed under subsection (b), shall*
 7 *not be liable to any party for such action.*

8 “(f) *REGULATORY ENFORCEMENT.—Regulations*
 9 *issued by the Secretary under this subchapter shall be en-*
 10 *forced by the Federal functional regulators and the Federal*
 11 *Trade Commission, in the manner provided in section*
 12 *505(a) of the Gramm-Leach-Bliley Act.*

13 **“§ 5363. Prohibition on acceptance of any bank instru-**
 14 ***ment for Internet gambling***

15 “(a) *PROHIBITION.—No person engaged in the busi-*
 16 *ness of betting or wagering may knowingly accept, in con-*
 17 *nection with the participation of another person in Internet*
 18 *gambling—*

19 “(1) *credit, or the proceeds of credit, extended to*
 20 *or on behalf of such other person (including credit ex-*
 21 *tended through the use of a credit card);*

22 “(2) *an electronic fund transfer, or funds trans-*
 23 *mitted by or through a money transmitting business,*
 24 *or the proceeds of an electronic fund transfer or*

1 *money transmitting service, from or on behalf of such*
2 *other person;*

3 “(3) *any check, draft, or similar instrument*
4 *which is drawn by or on behalf of such other person*
5 *and is drawn on or payable at or through any finan-*
6 *cial institution; or*

7 “(4) *the proceeds of any other form of financial*
8 *transaction, as the Secretary may prescribe by regu-*
9 *lation, which involves a financial institution as a*
10 *payor or financial intermediary on behalf of or for*
11 *the benefit of such other person.*

12 “(b) *RULE OF APPLICATION.—*

13 “(1) *LIMITATION.—Subject to paragraph (2), the*
14 *prohibition in subsection (a) does not apply to any*
15 *otherwise lawful bet or wager that is placed, received,*
16 *or otherwise made on an interstate or intrastate basis*
17 *on a live horse or a live dog race, or the sending, re-*
18 *ceiving, or inviting of information assisting in the*
19 *placing of such a bet or wager, if such bet or wager,*
20 *or the transmission of such information, as applica-*
21 *ble, is—*

22 “(A) *expressly authorized, and licensed or*
23 *regulated by the State in which such bet or*
24 *wager is received, under applicable Federal law*
25 *and the laws of that State;*

1 “(B) placed on a closed-loop subscriber-
2 based service;

3 “(C) initiated from a State in which betting
4 or wagering on that same type of live horse or
5 live dog racing is lawful and received in a State
6 in which such betting or wagering is lawful;

7 “(D) subject to the regulatory oversight of
8 the State in which the bet or wager is received,
9 and subject to minimum control standards for
10 the accounting, regulatory inspection, and audit-
11 ing by such State of all such bets or wagers
12 transmitted from 1 State to another; and

13 “(E) in the case of—

14 “(i) live horse racing, made in accord-
15 ance with the Interstate Horse Racing Act
16 of 1978 (15 U.S.C. 3001 et seq.); or

17 “(ii) live dog racing, subject to consent
18 agreements that are comparable to those re-
19 quired by the Interstate Horse Racing Act
20 of 1978, approved by the appropriate State
21 regulatory agencies, in the State receiving
22 the signal, and in the State in which the bet
23 or wager originates.

24 “(2) BETS OR WAGERS MADE BY AGENTS OR
25 PROXIES.—

1 “(A) *IN GENERAL.*—*The exception under*
2 *paragraph (1) does not apply in any case in*
3 *which a bet or wager is placed, received, or oth-*
4 *erwise made by the use of an agent or proxy*
5 *using the Internet or an interactive computer*
6 *service.*

7 “(B) *QUALIFICATION.*—*Nothing in this*
8 *paragraph may be construed to prohibit the*
9 *owner operator of a parimutuel wagering facility*
10 *that is licensed by a State from employing an*
11 *agent in the operation of the account wagering*
12 *system owned or operated by the parimutuel fa-*
13 *cility.*

14 “(c) *OTHER RULES OF APPLICATION.*—

15 “(1) *LIMITATION.*—*Subject to paragraph (2), the*
16 *prohibition in subsection (a) does not apply to any*
17 *otherwise lawful bet or wager that is placed, received,*
18 *or otherwise made on any game that constitutes class*
19 *II gaming or class III gaming (as those terms are de-*
20 *finied in section 4 of the Indian Gaming Regulatory*
21 *Act, 25 U.S.C. 2703), or the sending, receiving, or in-*
22 *venting of information assisting in the placing of any*
23 *such bet or wager, as applicable, if—*

1 “(A) the game is permitted under and con-
2 ducted in accordance with the Indian Gaming
3 Regulatory Act (25 U.S.C. 2701 et seq.);

4 “(B) each person placing, receiving, or oth-
5 erwise making such bet or wager, or transmit-
6 ting such information, is physically located on
7 Indian lands (as that term is defined in section
8 4 of the Indian Gaming Regulatory Act, 25
9 U.S.C. 2703) when such person places, receives,
10 or otherwise makes the bet or wager, or transmits
11 such information;

12 “(C) the game is conducted on a closed-loop
13 subscriber-based system or a private network;
14 and

15 “(D) in the case of a game that constitutes
16 class III gaming—

17 “(i) the game is authorized under, and
18 is conducted in accordance with, the respec-
19 tive Tribal-State compacts (entered into
20 and approved pursuant to section 11(d) of
21 the Indian Gaming Regulatory Act, 25
22 U.S.C. 2710) governing gaming activity on
23 the Indian lands, in each respective State,
24 on which each person placing, receiving, or
25 otherwise making such bet or wager, or

1 *transmitting such information, is phys-*
2 *ically located when such person places, re-*
3 *ceives, or otherwise makes the bet or wager,*
4 *or transmits such information; and*

5 *“(ii) each such Tribal-State compact*
6 *expressly provides that the game may be*
7 *conducted using the Internet or other inter-*
8 *active computer service only on a closed-*
9 *loop subscriber-based system or a private*
10 *network.*

11 *“(2) ACTIVITIES UNDER EXISTING COMPACTS.—*

12 *“(A) IN GENERAL.—The requirement of*
13 *paragraph (1)(D)(ii) does not apply in the case*
14 *of gaming activity, otherwise subject to this sec-*
15 *tion, that was being conducted on Indian lands*
16 *on July 31, 2003, using the Internet or other*
17 *interactive computer service, with the approval*
18 *of the State gaming commission or like regu-*
19 *latory authority of the State in which such In-*
20 *Indian lands are located, but without such required*
21 *compact approval, until the date on which the*
22 *compact governing gaming activity on such In-*
23 *Indian lands expires (exclusive of any automatic*
24 *or discretionary renewal or extension of such*
25 *compact), if such gaming activity is conducted*

1 *using the Internet or other interactive computer*
 2 *service only on a closed-loop subscriber-based sys-*
 3 *tem or a private network.*

4 “(B) *DEFINITION.*—*For purposes of this*
 5 *paragraph, the phrase ‘conducted on Indian*
 6 *lands’ shall refer to all Indian lands on which*
 7 *any person placing, receiving, or otherwise mak-*
 8 *ing a bet or wager, or sending, receiving, or in-*
 9 *viting information assisting in the placing of a*
 10 *bet or wager, is physically located when such*
 11 *person places, receives, or otherwise makes the*
 12 *bet or wager, or sends, receives, or invites such*
 13 *information.*

14 **“§ 5364. Civil remedies**

15 “(a) *JURISDICTION.*—*The district courts of the United*
 16 *States shall have original and exclusive jurisdiction to pre-*
 17 *vent and restrain violations of this subchapter or the rules*
 18 *or regulations issued under this subchapter by issuing ap-*
 19 *propriate orders in accordance with this section, regardless*
 20 *of whether a prosecution has been initiated under this sub-*
 21 *chapter.*

22 “(b) *PROCEEDINGS.*—

23 “(1) *INSTITUTION BY FEDERAL GOVERNMENT.*—

24 “(A) *IN GENERAL.*—*The United States, act-*
 25 *ing through the Attorney General of the United*

1 *States, or, in the case of rules or regulations*
2 *issued under this subchapter, through an agency*
3 *authorized to enforce such regulations in accord-*
4 *ance with this subchapter, may institute pro-*
5 *ceedings under this section to prevent or restrain*
6 *a violation or a threatened violation of this sub-*
7 *chapter or such rules or regulations.*

8 “(B) *RELIEF.*—*Upon application of the*
9 *United States under this paragraph, the district*
10 *court may enter a preliminary injunction or an*
11 *injunction against any person to prevent or re-*
12 *strain a violation or threatened violation of this*
13 *subchapter or the rules or regulations issued*
14 *under this subchapter, in accordance with rule*
15 *65 of the Federal Rules of Civil Procedure.*

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

18 “(A) *IN GENERAL.*—*The attorney general*
19 *(or other appropriate State official) of a State in*
20 *which a violation of this subchapter allegedly has*
21 *occurred or will occur may institute proceedings*
22 *under this section to prevent or restrain the vio-*
23 *lation or threatened violation.*

24 “(B) *RELIEF.*—*Upon application of the at-*
25 *torney general (or other appropriate State offi-*

1 *cial) of an affected State under this paragraph,*
2 *the district court may enter a preliminary in-*
3 *junction or an injunction against any person to*
4 *prevent or restrain a violation or threatened vio-*
5 *lation of this subchapter, in accordance with rule*
6 *65 of the Federal Rules of Civil Procedure.*

7 “(3) *INDIAN LANDS.*—*Notwithstanding para-*
8 *graphs (1) and (2), for a violation of this subchapter*
9 *or the rules or regulations issued under this sub-*
10 *chapter that is alleged to have occurred, or may*
11 *occur, on Indian lands (as that term is defined in*
12 *section 4 of the Indian Gaming Regulatory Act)—*

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

16 “(B) *the enforcement authorities specified in*
17 *an applicable Tribal-State compact negotiated*
18 *under section 11 of the Indian Gaming Regu-*
19 *latory Act (including such authorities that may*
20 *apply to activities described in section 5363(c))*
21 *shall be carried out in accordance with that com-*
22 *compact.*

23 “(c) *EXPEDITED PROCEEDINGS.*—*In addition to any*
24 *proceeding under subsection (b), a district court may, in*
25 *exigent circumstances, enter a temporary restraining order*

1 *against a person alleged to be in violation of this subchapter*
2 *or the rules or regulations issued under this subchapter,*
3 *upon application of the United States under subsection*
4 *(b)(1), or the attorney general (or other appropriate State*
5 *official) of an affected State under subsection (b)(2), in ac-*
6 *cordance with rule 65(b) of the Federal Rules of Civil Proce-*
7 *dure.*

8 “(d) *LIMITATION RELATING TO INTERACTIVE COM-*
9 *PUTER SERVICES.—*

10 “(1) *IN GENERAL.—Relief granted under this*
11 *section against an interactive computer service*
12 *shall—*

13 “(A) *be limited to the removal of, or dis-*
14 *abling of access to, an online site violating this*
15 *subchapter, or a hypertext link to an online site*
16 *violating this subchapter, that resides on a com-*
17 *puter server that such service controls or oper-*
18 *ates, except that the limitation in this subpara-*
19 *graph shall not apply if the service is subject to*
20 *liability under this section pursuant to section*
21 *5366;*

22 “(B) *be available only after notice to the*
23 *interactive computer service and an opportunity*
24 *for the service to appear are provided;*

1 “(C) not impose any obligation on an inter-
2 active computer service to monitor its service or
3 to affirmatively seek facts indicating activity
4 violating this subchapter;

5 “(D) specify the interactive computer serv-
6 ice to which it applies; and

7 “(E) specifically identify the location of the
8 online site or hypertext link to be removed or ac-
9 cess to which is to be disabled.

10 “(2) COORDINATION WITH OTHER LAW.—An
11 interactive computer service that does not violate this
12 subchapter shall not be liable under section 1084 of
13 title 18, United States Code, except that the limita-
14 tion in this paragraph shall not apply if an inter-
15 active computer service has actual knowledge and con-
16 trol of bets and wagers and—

17 “(A) operates, manages, supervises, or di-
18 rects an Internet website at which bets or wagers
19 may be placed, received, or otherwise made or at
20 which bets or wagers are offered to be placed, re-
21 ceived, or otherwise made; or

22 “(B) owns or controls, or is owned or con-
23 trolled by, any person who operates, manages,
24 supervises, or directs an Internet website at
25 which bets or wagers may be placed, received, or

1 *otherwise made, or at which bets or wagers are*
2 *offered to be placed, received, or otherwise made.*

3 “(3) *RULE OF CONSTRUCTION.*—*The provisions*
4 *of paragraph (2) do not affect any potential liability*
5 *of an interactive computer service or other person*
6 *under any provision of title 18, United States Code,*
7 *other than as specifically provided in paragraph (2).*

8 “(e) *FACTORS TO BE CONSIDERED IN CERTAIN*
9 *CASES.*—*In considering granting relief under this section*
10 *against any payment system, or any participant in a pay-*
11 *ment system that is a creditor, credit card issuer, financial*
12 *institution, operator of a terminal at which an electronic*
13 *fund transfer may be initiated, money transmitting busi-*
14 *ness, or international, national, regional, or local network*
15 *utilized to effect a credit transaction, electronic fund trans-*
16 *fer, stored value product transaction, or money transmit-*
17 *ting service, or a participant in such network, the court*
18 *shall consider—*

19 “(1) *the extent to which the person extending*
20 *credit or transmitting funds knew or should have*
21 *known that the transaction was in connection with*
22 *Internet gambling;*

23 “(2) *the history of such person in extending cred-*
24 *it or transmitting funds when such person knew or*

1 *should have known that the transaction is in connec-*
2 *tion with Internet gambling;*

3 “(3) *the extent to which such person has estab-*
4 *lished and is maintaining policies and procedures in*
5 *compliance with rules and regulations issued under*
6 *this subchapter;*

7 “(4) *the extent to which it is feasible for any spe-*
8 *cific remedy prescribed as part of such relief to be*
9 *implemented by such person without substantial devi-*
10 *ation from normal business practice; and*

11 “(5) *the costs and burdens that the specific rem-*
12 *edy will have on such person.*

13 “(f) *NOTICE TO REGULATORS AND FINANCIAL INSTI-*
14 *TUTIONS.—Before initiating any proceeding under sub-*
15 *section (b) (or under subsection (c), in the case of an in-*
16 *jured institution or a broker or dealer or investment com-*
17 *pany registered with the Securities and Exchange Commis-*
18 *sion), with respect to a violation or potential violation of*
19 *this subchapter or the rules or regulations issued under this*
20 *subchapter by any creditor, credit card issuer, financial in-*
21 *stitution, operator of a terminal at which an electronic fund*
22 *transfer may be initiated, money transmitting business, or*
23 *international, national, regional, or local network utilized*
24 *to effect a credit transaction, electronic fund transfer, stored*
25 *value product transaction, or money transmitting service,*

1 *or any participant in such network, the Attorney General*
2 *of the United States, an attorney general (or other appro-*
3 *priate State official) of a State, or an agency authorized*
4 *to initiate such proceeding under this subchapter, shall—*

5 “(1) *notify such person, and the appropriate reg-*
6 *ulatory agency (as determined in accordance with*
7 *section 5362(f) for such person) of such violation or*
8 *potential violation and the remedy to be sought in*
9 *such proceeding; and*

10 “(2) *allow such person not longer than 60 days*
11 *to implement a remedy for the violation or potential*
12 *violation, consistent with the factors described in sub-*
13 *section (e), and in conjunction with such action as*
14 *the appropriate regulatory agency may take, if such*
15 *person takes reasonable steps within that 60-day pe-*
16 *riod to prevent the occurrence of such violation or po-*
17 *tential violation pending implementation of such*
18 *remedy.*

19 **“§ 5365. Criminal penalties**

20 “(a) *IN GENERAL.—Whoever violates any provision of*
21 *this subchapter or the rules or regulations issued under any*
22 *provision of this subchapter shall be fined under title 18,*
23 *United States Code, or imprisoned for not more than 5*
24 *years, or both.*

1 “(b) *PERMANENT INJUNCTION.*—Upon conviction of a
2 person under this section, the court may enter a permanent
3 injunction enjoining such person from placing, receiving,
4 or otherwise making bets or wagers or sending, receiving,
5 or inviting information assisting in the placing of bets or
6 wagers.

7 “**§ 5366. Circumventions prohibited**

8 “Notwithstanding section 5361(2), a creditor, credit
9 card issuer, financial institution, operator of a terminal at
10 which an electronic fund transfer may be initiated, money
11 transmitting business, or international, national, regional,
12 or local network utilized to effect a credit transaction, elec-
13 tronic fund transfer, stored value product transaction, or
14 money transmitting service, or any participant in such net-
15 work, or any interactive computer service or telecommuni-
16 cations service, may be liable under this subchapter if such
17 creditor, issuer, institution, operator, business, network, or
18 participant has actual knowledge and control of bets and
19 wagers, and—

20 “(1) operates, manages, supervises, or directs an
21 Internet website at which bets or wagers may be
22 placed, received, or otherwise made, or at which bets
23 or wagers are offered to be placed, received, or other-
24 wise made; or

1 “(2) owns or controls, or is owned or controlled
 2 by, any person who operates, manages, supervises, or
 3 directs an Internet website at which bets or wagers
 4 may be placed, received, or otherwise made, or at
 5 which bets or wagers are offered to be placed, received,
 6 or otherwise made.

7 **“§ 5367. Rule of construction**

8 “*No provision of this subchapter shall be construed as*
 9 *altering, superseding, or otherwise affecting the application*
 10 *of the Indian Gaming Regulatory Act.*

11 **“§ 5368. Authorization of appropriations**

12 “*There are authorized to be appropriated to the Sec-*
 13 *retary such sums as may be necessary to carry out this sub-*
 14 *chapter.*”

15 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 16 *chapter 53 of title 31, United States Code, is amended by*
 17 *adding at the end the following:*

“5361. *Definitions.*

“5362. *Office of electronic funding oversight; policies and procedures to identify
 and prevent restricted transactions.*

“5363. *Prohibition on acceptance of any bank instrument for Internet gambling.*

“5364. *Civil remedies.*

“5365. *Criminal penalties.*

“5366. *Circumventions prohibited.*

“5367. *Rule of construction.*

“5368. *Authorization of appropriations.*”

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

20 (a) *IN GENERAL.*—*In deliberations between the United*
 21 *States Government and any other country on money laun-*

1 *dering, corruption, and crime issues, the United States Gov-*
2 *ernment shall—*

3 *(1) encourage cooperation by foreign govern-*
4 *ments and relevant international fora in identifying*
5 *whether Internet gambling operations are being used*
6 *for money laundering, corruption, or other crimes;*

7 *(2) advance policies that promote the cooperation*
8 *of foreign governments, through information sharing*
9 *or other measures, in the enforcement of this Act and*
10 *the amendments made by this Act; and*

11 *(3) encourage the Financial Action Task Force*
12 *on Money Laundering, in its annual report on money*
13 *laundering typologies, to study the extent to which*
14 *Internet gambling operations are being used for*
15 *money laundering purposes.*

16 *(b) REPORT REQUIRED.—The Secretary of the Treas-*
17 *ury shall submit an annual report to Congress on any delib-*
18 *erations between the United States and other countries on*
19 *issues relating to Internet gambling.*

20 **SEC. 5. AMENDMENTS TO CRIMINAL GAMBLING PROVI-**
21 **SIONS.**

22 *(a) AMENDMENT TO DEFINITION.—Section 1081 of*
23 *title 18, United States Code, is amended—*

1 (1) *by designating the 5 undesignated para-*
2 *graphs that begin with “The term” as paragraphs (1)*
3 *through (5), respectively; and*

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

5 (A) *by striking “wire communication” and*
6 *inserting “communication”;*

7 (B) *by inserting “satellite, microwave,”*
8 *after “cable,”; and*

9 (C) *by inserting “(whether fixed or mobile)”*
10 *after “connection”.*

11 (b) *APPLICATION OF SECTION 1084(a) TO ALL COMMU-*
12 *NICATIONS AND INCREASE IN PENALTY FOR TRANSFERS OF*
13 *WAGERING INFORMATION.—Section 1084(a) of title 18,*
14 *United States Code, is amended—*

15 (1) *by striking “wire” each place that term ap-*
16 *pears; and*

17 (2) *by striking “two years” and inserting “5*
18 *years”.*

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A BILL

To prevent the use of certain payment instruments,
credit cards, and fund transfers for unlawful
Internet gambling, and for other purposes.

OCTOBER 27, 2003

Reported with an amendment