

109TH CONGRESS
2D SESSION

H. R. 4777

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2006

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. WOLF, Mr. MCINTYRE, Mr. PITTS, Mr. PENCE, Mr. SHADEGG, Mr. ADERHOLT, Mr. AKIN, Mr. ALEXANDER, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BOEHLERT, Mr. BONNER, Mr. BOOZMAN, Mr. BOUSTANY, Mr. BURGESS, Mr. BURTON of Indiana, Mr. BUYER, Mr. CANTOR, Mrs. CAPITO, Mr. CHABOT, Mr. COBLE, Mr. CONAWAY, Mr. CRENSHAW, Mr. CULBERSON, Mrs. JO ANN DAVIS of Virginia, Mr. TOM DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEFazio, Mr. LINCOLN DIAZ-BALART of Florida, Mrs. DRAKE, Mr. DUNCAN, Mr. EHLERS, Mrs. EMERSON, Mr. EVERETT, Mr. FORBES, Mr. FORTENBERRY, Mr. FRANKS of Arizona, Mr. FORTUÑO, Mr. FRELINGHUYSEN, Ms. FOXX, Mr. GALLEGLY, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GUTKNECHT, Ms. HART, Mr. HAYES, Mr. HEFLEY, Mr. HERGER, Mr. HOBSON, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. JENKINS, Mr. JINDAL, Mrs. JOHNSON of Connecticut, Mr. JONES of North Carolina, Mr. KELLER, Mrs. KELLY, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. KINGSTON, Mr. KUHL of New York, Mr. LEWIS of California, Mr. LINDER, Mr. LUCAS, Mr. DANIEL E. LUNGREN of California, Mr. MCCRERY, Mr. MCKEON, Mr. MILLER of Florida, Mr. MORAN of Kansas, Mr. MORAN of Virginia, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. NUSSLE, Mr. OSBORNE, Mr. PETERSON of Minnesota, Mr. POE, Mr. PUTNAM, Mr. RAMSTAD, Mr. REGULA, Mr. REHBERG, Mr. REYNOLDS, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Mr. SCHWARZ of Michigan, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMMONS, Mr. SMITH of Texas, Mr. SODREL, Mr. SOUDER, Mr. SULLIVAN, Mr. TERRY, Mr. THOMAS, Mr. TIAHRT, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WELDON of Florida, Mr. WESTMORELAND, Mr. WICKER, Mr. WILSON of South Carolina, Mrs. WILSON of New Mexico, Mr. BRADY of Texas, Mr. DELAY, and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to expand and modernize the prohibition against interstate 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 Prohibition Act”.

6 **SEC. 2. DEFINITIONS.**

7 Section 1081 of title 18, United States Code, is
8 amended—

9 (1) by designating the five undesignated para-
10 graphs that begin with “The term” as paragraphs
11 (1) through (5), respectively;

12 (2) in paragraph (5), as so designated—

13 (A) by striking “wire communication” and
14 inserting “communication”;

15 (B) by inserting “satellite, microwave,”
16 after “cable,”; and

17 (C) by inserting “(whether fixed or mo-
18 bile)” after “connection”; and

19 (3) by adding at the end the following:

20 “(6) The term ‘bets or wagers’—

1 “(A) means the staking or risking by any
2 person of something of value upon the outcome
3 of a contest of others, a sporting event, or a
4 game predominantly subject to chance, upon an
5 agreement or understanding that the person or
6 another person will receive something of greater
7 value than the amount staked or risked in the
8 event of a certain outcome;

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

13 “(C) does not include—

14 “(i) a bona fide business transaction
15 governed by the securities laws (as that
16 term is defined in section 3(a)(47) of the
17 Securities Exchange Act of 1934 (15
18 U.S.C. 78c(a)(47))) for the purchase or
19 sale at a future date of securities (as that
20 term is defined in section 3(a)(10) of the
21 Securities Exchange Act of 1934 (15
22 U.S.C. 78c(a)(10)));

23 “(ii) a transaction on or subject to the
24 rules of a contract market designated pur-
25 suant to section 5 of the Commodity Ex-

1 change Act (7 U.S.C. 7) or to any trans-
2 action subject to an exemption pursuant to
3 section 4(c) of such Act;

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

6 “(iv) a contract of indemnity or guar-
7 antee;

8 “(v) a contract for life, health, or ac-
9 cident insurance;

10 “(vi) participation in any game or
11 contest in which participants do not stake
12 or risk anything of value other than—

13 “(I) personal efforts of the par-
14 ticipants in playing the game or con-
15 test or obtaining access to the Inter-
16 net; or

17 “(II) point or credits that the
18 sponsor of the game or contest pro-
19 vides to participants free of charge
20 and that can be used or redeemed
21 only for participation in games or con-
22 tests offered by the sponsor; or

23 “(vii) participation in any simulation
24 sports game or educational game or con-
25 test in which (if the game or contest in-

1 involves a team or teams) all teams are fic-
2 tional and no team is a member of an
3 amateur or professional sports organiza-
4 tion (as those terms are defined in section
5 3701 of title 28) and that meets the fol-
6 lowing conditions:

7 “(I) All prizes and awards of-
8 fered to winning participants are es-
9 tablished and made known to the par-
10 ticipants in advance of the game or
11 contest and their value is not deter-
12 mined by the number of participants
13 or the amount of any fees paid by
14 those participants.

15 “(II) All winning outcomes re-
16 flect the relative knowledge and skill
17 of the participants and are determined
18 predominantly by accumulated statis-
19 tical results of the performance of in-
20 dividuals (athletes in the case of
21 sports events) in multiple real-world
22 sporting or other events.

23 “(III) No winning outcome is
24 based—

1 “(aa) on the score, point-
2 spread or any performance or
3 performances of any single real-
4 world team or any combination of
5 such teams; or

6 “(bb) solely on any single
7 performance of an individual ath-
8 lete in any single real-world
9 sporting or other event.

10 “(7) The term ‘foreign jurisdiction’ means a ju-
11 risdiction of a foreign country or political subdivision
12 thereof.

13 “(8) The term ‘gambling business’ means a
14 business of betting or wagering;

15 “(9) The term ‘information assisting in the
16 placing of bets or wagers’ means information know-
17 ingly transmitted by an individual in a gambling
18 business for use in placing, receiving, making, or
19 otherwise enabling or facilitating a bet or wager and
20 does not include—

21 “(A) any posting or reporting of any edu-
22 cational information on how to make a legal bet
23 or wager or the nature of betting or wagering,
24 as long as such posting or reporting does not
25 solicit or provide information for the purpose of

1 facilitating or enabling the placing or receipt of
2 bets or wagers in a jurisdiction where such bet-
3 ting is illegal; or

4 “(B) advertising relating to betting or wa-
5 gering in a jurisdiction where such betting or
6 wagering is legal, as long as such advertising
7 does not solicit or provide information for the
8 purpose of facilitating or enabling the placing
9 or receipt of bets or wagers in a jurisdiction
10 where such betting is illegal.

11 “(10) The term ‘person’ includes a government
12 (including any governmental entity (as defined in
13 section 3701(2) of title 28)).

14 “(11) The term ‘State’ means a State of the
15 United States, the District of Columbia, or a com-
16 monwealth, territory, or possession of the United
17 States.

18 “(12) The terms ‘credit’, ‘creditor’, and ‘credit
19 card’ have the meanings given such terms in section
20 103 of the Truth in Lending Act.

21 “(13) The term ‘electronic fund transfer’—

22 “(A) has the meaning given such term in
23 section 903 of the Electronic Fund Transfer
24 Act; or

1 “(B) any fund transfer covered by Article
2 4A of the Uniform Commercial Code, as in ef-
3 fect in any State.

4 “(14) The term ‘financial institution’ has the
5 meaning given such term in section 903 of the Elec-
6 tronic Fund Transfer Act.

7 “(15) The term ‘insured depository institu-
8 tion’—

9 “(A) has the same meaning as in section
10 3(e) of the Federal Deposit Insurance Act; and

11 “(B) includes any insured credit union (as
12 defined in section 101 of the Federal Credit
13 Union Act).

14 “(16) The terms ‘money transmitting business’
15 and ‘money transmitting service’ have the meanings
16 given such terms in section 5330(d) of title 31,
17 United States Code.

18 “(17) The terms ‘own or control’ and to be
19 ‘owned or controlled’ have the same meanings as in
20 section 2(a)(2) of the Bank Holding Company Act
21 of 1956.

22 “(18) The term ‘Secretary’ means the Secretary
23 of the Treasury.

1 “(19) The term ‘Tribe’ or ‘tribal’ means an In-
2 dian tribe, as defined under section 4(5) of the In-
3 dian Gaming Regulatory Act of 1988).”.

4 **SEC. 3. MODIFICATION OF EXISTING PROHIBITION.**

5 Section 1084 of title 18, United States Code, is
6 amended to read as follows:

7 **“§ 1084. Use of a communication facility to transmit**
8 **bets or wagers; penalties**

9 “(a) Except as otherwise provided in this section,
10 whoever, being engaged in a gambling business, knowingly
11 uses a communication facility—

12 “(1) for the transmission in interstate or for-
13 eign commerce, within the special maritime and ter-
14 ritorial jurisdiction of the United States, or to or
15 from any place outside the jurisdiction of any nation
16 with respect to any transmission to or from the
17 United States, of bets or wagers, or information as-
18 sisting in the placing of bets or wagers; or

19 “(2) for the transmission of a communication in
20 interstate or foreign commerce, within the special
21 maritime and territorial jurisdiction of the United
22 States, or to or from any place outside the jurisdic-
23 tion of any nation with respect to any transmission
24 to or from the United States, which entitles the re-
25 cipient to receive money or credit as a result of bets

1 or wagers, or for information assisting in the placing
2 of bets or wagers;
3 shall be fined under this title or imprisoned not more than
4 five years, or both.

5 “(b) Except as otherwise provided in this section,
6 whoever, being engaged in a gambling business, knowingly
7 accepts, in connection with the transmission of a commu-
8 nication in interstate or foreign commerce, within the spe-
9 cial maritime and territorial jurisdiction of the United
10 States, or to or from any place outside the jurisdiction
11 of any nation with respect to any transmission to or from
12 the United States of bets or wagers or information assist-
13 ing in the placing of bets or wagers—

14 “(1) credit, or the proceeds of credit, extended
15 to or on behalf of another (including credit extended
16 through the use of a credit card);

17 “(2) an electronic fund transfer or funds trans-
18 mitted by or through a money transmitting business,
19 or the proceeds of an electronic fund transfer or
20 money transmitting service, from or on behalf of the
21 other person;

22 “(3) any check, draft, or similar instrument
23 which is drawn by or on behalf of the other person
24 and is drawn on or payable through any financial in-
25 stitution; or

1 “(4) the proceeds of any other form of financial
2 transaction as the Secretary of the Treasury may
3 prescribe by regulation which involves a financial in-
4 stitution as a payor or financial intermediary on be-
5 half of or for the benefit of the other person,
6 shall be fined under this title or imprisoned not more than
7 five years, or both.

8 “(c) Nothing in this section prohibits—

9 “(1) the transmission of information assisting
10 in the placing of bets or wagers for use in news re-
11 porting if such transmission does not solicit or pro-
12 vide information for the purpose of facilitating or
13 enabling the placing or receipt of bets or wagers in
14 a jurisdiction where such betting is illegal;

15 “(2) the transmission of information assisting
16 in the placing of bets or wagers from a State or for-
17 eign country where such betting or wagering is per-
18 mitted under Federal, State, tribal, or local law into
19 a State or foreign country in which such betting on
20 the same event is permitted under Federal, State,
21 tribal, or local law; or

22 “(3) the interstate transmission of information
23 relating to a State-specific lottery between a State or
24 foreign country where such betting or wagering is
25 permitted under Federal, State, tribal, or local law

1 and an out-of-State data center for the purposes of
2 assisting in the operation of such State-specific lot-
3 tery.

4 “(d) Nothing in this section prohibits the use of a
5 communication facility for the transmission of bets or wa-
6 gers or information assisting in the placing of bets or wa-
7 gers, if—

8 “(1) at the time the transmission occurs, the
9 individual or entity placing the bets or wagers or in-
10 formation assisting in the placing of bets or wagers,
11 the gambling business, and any facility or support
12 service processing those bets or wagers is physically
13 located in the same State, and the State has a se-
14 cure and effective customer verification and age
15 verification system to assure compliance with age
16 and residence requirements, and for class II or class
17 III gaming under the Indian Gaming Regulatory
18 Act, are physically located on Indian lands within
19 that State;

20 “(2) the State or Tribe has explicitly authorized
21 such bets and wagers;

22 “(3) the State has explicitly authorized and li-
23 censed the operation of the gambling business, any
24 facility processing the bets and wagers, and the sup-
25 port service within its borders or the Tribe has ex-

1 plicitly authorized and licensed the operation of such
2 gambling business, any facility processing the bets
3 and wagers, and the support service on Indian lands
4 within its jurisdiction;

5 “(4) with respect to class II or class III gam-
6 ing, the game is permitted under and conducted in
7 accordance with the Indian Gaming Regulatory Act;

8 “(5) with respect to class III gaming under the
9 Indian Gaming Regulatory Act, the game is author-
10 ized under, and is conducted in accordance with, the
11 respective Tribal-State compact of the Tribe having
12 jurisdiction over the Indian lands where the indi-
13 vidual or entity placing the bets or wagers or infor-
14 mation assisting in the placing of bets or wagers, the
15 gambling business, and any facility or support serv-
16 ice processing those bets or wagers are physically lo-
17 cated; and

18 “(6) with respect to class III gaming under the
19 Indian Gaming Regulatory Act, each such Tribal-
20 State compact expressly provides that the game may
21 be conducted using a communication facility to
22 transmit bets or wagers or information assisting in
23 the placing of bets or wagers.

24 “(e) Nothing in this section creates immunity from
25 criminal prosecution under any laws of any State or Tribe.

1 “(f) Nothing in this section shall be construed to pro-
2 hibit an activity allowed under Public Law 95–515 (15
3 U.S.C. 3001 et seq.).

4 “(g) Nothing in this section authorizes activity that
5 is prohibited under chapter 178 of title 28, United States
6 Code.

7 “(h) When any common carrier, subject to the juris-
8 diction of the Federal Communications Commission, is no-
9 tified in writing by a Federal, State, tribal or local law
10 enforcement agency, acting within its jurisdiction, that
11 any communication facility furnished by it is being used
12 or will be used by its subscriber for the purpose of trans-
13 mitting or receiving gambling information, in interstate or
14 foreign commerce, within the special maritime and terri-
15 torial jurisdiction of the United States, or to or from any
16 place outside the jurisdiction of any nation with respect
17 to any transmission to or from the United States in viola-
18 tion of Federal, State, tribal or local law, it shall dis-
19 continue or refuse, the leasing, furnishing, or maintaining
20 of such facility, after reasonable notice to the subscriber,
21 but no damages, penalty or forfeiture, civil or criminal,
22 shall be found against any common carrier for any act
23 done in compliance with any notice received from a law
24 enforcement agency. Nothing in this section shall be
25 deemed to prejudice the right of any person affected there-

1 by to secure an appropriate determination, as otherwise
2 provided by law, in a Federal court or in a State, tribal,
3 or local tribunal or agency, that such facility should not
4 be discontinued or removed, or should be restored.

5 “(i)(1) A Federal, State, tribal, or local law enforce-
6 ment agency, acting within its jurisdiction may, in a civil
7 action, obtain injunctive or declaratory relief to restrain
8 or prevent any person from paying or assisting in the pay-
9 ment of bets or wagers, or communicating information as-
10 sisting in the placing of bets or wagers, in interstate or
11 foreign commerce, within the special maritime and terri-
12 torial jurisdiction of the United States, or to or from any
13 place outside the jurisdiction of any nation with respect
14 to any transmission to or from the United States in viola-
15 tion of Federal, State, tribal, or local law.

16 “(2) No damages, penalty, or forfeiture, civil or
17 criminal, shall be found against any person or entity for
18 any act done in compliance with any notice received from
19 a law enforcement agency.

20 “(3) Relief granted under paragraph (1) against an
21 interactive computer service (as defined in section 230(f)
22 of the Communications Act of 1934) shall—

23 “(A) be limited to the removal of, or disabling
24 of access to, an online site violating this section, or
25 a hypertext link to an online site violating this sec-

1 tion, that resides on a computer server that such
2 service controls or operates; except this limitation
3 shall not apply if the service is violating this section
4 or is in active concert with a person who is violating
5 this section and receives actual notice of the relief;

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

9 “(C) not impose any obligation on an inter-
10 active computer service to monitor its service or to
11 affirmatively seek facts indicating activity violating
12 this section;

13 “(D) specify the interactive computer service to
14 which it applies; and

15 “(E) specifically identify the location of the on-
16 line site or hypertext link to be removed or access
17 to which is to be disabled.”.

18 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

19 In addition to any other sums authorized to be appro-
20 priated for this purpose, there are authorized to be appro-
21 priated for each of fiscal years 2007 through 2010
22 \$10,000,000 for investigations and prosecutions of viola-
23 tions of section 1084 of title 18, United States Code.

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