

SUSPEND THE RULES AND PASS THE BILL, H.R. 556, WITH AN AMENDMENT

(The amendment strikes all after the enacting clause and inserts a new text)

[Discussion Draft]

August 30, 2002

107TH CONGRESS
1ST SESSION

H. R. 556

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2001

Mr. LEACH introduced the following bill; which was referred to the Committee on 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 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,*



1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Unlawful Internet
3 Gambling Funding Prohibition Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds as follows:

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

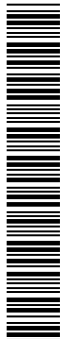
9 (2) The National Gambling Impact Study Com-
10 mission in 1999 recommended the passage of legisla-
11 tion to prohibit wire transfers to Internet gambling
12 sites or the banks which represent them.

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

16 (4) Internet gambling conducted through off-
17 shore jurisdictions has been identified by United
18 States law enforcement officials as a significant
19 money laundering vulnerability.

20 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY BANK IN-**
21 **STRUMENT FOR UNLAWFUL INTERNET GAM-**
22 **BLING.**

23 (a) IN GENERAL.—No person engaged in the busi-
24 ness of betting or wagering may knowingly accept, in con-
25 nection with the participation of another person in unlaw-
26 ful Internet gambling—



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

4 (2) an electronic fund transfer or funds trans-
5 mitted by or through a money transmitting business,
6 or the proceeds of an electronic fund transfer or
7 money transmitting service, from or on behalf of the
8 other person;

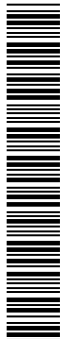
9 (3) any check, draft, or similar instrument
10 which is drawn by or on behalf of the other person
11 and is drawn on or payable at or through any finan-
12 cial institution; or

13 (4) the proceeds of any other form of financial
14 transaction as the Secretary may prescribe by regu-
15 lation which involves a financial institution as a
16 payor or financial intermediary on behalf of or for
17 the benefit of the other person.

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

20 (1) BETS OR WAGERS.—The term “bets or
21 wagers”—

22 (A) means the staking or risking by any
23 person of something of value upon the outcome
24 of a contest of others, a sporting event, or a
25 game subject to chance, upon an agreement or



1 understanding that the person or another per-
2 son will receive something of greater value than
3 the amount staked or risked in the event of a
4 certain 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 sub-
8 ject to chance);

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

12 (D) includes any instructions or informa-
13 tion pertaining to the establishment or move-
14 ment of funds in an account by the bettor or
15 customer with the business of betting or wager-
16 ing; 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
21 Act of 1934) for the purchase or sale of se-
22 curities (as that term is defined in section
23 3(a)(10) of such Act);

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



1 or exempt board of trade pursuant to the
2 Commodity Exchange Act;

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

5 (iv) any other transaction that is ex-
6 empt from State gaming or bucket shop
7 laws under section 12(e) of the Commodity
8 Exchange Act or section 28(a) of the Secu-
9 rities Exchange Act of 1934;

10 (v) any contract of indemnity or guar-
11 antee;

12 (vi) any contract for insurance;

13 (vii) any deposit or other transaction
14 with a depository institution (as defined in
15 section 3(e) of the Federal Deposit Insur-
16 ance Act);

17 (viii) any participation in a simulation
18 sports game or an educational game or
19 contest that—

20 (I) is not dependent solely on the
21 outcome of any single sporting event
22 or nonparticipant's singular individual
23 performance in any single sporting
24 event;



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

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

13 (ix) any transaction authorized under
 14 State law with a business licensed or au-
 15 thorized by a State.

16 (2) BUSINESS OF BETTING OR WAGERING.—

17 The term “business of betting or wagering” does not
 18 include, other than for purposes of subsection (d),
 19 any creditor, credit card issuer, insured depository
 20 institution, financial institution, operator of a ter-
 21 minal at which an electronic fund transfer may be
 22 initiated, money transmitting business, or inter-
 23 national, national, regional, or local network utilized
 24 to effect a credit transaction, electronic fund trans-
 25 fer, stored value product transaction, or money



1 transmitting service, or any participant in such net-
2 work, or any interactive computer service or tele-
3 communications service.

4 (3) DESIGNATED PAYMENT SYSTEM DE-
5 FINED.—The term “designated payment system”
6 means any system utilized by any creditor, credit
7 card issuer, financial institution, operator of a ter-
8 minal at which an electronic fund transfer may be
9 initiated, money transmitting business, or inter-
10 national, national, regional, or local network utilized
11 to effect a credit transaction, electronic fund trans-
12 fer, or money transmitting service, or any partici-
13 pant in such network, that the Secretary, in con-
14 sultation with the Board of Governors of the Federal
15 Reserve System and the Attorney General, deter-
16 mines, by regulation or order, could be utilized in
17 connection with, or to facilitate, any restricted trans-
18 action.

19 (4) INTERNET.—The term “Internet” means
20 the international computer network of interoperable
21 packet switched data networks.

22 (5) RESTRICTED TRANSACTION.—The term “re-
23 stricted transaction” means any transaction or
24 transmittal involving any credit, funds, instrument,
25 or proceeds described in any paragraph of subsection



1 (a) which the recipient is prohibited from accepting
2 under subsection (a).

3 (6) UNLAWFUL INTERNET GAMBLING.—The
4 term “unlawful Internet gambling” means to place,
5 receive, or otherwise transmit a bet or wager by any
6 means which involves the use, at least in part, of the
7 Internet where such bet or wager is unlawful under
8 any applicable Federal or State law in the State in
9 which the bet or wager is initiated, received, or oth-
10 erwise made.

11 (7) OTHER TERMS.—

12 (A) CREDIT; CREDITOR; AND CREDIT
13 CARD.—The terms “credit”, “creditor”, and
14 “credit card” have the meanings given such
15 terms in section 103 of the Truth in Lending
16 Act.

17 (B) ELECTRONIC FUND TRANSFER.—The
18 term “electronic fund transfer”—

19 (i) has the meaning given such term
20 in section 903 of the Electronic Fund
21 Transfer Act; and

22 (ii) includes any fund transfer covered
23 by Article 4A of the Uniform Commercial
24 Code, as in effect in any State.



1 (C) FINANCIAL INSTITUTION.—The term
 2 “financial institution” has the meaning given
 3 such term in section 903 of the Electronic
 4 Fund Transfer Act.

5 (D) MONEY TRANSMITTING BUSINESS AND
 6 MONEY TRANSMITTING SERVICE.—The terms
 7 “money transmitting business” and “money
 8 transmitting service” have the meanings given
 9 such terms in section 5330(d) of title 31,
 10 United States Code.

11 (E) SECRETARY.—The term “Secretary”
 12 means the Secretary of the Treasury.

13 (c) CIVIL REMEDIES.—

14 (1) JURISDICTION.—The district courts of the
 15 United States shall have original and exclusive juris-
 16 diction to prevent and restrain violations of this sec-
 17 tion by issuing appropriate orders in accordance
 18 with this section, regardless of whether a prosecu-
 19 tion has been initiated under this section.

20 (2) PROCEEDINGS.—

21 (A) INSTITUTION BY FEDERAL GOVERN-
 22 MENT.—

23 (i) IN GENERAL.—The United States,
 24 acting through the Attorney General, may
 25 institute proceedings under this subsection



1 to prevent or restrain a violation of this
2 section.

3 (ii) RELIEF.—Upon application of the
4 United States under this subparagraph,
5 the district court may enter a preliminary
6 injunction or an injunction against any
7 person to prevent or restrain a violation of
8 this section, in accordance with Rule 65 of
9 the Federal Rules of Civil Procedure.

10 (B) INSTITUTION BY STATE ATTORNEY
11 GENERAL.—

12 (i) IN GENERAL.—The attorney gen-
13 eral of a State (or other appropriate State
14 official) in which a violation of this section
15 allegedly has occurred or will occur may in-
16 stitute proceedings under this subsection to
17 prevent or restrain the violation.

18 (ii) RELIEF.—Upon application of the
19 attorney general (or other appropriate
20 State official) of an affected State under
21 this subparagraph, the district court may
22 enter a preliminary injunction or an in-
23 junction against any person to prevent or
24 restrain a violation of this section, in ac-



1 cordance with Rule 65 of the Federal
2 Rules of Civil Procedure.

3 (C) INDIAN LANDS.—

4 (i) IN GENERAL.—Notwithstanding
5 subparagraphs (A) and (B), for a violation
6 that is alleged to have occurred, or may
7 occur, on Indian lands (as that term is de-
8 fined in section 4 of the Indian Gaming
9 Regulatory Act)—

10 (I) the United States shall have
11 the enforcement authority provided
12 under subparagraph (A); and

13 (II) the enforcement authorities
14 specified in an applicable Tribal-State
15 compact negotiated under section 11
16 of the Indian Gaming Regulatory Act
17 shall be carried out in accordance
18 with that compact.

19 (ii) RULE OF CONSTRUCTION.—No
20 provision of this section shall be construed
21 as altering, superseding, or otherwise af-
22 fecting the application of the Indian Gam-
23 ing Regulatory Act.

24 (D) BANKING REGULATORS.—Before initi-
25 ating any proceeding under this paragraph with

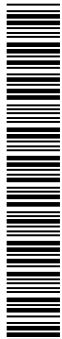


1 respect to a violation or potential violation of
2 subsection (e) by an insured depository institu-
3 tion (as defined in section 3 of the Federal De-
4 posit Insurance Act), the Attorney General of
5 the United States or an attorney general of a
6 State (or other appropriate State official)
7 shall—

8 (i) notify the appropriate Federal
9 banking agency (as defined in such sec-
10 tion) of such violation or potential viola-
11 tion; and

12 (ii) allow such agency a reasonable
13 time to issue an order to such insured de-
14 pository institution under section 8(x) of
15 the Federal Deposit Insurance Act.

16 (3) EXPEDITED PROCEEDINGS.—In addition to
17 any proceeding under paragraph (2), a district court
18 may, in exigent circumstances, enter a temporary re-
19 straining order against a person alleged to be in vio-
20 lation of this section upon application of the United
21 States under paragraph (2)(A), or the attorney gen-
22 eral (or other appropriate State official) of an af-
23 fected State under paragraph (2)(B), in accordance
24 with Rule 65(b) of the Federal Rules of Civil Proce-
25 dure.



1 (4) LIMITATION RELATING TO INTERACTIVE
2 COMPUTER SERVICES.—Relief granted under para-
3 graph (1) against an interactive computer service (as
4 defined in section 230(f) of the Communications Act
5 of 1934) shall—

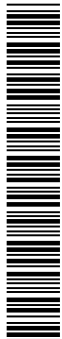
6 “(A) be limited to the removal of, or disabling
7 of access to, an online site violating this section, or
8 a hypertext link to an online site violating this sec-
9 tion, that resides on a computer server that such
10 service controls or operates; except this limitation
11 shall not apply if the service is violating this section
12 or is in active concert with a person who is violating
13 this section and receives actual notice of the relief;

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

17 “(C) not impose any obligation on an inter-
18 active computer service to monitor its service or to
19 affirmatively seek facts indicating activity violating
20 this section;

21 “(D) specify the interactive computer service to
22 which it applies; and

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



1 (5) FACTORS TO BE CONSIDERED IN CERTAIN
2 CASES.—In considering granting relief under this
3 subsection against any payment system, or any par-
4 ticipant in a payment system that is a creditor, cred-
5 it card issuer, financial institution, operator of a ter-
6 minal at which an electronic fund transfer may be
7 initiated, money transmitting business, or inter-
8 national, national, regional, or local network utilized
9 to effect a credit transaction, electronic fund trans-
10 fer, or money transmitting service, or a participant
11 in such network, the court shall consider the fol-
12 lowing factors:

13 (A) The extent to which such person or en-
14 tity is extending credit or transmitting funds
15 knowing the transaction is in connection with
16 unlawful Internet gambling.

17 (B) The history of such person or entity in
18 extending credit or transmitting funds knowing
19 the transaction is in connection with unlawful
20 Internet gambling.

21 (C) The extent to which such person or en-
22 tity has established and is maintaining policies
23 and procedures in compliance with regulations
24 prescribed under subsection (f).



1 (D) The feasibility that any specific rem-
2 edy prescribed in the order issued under this
3 subsection can be implemented by such person
4 or entity without substantial deviation from
5 normal business practice.

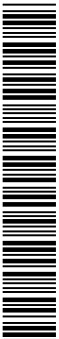
6 (E) The costs and burdens the specific
7 remedy will have on such person or entity.

8 (d) CRIMINAL PENALTY.—

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

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

19 (e) CIRCUMVENTIONS PROHIBITED.—Notwith-
20 standing subsection (b)(2), a creditor, credit card issuer,
21 financial institution, operator of a terminal at which an
22 electronic fund transfer may be initiated, money transmit-
23 ting business, or international, national, regional, or local
24 network utilized to effect a credit transaction, electronic
25 fund transfer, or money transmitting service, or any par-



1 participant in such network, or any interactive computer serv-
 2 ice or telecommunications service, may be liable under this
 3 section if such creditor, issuer, institution, operator, busi-
 4 ness, network, or participant has actual knowledge and
 5 control of bets and wagers and—

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

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

17 (f) POLICIES AND PROCEDURES TO IDENTIFY AND
 18 PREVENT TRANSACTIONS IN PAYMENT FOR INTERNET
 19 GAMBLING BETS OR WAGERS.—

20 (1) REGULATIONS.—Before the end of the 6-
 21 month period beginning on the date of the enact-
 22 ment of this Act, the Secretary of the Treasury, in
 23 consultation with the Board of Governors of the
 24 Federal Reserve System and the Attorney General,
 25 shall prescribe regulations requiring any designated



1 payment system to establish policies and procedures
2 reasonably designed to—

3 (A) allow the payment system and any per-
4 son involved in the payment system to identify
5 restricted transactions by means of codes in au-
6 thorization messages or by other means; and

7 (B) block restricted transactions identified
8 as a result of the policies and procedures devel-
9 oped pursuant to subparagraph (A).

10 (2) REQUIREMENTS FOR POLICIES AND PROCE-
11 DURES.—In prescribing regulations pursuant to
12 paragraph (1), the Secretary shall—

13 (A) identify types of policies and proce-
14 dures, including nonexclusive examples, which
15 would be deemed to be “reasonably designed to
16 identify” and “reasonably designed to block”
17 with respect to each type of transaction, such
18 as, should credit card transactions be so des-
19 igned, identifying transactions by a code or
20 codes in the authorization message and denying
21 authorization of a credit card transaction in re-
22 sponse to an authorization message;

23 (B) to the extent practical, permit any par-
24 ticipant in a payment system to choose among



1 alternative means of identifying and blocking
2 restricted transactions; and

3 (C) consider exempting restricted trans-
4 actions from any requirement under paragraph
5 (1) if the Secretary finds that it is not reason-
6 ably practical to identify or block such trans-
7 actions.

8 (3) COMPLIANCE WITH PAYMENT SYSTEM POLI-
9 CIES AND PROCEDURES.—A creditor, credit card
10 issuer, financial institution, operator of a terminal at
11 which an electronic fund transfer may be initiated,
12 money transmitting business, or international, na-
13 tional, regional, or local network utilized to effect a
14 credit transaction, electronic fund transfer, or money
15 transmitting service, or a participant in such net-
16 work, meets the requirement of paragraph (1) to
17 identify and block restricted transactions if—

18 (A) such person relies on and complies
19 with the policies and procedures of a designated
20 payment system of which it is a member or par-
21 ticipant to identify and block restricted trans-
22 actions; and

23 (B) such policies and procedures of the
24 designated payment system comply with the re-



1 quirements of regulations prescribed under
2 paragraph (1).

3 (4) ENFORCEABILITY OF PAYMENT TRANS-
4 ACTIONS.—

5 (A) IN GENERAL.—Any consumer who
6 knowingly initiates a restricted transaction may
7 not assert that such transaction is unenforce-
8 able under any Federal, State, or other law.

9 (B) NO LIABILITY FOR BLOCKING RE-
10 STRICTED TRANSACTIONS.—An entity that is
11 subject to a regulation prescribed or order
12 issued under paragraph (3) and blocks, or oth-
13 erwise refuses to honor, a restricted trans-
14 action, or as a member of a designated payment
15 system relies on the policies and procedures of
16 the payment system, in an effort to comply with
17 this section shall not be liable to any party for
18 such action.

19 (g) ENFORCEMENT.—This section shall be enforced
20 by the Federal functional regulators, the State insurance
21 authorities, and the Federal Trade Commission under ap-
22 plicable law in the manner provided in section 505(a) of
23 the Gramm-Leach-Bliley Act.



1 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN**
2 **JURISDICTIONS.**

3 (a) **IN GENERAL.**—In deliberations between the
4 United States Government and any other country on
5 money laundering, corruption, and crime issues, the
6 United States Government should—

7 (1) encourage cooperation by foreign govern-
8 ments and relevant international fora in identifying
9 whether Internet gambling operations are being used
10 for money laundering, corruption, or other crimes;

11 (2) advance policies that promote the coopera-
12 tion of foreign governments, through information
13 sharing or other measures, in the enforcement of
14 this Act; and

15 (3) encourage the Financial Action Task Force
16 on Money Laundering, in its annual report on
17 money laundering typologies, to study the extent to
18 which Internet gambling operations are being used
19 for money laundering.

20 (b) **REPORT REQUIRED.**—The Secretary of the
21 Treasury shall submit an annual report to the Congress
22 on the deliberations between the United States and other
23 countries on issues relating to Internet gambling.

24 **SEC. 5. AMENDMENTS TO GAMBLING PROVISIONS.**

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



1 (1) by designating the five undesignated para-
2 graphs that begin with “The term” as paragraphs
3 (1) 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 mo-
10 bile)” after “connection”.

11 (b) INCREASE IN PENALTY FOR UNLAWFUL WIRE
12 TRANSFERS OF WAGERING INFORMATION.—Section
13 1084(a) of title 18, United States Code, is amended by
14 striking “two years” and inserting “5 years”.

