

108TH CONGRESS  
1ST SESSION

# H. R. 21

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

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. LEACH (for himself, Mr. OXLEY, Mr. ROGERS of Michigan, Mr. PICKERING, Mr. NORWOOD, Mr. GOODLATTE, Mr. BACHUS, Mrs. KELLY, Mr. WOLF, Mr. SPRATT, Mr. OSBORNE, Mr. PITTS, Mr. BERRY, and Mr. GILLMOR) 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

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## A BILL

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

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

### 3 **SECTION 1. SHORT TITLE.**

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

### 6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

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 UNLAWFUL INTERNET GAM-**  
17 **BLING.**

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

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

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

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

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

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

17               (1) BETS OR WAGERS.—The term “bets or wa-  
18               gers”—

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

1 the amount staked or risked in the event of a  
2 certain outcome;

3 (B) includes the purchase of a chance or  
4 opportunity to win a lottery or other prize  
5 (which opportunity to win is predominantly sub-  
6 ject to chance);

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

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

15 (E) does not include—

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

22 (ii) any transaction conducted on or  
23 subject to the rules of a registered entity  
24 or exempt board of trade pursuant to the  
25 Commodity Exchange Act;

1 (iii) any over-the-counter derivative  
2 instrument;

3 (iv) any other transaction that—  
4 (I) is excluded or exempt from  
5 regulation under the Commodity Ex-  
6 change Act; or

7 (II) is exempt from State gaming  
8 or bucket shop laws under section  
9 12(e) of the Commodity Exchange Act  
10 or section 28(a) of the Securities Ex-  
11 change Act of 1934;

12 (v) any contract of indemnity or guar-  
13 antee;

14 (vi) any contract for insurance;

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

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

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

1 performance in any single sporting  
2 event;

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

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

15 (ix) any lawful transaction with a  
16 business licensed or authorized by a State.

17 (2) BUSINESS OF BETTING OR WAGERING.—

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

1       fer, stored value product transaction, or money  
2       transmitting service, or any participant in such net-  
3       work, or any interactive computer service or tele-  
4       communications service.

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

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

23           (5) INTERACTIVE COMPUTER SERVICE.—The  
24      term “interactive computer service” has the same

1 meaning as in section 230(f) of the Communications  
2 Act of 1934.

3 (6) RESTRICTED TRANSACTION.—The term “re-  
4 stricted transaction” means any transaction or  
5 transmittal involving any credit, funds, instrument,  
6 or proceeds described in any paragraph of subsection  
7 (a) which the recipient is prohibited from accepting  
8 under subsection (a).

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

17 (8) OTHER TERMS.—

18 (A) CREDIT; CREDITOR; AND CREDIT  
19 CARD.—The terms “credit”, “creditor”, and  
20 “credit card” have the meanings given such  
21 terms in section 103 of the Truth in Lending  
22 Act.

23 (B) ELECTRONIC FUND TRANSFER.—The  
24 term “electronic fund transfer”—



1 (i) has the meaning given such term  
2 in section 903 of the Electronic Fund  
3 Transfer Act; and

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

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, may  
6 institute proceedings under this subsection  
7 to prevent or restrain a violation of this  
8 section.

9 (ii) RELIEF.—Upon application of the  
10 United States under this subparagraph,  
11 the district court may enter a preliminary  
12 injunction or an injunction against any  
13 person to prevent or restrain a violation of  
14 this section, in accordance with Rule 65 of  
15 the Federal Rules of Civil Procedure.

16 (B) INSTITUTION BY STATE ATTORNEY  
17 GENERAL.—

18 (i) IN GENERAL.—The attorney gen-  
19 eral of a State (or other appropriate State  
20 official) in which a violation of this section  
21 allegedly has occurred or will occur may in-  
22 stitute proceedings under this subsection to  
23 prevent or restrain the violation.

24 (ii) RELIEF.—Upon application of the  
25 attorney general (or other appropriate

1 State official) of an affected State under  
2 this subparagraph, the district court may  
3 enter a preliminary injunction or an in-  
4 junction against any person to prevent or  
5 restrain a violation of this section, in ac-  
6 cordance with Rule 65 of the Federal  
7 Rules of Civil Procedure.

8 (C) INDIAN LANDS.—

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

15 (I) the United States shall have  
16 the enforcement authority provided  
17 under subparagraph (A); and

18 (II) the enforcement authorities  
19 specified in an applicable Tribal-State  
20 compact negotiated under section 11  
21 of the Indian Gaming Regulatory Act  
22 shall be carried out in accordance  
23 with that compact.

24 (ii) RULE OF CONSTRUCTION.—No  
25 provision of this section shall be construed

1 as altering, superseding, or otherwise af-  
2 fecting the application of the Indian Gam-  
3 ing Regulatory Act.

4 (3) EXPEDITED PROCEEDINGS.—In addition to  
5 any proceeding under paragraph (2), a district court  
6 may, in exigent circumstances, enter a temporary re-  
7 straining order against a person alleged to be in vio-  
8 lation of this section upon application of the United  
9 States under paragraph (2)(A), or the attorney gen-  
10 eral (or other appropriate State official) of an af-  
11 fected State under paragraph (2)(B), in accordance  
12 with Rule 65(b) of the Federal Rules of Civil Proce-  
13 dure.

14 (4) LIMITATION RELATING TO INTERACTIVE  
15 COMPUTER SERVICES.—

16 (A) IN GENERAL.—Relief granted under  
17 this subsection against an interactive computer  
18 service shall—

19 (i) be limited to the removal of, or dis-  
20 abling of access to, an online site violating  
21 this section, or a hypertext link to an on-  
22 line site violating this section, that resides  
23 on a computer server that such service  
24 controls or operates; except this limitation  
25 shall not apply if the service is subject to

1 liability under this section pursuant to sub-  
2 section (e);

3 (ii) be available only after notice to  
4 the interactive computer service and an op-  
5 portunity for the service to appear are pro-  
6 vided;

7 (iii) not impose any obligation on an  
8 interactive computer service to monitor its  
9 service or to affirmatively seek facts indi-  
10 cating activity violating this section;

11 (iv) specify the interactive computer  
12 service to which it applies; and

13 (v) specifically identify the location of  
14 the online site or hypertext link to be re-  
15 moved or access to which is to be disabled.

16 (B) COORDINATION WITH OTHER LAW.—

17 An interactive computer service that does not  
18 violate this section shall not be liable under sec-  
19 tion 1084 of title 18, except this limitation shall  
20 not apply if an interactive computer service has  
21 actual knowledge and control of bets and wa-  
22 gers and—

23 (i) operates, manages, supervises, or  
24 directs an Internet website at which unlaw-  
25 ful bets or wagers may be placed, received,

1 or otherwise made or at which unlawful  
2 bets or wagers are offered to be placed, re-  
3 ceived, or otherwise made; or

4 (ii) owns or controls, or is owned or  
5 controlled by, any person who operates,  
6 manages, supervises, or directs an Internet  
7 website at which unlawful bets or wagers  
8 may be placed, received, or otherwise made  
9 or at which unlawful bets or wagers are of-  
10 fered to be placed, received, or otherwise  
11 made.

12 (5) FACTORS TO BE CONSIDERED IN CERTAIN  
13 CASES.—In considering granting relief under this  
14 subsection against any payment system, or any par-  
15 ticipant in a payment system that is a creditor, cred-  
16 it card issuer, financial institution, operator of a ter-  
17 minal at which an electronic fund transfer may be  
18 initiated, money transmitting business, or inter-  
19 national, national, regional, or local network utilized  
20 to effect a credit transaction, electronic fund trans-  
21 fer, or money transmitting service, or a participant  
22 in such network, the court shall consider the fol-  
23 lowing factors:

24 (A) The extent to which such person is ex-  
25 tending credit or transmitting funds knowing

1 the transaction is in connection with unlawful  
2 Internet gambling.

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

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

11 (D) The feasibility that any specific rem-  
12 edy prescribed in the order issued under this  
13 subsection can be implemented by such person  
14 without substantial deviation from normal busi-  
15 ness practice.

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

18 (6) NOTICE TO REGULATORS AND FINANCIAL  
19 INSTITUTIONS.—Before initiating any proceeding  
20 under paragraph (2) with respect to a violation or  
21 potential violation of this section by any creditor,  
22 credit card issuer, financial institution, operator of a  
23 terminal at which an electronic fund transfer may be  
24 initiated, money transmitting business, or inter-  
25 national, national, regional, or local network utilized

1 to effect a credit transaction, electronic fund trans-  
2 fer, or money transmitting service, or any partici-  
3 pant in such network, the Attorney General of the  
4 United States or an attorney general of a State (or  
5 other appropriate State official) shall—

6 (A) notify such person, and the appro-  
7 priate regulatory agency (as determined in ac-  
8 cordance with subsection (f)(5)) for such per-  
9 son, of such violation or potential violation and  
10 the remedy to be sought in such proceeding;  
11 and

12 (B) allow such person 30 days to imple-  
13 ment a reasonable remedy for the violation or  
14 potential violation, consistent with the factors  
15 described in paragraph (5) and in conjunction  
16 with such action as the appropriate regulatory  
17 agency may take.

18 (d) CRIMINAL PENALTY.—

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

22 (2) PERMANENT INJUNCTION.—Upon convic-  
23 tion of a person under this subsection, the court  
24 may enter a permanent injunction enjoining such  
25 person from placing, receiving, or otherwise making



1 illegal bets or wagers or sending, receiving, or invit-  
2 ing information assisting in the placing of bets or  
3 wagers.

4 (e) CIRCUMVENTIONS PROHIBITED.—Notwith-  
5 standing subsection (b)(2), a creditor, credit card issuer,  
6 financial institution, operator of a terminal at which an  
7 electronic fund transfer may be initiated, money transmit-  
8 ting business, or international, national, regional, or local  
9 network utilized to effect a credit transaction, electronic  
10 fund transfer, or money transmitting service, or any par-  
11 ticipant in such network, or any interactive computer serv-  
12 ice or telecommunications service, may be liable under this  
13 section if such creditor, issuer, institution, operator, busi-  
14 ness, network, or participant has actual knowledge and  
15 control of bets and wagers and—

16 (1) operates, manages, supervises, or directs an  
17 Internet website at which unlawful bets or wagers  
18 may be placed, received, or otherwise made or at  
19 which unlawful bets or wagers are offered to be  
20 placed, received, or otherwise made; or

21 (2) owns or controls, or is owned or controlled  
22 by, any person who operates, manages, supervises,  
23 or directs an Internet website at which unlawful bets  
24 or wagers may be placed, received, or otherwise

1       made or at which unlawful bets or wagers are of-  
2       ferred to be placed, received, or otherwise made.

3       (f) POLICIES AND PROCEDURES TO IDENTIFY AND  
4 PREVENT RESTRICTED TRANSACTIONS IN PAYMENT FOR  
5 UNLAWFUL INTERNET GAMBLING.—

6           (1) REGULATIONS.—Before the end of the 6-  
7       month period beginning on the date of the enact-  
8       ment of this Act, the Secretary of the Treasury, in  
9       consultation with the Board of Governors of the  
10      Federal Reserve System and the Attorney General,  
11      shall prescribe regulations requiring any designated  
12      payment system to establish policies and procedures  
13      reasonably designed to identify and prevent re-  
14      stricted transactions in any of the following ways:

15           (A) The establishment of policies and pro-  
16      cedures that—

17           (i) allow the payment system and any  
18      person involved in the payment system to  
19      identify restricted transactions by means of  
20      codes in authorization messages or by  
21      other means; and

22           (ii) block restricted transactions iden-  
23      tified as a result of the policies and proce-  
24      dures developed pursuant to clause (i).

1           (B) The establishment of policies and pro-  
2           cedures that prevent the acceptance of the  
3           products or services of the payment system in  
4           connection with a restricted transaction.

5           (2) REQUIREMENTS FOR POLICIES AND PROCE-  
6           DURES.—In prescribing regulations pursuant to  
7           paragraph (1), the Secretary shall—

8           (A) identify types of policies and proce-  
9           dures, including nonexclusive examples, which  
10          would be deemed to be “reasonably designed to  
11          identify” and “reasonably designed to block” or  
12          to “prevent the acceptance of the products or  
13          services” with respect to each type of trans-  
14          action, such as, should credit card transactions  
15          be so designated, identifying transactions by a  
16          code or codes in the authorization message and  
17          denying authorization of a credit card trans-  
18          action in response to an authorization message;

19          (B) to the extent practical, permit any par-  
20          ticipant in a payment system to choose among  
21          alternative means of identifying and blocking,  
22          or otherwise preventing the acceptance of the  
23          products or services of the payment system or  
24          participant in connection with, restricted trans-  
25          actions; and

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

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

15 (A) such person relies on and complies  
16 with the policies and procedures of a designated  
17 payment system of which it is a member or par-  
18 ticipant to—

19 (i) identify and block restricted trans-  
20 actions; or

21 (ii) otherwise prevent the acceptance  
22 of the products or services of the payment  
23 system, member, or participant in connec-  
24 tion with restricted transactions; and

1 (B) such policies and procedures of the  
2 designated payment system comply with the re-  
3 quirements of regulations prescribed under  
4 paragraph (1).

5 (4) NO LIABILITY FOR BLOCKING OR REFUSING  
6 TO HONOR RESTRICTED TRANSACTIONS.—A person  
7 that is subject to a regulation prescribed or order  
8 issued under this subsection and blocks, or otherwise  
9 refuses to honor, a restricted transaction, or as a  
10 member of a designated payment system relies on  
11 the policies and procedures of the payment system,  
12 in an effort to comply with this section shall not be  
13 liable to any party for such action.

14 (5) ENFORCEMENT.—This subsection shall be  
15 enforced by the Federal functional regulators and  
16 the Federal Trade Commission under applicable law  
17 in the manner provided in section 505(a) of the  
18 Gramm-Leach-Bliley Act.

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

5           (2) advance policies that promote the coopera-  
6           tion of foreign governments, through information  
7           sharing or other measures, in the enforcement of  
8           this Act; and

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

14          (b) REPORT REQUIRED.—The Secretary of the  
15          Treasury shall submit an annual report to the Congress  
16          on the deliberations between the United States and other  
17          countries on issues relating to Internet gambling.

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

19          (a) AMENDMENT TO DEFINITION.—Section 1081 of  
20          title 18, United States Code, is amended—

21                  (1) by designating the five undesignated para-  
22                  graphs that begin with “The term” as paragraphs  
23                  (1) through (5), respectively; and

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

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”.

○