

106TH CONGRESS
2D SESSION

H. R. 4419

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

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2000

Mr. LEACH (for himself, Mr. LAFALCE, Mrs. ROUKEMA, and Mr. BAKER) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Gambling
5 Funding Prohibition Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

1 (1) Internet gambling is primarily funded
2 through personal use of bank instruments, including
3 credit cards and wire transfers.

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

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

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

15 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY BANK IN-**
16 **STRUMENT FOR INTERNET GAMBLING.**

17 (a) IN GENERAL.—No person engaged in a gambling
18 business may knowingly accept, in connection with the
19 participation of another person in Internet gambling—

20 (1) credit, or the proceeds of credit, extended to
21 or on behalf of such other person (including credit
22 extended through the use of a credit card);

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

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

3 (3) any check, draft, or similar instrument
4 which is drawn by or on behalf of the other person
5 and is drawn on or payable through any financial in-
6 stitution; 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 the other person.

12 (b) DEFINITIONS.—For purposes of this Act, the fol-
13 lowing definitions shall apply:

14 (1) APPROPRIATE FEDERAL REGULATORY
15 AGENCY.—The term “appropriate Federal regulatory
16 agency” means—

17 (A) in the case of any creditor, or any na-
18 tional or regional communication network uti-
19 lized to effect a consumer credit transaction,
20 the appropriate agency of the agencies referred
21 to in subsection (a) or (c) of section 108 of the
22 Truth in Lending Act;

23 (B) in the case of any financial institution
24 involved in an electronic fund transfer, or any
25 operator of a terminal at which an electronic

1 fund transfer may be initiated or any national
2 or regional communication network utilized to
3 effect an electronic fund transfer, the appro-
4 priate agency of the agencies referred to in sub-
5 section (a) or (c) of section 917 of the Elec-
6 tronic Fund Transfer Act; and

7 (C) in the case of any money transmitting
8 business, or any national or regional commu-
9 nication network utilized to effect a money
10 transmitting service, the Secretary of the
11 Treasury.

12 (2) BETS OR WAGERS.—The term “bets or
13 wagers”—

14 (A) means the staking or risking by any
15 person of something of value upon the outcome
16 of a contest of others, a sporting event, or a
17 game predominantly subject to chance, upon an
18 agreement or understanding that the person or
19 another person will receive something of greater
20 value than the amount staked or risked in the
21 event of a certain outcome;

22 (B) includes the purchase of a chance or
23 opportunity to win a lottery or other prize
24 (which opportunity to win is predominantly sub-
25 ject to chance);

1 (C) includes any scheme of a type de-
2 scribed in section 3702 of title 28; and

3 (D) does not include—

4 (i) any bona fide business transaction
5 governed by the securities laws (as that
6 term is defined in section 3(a)(47) of the
7 Securities Exchange Act of 1934 for the
8 purchase or sale at a future date of securi-
9 ties (as that term is defined in section
10 3(a)(10) of such Act;

11 (ii) any transaction on or subject to
12 the rules of a contract market designated
13 pursuant to section 5 of the Commodity
14 Exchange Act;

15 (iii) any over-the-counter derivative
16 instrument;

17 (iv) any contract of indemnity or
18 guarantee;

19 (v) any contract for life, health, or ac-
20 cident insurance; or

21 (vi) any participation in a simulation
22 sports game or an educational game or
23 contest that—

24 (I) is not dependent solely on the
25 outcome of any single sporting event

1 or nonparticipant's singular individual
2 performance in any single sporting
3 event;

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

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

16 (3) GAMBLING BUSINESS.—The term “gam-
17 bling business” means—

18 (A) a business that is conducted at a gam-
19 bling establishment;

20 (B) a business that—

21 (i) involves—

22 (I) the placing, receiving, or oth-
23 erwise making of bets or wagers; or

1 (II) the offering to engage in the
2 placing, receiving, or otherwise mak-
3 ing of bets or wagers;

4 (ii) involves 1 or more persons who
5 conduct, finance, manage, supervise, direct,
6 or own all or part of such business; and

7 (iii) has been or remains in substan-
8 tially continuous operation for a period in
9 excess of 10 days or has a gross revenue
10 of \$2,000 or more from such business dur-
11 ing any 24-hour period; and

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

14 (4) INTERNET.—The term “Internet” means
15 the international computer network of both Federal
16 and nonfederal interoperable packet switched data
17 networks.

18 (5) INTERNET GAMBLING.—The term “Internet
19 gambling” means to place, receive, or otherwise
20 make a bet or wager by any means which involves
21 the use, at least in part, of the Internet.

22 (6) OTHER TERMS.—

23 (A) CREDIT; CREDITOR; AND CREDIT
24 CARD.—The terms “credit”, “creditor”, and
25 “credit card” have the meanings given such

1 terms in section 103 of the Truth in Lending
2 Act.

3 (B) ELECTRONIC FUND TRANSFER.—The
4 term “electronic fund transfer” has the mean-
5 ing given such term in section 903 of the Elec-
6 tronic Fund Transfer Act.

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

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

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

19 (c) CIVIL REMEDIES.—

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

1 (2) PROCEEDINGS.—

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

4 (i) IN GENERAL.—The United States,
5 acting through the Attorney General or an
6 appropriate Federal regulatory agency,
7 may institute proceedings under this sub-
8 section to prevent or restrain a violation of
9 this section.

10 (ii) RELIEF.—Upon application of the
11 United States under this subparagraph,
12 the district court may enter a temporary
13 restraining order or an injunction against
14 any person to prevent or restrain a viola-
15 tion of this section if the court determines,
16 after notice and an opportunity for a hear-
17 ing, that there is a substantial probability
18 that such violation has occurred or will
19 occur.

20 (B) INSTITUTION BY STATE ATTORNEY
21 GENERAL.—

22 (i) IN GENERAL.—The attorney gen-
23 eral of a State (or other appropriate State
24 official) in which a violation of this section
25 allegedly has occurred or will occur, after

1 providing written notice to the United
2 States, may institute proceedings under
3 this subsection to prevent or restrain the
4 violation.

5 (ii) RELIEF.—Upon application of the
6 attorney general (or other appropriate
7 State official) of an affected State under
8 this subparagraph, the district court may
9 enter a temporary restraining order or an
10 injunction against any person to prevent or
11 restrain a violation of this section if the
12 court determines, after notice and an op-
13 portunity for a hearing, that there is a
14 substantial probability that such violation
15 has occurred or will occur.

16 (C) INDIAN LANDS.—Notwithstanding sub-
17 paragraphs (A) and (B), for a violation that is
18 alleged to have occurred, or may occur, on In-
19 dian lands (as that term is defined in section 4
20 of the Indian Gaming Regulatory Act)—

21 (i) the United States shall have the
22 enforcement authority provided under sub-
23 paragraph (A); and

24 (ii) the enforcement authorities speci-
25 fied in an applicable Tribal-State compact

1 negotiated under section 11 of the Indian
2 Gaming Regulatory Act shall be carried
3 out in accordance with that compact.

4 (D) EXPIRATION.—Any temporary re-
5 straining order or preliminary injunction en-
6 tered pursuant to subparagraph (A) or (B)
7 shall expire if, and as soon as, the United
8 States, or the attorney general (or other appro-
9 priate State official) of the State, as applicable,
10 notifies the court that issued the order or in-
11 junction that the United States or the State, as
12 applicable, will not seek a permanent injunc-
13 tion.

14 (3) EXPEDITED PROCEEDINGS.—

15 (A) IN GENERAL.—In addition to any pro-
16 ceeding under paragraph (2), a district court
17 may, in exigent circumstances, enter a tem-
18 porary restraining order against a person al-
19 leged to be in violation of this section upon ap-
20 plication of the United States under paragraph
21 (2)(A), or the attorney general (or other appro-
22 priate State official) of an affected State under
23 paragraph (2)(B), without notice and the op-
24 portunity for a hearing as provided in rule
25 65(b) of the Federal Rules of Civil Procedure

1 (except as provided in subsection (d)(3)), if the
2 United States or the State, as applicable, dem-
3 onstrates that there is probable cause to believe
4 that the use of the Internet or other interactive
5 computer service at issue violates this section.

6 (B) HEARINGS.—A hearing requested con-
7 cerning an order entered under this paragraph
8 shall be held at the earliest practicable time.

9 (d) CRIMINAL PENALTY.—

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

13 (2) PERMANENT INJUNCTION.—Upon convic-
14 tion of a person under this subsection, the court
15 may enter a permanent injunction enjoining such
16 person from placing, receiving, or otherwise making
17 bets or wagers or sending, receiving, or inviting in-
18 formation assisting in the placing of bets or wagers.

19 (e) SAFE HARBOR FOR FINANCIAL INTER-
20 MEDIARIES.—

21 (1) IN GENERAL.—No creditor, credit card
22 issuer, financial institution, operator of a terminal at
23 which an electronic fund transfer may be initiated,
24 money transmitting business, or national or regional
25 communication network utilized to effect a credit

1 transaction, electronic fund transfer, or money
2 transmitting service shall be liable under this section
3 for the involvement of such person, or the use of
4 the facilities of such person—

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

8 (B) in drawing, paying, transferring, or
9 collecting any check, draft, or other instrument
10 described in subsection (a).

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

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

20 (a) IN GENERAL.—It is the sense of the Congress
21 that, in deliberations between the United States Govern-
22 ment and any other country on money laundering, corrup-
23 tion, and crime issues, the United States Government
24 should encourage the enactment and enforcement of laws
25 in such country to prevent Internet gambling and the use

1 of the financial payment and transfer systems to facilitate
2 Internet gambling.

3 (b) UNITED STATES VOTES IN INTERNATIONAL FI-
4 NANCIAL INSTITUTIONS.—The Secretary of the Treasury
5 shall instruct the United States Executive Directors of
6 each international financial institution (as defined in sec-
7 tion 1701(c) of the International Financial Institutions
8 Act) to oppose any loan, disbursement, or other utilization
9 of resources by the international financial institution,
10 other than to address basic human needs, for any country
11 that the Secretary of the Treasury determines—

12 (1) permits a high level of participation in, and
13 the use of the financial payment and transfer sys-
14 tems to facilitate, Internet gambling by United
15 States citizens and residents; and

16 (2) is not effectively implementing measures to
17 limit participation in, and the use of the financial
18 payment and transfer systems to facilitate, Internet
19 gambling by United States citizens and residents.

20 (c) DENIAL OF ACCESS TO THE PAYMENT SYSTEM.—
21 In the case of any country with respect to which the Sec-
22 retary has made a determination under subsection (b), the
23 Secretary and the Board of Governors of the Federal Re-
24 serve System shall take such action as the Secretary and
25 the Chairman of the Board, after joint consultation, deter-

1 mine to be appropriate to limit or preclude access to the
2 United States payment system by financial institutions
3 that are chartered by, or organized under the laws of, such
4 country or have their principal places of business within
5 such country.

6 (d) REPORT REQUIRED.—The Secretary of the
7 Treasury shall submit an annual report to the Congress
8 on the deliberations between the United States and other
9 countries on issues relating to Internet gambling.

10 **SEC. 5. ENFORCEMENT ACTIONS.**

11 Section 8 of the Federal Deposit Insurance Act (12
12 U.S.C. 1818) is amended by adding at the end the fol-
13 lowing new subsection:

14 “(x) DEPOSITORY INSTITUTION INVOLVEMENT IN
15 INTERNET GAMBLING.—Notwithstanding section 3(e) of
16 the Internet Gambling Funding Prohibition Act, if any ap-
17 propriate Federal banking agency determines that any in-
18 sured depository institution is engaged in any of the fol-
19 lowing activities, the agency may issue an order to such
20 institution prohibiting such institution from continuing to
21 engage in such activity:

22 “(1) Extending credit, or facilitating an exten-
23 sion of credit, electronic fund transfer, or money
24 transmitting service with the actual knowledge that
25 any person is violating subsection (a) or (b) of the

1 Internet Gambling Funding Prohibition Act in con-
2 nection with such extension of credit, electronic fund
3 transfer, or money transmitting service.

4 “(2) Paying, transferring, or collecting on any
5 check, draft, or other instrument drawn on any de-
6 pository institution with the actual knowledge that
7 any person is violating subsection (a) or (b) of the
8 Internet Gambling Funding Prohibition Act in con-
9 nection with such check, draft, or other instru-
10 ment.”.

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