

HEINONLINE

Citation: 1 Bernard D. Reams Jr. Law of E-SIGN A Legislative
of the Electronic Signatures in Global and National
Act Public Law No. 106-229 2000 1 2002

Content downloaded/printed from
HeinOnline (<http://heinonline.org>)
Sat Apr 20 11:09:31 2013

-- Your use of this HeinOnline PDF indicates your acceptance
of HeinOnline's Terms and Conditions of the license
agreement available at <http://heinonline.org/HOL/License>

-- The search text of this PDF is generated from
uncorrected OCR text.

UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION
ACT

JULY 20, 2000.—Ordered to be printed

Mr. LEACH, from the Committee on Banking and Financial
Services, submitted the following

R E P O R T

[To accompany H.R. 4419]

[Including cost estimate of the Congressional Budget Office]

The Committee on Banking and Financial Services, to whom was referred the bill (H.R. 4419) to prevent the use of certain bank instruments for Internet gambling, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unlawful Internet Gambling Funding Prohibition Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

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

(2) The National Gambling Impact Study Commission in 1999 recommended the passage of legislation to prohibit wire transfers to Internet gambling sites or the banks which represent them.

(3) Internet gambling is a major cause of debt collection problems for insured depository institutions and the consumer credit industry.

(4) Internet gambling conducted through offshore jurisdictions has been identified by United States law enforcement officials as a significant money laundering vulnerability.

SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY BANK INSTRUMENT FOR UNLAWFUL INTERNET GAMBLING.

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

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

(2) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

(3) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or

(4) the proceeds of any other form of financial transaction as the Secretary may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.

(b) DEFINITIONS.—For purposes of this Act, the following definitions shall apply:

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

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

(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

(C) includes any scheme of a type described in section 3702 of title 28; and

(D) does not include—

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

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

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

(iv) any contract of indemnity or guarantee;

(v) any contract for life, health, or accident insurance; or

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

(I) is not dependent solely on the outcome of any single sporting event or nonparticipant’s singular individual performance in any single sporting event;

(II) has an outcome that reflects the relative knowledge and skill of the participants with such outcome determined predominantly by accumulated statistical results of sporting events; and

(III) offers a prize or award to a participant that is established in advance of the game or contest and is not determined by the number of participants or the amount of any fees paid by those participants.

(2) GAMBLING BUSINESS.—The term “gambling business” means—

(A) a business that is conducted at a gambling establishment;

(B) a business that—

(i) involves—

(I) the placing, receiving, or otherwise making of bets or wagers;

or

(II) the offering to engage in the placing, receiving, or otherwise making of bets or wagers;

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

(iii) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of \$2,000 or more from such business during any 24-hour period; and

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

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

(4) UNLAWFUL INTERNET GAMBLING.—The term “unlawful Internet gambling” means to place, receive, or otherwise make a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State in which the bet or wager is initiated, received, or otherwise made.

(5) OTHER TERMS.—

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

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

- (i) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; and
- (ii) includes any fund transfer covered by Article 4 of the Uniform Commercial Code, as in effect in any State.
- (C) FINANCIAL INSTITUTION.—The term “financial institution” has the meaning given such term in section 903 of the Electronic Fund Transfer Act.
- (D) MONEY TRANSMITTING BUSINESS AND MONEY TRANSMITTING SERVICE.—The terms “money transmitting business” and “money transmitting service” have the meanings given such terms in section 5330(d) of title 31, United States Code.
- (E) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.
- (c) CIVIL REMEDIES.—
- (1) JURISDICTION.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this section by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this section.
- (2) PROCEEDINGS.—
- (A) INSTITUTION BY FEDERAL GOVERNMENT.—
- (i) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this subsection to prevent or restrain a violation of this section.
- (ii) RELIEF.—Upon application of the United States under this subparagraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation of this section, in accordance with Rule 65 of the Federal Rules of Civil Procedure.
- (B) INSTITUTION BY STATE ATTORNEY GENERAL.—
- (i) IN GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of this section allegedly has occurred or will occur may institute proceedings under this subsection to prevent or restrain the violation.
- (ii) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this subparagraph, the district court may enter a preliminary injunction or an injunction against any person to prevent or restrain a violation of this section, in accordance with Rule 65 of the Federal Rules of Civil Procedure.
- (C) INDIAN LANDS.—Notwithstanding subparagraphs (A) and (B), for a violation that is alleged to have occurred, or may occur, on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—
- (i) the United States shall have the enforcement authority provided under subparagraph (A); and
- (ii) the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act shall be carried out in accordance with that compact.
- (3) EXPEDITED PROCEEDINGS.—
- (A) IN GENERAL.—In addition to any proceeding under paragraph (2), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this section upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), in accordance with Rule 65(b) of the Federal Rules of Civil Procedure.
- (d) CRIMINAL PENALTY.—
- (1) IN GENERAL.—Whoever violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.
- (2) PERMANENT INJUNCTION.—Upon conviction of a person under this subsection, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.
- (e) SAFE HARBOR FOR FINANCIAL INTERMEDIARIES.—
- (1) IN GENERAL.—No creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or national, regional, or local network utilized to effect a credit transaction, electronic fund transfer, or money transmitting service shall be liable under this section for the involvement of such person, or the use of the facilities of such person.—

(A) in any credit transaction, electronic fund transfer, or money transmitting service described in subsection (a); or

(B) in drawing, paying, transferring, or collecting any check, draft, or other instrument described in subsection (a) or in any regulation prescribed under such subsection.

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

SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN JURISDICTIONS.

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

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

(2) advance policies that promote the cooperation of foreign governments, through information sharing or other measures, in the enforcement of this Act; and

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

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

SEC. 5. ENFORCEMENT ACTIONS.

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

“(x) DEPOSITORY INSTITUTION INVOLVEMENT IN INTERNET GAMBLING.—Notwithstanding section 3(e) of the Unlawful Internet Gambling Funding Prohibition Act, if any appropriate Federal banking agency determines that any insured depository institution is engaged in any of the following activities, the agency may issue an order to such institution prohibiting such institution from continuing to engage in any of the following activities:

“(1) Extending credit, or facilitating an extension of credit, electronic fund transfer, or money transmitting service with the actual knowledge that any person is violating section 3(a) of the Unlawful Internet Gambling Funding Prohibition Act in connection with such extension of credit, electronic fund transfer, or money transmitting service.

“(2) Paying, transferring, or collecting on any check, draft, or other instrument drawn on any depository institution with the actual knowledge that any person is violating section 3(a) of the Unlawful Internet Gambling Funding Prohibition Act in connection with such check, draft, or other instrument.”.

Amend the title so as to read:

A bill to prevent the use of certain bank instruments for unlawful Internet gambling.

BACKGROUND AND NEED FOR LEGISLATION

In recent years, gambling activities have proliferated over the Internet. Over 850 sites offer real-time live gambling over the Internet, and it is estimated that in 1999, Internet gambling revenue reached \$1.2 billion. In testimony before the Committee, the Department of Justice reported that the Internet and other new technologies have made possible types of gambling that were not feasible a few years ago. For example, a U.S. citizen can now log on from his living room and participate in an interactive Internet poker game operated from a computer located in Antigua.

The Internet manifests new challenges to designing balanced public policy for gambling activities. Broad public policy concerns with respect to Internet gambling include the absence of regulation, accessibility by minors, and susceptibility to criminal activity.

ABSENCE OF REGULATION

State law has largely shaped legalized gambling in this country. However, there is no regulatory infrastructure for Internet gambling as there is for traditional gambling activities. The nature of the Internet allows gambling sites to escape protections imposed by State gaming commissions on gambling business such as registration and licensing of gaming operations, inspection of gaming equipment, and strict accounting standards.

In this regard, the National Gambling Impact Study Commission (the "Commission") Report, released in June 1999, stated that because Internet gambling crosses state lines, it is difficult for states to adequately monitor and regulate such gambling. The Commission examined the possibility of regulating on-line gambling activities using today's casino regulation as a model. However, the Commission rejected this approach due to technical and legal questions. Thus, the Commission recommended that the federal government prohibit, without new or expanded exemptions, Internet gambling and develop appropriate gambling enforcement strategies.

Similarly, in testimony before the Committee, the National Association of Attorneys General ("NAAG") stated that Internet gambling is one of the few instances where the states have actively promoted and supported the adoption of Federal law to combat such an issue. NAAG stated that "the somewhat unique nature of our support reflects the importance of federal legislation to aid the states' general efforts to control gambling activity that occurs within our borders."

ACCESSIBILITY BY MINORS

Protections under state gambling laws encompass the goal of providing gambling in a controlled environment, which among other things prevents gambling by minors. In discord with this goal, the Internet defies time and place restrictions by offering gambling at home at any hour, with little insurance against accessibility by minors. The Commission reports that most sites rely on the registrant to disclose his or her correct age and makes little or no effort to verify the accuracy of the information.

The National Collegiate Athletic Association's testimony before the Committee stated that the emergence of Internet gambling enables students to wager behind closed doors in virtual anonymity, which provides a multitude of new opportunities for young people to gamble on college sports. NCAA institutions note that the growing consensus of research that reveals rates of pathological and problem gambling among college students that are three times higher than the adult population.

SUSCEPTIBILITY TO CRIMINAL ACTIVITY

The dual protection of anonymity and encryption provided by the Internet raises a host of issues regarding criminal activities. The National Gambling Impact Study Commission Report states that problems associated with Internet gambling include: 1) the potential for abuse by gambling operators who can alter, move, or entirely remove sites within minutes; 2) the ability of computer hackers or gambling operators to tamper with gambling software to ma-

nipulate games to their benefit; and 3) the provision of an additional means for individuals to launder money.

PURPOSE AND SUMMARY

The purpose of this legislation is to make it unlawful for a gambling business to accept a bank instrument in connection with unlawful Internet gambling. In addition, H.R. 4419 provides that, in deliberations between the U.S. and any other country on money laundering, corruption, and crime issues, the U.S. should advance policies that promote the cooperation of foreign governments in the enforcement of this legislation.

HEARINGS

On June 20, 2000, the full Committee held a hearing to hear testimony on the legislation. Testifying at the hearing were: The Honorable Ernest L. Fletcher; Gregory A. Baer, Assistant Secretary for Financial Institutions, Department of the Treasury; Kevin V. Di Gregory, Deputy Assistant Attorney General, Crime Division, Department of Justice; Alan Kesner, Assistant Attorney General, Wisconsin Department of Justice, on behalf of the National Association of Attorneys General; Richard Leone, President, The Century Foundation, and former Commissioner on the National Gambling Impact Study Commission; Daniel Nestel, Assistant Director of Federal Relations, The National Collegiate Athletic Association; Alexander Ingle, Chief Financial Officer, New York Racing Association, Inc.

COMMITTEE CONSIDERATION AND VOTES

(Rule XI, Clause 2(1)(2)(B))

On June 28, 2000, the Committee met in open session to mark up H.R. 4419, the "Internet Gambling Funding Prohibition Act." During the markup, the Committee approved, by voice vote, two amendments to H.R. 4419. With a quorum being present, a motion to adopt and favorably report H.R. 4419, as amended, to the House was approved by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

As provided for in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Constitutional Authority of Congress

to enact this legislation is derived from Article I, section 8, clause 1 (relating to the general welfare of the United States); Article I, section 8, clause 3 (relating to Congressional power to regulate commerce); Article I, section 8, clause 5 (relating to the power "to coin money" and "regulate the value thereof"); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONGRESSIONAL ACCOUNTABILITY ACT

The reporting requirement under section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1) is inapplicable because this legislation does not relate to terms and conditions of employment or access to public services or accommodations.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND UNFUNDED MANDATES ANALYSIS

The cost estimate pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974 is attached herewith:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 2000.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4419, the Internet Gambling Funding Prohibition Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Hadley.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 4419—Internet Gambling Funding Prohibition Act

Summary: H.R. 4419 would prohibit gambling businesses from accepting credit cards and other bank instruments from gamblers who illegally bet over the Internet. The bill also would authorize the agencies that regulate insured depository institutions to issue

cease-and-desist orders against institutions that knowingly facilitate Internet gambling. The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) would enforce the provisions of H.R. 4419 as they apply to financial institutions.

CBO estimates that implementing this legislation would result in no significant cost to the federal government. Because enactment of H.R. 4419 could affect spending and receipts, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on direct spending and receipts would not be significant.

Although H.R. 4419 would prohibit gambling businesses from accepting credit card payments and other bank instruments from gamblers who bet illegally over the Internet, the bill would not create a new intergovernmental or private-sector mandate. Under current federal and state law, gambling businesses are generally prohibited from accepting bets or wagers over the Internet. Thus, H.R. 4419 does not contain a new mandate relative to current law.

Estimated cost to the Federal Government: CBO estimates that the government would incur no significant costs to implement H.R. 4419.

Basis of estimate

CBO estimates that implementing H.R. 4419 would increase administrative costs of the Department of Justice and the NCUA, but any such costs would be negligible. The bill also would have a small effect on the operating costs of the FDIC and the Federal Reserve System. Finally, the bill would have a negligible effect on the collection and spending of criminal penalties.

Spending subject to appropriation

Because H.R. 4419 would establish a new federal crime relating to Internet gambling, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects, however, that most cases would be pursued under state law. Therefore, we estimate that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

H.R. 4419 would require the Department of Justice to submit an annual report on deliberations with other countries on issues related to Internet gambling. CBO estimates that preparing and completing the report would cost less than \$100,000 a year, subject to the availability of appropriated funds.

Because we expect few cease-and-desist orders would be issued. CBO estimates that implementing H.R. 4419 would increase the costs of the NCUA by less than \$200,000 a year over the 2001-2005 period.

Direct spending and revenues

Both the OTS and the OCC charge fees to cover all their administrative costs; therefore, any additional spending by these agencies to implement the bill would have no net budgetary effect. That is not the case with the FEC, however, which uses deposit insurance

premiums paid by all banks to cover the expenses it incurs to supervise state-chartered banks.

The bill would cause a small increase in FDIC spending, but would not affect its premium income. In total, CBO estimates that H.R. 4419 would increase direct spending and offsetting receipts of the OTS, OCC, and FCC by less than \$500,000 a year over the 2001–2005 period. Budgetary effects on the Federal Reserve are recorded as changes in revenues (governmental receipts). Based on information from the Federal Reserve, CBO estimates that enacting H.R. 4419 would reduce such revenues by less than \$500,000 a year over the 2001–2005 period.

Because those prosecuted and convicted under the bill could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as government receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. Any additional collections are likely to be negligible because of the small number of cases involved. Because any increase in direct spending would equal the amount of fines collected (with a lag of one year or more), the additional direct spending also would be negligible.

Pay-as-you-go considerations: The Balance Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting H.R. 4419 could affect both direct spending and receipts, but CBO estimates that any such effects would be negligible.

Intergovernmental and private-sector impact: Although H.R. 4419 would prohibit gambling businesses from accepting credit card payments and other bank instruments from gamblers who bet illegally over the Internet, the bill would not create a new intergovernmental mandate. Under current federal and state law, gambling businesses are generally prohibited from accepting bets or wagers over the Internet. Thus, H.R. 4419 does not contain a new mandate relative to current law.

H.R. 4419 would authorize federal banking regulators to require depository institutions that have knowingly participated in transactions with unlawful Internet gambling businesses to cease doing so. This provision would not create a new private-sector mandate for depository institutions because federal banking regulators already have such powers under current law.

Previous CBO estimate: CBO estimated the costs of two other bills related to Internet gambling. On May 1, 2000, CBO transmitted a cost estimate for H.R. 3125, the Internet Gambling Prohibition Act of 2000, as ordered reported by the House Committee on the Judiciary on April 6, 2000. On July 15, 1999, CBO transmitted a cost estimate for S. 692, the Internet Gambling Prohibition Act of 1999, as reported by the Senate Committee on the Judiciary on June 17, 1999. Both bills would prohibit gambling conducted over the Internet, and neither bill would result in any significant cost to the federal government.

Estimate prepared by: Federal costs: Mark Hadley; revenues: Carolyn Lynch; impact on State, local, and tribal governments: Shelley Finlayson; and impact on the private sector: John Harris.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act may be cited as the "Unlawful Internet Gambling Funding Prohibition Act."

Section 2. Findings

Congressional findings include: (1) the role that Internet gambling funded through the use of bank instruments plays in the creation of ultimately uncollectible personal debt, and (2) the susceptibility of Internet gambling to abuse by money launderers.

Section 3. Prohibition on acceptance of any bank instrument for Internet gambling

This section prohibits a gambling business from accepting bank instruments in connection with unlawful Internet gambling. Covered instruments include credit cards, electronic fund transfers, and checks.

Subsection (b) defines the term "bets or wagers" as the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game predominantly subject to chance with the agreement that the winner will receive something of greater value than the amount staked or risked. This subsection clarifies that "bets or wagers" does not include a bona fide business transaction governed by the securities laws; a transaction subject to the Commodities Exchange Act; an over-the-counter derivatives instrument; a contract of indemnity or guarantee; an contract for life, health, or accident insurance; or certain participation in a simulation sports game of education game.

Subsection (b) also defines the terms "gambling business," "Internet," and "unlawful Internet gambling."

Subsection (c) authorizes civil remedies, including a preliminary injunction or injunction against any person to prevent or restrain a violation of this Act.

Subsection (d) authorizes criminal penalties, including fines or imprisonment for not more than five years or both.

Subsection (e) provides that a financial intermediary (creditor, credit card issuer, financial institution, operator of a terminal at which an electronic fund transfer may be initiated, money transmitting business, or national, regional, or local network) shall not be liable for the involvement of a financial intermediary or the use of the facilities of the financial intermediary in connection with a transaction under this Act. However, the subsection specifies that the safe harbor does not apply to a financial intermediary that engaged in a transaction as an agent of a gambling business knowing that the transaction is in violation of this Act.

The purpose of subsection (e) is to ensure that a financial intermediary is not held liable for a violation of this Act solely based on the unknowing and unintentional involvement of the intermediary through the use of the facilities of such intermediary in an unlawful Internet gambling transaction, unless the intermediary acted as an agent of a gambling business and had: (1) actual knowledge that the specific transaction is an unlawful Internet gambling transaction; and (2) the intent to engage in the business

of submitting into the payment system Internet Gambling transactions prohibited by this Act.

Section 4. Internet gambling in or through foreign jurisdictions

Section 4 provides that, in deliberations between the U.S. Government any other country on money laundering, corruption, and crime issues, the U.S. Government should encourage cooperation by foreign governments in identifying whether Internet gambling operations are being used for money laundering, corruption, or other crimes, advance policies that promote the cooperation by foreign governments in the enforcement of this Act; and encourage the Financial Action Task Force on Money Laundering to study the extent to which Internet gambling operations are being used for money laundering.

Section 5. Enforcement actions

This section provides that a Federal banking agency may take appropriate enforcement action against an institution that knowingly permitted its payment or credit facilities to be used in connection with Internet gambling activity that violates this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 8. (a) * * *

* * * * *

(x) *DEPOSITORY INSTITUTION INVOLVEMENT IN INTERNET GAMBLING.*—*Notwithstanding section 3(e) of the Unlawful Internet Gambling Funding Prohibition Act, if any appropriate Federal banking agency determines that any insured depository institution is engaged in any of the following activities, the agency may issue an order to such institution prohibiting such institution from continuing to engage in any of the following activities:*

(1) *Extending credit, or facilitating an extension of credit, electronic fund transfer, or money transmitting service with the actual knowledge that any person is violating section 3(a) of the Unlawful Internet Gambling Funding Prohibition Act in connection with such extension of credit, electronic fund transfer, or money transmitting service.*

(2) *Paying, transferring, or collecting on any check, draft, or other instrument drawn on any depository institution with the actual knowledge that any person is violating section 3(a) of the Unlawful Internet Gambling Funding Prohibition Act in connection with such check, draft, or other instrument.*



Document No. 19

