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(Original Signature of Member)

106TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. GOODLATTE (for himself _____ and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit 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 "Internet Gambling
5 Prohibition Act of 1999".



1 **SEC. 2. PROHIBITION ON INTERNET GAMBLING.**

2 (a) IN GENERAL.—Chapter 50 of title 18, United
3 States Code, is amended by adding at the end the follow-
4 ing:

5 **“§ 1085. Internet gambling**

6 “(a) DEFINITIONS.—In this section the following
7 definitions apply:

8 “(1) BETS OR WAGERS.—The term ‘bets or
9 wagers’—

10 “(A) means the staking or risking by any
11 person of something of value other than in a de
12 minimis amount upon the outcome of a contest
13 of others, a sporting event, or a game predomi-
14 nantly subject to chance, upon an agreement or
15 understanding that the person or another per-
16 son will receive something of greater value than
17 the amount staked or risked in the event of a
18 certain outcome;

19 “(B) includes the purchase of a chance or
20 opportunity to win a lottery or other prize
21 (which opportunity to win is predominantly sub-
22 ject to chance);

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

25 “(D) does not include—



1 “(i) a bona fide business transaction
2 governed by the securities laws (as that
3 term is defined in section 3(a)(47) of the
4 Securities Exchange Act of 1934 (15
5 U.S.C. 78c(a)(47))) for the purchase or
6 sale at a future date of securities (as that
7 term is defined in section 3(a)(10) of the
8 Securities Exchange Act of 1934 (15
9 U.S.C. 78c(a)(10)));

10 “(ii) a transaction on or subject to the
11 rules of a contract market designated pur-
12 suant to section 5 of the Commodity Ex-
13 change Act (7 U.S.C. 7);

14 “(iii) a contract of indemnity or guar-
15 antee;

16 “(iv) a contract for life, health, or ac-
17 cident insurance; or

18 “(v) participation in a simulation
19 sports game or an educational game or
20 contest that—

21 “(I) is not dependent solely on
22 the outcome of any single sporting
23 event or nonparticipant’s singular in-
24 dividual performance in any single
25 sporting event;



1 “(II) has an outcome that re-
2 flects the relative knowledge and skill
3 of the participants; and

4 “(III) offers a prize or award to
5 a participant that is established in ad-
6 vance of the game or contest and is
7 not determined by the number of par-
8 ticipants or the amount of any fees
9 paid by those participants.

10 “(2) CLOSED-LOOP SUBSCRIBER-BASED SERV-
11 ICE.—The term ‘closed-loop subscriber-based service’
12 means any information service or system that uses—

13 “(A) a device or combination of devices—
14 “(i) expressly authorized and operated
15 in accordance with the laws of a State, ex-
16 clusively for placing, receiving, or otherwise
17 making a bet or wager described in sub-
18 section (f)(1)(B); and

19 “(ii) by which a person located within
20 any State must subscribe and be registered
21 with the provider of the wagering service
22 by name, address, and appropriate billing
23 information to be authorized to place, re-
24 ceive, or otherwise make a bet or wager,



1 and must be physically located within that
2 State in order to be authorized to do so;

3 “(B) an effective customer verification and
4 age verification system, expressly authorized
5 and operated in accordance with the laws of the
6 State in which it is located, to ensure that all
7 applicable Federal and State legal and regu-
8 latory requirements for lawful gambling are
9 met; and

10 “(C) appropriate data security standards
11 to prevent unauthorized access by any person
12 who has not subscribed or who is a minor.

13 “(3) FOREIGN JURISDICTION.—The term ‘for-
14 eign jurisdiction’ means a jurisdiction of a foreign
15 country or political subdivision thereof.

16 “(4) GAMBLING BUSINESS.—The term ‘gam-
17 bling business’ means—

18 “(A) a business that is conducted at a
19 gambling establishment, or that—

20 “(i) involves—

21 “(I) the placing, receiving, or
22 otherwise making of bets or wagers;
23 or



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

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

7 “(iii) has been or remains in substan-
 8 tially continuous operation for a period in
 9 excess of 10 days or has a gross revenue
 10 of \$2,000 or more from such business dur-
 11 ing any 24-hour period; and

12 “(B) any soliciting agent of a business de-
 13 scribed in subparagraph (A).

14 “(5) INFORMATION ASSISTING IN THE PLACING
 15 OF A BET OR WAGER.—The term ‘information as-
 16 sisting in the placing of a bet or wager’—

17 “(A) means information that is intended
 18 by the sender or recipient to be used by a per-
 19 son engaged in the business of betting or wa-
 20 gering to place, receive, or otherwise make a bet
 21 or wager; and

22 “(B) does not include—

23 “(i) information concerning pari-
 24 mutuel pools that is exchanged exclusively
 25 between or among 1 or more racetracks or



1 other parimutuel wagering facilities li-
2 censed by the State or approved by the for-
3 eign jurisdiction in which the facility is lo-
4 cated, and 1 or more parimutuel wagering
5 facilities licensed by the State or approved
6 by the foreign jurisdiction in which the fa-
7 cility is located, if that information is used
8 only to conduct common pool parimutuel
9 pooling under applicable law;

10 “(ii) information exchanged exclu-
11 sively between or among 1 or more race-
12 tracks or other parimutuel wagering facili-
13 ties licensed by the State or approved by
14 the foreign jurisdiction in which the facility
15 is located, and a support service located in
16 another State or foreign jurisdiction, if the
17 information is used only for processing
18 bets or wagers made with that facility
19 under applicable law;

20 “(iii) information exchanged exclu-
21 sively between or among 1 or more wager-
22 ing facilities that are licensed and regu-
23 lated by the State in which each facility is
24 located, and any support service, wherever
25 located, if the information is used only for



1 the pooling or processing of bets or wagers
2 made by or with the facility or facilities
3 under each State's applicable law;

4 “(iv) any news reporting or analysis
5 of wagering activity, including odds, racing
6 or event results, race and event schedules,
7 or categories of wagering; or

8 “(v) any posting or reporting of any
9 educational information on how to make a
10 bet or wager or the nature of betting or
11 wagering.

12 “(6) INTERACTIVE COMPUTER SERVICE.—The
13 term ‘interactive computer service’ means any infor-
14 mation service, system, or access software provider
15 that operates in, or uses a channel or instrumental-
16 ity of, interstate or foreign commerce to provide or
17 enable access by multiple users to a computer server,
18 including specifically a service or system that pro-
19 vides access to the Internet.

20 “(7) INTERACTIVE COMPUTER SERVICE PRO-
21 VIDER.—The term ‘interactive computer service pro-
22 vider’ means any person that provides an interactive
23 computer service, to the extent that such person of-
24 fers or provides such service.



1 “(8) INTERNET.—The term ‘Internet’ means
2 the international computer network of both Federal
3 and non-Federal interoperable packet switched data
4 networks.

5 “(9) PERSON.—The term ‘person’ means any
6 individual, association, partnership, joint venture,
7 corporation (or any affiliate of a corporation), State
8 or political subdivision thereof, department, agency,
9 or instrumentality of a State or political subdivision
10 thereof, or any other government, organization, or
11 entity (including any governmental entity (as defined
12 in section 3701(2) of title 28)).

13 “(10) PRIVATE NETWORK.—The term ‘private
14 network’ means a communications channel or chan-
15 nels, including voice or computer data transmission
16 facilities, that use either—

17 “(A) private dedicated lines; or

18 “(B) the public communications infrastruc-
19 ture, if the infrastructure is secured by means
20 of the appropriate private communications tech-
21 nology to prevent unauthorized access.

22 “(11) STATE.—The term ‘State’ means a State
23 of the United States, the District of Columbia, the
24 Commonwealth of Puerto Rico, or a commonwealth,
25 territory, or possession of the United States.



1 “(12) SUBSCRIBER.—The term ‘subscriber’—

2 “(A) means any person with a business re-
3 lationship with the interactive computer service
4 provider through which such person receives ac-
5 cess to the system, service, or network of that
6 provider, even if no formal subscription agree-
7 ment exists; and

8 “(B) includes registrants, students who are
9 granted access to a university system or net-
10 work, and employees or contractors who are
11 granted access to the system or network of
12 their employer.

13 “(b) INTERNET GAMBLING.—

14 “(1) PROHIBITION.—Subject to subsection (f),
15 it shall be unlawful for a person engaged in a gam-
16 bling business knowingly to use the Internet or any
17 other interactive computer service—

18 “(A) to place, receive, or otherwise make a
19 bet or wager; or

20 “(B) to send, receive, or invite information
21 assisting in the placing of a bet or wager.

22 “(2) PENALTIES.—A person engaged in a gam-
23 bling business who violates this section shall be—

24 “(A) fined in an amount equal to not more
25 than the greater of—



1 “(i) the total amount that such person
 2 bet or wagered, or placed, received, or ac-
 3 cepted in bets or wagers, as a result of en-
 4 gaging in that business in violation of this
 5 section; or

6 “(ii) \$20,000;
 7 “(B) imprisoned not more than 4 years; or
 8 “(C) both.

9 “(3) PERMANENT INJUNCTIONS.—Upon convic-
 10 tion of a person under this section, the court may
 11 enter a permanent injunction enjoining such person
 12 from placing, receiving, or otherwise making bets or
 13 wagers or sending, receiving, or inviting information
 14 assisting in the placing of bets or wagers.

15 “(c) CIVIL REMEDIES.—

16 “(1) JURISDICTION.—The district courts of the
 17 United States shall have original and exclusive juris-
 18 diction to prevent and restrain violations of this sec-
 19 tion by issuing appropriate orders in accordance
 20 with this section, regardless of whether a prosecu-
 21 tion has been initiated under this section.

22 “(2) PROCEEDINGS.—

23 “(A) INSTITUTION BY FEDERAL GOVERN-
 24 MENT.—



1 “(i) IN GENERAL.—The United States
 2 may institute proceedings under this sub-
 3 section to prevent or restrain a violation of
 4 this section.

5 “(ii) RELIEF.—Upon application of
 6 the United States under this subpara-
 7 graph, the district court may enter a tem-
 8 porary restraining order or an injunction
 9 against any person to prevent or restrain a
 10 violation of this section if the court deter-
 11 mines, after notice and an opportunity for
 12 a hearing, that there is a substantial prob-
 13 ability that such violation has occurred or
 14 will occur.

15 “(B) INSTITUTION BY STATE ATTORNEY
 16 GENERAL.—

17 “(i) IN GENERAL.—The attorney gen-
 18 eral of a State (or other appropriate State
 19 official) in which a violation of this section
 20 allegedly has occurred or will occur, after
 21 providing written notice to the United
 22 States, may institute proceedings under
 23 this subsection to prevent or restrain the
 24 violation.



1 “(ii) RELIEF.—Upon application of
2 the attorney general (or other appropriate
3 State official) of an affected State under
4 this subparagraph, the district court may
5 enter a temporary restraining order or an
6 injunction against any person to prevent or
7 restrain a violation of this section if the
8 court determines, after notice and an op-
9 portunity for a hearing, that there is a
10 substantial probability that such violation
11 has occurred or will occur.

12 “(C) INDIAN LANDS.—Notwithstanding
13 subparagraphs (A) and (B), for a violation that
14 is alleged to have occurred, or may occur, on
15 Indian lands (as that term is defined in section
16 4 of the Indian Gaming Regulatory Act (25
17 U.S.C. 2703))—

18 “(i) the United States shall have the
19 enforcement authority provided under sub-
20 paragraph (A); and

21 “(ii) the enforcement authorities spec-
22 ified in an applicable Tribal-State compact
23 negotiated under section 11 of the Indian
24 Gaming Regulatory Act (25 U.S.C. 2710)



1 shall be carried out in accordance with
2 that compact.

3 “(D) EXPIRATION.—Any temporary re-
4 straining order or preliminary injunction en-
5 tered pursuant to subparagraph (A) or (B)
6 shall expire if, and as soon as, the United
7 States, or the attorney general (or other appro-
8 priate State official) of the State, as applicable,
9 notifies the court that issued the order or in-
10 junction that the United States or the State,
11 as applicable, will not seek a permanent injunc-
12 tion.

13 “(3) EXPEDITED PROCEEDINGS.—

14 “(A) IN GENERAL.—In addition to any
15 proceeding under paragraph (2), a district court
16 may, in exigent circumstances, enter a tem-
17 porary restraining order against a person al-
18 leged to be in violation of this section upon ap-
19 plication of the United States under paragraph
20 (2)(A), or the attorney general (or other appro-
21 priate State official) of an affected State under
22 paragraph (2)(B), without notice and the op-
23 portunity for a hearing as provided in rule
24 65(b) of the Federal Rules of Civil Procedure
25 (except as provided in subsection (d)(3)), if the



1 United States or the State, as applicable, dem-
 2 onstrates that there is probable cause to believe
 3 that the use of the Internet or other interactive
 4 computer service at issue violates this section.

5 “(B) HEARINGS.—A hearing requested
 6 concerning an order entered under this para-
 7 graph shall be held at the earliest practicable
 8 time.

9 “(d) INTERACTIVE COMPUTER SERVICE PROVID-
 10 ERS.—

11 “(1) IMMUNITY FROM LIABILITY FOR USE BY
 12 ANOTHER.—

13 “(A) IN GENERAL.—An interactive com-
 14 puter service provider described in subpara-
 15 graph (B) shall not be liable, under this section
 16 or any other provision of Federal or State law
 17 prohibiting or regulating gambling or gambling-
 18 related activities, for the use of its facilities or
 19 services by another person to engage in Internet
 20 gambling activity that violates such law—

21 “(i) arising out of any transmitting,
 22 routing, or providing of connections for
 23 gambling-related material or activity (in-
 24 cluding intermediate and temporary stor-
 25 age in the course of such transmitting,



1 routing, or providing connections) by the
2 provider, if—

3 “(I) the material or activity was
4 initiated by or at the direction of a
5 person other than the provider;

6 “(II) the transmitting, routing,
7 or providing of connections is carried
8 out through an automatic process
9 without selection of the material or
10 activity by the provider;

11 “(III) the provider does not se-
12 lect the recipients of the material or
13 activity, except as an automatic re-
14 sponse to the request of another per-
15 son; and

16 “(IV) the material or activity is
17 transmitted through the system or
18 network of the provider without modi-
19 fication of its content; or

20 “(ii) arising out of any gambling-re-
21 lated material or activity at an online site
22 residing on a computer server owned, con-
23 trolled, or operated by or for the provider,
24 or arising out of referring or linking users
25 to an online location containing such mate-



1 rial or activity, if the material or activity
 2 was initiated by or at the direction of a
 3 person other than the provider, unless the
 4 provider fails to take expeditiously, with
 5 respect to the particular material or activ-
 6 ity at issue, the actions described in para-
 7 graph (2)(A) following the receipt by the
 8 provider of a notice described in paragraph
 9 (2)(B).

10 “(B) ELIGIBILITY.—An interactive com-
 11 puter service provider is described in this sub-
 12 paragraph only if the provider—

13 “(i) maintains and implements a writ-
 14 ten or electronic policy that requires the
 15 provider to terminate the account of a sub-
 16 scriber of its system or network expedi-
 17 tiously following the receipt by the provider
 18 of a notice described in paragraph (2)(B)
 19 alleging that such subscriber has violated
 20 or is violating this section; and

21 “(ii) with respect to the particular
 22 material or activity at issue, has not know-
 23 ingly permitted its computer server to be
 24 used to engage in activity that the provider
 25 knows is prohibited by this section, with



1 the specific intent that such server be used
2 for such purpose.

3 “(2) NOTICE TO INTERACTIVE COMPUTER
4 SERVICE PROVIDERS.—

5 “(A) IN GENERAL.—If an interactive com-
6 puter service provider receives from a Federal
7 or State law enforcement agency, acting within
8 its authority and jurisdiction, a written or elec-
9 tronic notice described in subparagraph (B),
10 that a particular online site residing on a com-
11 puter server owned, controlled, or operated by
12 or for the provider is being used by another
13 person to violate this section, the provider shall
14 expeditiously—

15 “(i) remove or disable access to the
16 material or activity residing at that online
17 site that allegedly violates this section; or

18 “(ii) in any case in which the provider
19 does not control the site at which the sub-
20 ject material or activity resides, the pro-
21 vider, through any agent of the provider
22 designated in accordance with section
23 512(c)(2) of title 17, or other responsible
24 identified employee or contractor—



1 “(I) notify the Federal or State
2 law enforcement agency that the pro-
3 vider is not the proper recipient of
4 such notice; and

5 “(II) upon receipt of a subpoena,
6 cooperate with the Federal or State
7 law enforcement agency in identifying
8 the person or persons who control the
9 site.

10 “(B) NOTICE.—A notice is described in
11 this subparagraph only if it—

12 “(i) identifies the material or activity
13 that allegedly violates this section, and al-
14 leges that such material or activity violates
15 this section;

16 “(ii) provides information reasonably
17 sufficient to permit the provider to locate
18 (and, as appropriate, in a notice issued
19 pursuant to paragraph (3)(A) to block ac-
20 cess to) the material or activity;

21 “(iii) is supplied to any agent of a
22 provider designated in accordance with sec-
23 tion 512(e)(2) of title 17, if information
24 regarding such designation is readily avail-
25 able to the public;



1 “(iv) provides information that is rea-
2 sonably sufficient to permit the provider to
3 contact the law enforcement agency that
4 issued the notice, including the name of
5 the law enforcement agency, and the name
6 and telephone number of an individual to
7 contact at the law enforcement agency
8 (and, if available, the electronic mail ad-
9 dress of that individual); and

10 “(v) declares under penalties of per-
11 jury that the person submitting the notice
12 is an official of the law enforcement agency
13 described in clause (iv).

14 “(3) INJUNCTIVE RELIEF.—

15 “(A) IN GENERAL.—The United States, or
16 a State law enforcement agency acting within
17 its authority and jurisdiction, may, not less
18 than 24 hours following the issuance to an
19 interactive computer service provider of a notice
20 described in paragraph (2)(B), in a civil action,
21 obtain a temporary restraining order, or an in-
22 junction to prevent the use of the interactive
23 computer service by another person in violation
24 of this section.



1 “(B) LIMITATIONS.—Notwithstanding any
2 other provision of this section, in the case of
3 any application for a temporary restraining
4 order or an injunction against an interactive
5 computer service provider described in para-
6 graph (1)(B) to prevent a violation of this
7 section—

8 “(i) arising out of activity described in
9 paragraph (1)(A)(i), the injunctive relief is
10 limited to—

11 “(I) an order restraining the pro-
12 vider from providing access to an
13 identified subscriber of the system or
14 network of the interactive computer
15 service provider, if the court deter-
16 mines that there is probable cause to
17 believe that such subscriber is using
18 that access to violate this section (or
19 to engage with another person in a
20 communication that violates this sec-
21 tion), by terminating the specified ac-
22 count of that subscriber; and

23 “(II) an order restraining the
24 provider from providing access, by
25 taking reasonable steps specified in



1 the order to block access, to a specific,
2 identified, foreign online location;

3 “(ii) arising out of activity described
4 in paragraph (1)(A)(ii), the injunctive re-
5 lief is limited to—

6 “(I) the orders described in
7 clause (i)(I);

8 “(II) an order restraining the
9 provider from providing access to the
10 material or activity that violates this
11 section at a particular online site re-
12 siding on a computer server operated
13 or controlled by the provider; and

14 “(III) such other injunctive rem-
15 edies as the court considers necessary
16 to prevent or restrain access to speci-
17 fied material or activity that is pro-
18 hibited by this section at a particular
19 online location residing on a computer
20 server operated or controlled by the
21 provider, that are the least burden-
22 some to the provider among the forms
23 of relief that are comparably effective
24 for that purpose.



1 “(C) CONSIDERATIONS.—The court, in de-
2 termining appropriate injunctive relief under
3 this paragraph, shall consider—

4 “(i) whether such an injunction, either
5 alone or in combination with other such in-
6 junctions issued, and currently operative,
7 against the same provider would signifi-
8 cantly (and, in the case of relief under sub-
9 paragraph (B)(ii), taking into account,
10 among other factors, the conduct of the
11 provider, unreasonably) burden either the
12 provider or the operation of the system or
13 network of the provider;

14 “(ii) whether implementation of such
15 an injunction would be technically feasible
16 and effective, and would not materially
17 interfere with access to lawful material at
18 other online locations;

19 “(iii) whether other less burdensome
20 and comparably effective means of prevent-
21 ing or restraining access to the illegal ma-
22 terial or activity are available; and

23 “(iv) the magnitude of the harm likely
24 to be suffered by the community through
25 the accessibility of illegal activity.



1 “(D) NOTICE AND EX PARTE ORDERS.—
 2 Injunctive relief under this paragraph shall not
 3 be available without notice to the service pro-
 4 vider and an opportunity for such provider to
 5 appear before the court, except for orders en-
 6 suring the preservation of evidence or other or-
 7 ders having no material adverse effect on the
 8 operation of the communications network of the
 9 service provider.

10 “(4) ADVERTISING OR PROMOTION OF NON-
 11 INTERNET GAMBLING.—

12 “(A) DEFINITIONS.—In this paragraph:

13 “(i) CONDUCTED.—With respect to a
 14 gambling activity, that activity is ‘con-
 15 ducted’ in a State if the State is the State
 16 in which the gambling establishment (as
 17 defined in section 1081) that offers the
 18 gambling activity being advertised or pro-
 19 moted is physically located.

20 “(ii) NON-INTERNET GAMBLING AC-
 21 TIVITY.—The term ‘non-Internet gambling
 22 activity’ means—

23 “(I) a gambling activity in which
 24 the placing of the bet or wager is not
 25 conducted by the Internet; or



1 “(II) a gambling activity to
 2 which the prohibitions of this section
 3 do not apply.

4 “(B) IMMUNITY FROM LIABILITY FOR USE
 5 BY ANOTHER.—

6 “(i) IN GENERAL.—An interactive
 7 computer service provider described in
 8 clause (ii) shall not be liable, under any
 9 provision of Federal or State law prohibit-
 10 ing or regulating gambling or gambling-re-
 11 lated activities, or under any State law
 12 prohibiting or regulating advertising and
 13 promotional activities, for—

14 “(I) content, provided by another
 15 person, that advertises or promotes
 16 non-Internet gambling activity that
 17 violates such law (unless the provider
 18 is engaged in the business of such
 19 gambling), arising out of any of the
 20 activities described in paragraph
 21 (1)(A) (i) or (ii); or

22 “(II) content, provided by an-
 23 other person, that advertises or pro-
 24 motes non-Internet gambling activity
 25 that is lawful under Federal law and



1 the law of the State in which such
2 gambling activity is conducted.

3 “(ii) ELIGIBILITY.—An interactive
4 computer service is described in this clause
5 only if the provider—

6 “(I) maintains and implements a
7 written or electronic policy that re-
8 quires the provider to terminate the
9 account of a subscriber of its system
10 or network expeditiously following the
11 receipt by the provider of a notice de-
12 scribed in paragraph (2)(B) alleging
13 that such subscriber maintains a
14 website on a computer server con-
15 trolled or operated by the provider for
16 the purpose of engaging in advertising
17 or promotion of non-Internet gam-
18 bling activity prohibited by a Federal
19 law or a law of the State in which
20 such activity is conducted;

21 “(II) with respect to the particu-
22 lar material or activity at issue, has
23 not knowingly permitted its computer
24 server to be used to engage in the ad-
25 vertising or promotion of non-Internet



1 gambling activity that the provider
 2 knows is prohibited by a Federal law
 3 or a law of the State in which the ac-
 4 tivity is conducted, with the specific
 5 intent that such server be used for
 6 such purpose; and

7 “(III) at reasonable cost, offers
 8 residential customers of the provider’s
 9 Internet access service, if the provider
 10 provides Internet access service to
 11 such customers, computer software, or
 12 another filtering or blocking system
 13 that includes the capability of filtering
 14 or blocking access by minors to online
 15 Internet gambling sites that violate
 16 this section.

17 “(C) NOTICE TO INTERACTIVE COMPUTER
 18 SERVICE PROVIDERS.—

19 “(i) NOTICE FROM FEDERAL LAW EN-
 20 FORCEMENT AGENCY.—If an interactive
 21 computer service provider receives from a
 22 Federal law enforcement agency, acting
 23 within its authority and jurisdiction, a
 24 written or electronic notice described in
 25 paragraph (2)(B), that a particular online



1 site residing on a computer server owned,
 2 controlled, or operated by or for the pro-
 3 vider is being used by another person to
 4 advertise or promote non-Internet gam-
 5 bling activity that violates a Federal law
 6 prohibiting or regulating gambling or gam-
 7 bling-related activities, the provider shall
 8 expeditiously take the actions described in
 9 paragraph (2)(A) (i) or (ii) with respect to
 10 the advertising or promotion identified in
 11 the notice.

12 “(ii) NOTICE FROM STATE LAW EN-
 13 FORCEMENT AGENCY.—If an interactive
 14 computer service provider receives from a
 15 State law enforcement agency, acting with-
 16 in its authority and jurisdiction, a written
 17 or electronic notice described in paragraph
 18 (2)(B), that a particular online site resid-
 19 ing on a computer server owned, con-
 20 trolled, or operated by or for the provider
 21 is being used by another person to adver-
 22 tise or promote non-Internet gambling ac-
 23 tivity that is conducted in that State and
 24 that violates a law of that State prohibit-
 25 ing or regulating gambling or gambling-re-



1 lated activities, the provider shall expedi-
 2 tiously take the actions described in para-
 3 graph (2)(A) (i) or (ii) with respect to the
 4 advertising or promotion identified in the
 5 notice.

6 “(D) INJUNCTIVE RELIEF.—The United
 7 States, or a State law enforcement agency, act-
 8 ing within its authority and jurisdiction, may,
 9 not less than 24 hours following the issuance to
 10 an interactive computer service provider of a
 11 notice described in paragraph (2)(B), in a civil
 12 action, obtain a temporary restraining order, or
 13 an injunction, to prevent the use of the inter-
 14 active computer service by another person to
 15 advertise or promote non-Internet gambling ac-
 16 tivity that violates a Federal law, or a law of
 17 the State in which such activity is conducted
 18 that prohibits or regulates gambling or gam-
 19 bling-related activities, as applicable. The proce-
 20 dures described in paragraph (3)(D) shall apply
 21 to actions brought under this subparagraph,
 22 and the relief in such actions shall be limited
 23 to—

24 “(i) an order requiring the provider to
 25 remove or disable access to the advertising



1 or promotion of non-Internet gambling ac-
2 tivity that violates Federal law, or the law
3 of the State in which such activity is con-
4 ducted, as applicable, at a particular online
5 site residing on a computer server con-
6 trolled or operated by the provider;

7 “(ii) an order restraining the provider
8 from providing access to an identified sub-
9 scriber of the system or network of the
10 provider, if the court determines that such
11 subscriber maintains a website on a com-
12 puter server controlled or operated by the
13 provider that the subscriber is knowingly
14 using or knowingly permitting to be used
15 to advertise or promote non-Internet gam-
16 bling activity that violates Federal law or
17 the law of the State in which such activity
18 is conducted; and

19 “(iii) an order restraining the provider
20 of the content of the advertising or pro-
21 motion of such illegal gambling activity
22 from disseminating such advertising or
23 promotion on the computer server con-
24 trolled or operated by the provider of such
25 interactive computer service.



1 “(E) APPLICABILITY.—The provisions of
2 subparagraphs (C) and (D) do not apply to the
3 content described in subparagraph (B)(i)(II).

4 “(5) EFFECT ON OTHER LAW.—

5 “(A) IMMUNITY FROM LIABILITY FOR COM-
6 PLIANCE.—An interactive computer service pro-
7 vider shall not be liable for any damages, pen-
8 alty, or forfeiture, civil or criminal, under Fed-
9 eral or State law for taking in good faith any
10 action described in paragraph (2)(A) to comply
11 with a notice described in paragraph (2)(B), or
12 complying with any court order issued under
13 paragraph (3).

14 “(B) DISCLAIMER OF OBLIGATIONS.—
15 Nothing in this section may be construed to im-
16 pose or authorize an obligation on an inter-
17 active computer service provider described in
18 paragraph (1)(B)—

19 “(i) to monitor material or use of its
20 service; or

21 “(ii) except as required by a notice or
22 an order of a court under this subsection,
23 to gain access to, to remove, or to disable
24 access to material.



1 “(C) RIGHTS OF SUBSCRIBERS.—Nothing
 2 in this section may be construed to prejudice
 3 the right of a subscriber to secure an appro-
 4 priate determination, as otherwise provided by
 5 law, in a Federal court or in a State or local
 6 tribunal or agency, that the account of such
 7 subscriber should not be terminated pursuant
 8 to this subsection, or should be restored.

9 “(e) AVAILABILITY OF RELIEF.—The availability of
 10 relief under subsections (c) and (d) shall not depend on,
 11 or be affected by, the initiation or resolution of any action
 12 under subsection (b), or under any other provision of Fed-
 13 eral or State law.

14 “(f) APPLICABILITY.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
 16 the prohibition in this section does not apply to—

17 “(A) any otherwise lawful bet or wager
 18 that is placed, received, or otherwise made
 19 wholly intrastate for a State lottery, or for a
 20 multi-State lottery operated jointly between 2
 21 or more States in conjunction with State lotter-
 22 ies if—

23 “(i) each such lottery is expressly au-
 24 thorized, and licensed or regulated, under
 25 applicable State law;



1 “(ii) the bet or wager is placed on an
 2 interactive computer service that uses a
 3 private network or a closed-loop subscriber
 4 based service regulated and operated by
 5 the State lottery or its expressly des-
 6 ignated agent for such activity;

7 “(iii) each person placing or otherwise
 8 making that bet or wager—

9 “(I) is physically located when
 10 such bet or wager is placed at a facil-
 11 ity that is open to the general public;
 12 or

13 “(II) receives from the State lot-
 14 tery a user name and password spe-
 15 cific to the individual player for use in
 16 betting and wagering in the State lot-
 17 tery or multi-State lottery; and

18 “(iv) each such lottery complies with
 19 sections 1301 through 1304, and other ap-
 20 plicable provisions of Federal law;

21 “(B) any otherwise lawful bet or wager
 22 that is placed, received, or otherwise made on
 23 an interstate or intrastate basis on a live horse
 24 or a live dog race or on jai alai, or the sending,
 25 receiving, or inviting of information assisting in



1 the placing of such a bet or wager, if such bet
2 or wager, or the transmission of such informa-
3 tion, as applicable, is—

4 “(i) expressly authorized, and licensed
5 or regulated by the State in which such bet
6 or wager is received, under applicable Fed-
7 eral and such State’s laws;

8 “(ii) placed on a closed-loop sub-
9 scriber-based service;

10 “(iii) initiated from a State in which
11 betting or wagering on that same type of
12 live horse or live dog racing or on jai alai
13 is lawful and received in a State in which
14 such betting or wagering is lawful;

15 “(iv) subject to the regulatory over-
16 sight of the State in which the bet or
17 wager is received and subject by such
18 State to minimum control standards for
19 the accounting, regulatory inspection, and
20 auditing of all such bets or wagers trans-
21 mitted from 1 State to another; and

22 “(v) in the case of—

23 “(I) live horse racing, made in
24 accordance with the Interstate Horse



1 Racing Act of 1978 (15 U.S.C. 3001
2 et seq.); or

3 “(II) live dog racing, subject to
4 consent agreements that are com-
5 parable to those required by the Inter-
6 state Horse Racing Act of 1978, ap-
7 proved by the appropriate State regu-
8 latory agencies, in the State in which
9 the live dog race takes place, and in
10 the State in which the bet or waer is
11 accepted;

12 “(C) any otherwise lawful bet or wager
13 that is placed, received, or otherwise made
14 wholly intrastate, or the sending, receiving, or
15 inviting of information assisting in the placing
16 of such a bet or wager, if such bet or wager,
17 or the transmission of such information, as ap-
18 plicable is—

19 “(i) expressly authorized, and licensed
20 or regulated by the State in which such bet
21 or water is initiated and received, under
22 applicable Federal and such State’s laws;
23 and

24 “(ii) placed on a closed-loop sub-
25 scriber based service; or



1 “(D) any otherwise lawful bet or wager
 2 that is placed, received, or otherwise made for
 3 a fantasy sports league game or contest.

4 “(2) BETS OR WAGERS MADE BY AGENTS OR
 5 PROXIES.—

6 “(A) IN GENERAL.—Paragraph (1) does
 7 not apply in any case in which a bet or wager
 8 is placed, received, or otherwise made by the
 9 use of an agent or proxy using the Internet or
 10 an interactive computer service.

11 “(B) QUALIFICATION.—Nothing in this
 12 paragraph may be construed to prohibit the
 13 owner operator of a parimutuel wagering facil-
 14 ity that is licensed by a State from employing
 15 an agent in the operation of the account wager-
 16 ing system owned or operated by the parimutuel
 17 facility.

18 “(3) ADVERTISING AND PROMOTION.—The pro-
 19 hibition of subsection (b)(1)(B) does not apply to
 20 advertising, promotion, or other communication by,
 21 or authorized by, anyone licensed to operate a gam-
 22 bling business in a State.

23 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
 24 tion may be construed to affect any prohibition or remedy



1 applicable to a person engaged in a gambling business
2 under any other provision of Federal or State law.”.

3 (b) TECHNICAL AMENDMENT.—The analysis for
4 chapter 50 of title 18, United States Code, is amended
5 by adding at the end the following:

“1085. Internet gambling.”.

6 **SEC. 3. REPORT ON ENFORCEMENT.**

7 Not later than 3 years after the date of enactment
8 of this Act, the Attorney General shall submit to Congress
9 a report, which shall include—

10 (1) an analysis of the problems, if any, associ-
11 ated with enforcing section 1085 of title 18, United
12 States Code, as added by section 2 of this Act;

13 (2) recommendations for the best use of the re-
14 sources of the Department of Justice to enforce that
15 section; and

16 (3) an estimate of the amount of activity and
17 money being used to gamble on the Internet.

18 **SEC. 4. SEVERABILITY.**

19 If any provision of this Act, an amendment made by
20 this Act, or the application of such provision or amend-
21 ment to any person or circumstance is held to be unconsti-
22 tutional, the remainder of this Act, the amendments made
23 by this Act, and the application of this Act and the provi-
24 sions of such amendments to any other person or cir-
25 cumstance shall not be affected thereby.

