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H. R. 4411

IN THE SENATE OF THE UNITED STATES

JULY 12, 2006

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AN ACT

To prevent the use of certain payment instruments, credit cards, and fund transfers 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Internet Gambling Prohibition and Enforcement Act”.

6 (b) TABLE OF CONTENTS.—The table of contents is
7 as follows:

Sec. 1. Short title and table of contents.

TITLE I—MODERNIZATION OF THE WIRE ACT OF 1961

- Sec. 101. Definitions.
 Sec. 102. Modification of existing prohibition.
 Sec. 103. Authorization of civil enforcement.
 Sec. 104. Authorization of appropriations.
 Sec. 105. Rules of construction.
 Sec. 106. Sense of Congress.

TITLE II—POLICIES AND PROCEDURES REQUIRED TO PREVENT
 PAYMENTS FOR UNLAWFUL GAMBLING

- Sec. 201. Policies and procedures required to prevent payments for unlawful
 gambling.
 Sec. 202. Technical and conforming amendment.

TITLE III—INTERNET GAMBLING IN OR THROUGH FOREIGN
 JURISDICTIONS

- Sec. 301. Internet gambling in or through foreign jurisdictions.

1 **TITLE I—MODERNIZATION OF**
 2 **THE WIRE ACT OF 1961**

3 **SEC. 101. DEFINITIONS.**

4 Section 1081 of title 18, United States Code, is
 5 amended—

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

9 (2) by amending paragraph (5), as so des-
 10 ignated, to read as follows:

11 “(5) The term ‘communication facility’ means
 12 any and all instrumentalities, personnel, and services
 13 (among other things, the receipt, forwarding, or de-
 14 livery of communications) used or useful in the
 15 transmission of writings, signs, pictures, and sounds
 16 of all kinds by aid of wire, cable, radio, or an elec-
 17 tromagnetic, photoelectronic or photooptical system,

1 or other like connection (whether fixed or mobile)
2 between the points of origin and reception of such
3 transmission.”; and

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

5 **“(6) The term ‘bets or wagers’—**

6 “(A) means the staking or risking by any
7 person of something of value upon the outcome
8 of a contest of others, a sporting event, or a
9 game predominantly subject to chance, upon an
10 agreement or understanding that the person or
11 another person will receive something of value
12 in the event of a certain outcome;

13 “(B) includes the purchase of a chance or
14 opportunity to win a lottery or other prize
15 (which opportunity to win is predominantly sub-
16 ject to chance);

17 “(C) includes any scheme of a type de-
18 scribed in section 3702 of title 28; and

19 **“(D) does not include—**

20 “(i) any activity governed by the secu-
21 rities laws (as that term is defined in sec-
22 tion 3(a)(47) of the Securities Exchange
23 Act of 1934) for the purchase or sale of se-
24 curities (as that term is defined in section
25 3(a)(10) of that Act);

1 “(ii) any transaction conducted on or
2 subject to the rules of a registered entity
3 or exempt board of trade under the Com-
4modity Exchange Act;

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

7 “(iv) any other transaction that—

8 “(I) is excluded or exempt from
9 regulation under the Commodity Ex-
10 change Act; or

11 “(II) is exempt from State gam-
12 ing or bucket shop laws under section
13 12(e) of the Commodity Exchange Act
14 or section 28(a) of the Securities Ex-
15 change Act of 1934;

16 “(v) any contract of indemnity or
17 guarantee;

18 “(vi) any contract for insurance;

19 “(vii) any deposit or other transaction
20 with an insured depository institution;

21 “(viii) participation in any game or
22 contest in which participants do not stake
23 or risk anything of value other than—

24 “(I) personal efforts of the par-
25 ticipants in playing the game or con-

1 test or obtaining access to the Inter-
2 net; or

3 “(II) points or credits that the
4 sponsor of the game or contest pro-
5 vides to participants free of charge
6 and that can be used or redeemed
7 only for participation in games or con-
8 tests offered by the sponsor; or

9 “(ix) participation in any fantasy or
10 simulation sports game or educational
11 game or contest in which (if the game or
12 contest involves a team or teams) no fan-
13 tasy or simulation sports team is based on
14 the current membership of an actual team
15 that is a member of an amateur or profes-
16 sional sports organization (as those terms
17 are defined in section 3701 of title 28) and
18 that meets the following conditions:

19 “(I) All prizes and awards of-
20 fered to winning participants are es-
21 tablished and made known to the par-
22 ticipants in advance of the game or
23 contest and their value is not deter-
24 mined by the number of participants

1 or the amount of any fees paid by
2 those participants.

3 “(II) All winning outcomes re-
4 flect the relative knowledge and skill
5 of the participants and are determined
6 predominantly by accumulated statis-
7 tical results of the performance of in-
8 dividuals (athletes in the case of
9 sports events) in multiple real-world
10 sporting or other events.

11 “(III) No winning outcome is
12 based—

13 “(aa) on the score, point-
14 spread, or any performance or
15 performances of any single real-
16 world team or any combination of
17 such teams; or

18 “(bb) solely on any single
19 performance of an individual ath-
20 lete in any single real-world
21 sporting or other event.

22 “(7) The terms ‘credit’, ‘creditor’, ‘credit card’,
23 and ‘card issuer’ have the same meanings as in sec-
24 tion 103 of the Truth in Lending Act.

25 “(8) The term ‘electronic fund transfer’—

1 “(A) has the same meaning as in section
2 903 of the Electronic Fund Transfer Act, ex-
3 cept that such term includes transfers that
4 would otherwise be excluded under section
5 903(6)(E) of that Act; and

6 “(B) includes any fund transfer covered by
7 Article 4A of the Uniform Commercial Code, as
8 in effect in any State.

9 “(9) The term ‘financial institution’ has the
10 same meaning as in section 903 of the Electronic
11 Fund Transfer Act, except that such term does not
12 include a casino, sports book, or other business at or
13 through which bets or wagers may be placed or re-
14 ceived.

15 “(10) The term ‘financial transaction provider’
16 has the same meaning as in section 5361 of title 31
17 (as added by title II of this Act).

18 “(11) The term ‘foreign jurisdiction’ means a
19 jurisdiction of a foreign country or political subdivi-
20 sion thereof.

21 “(12) The term ‘gambling business’ means a
22 business of betting or wagering.

23 “(13) The term ‘information assisting in the
24 placing of bets or wagers’ means information know-
25 ingly transmitted by an individual in a gambling

1 business that enables or facilitates a bet or wager
2 and does not include—

3 “(A) any posting or reporting of any edu-
4 cational information on how to make a legal bet
5 or wager or the nature of betting or wagering,
6 as long as such posting or reporting does not
7 solicit or provide information for the purpose of
8 facilitating or enabling the placing or receipt of
9 bets or wagers in a jurisdiction where such bet-
10 ting is illegal; or

11 “(B) advertising relating to betting or wa-
12 gering in a jurisdiction where such betting or
13 wagering is legal, as long as such advertising
14 does not solicit or provide information for the
15 purpose of facilitating or enabling the placing
16 or receipt of bets or wagers in a jurisdiction
17 where such betting is illegal.

18 “(14) The term ‘insured depository institu-
19 tion’—

20 “(A) has the same meaning as in section
21 3 of the Federal Deposit Insurance Act; and

22 “(B) includes an insured credit union (as
23 defined in section 101 of the Federal Credit
24 Union Act).

1 “(15) The term ‘interactive computer service’
2 has the same meaning as in section 230(f) of the
3 Communications Act of 1934.

4 “(16) The terms ‘money transmitting business’
5 and ‘money transmitting service’ have the same
6 meanings as in section 5330(d) (determined without
7 regard to any regulations prescribed by the Sec-
8 retary thereunder).

9 “(17) The terms ‘own or control’ and to be
10 ‘owned or controlled’ include circumstances within
11 the meaning of section 2(a)(2) of the Bank Holding
12 Company Act of 1956.

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

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

20 “(20) The term ‘tribe’ or ‘tribal’ means an In-
21 dian tribe, as defined under section 4(5) of the In-
22 dian Gaming Regulatory Act of 1988).

23 “(21) For purposes of Section 1085(b), the
24 term ‘account’ means—

1 “(A) the unpaid balance of money or its
2 equivalent received or held by an insured depos-
3 itory institution in the usual course of business
4 and for which it has given or is obligated to
5 give credit, either conditionally or uncondition-
6 ally, to an account, including interest credited,
7 or which is evidenced by an instrument on
8 which the depository institution is primarily lia-
9 ble; and

10 “(B) money received or held by an insured
11 depository institution, or the credit given for
12 money or its equivalent received or held by the
13 insured depository institution in the usual
14 course of business for a special or specific pur-
15 pose, regardless of the legal relationships estab-
16 lished thereby, including escrow funds, funds
17 held as security for securities loaned by the de-
18 pository institution, funds deposited as advance
19 payment on subscriptions to United States Gov-
20 ernment securities, and funds held to meet its
21 acceptances.”.

22 **SEC. 102. MODIFICATION OF EXISTING PROHIBITION.**

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

1 **“§ 1084. Use of a communication facility to transmit**
2 **bets or wagers; criminal penalties**

3 “(a) Except as otherwise provided in this section,
4 whoever, being engaged in a gambling business, know-
5 ingly—

6 “(1) uses a communication facility for the
7 transmission in interstate or foreign commerce,
8 within the special maritime and territorial jurisdic-
9 tion of the United States, or to or from any place
10 outside the jurisdiction of any nation with respect to
11 any transmission to or from the United States, of—

12 “(A) bets or wagers;

13 “(B) information assisting in the placing
14 of bets or wagers; or

15 “(C) a communication, which entitles the
16 recipient to receive money or credit as a result
17 of bets or wagers, or for information assisting
18 in the placing of bets or wagers; or

19 “(2) accepts, in connection with the trans-
20 mission of a communication in interstate or foreign
21 commerce, within the special maritime and terri-
22 torial jurisdiction of the United States, or to or from
23 any place outside the jurisdiction of any nation with
24 respect to any transmission to or from the United
25 States of bets or wagers or information assisting in
26 the placing of bets or wagers—

1 “(A) credit, or the proceeds of credit, ex-
2 tended to or on behalf of another (including
3 credit extended through the use of a credit
4 card);

5 “(B) an electronic fund transfer or funds
6 transmitted by or through a money transmit-
7 ting business, or the proceeds of an electronic
8 fund transfer or money transmitting service,
9 from or on behalf of the other person;

10 “(C) any check, draft, or similar instru-
11 ment which is drawn by or on behalf of the
12 other person and is drawn on or payable
13 through any financial institution; or

14 “(D) the proceeds of any other form of fi-
15 nancial transaction as the Secretary of the
16 Treasury and the Board of Governors of the
17 Federal Reserve System may prescribe by regu-
18 lation which involves a financial institution as a
19 payor or financial intermediary on behalf of or
20 for the benefit of the other person,

21 shall be fined under this title or imprisoned not more than
22 five years, or both.

23 “(b) Nothing in this section prohibits—

24 “(1) the transmission of information assisting
25 in the placing of bets or wagers for use in news re-

1 porting if such transmission does not solicit or pro-
2 vide information for the purpose of facilitating or
3 enabling the placing or receipt of bets or wagers in
4 a jurisdiction where such betting is illegal;

5 “(2) the transmission of information assisting
6 in the placing of bets or wagers from a State or for-
7 eign country where such betting or wagering is per-
8 mitted under Federal, State, tribal, or local law into
9 a State or foreign country in which such betting on
10 the same event is permitted under Federal, State,
11 tribal, or local law; or

12 “(3) the interstate transmission of information
13 relating to a State-specific lottery between a State or
14 foreign country where such betting or wagering is
15 permitted under Federal, State, tribal, or local law
16 and an out-of-State data center for the purposes of
17 assisting in the operation of such State-specific lot-
18 tery.

19 “(c) Nothing in this section prohibits the use of a
20 communication facility for the transmission of bets or wa-
21 gers or information assisting in the placing of bets or wa-
22 gers, if—

23 “(1) at the time the transmission occurs, the
24 individual or entity placing the bets or wagers or in-
25 formation assisting in the placing of bets or wagers,

1 the gambling business, and, subject to section
2 1084(b)(3), any individual or entity acting in con-
3 cert with a gambling business to process the bets or
4 wagers are physically located in the same State, and
5 for class II or class III gaming under the Indian
6 Gaming Regulatory Act, are physically located on
7 Indian lands within that State;

8 “(2) the State or tribe has explicitly authorized
9 such bets and wagers, the State or tribal law re-
10 quires a secure and effective location and age
11 verification system to assure compliance with age
12 and location requirements, and the gambling busi-
13 ness and any individual or entity acting in concert
14 with a gambling business to process the bets or wa-
15 gers complies with such law;

16 “(3) the State has explicitly authorized and li-
17 censed the operation of the gambling business and
18 any individual or entity acting in concert with a
19 gambling business to process the bets and wagers
20 within its borders or the tribe has explicitly author-
21 ized and licensed the operation of the gambling busi-
22 ness and any individual or entity acting in concert
23 with a gambling business to process the bets and
24 wagers, on Indian lands within its jurisdiction;

1 “(4) with respect to class II or class III gam-
2 ing, the game and gambling business complies with
3 the requirements of the Indian Gaming Regulatory
4 Act; and

5 “(5) with respect to class III gaming under the
6 Indian Gaming Regulatory Act, the game is author-
7 ized under, and is conducted in accordance with, the
8 respective Tribal-State compact of the Tribe having
9 jurisdiction over the Indian lands where the indi-
10 vidual or entity placing the bets or wagers or infor-
11 mation assisting in the placing of bets or wagers, the
12 gambling business, and any individual or entity act-
13 ing in concert with a gambling business to process
14 those bets or wagers are physically located, and such
15 Tribal-State compact expressly provides that the
16 game may be conducted using a communication fa-
17 cility to transmit bets or wagers or information as-
18 sisting in the placing of bets or wagers.

19 For purposes of this subsection, the intermediate routing
20 of electronic data constituting or containing all or part of
21 a bet or wager, or all or part of information assisting in
22 the placing of bets or wagers, shall not determine the loca-
23 tion or locations in which a bet or wager is transmitted,
24 initiated, received or otherwise made; or from or to which

1 a bet or wager, or information assisting in the placing of
2 bets or wagers, is transmitted.

3 “(d) Nothing in this section creates immunity from
4 criminal prosecution under any laws of any State or tribe.

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

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

1 deemed to prejudice the right of any person affected there-
2 by to secure an appropriate determination, as otherwise
3 provided by law, in a Federal court or in a State, tribal,
4 or local tribunal or agency, that such facility should not
5 be discontinued or removed, or should be restored.”.

6 **SEC. 103. AUTHORIZATION OF CIVIL ENFORCEMENT.**

7 Chapter 50 of title 18, United States Code, is amend-
8 ed by adding at the end the following new section:

9 **“§ 1085. Civil remedies**

10 “(a) JURISDICTION.—The district courts of the
11 United States (in addition to any other remedies under
12 current law) shall have original and exclusive jurisdiction
13 to prevent and restrain violations of section 1084 by
14 issuing appropriate orders in accordance with this section,
15 regardless of whether a prosecution has been initiated
16 under section 1084.

17 “(b) PROCEEDINGS.—

18 “(1) The United States may institute pro-
19 ceedings under this section—

20 “(A) to obtain injunctive or declarative re-
21 lief, including but not limited to a temporary
22 restraining order and a preliminary injunction,
23 against any person (other than a financial
24 transaction provider) to prevent or restrain a

1 violation or a threatened violation of section
2 1084;

3 “(B) in the case of an insured depository
4 institution that is a financial transaction pro-
5 vider, to—

6 “(i) restrain an account maintained at
7 such insured depository institution if such
8 account is—

9 “(I) owned or controlled by a
10 gambling business; and

11 “(II) includes proceeds of, or is
12 used to facilitate a violation of, sec-
13 tion 1084; or

14 “(ii) seize funds in an account de-
15 scribed in subparagraph (i) if such funds—

16 “(I) are owned or controlled by a
17 gambling business; and

18 “(II) constitute the proceeds of,
19 were derived from, or facilitated, a
20 violation of section 1084.

21 “(C) The limitation in subparagraph (A)
22 shall not apply if the financial transaction pro-
23 vider is a gambling business within the meaning
24 of section 1081(12), in which case such finan-
25 cial transaction provider shall be subject to the

1 enforcement provisions under subparagraph
2 (A).

3 “(2) The attorney general (or other appropriate
4 State official) of a State in which a communication
5 in violation of section 1084 allegedly has been or will
6 be initiated or received may institute proceedings
7 under this section to obtain injunctive or declarative
8 relief to prevent or restrain the violation or threat-
9 ened violation. Upon application of the attorney gen-
10 eral (or other appropriate State official) of an af-
11 fected State under this paragraph, the district court
12 may enter a temporary restraining order, a prelimi-
13 nary injunction, an injunction, or declaratory relief
14 against any person (other than a financial trans-
15 action provider) to prevent or restrain a violation or
16 threatened violation of section 1084, in accordance
17 with rule 65 of the Federal Rules of Civil Procedure.

18 “(3) Notwithstanding paragraphs (1) and (2),
19 for a communication in violation of section 1084
20 that allegedly has been or will be initiated or re-
21 ceived on Indian lands (as that term is defined in
22 section 4 of the Indian Gaming Regulatory Act)—

23 “(A) the United States shall have the en-
24 forcement authority provided under paragraph
25 (1);

1 “(B) the enforcement authorities specified
2 in an applicable Tribal-State compact nego-
3 tiated under section 11 of the Indian Gaming
4 Regulatory Act (25 U.S.C. 2710) shall be car-
5 ried out in accordance with that compact; and

6 “(C) if there is no applicable Tribal-State
7 compact, an appropriate tribal official may in-
8 stitute proceedings in the same manner as an
9 attorney general of a State.

10 No provision of this section shall be construed as al-
11 tering, superseding, or otherwise affecting the appli-
12 cation of the Indian Gaming Regulatory Act.

13 “(4) Notwithstanding paragraph (3), no relief
14 shall be granted under this section against a finan-
15 cial transaction provider except as provided in para-
16 graph (1).

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

21 “(d) Relief granted under this section against an
22 interactive computer service (as defined in section 230(f)
23 of the Communications Act of 1934) shall—

24 “(1) be limited to the removal of, or disabling
25 of access to, an online site violating section 1084, or

1 a hypertext link to an online site violating such sec-
2 tion, that resides on a computer server that such
3 service controls or operates; except this limitation
4 shall not apply if the service is violating section
5 1084 or is in active concert with a person who is vio-
6 lating section 1084 and receives actual notice of the
7 relief;

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

11 “(3) not impose any obligation on an interactive
12 computer service to monitor its service or to affirma-
13 tively seek facts indicating activity violating section
14 1084;

15 “(4) specify the interactive computer service to
16 which it applies; and

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

20 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

21 In addition to any other sums authorized to be appro-
22 priated for this purpose, there are authorized to be appro-
23 priated to the Department of Justice for each of fiscal
24 years 2007 through 2010 \$10,000,000 for investigations

1 and prosecutions of violations of section 1084 of title 18,
2 United States Code.

3 **SEC. 105. RULES OF CONSTRUCTION.**

4 (a) Nothing in this Act may be construed to prohibit
5 any activity that is allowed under Public Law 95–515 as
6 amended (15 U.S.C. 3001 et seq.).

7 (b) Nothing in this Act may be construed to preempt
8 State law prohibiting gambling.

9 **SEC. 106. SENSE OF CONGRESS.**

10 It is the sense of Congress that this Act does not
11 change which activities related to horse racing may or may
12 not be allowed under Federal law. Section 105 is intended
13 to address concerns that this Act could have the effect
14 of changing the existing relationship between the Inter-
15 state Horseracing Act (15 U.S.C. 3001 et seq.), and other
16 Federal statutes that were in effect at the time of this
17 Act’s consideration; this Act is not intended to change that
18 relationship; and this Act is not intended to resolve any
19 existing disagreements over how to interpret the relation-
20 ship between the Interstate Horseracing Act and other
21 Federal statutes.

1 **TITLE II—POLICIES AND PROCE-**
2 **DURES REQUIRED TO PRE-**
3 **VENT PAYMENTS FOR UNLAW-**
4 **FUL GAMBLING**

5 **SEC. 201. POLICIES AND PROCEDURES REQUIRED TO PRE-**
6 **VENT PAYMENTS FOR UNLAWFUL GAMBLING.**

7 Chapter 53 of title 31, United States Code, is amend-
8 ed by adding at the end the following new subchapter:

9 “SUBCHAPTER IV—POLICIES AND PROCEDURES
10 REQUIRED TO PREVENT PAYMENTS FOR
11 UNLAWFUL GAMBLING

12 “§ 5361. **Definitions**

13 “For purposes of this subchapter, the following defi-
14 nitions shall apply:

15 “(1) CREDIT; CREDITOR; CREDIT CARD; AND
16 CARD ISSUER.—The terms ‘credit’, ‘creditor’, ‘credit
17 card’, and ‘card issuer’ have the same meanings as
18 in section 103 of the Truth in Lending Act.

19 “(2) DESIGNATED PAYMENT SYSTEM.—The
20 term ‘designated payment system’ means any system
21 utilized by a financial transaction provider that the
22 Secretary and the Board of Governors of the Fed-
23 eral Reserve System, in consultation with the Attor-
24 ney General, jointly determine, by regulation or

1 order, could be utilized in connection with, or to fa-
2 cilitate, any restricted transaction.

3 “(3) ELECTRONIC FUND TRANSFER.—The term
4 ‘electronic fund transfer’—

5 “(A) has the same meaning as in section
6 903 of the Electronic Fund Transfer Act, ex-
7 cept that such term includes transfers that
8 would otherwise be excluded under section
9 903(6)(E) of that Act; and

10 “(B) includes any fund transfer covered by
11 Article 4A of the Uniform Commercial Code, as
12 in effect in any State.

13 “(4) FINANCIAL INSTITUTION.—The term ‘fi-
14 nancial institution’ has the same meaning as in sec-
15 tion 903 of the Electronic Fund Transfer Act, ex-
16 cept that such term does not include a casino, sports
17 book, or other business at or through which bets or
18 wagers may be placed or received.

19 “(5) FINANCIAL TRANSACTION PROVIDER.—
20 The term ‘financial transaction provider’ means a
21 creditor, credit card issuer, financial institution, op-
22 erator of a terminal at which an electronic fund
23 transfer may be initiated, money transmitting busi-
24 ness, or international, national, regional, or local
25 payment network utilized to effect a credit trans-

1 action, electronic fund transfer, stored value product
2 transaction, or money transmitting service, or a par-
3 ticipant in such network, or other participant in a
4 designated payment system.

5 “(6) INSURED DEPOSITORY INSTITUTION.—The
6 term ‘insured depository institution’—

7 “(A) has the same meaning as in section
8 3 of the Federal Deposit Insurance Act; and

9 “(B) includes an insured credit union (as
10 defined in section 101 of the Federal Credit
11 Union Act).

12 “(7) MONEY TRANSMITTING BUSINESS AND
13 MONEY TRANSMITTING SERVICE.—The terms ‘money
14 transmitting business’ and ‘money transmitting serv-
15 ice’ have the same meanings as in section 5330(d)
16 (determined without regard to any regulations pre-
17 scribed by the Secretary thereunder).

18 “(8) RESTRICTED TRANSACTION.—The term
19 ‘restricted transaction’ means any transaction or
20 transmittal involving any credit, funds, instrument,
21 or proceeds described in any paragraph of section
22 5362 which the recipient is prohibited from accept-
23 ing under such section.

24 “(9) SECRETARY.—The term ‘Secretary’ means
25 the Secretary of the Treasury.

1 “(10) UNLAWFUL GAMBLING.—

2 “(A) IN GENERAL.—The term ‘unlawful
3 gambling’ means to place, receive, or otherwise
4 knowingly transmit a bet or wager by any
5 means which involves the use of a communica-
6 tion facility where such bet or wager is unlawful
7 under any applicable Federal or State law in
8 the State or tribal lands in which the bet or
9 wager is initiated, received, or otherwise made.

10 “(B) EXCLUSION OF CERTAIN AUTHOR-
11 IZED TRANSACTIONS.—The term ‘unlawful
12 gambling’ does not include any intrastate or
13 intratribal transactions authorized under sec-
14 tion 1084(e) of title 18, United States Code.

15 “(C) INTERMEDIATE ROUTING.—With re-
16 spect to section 5362, the intermediate routing
17 of electronic data shall not determine the loca-
18 tion or locations in which a bet or wager is ini-
19 tiated, received, or otherwise made.

20 “(11) OTHER TERMS.—The terms ‘bet or
21 wager’, ‘communication facility’, ‘gambling business’,
22 ‘own and control’, ‘person’, ‘State’, and ‘tribal’ have
23 the same meanings as in section 1081 of title 18.

1 **“§ 5362. Prohibition on acceptance of any financial**
2 **instrument for unlawful gambling**

3 “No person engaged in a gambling business may
4 knowingly accept, in connection with the participation of
5 another person in unlawful gambling—

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

9 “(2) an electronic fund transfer, or funds trans-
10 mitted by or through a money transmitting business,
11 or the proceeds of an electronic fund transfer or
12 money transmitting service, from or on behalf of
13 such other person;

14 “(3) any check, draft, or similar instrument
15 which is drawn by or on behalf of such other person
16 and is drawn on or payable at or through any finan-
17 cial institution; or

18 “(4) the proceeds of any other form of financial
19 transaction, as the Secretary and the Board of Gov-
20 ernors of the Federal Reserve System may jointly
21 prescribe by regulation, which involves a financial in-
22 stitution as a payor or financial intermediary on be-
23 half of or for the benefit of such other person.

1 **“§ 5363. Policies and procedures to identify and pre-**
2 **vent restricted transactions**

3 “(a) REGULATIONS.—Before the end of the 270-day
4 period beginning on the date of the enactment of this sub-
5 chapter, the Secretary and the Board of Governors of the
6 Federal Reserve System, in consultation with the Attorney
7 General, shall prescribe regulations (which the Secretary
8 and the Board jointly determine to be appropriate) requir-
9 ing each designated payment system, and all participants
10 therein, to identify and block or otherwise prevent or pro-
11 hibit restricted transactions through the establishment of
12 policies and procedures reasonably designed to identify
13 and block or otherwise prevent or prohibit the acceptance
14 of restricted transactions in any of the following ways:

15 “(1) The establishment of policies and proce-
16 dures that—

17 “(A) allow the payment system and any
18 person involved in the payment system to iden-
19 tify restricted transactions by means of codes in
20 authorization messages or by other means; and

21 “(B) block restricted transactions identi-
22 fied as a result of the policies and procedures
23 developed pursuant to subparagraph (A).

24 “(2) The establishment of policies and proce-
25 dures that prevent or prohibit the acceptance of the

1 products or services of the payment system in con-
2 nection with a restricted transaction.

3 “(b) REQUIREMENTS FOR POLICIES AND PROCE-
4 DURES.—In prescribing regulations under subsection (a),
5 the Secretary and the Board of Governors of the Federal
6 Reserve System shall—

7 “(1) identify types of policies and procedures,
8 including nonexclusive examples, which would be
9 deemed, as applicable, to be reasonably designed to
10 identify and block or otherwise prevent or prohibit
11 the acceptance of the products or services with re-
12 spect to each type of restricted transaction;

13 “(2) to the extent practical, permit any partici-
14 pant in a payment system to choose among alter-
15 native means of identifying and blocking, or other-
16 wise preventing or prohibiting the acceptance of the
17 products or services of the payment system or par-
18 ticipant in connection with, restricted transactions;
19 and

20 “(3) consider exempting certain restricted
21 transactions or designated payment systems from
22 any requirement imposed under such regulations, if
23 the Secretary and the Board jointly find that it is
24 not reasonably practical to identify and block, or

1 otherwise prevent or prohibit the acceptance of, such
2 transactions.

3 “(c) COMPLIANCE WITH PAYMENT SYSTEM POLI-
4 CIES AND PROCEDURES.—A financial transaction provider
5 shall be considered to be in compliance with the regula-
6 tions prescribed under subsection (a), if—

7 “(1) such person relies on and complies with
8 the policies and procedures of a designated payment
9 system of which it is a member or participant to—

10 “(A) identify and block restricted trans-
11 actions; or

12 “(B) otherwise prevent or prohibit the ac-
13 ceptance of the products or services of the pay-
14 ment system, member, or participant in connec-
15 tion with restricted transactions; and

16 “(2) such policies and procedures of the des-
17 igned payment system comply with the require-
18 ments of regulations prescribed under subsection
19 (a).

20 “(d) NO LIABILITY FOR BLOCKING OR REFUSING TO
21 HONOR RESTRICTED TRANSACTIONS.—A person that
22 identifies and blocks a transaction, prevents or prohibits
23 the acceptance of its products or services in connection
24 with a transaction, or otherwise refuses to honor a trans-
25 action—

1 “(1) that is a restricted transaction;

2 “(2) that such person reasonably believes to be
3 a restricted transaction; or

4 “(3) as a designated payment system or a mem-
5 ber of a designated payment system in reliance on
6 the policies and procedures of the payment system,
7 in an effort to comply with regulations prescribed
8 under subsection (a),

9 shall not be liable to any party for such action.

10 “(e) REGULATORY ENFORCEMENT.—The require-
11 ments of this subchapter shall be enforced exclusively by—

12 “(1) the Federal functional regulators, with re-
13 spect to the designated payment systems and finan-
14 cial transaction providers subject to the respective
15 jurisdiction of such regulators under section 505(a)
16 of the Gramm-Leach-Bliley Act and section 5g of
17 the Commodities Exchange Act; and

18 “(2) the Federal Trade Commission, with re-
19 spect to designated payment systems and financial
20 transaction providers not otherwise subject to the ju-
21 risdiction of any Federal functional regulators (in-
22 cluding the Commission) as described in paragraph
23 (1).”.

1 **SEC. 202. TECHNICAL AND CONFORMING AMENDMENT.**

2 The table of sections for chapter 53 of title 31,
3 United States Code, is amended by adding at the end the
4 following:

“SUBCHAPTER IV—POLICIES AND PROCEDURES REQUIRED TO PREVENT
PAYMENTS FOR UNLAWFUL GAMBLING

“5361. Definitions.

“5362. Prohibition on acceptance of any financial instrument for unlawful gam-
bling.

“5363. Policies and procedures to identify and prevent restricted transactions.”.

5 **TITLE III—INTERNET GAMBLING**
6 **IN OR THROUGH FOREIGN JU-**
7 **RISDICTIONS**

8 **SEC. 301. INTERNET GAMBLING IN OR THROUGH FOREIGN**
9 **JURISDICTIONS.**

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

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

18 (2) advance policies that promote the coopera-
19 tion of foreign governments, through information
20 sharing or other measures, in the enforcement of
21 this Act; and

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

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

Passed the House of Representatives July 11, 2006.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 519

109TH CONGRESS
2^D SESSION

H. R. 4411

AN ACT

To prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes.

JULY 13, 2006

Read the second time and placed on the calendar