

Internet Gambling Prohibition Act

Section-By-Section

Section 1 – Short Title

Internet Gambling Prohibition Act

Section 2 – Definitions

Among other definitions, this section amends the definition of “wire communication” under the Wire Act to make it clear that it also applies to wireless communications, such as satellite and microwave communications, which also provide much of the Internet infrastructure.

Defines “bets and wagers” to include bets for contests, sporting events or other games predominantly subject to chance, as well as purchasing lottery tickets. (Current law is ambiguous and many argue it applies only to sports-related betting).

Specifically stipulates that “bets and wagers” do not include:

- Bona fide business transactions under the securities laws
- Transactions pursuant to the Commodity Exchange Act
- Over-the-counter derivative instruments
- Contracts of indemnity or guarantee
- Contracts for life, health, or accident insurance
- Certain reward programs or contests conducted by businesses
- Certain fantasy sports leagues

Defines “information assisting in the placing of bets or wagers” as information knowingly transmitted by an individual in a gambling business for use in placing, receiving, making or otherwise enabling or facilitating a bet or wager. Specifically stipulates that “information assisting in the placing of bets or wagers” does not include:

- (A) Educational information about how to make a bet in jurisdictions where such bets are legal as long as it does not solicit or provide info for the purpose of facilitating the placing or receipt of bets or wagers
- (B) Advertising relating to betting or wagering in a jurisdiction where such bets or wagers are legal as it does not solicit or provide info for the purpose of facilitating the placing or receipt of bets or wagers

Section 3 – Prohibition

(a) Prohibits anyone engaged in a gambling business from using the Internet or other wire or wireless communications facilities to:

1. Transmit bets or wagers or information assisting in the placing of bets or wagers
2. Transmit a communication which entitles the recipient to receive money or credit as a result of bets or wagers or for information assisting in the placing of bets or wagers

This crime is punishable by fine and/or imprisonment for up to 5 years.

(b) Prohibits anyone engaged in a gambling business from accepting (in connection with a transmission of a communication in interstate or foreign commerce)

1. Credit or the proceeds of credit extended to or on behalf of another
2. An electronic funds transfer or funds transmitted by or through a money transmitting business or the proceeds of such a transfer
3. A check, draft, or similar instrument
4. The proceeds of any other form of financial transaction that the Secretary of Treasury may prescribe

This crime is punishable by fine and/or imprisonment for up to 5 years.

(c) Provides that the following interstate communications are NOT prohibited:

1. Transmitting information assisting in the placing of bets or wagers for use in news reporting in a jurisdiction where the betting is illegal
2. Transmitting information assisting in the placing of bets or wagers from a State or foreign country where such betting is permitted by law into another State or foreign country in which such betting on the same event is permitted by law
3. Transmission of information related to a State-specific lottery, between a State or foreign country where such betting is legal and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery

(d) (States' rights / intra-state provision) Provides that the following is NOT prohibited:

Using the Internet or other wire or wireless communications facilities to transmit bets or wagers or information assisting in the placing of bets or wagers if:

1. The person or business placing the bets, the gambling business, and any facility processing those bets are located within the same State and the State has an effective resident and age verification system in place (and if the gambling is under the Indian Gaming Regulatory Act (IGRA), then they must be physically located on Indian lands within that State)
2. The State or Tribe has explicitly authorized such bets or wagers
3. The State or Tribe has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers and support service within its borders
4. For class II or class III gaming, the game is permitted and controlled under IGRA
5. For class III gaming, the game is authorized under and conducted in accordance with, the respective Tribal-State compact of the Tribe with jurisdiction over the lands where the individual or entity placing the bets, the gambling business, and the processing facility are physically located, AND
6. For class III gaming, each Tribal-State compact expressly provides that the game may be conducted using a communication facility to transmit bets or wagers or information assisting in the placing of bets or wagers

(e) Provides that nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe

(f) Provides that nothing in this section shall be construed to overturn the previous act of Congress embodied in PL 95-51

(g) Provides that nothing in this section authorizes anything prohibited by 28 U.S.C. 178

(h) Provides that when a common carrier is notified in writing that a communication facility furnished by it is being used to violate this Act, then it must discontinue service to the offender after reasonable notice to the subscriber is given. Further provides that no civil or criminal damages, penalty, or forfeiture shall be imposed on the common carrier for carrying out this provision. Stipulates that nothing in this section prevents the ability of an affected party to seek redress in court.

(i) Provides that:

1. Federal, state, tribal or local law enforcement may obtain injunctive or declaratory relief to restrain or prevent anyone from paying or assisting in the payment of bets or wagers or communicating information assisting in the placing of bets and wagers in violation of federal, state, tribal or local law
2. No civil or criminal damages, penalty or forfeiture shall be found against anyone for any act done in compliance with any notice received from a law enforcement agency
3. Any relief granted against an interactive computer service must:
 - Be limited to the removal of, or disabling access to, an offending online website or a hypertext link to an offending online website that resides on a computer server that that Service operates. However, this particular limitation of liability does not apply when the interactive computer service itself is violating the Act or if it is acting in active concert with a violator and receives actual notice of the relief
 - Be available only after notice and an opportunity to appear are provided to the interactive computer service
 - Not impose any obligation on the interactive computer service to monitor its service or affirmatively seek facts indicating violating activity
 - Specify the interactive computer service to which it applies
 - Specifically identify the offending website's or hyperlink's location that must be removed or disabled

Section 4 – Enforcement

Authorizes, in addition to any other sums, \$10,000,000 for each of the fiscal years 2007 through 2010 to be used exclusively for investigations and prosecutions regarding Internet gambling