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109TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 109–552, Part 1

INTERNET GAMBLING PROHIBITION ACT

JULY 10, 2006.—Ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4777]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4777) to amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

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

(1) by designating the five undesignated paragraphs that begin with "The term" as paragraphs (1) through (5), respectively;

(2) by amending paragraph (5), as so designated, to read as follows:

"(5) The term 'communication facility' means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, radio, or an electromagnetic, photoelectronic or photooptical system, or other like connection (whether fixed or mobile) between the points of origin and reception of such transmission."; and

(3) by adding at the end the following:

"(6) 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); and

"(C) does not include—

"(i) a 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 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

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

"(iv) a contract of indemnity or guarantee;

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

"(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

"(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

"(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

"(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

"(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

"(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

"(III) No winning outcome is based—

"(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(7) The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) The term 'gambling business' means a business of betting or wagering;

"(9) The term 'information assisting in the placing of bets or wagers' means 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 and does not include—

"(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

"(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal.

"(10) The term 'person' includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

"(11) The term 'State' means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

"(12) The terms 'credit', 'creditor', and 'credit card' have the meanings given such terms in section 103 of the Truth in Lending Act.

"(13) The term 'electronic fund transfer'—

"(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

"(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

"(14) The term 'financial institution' has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

"(15) The term 'insured depository institution'—

"(A) has the same meaning as in section 3(c) of the Federal Deposit Insurance Act; and

"(B) includes any insured credit union (as defined in section 101 of the Federal Credit Union Act).

"(16) 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.

"(17) The terms 'own or control' and to be 'owned or controlled' have the same meanings as in section 2(a)(2) of the Bank Holding Company Act of 1956.

"(18) The term 'Secretary' means the Secretary of the Treasury.

"(19) The term 'Tribe' or 'tribal' means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988.".

SEC. 3. MODIFICATION OF EXISTING PROHIBITION.

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

"§ 1084. Use of a communication facility to transmit bets or wagers; penalties

"(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

"(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

"(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, 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;

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

"(b) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

"(1) credit, or the proceeds of credit, extended to or on behalf of another (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 through any financial institution; or

"(4) the proceeds of any other form of financial transaction as the Secretary of the Treasury 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,

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

"(c) Nothing in this section prohibits—

"(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

"(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which

such betting on the same event is permitted under Federal, State, tribal, or local law; or

"(3) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery.

"(d) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

"(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers is physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

"(2) the State or Tribe has explicitly authorized such bets and wagers;

"(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the support service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

"(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

"(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

"(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such 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) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

"(f) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

"(g) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

"(h)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

"(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

"(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934) shall—

"(A) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief;

"(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

"(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

"(D) specify the interactive computer service to which it applies; and

"(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums authorized to be appropriated for this purpose, there are authorized to be appropriated to the Department of Justice for each of fiscal years 2007 through 2010 $10,000,000 for investigations and prosecutions of violations of section 1084 of title 18, United States Code.

SEC. 5. RULE OF CONSTRUCTION.

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

SEC. 6. SENSE OF CONGRESS.

It is the sense of Congress that this Act does not change which activities related to horse racing may or may not be allowed under Federal law; section 5 is intended to address concerns that this Act could have the effect of changing the existing relationship between the Interstate Horseracing Act (15 U.S.C. 3001 et seq.), and other Federal statutes that were in effect at the time of this Act's consideration; this Act is not intended to change that relationship; and this Act is not intended to resolve any existing disagreements over how to interpret the relationship between the Interstate Horseracing Act and other Federal statutes.

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act may be construed to preempt State law prohibiting gambling.

PURPOSE AND SUMMARY

H.R. 4777, the "Internet Gambling Prohibition Act," is intended to clarify when the operation of a gambling business on the Internet is illegal. The primary Federal statute prohibiting gambling is the Interstate Wire Communications Act, ("Wire Act") originally passed in 1961.[1] However, this statute was written before the inception of the Internet and the use of wireless communication. As a result, the applicability of the Wire Act to Internet gambling has been the subject of considerable legal dispute. A focus of this contention is whether the Wire Act only applies to sports-related betting, or whether it also covers casino-style gambling like online poker, blackjack and roulette.

H.R. 4777 clarifies that the Wire Act prohibits not only sports betting, but traditional forms of gambling such as online poker. The bill also brings the Wire Act up to date to reflect the advent of new technology, and extends its coverage to the Internet, and expands application to wireless technologies upon which Internet-based communications increasingly rely. Specifically, H.R. 4777: prohibits the transmission of electronic funds and other non-cash methods to pay for gambling bets; grants Federal, State and local law enforcement the ability to seek injunctions to prevent the transmission of those funds and more effectively enforce provisions of the Wire Act; and increases the penalties for all violations of the

[1] Pub. L. No. 87–216, codified at 18 U.S.C. § 1084 (2000).

Wire Act from a maximum of two years to a maximum of five years in prison.

BACKGROUND AND NEED FOR THE LEGISLATION

Although States generally regulate gambling, the Federal government has proscribed certain gambling activities. In 1961, Congress enacted the Wire Act, which prohibits any person who is "engaged in the business of betting or wagering" from "knowingly using a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers, or information assisting in the placing of bets or wagers on any sporting event or contest."[2] The Wire Act also grants State and local law enforcement agencies the power to direct a communication service provider ("common carrier") to disconnect any persons who are using communication facilities to transmit gambling information. In a few specific instances Congress has also enacted Federal laws that permit gambling. For example, the "Interstate Horseracing Act,"[3] was enacted in 1978, permitting interstate off-track wagers in specified circumstances. In 1988, Congress enacted the Indian Gaming Regulatory Act ("IGRA"), allowing casinos to be built on Indian reservations.[4]

Gambling on the Internet has become an extremely lucrative business. In recent years, industry revenue and the number of gambling websites have risen dramatically. In 1997 Internet gambling industry revenues were estimated to be $445 million; in 2001 those estimates grew to $1.6 billion a year.[5] Internet gambling is now estimated to be a $12 billion industry, with approximately $6 billion coming from bettors based in the United States.[6] It has been reported that there are as many as 2,300 gambling sites, offering everything from sports betting to blackjack and poker.[7] Most of these virtual casinos are organized and operated from off-shore locations, where the websites operate free from both State and Federal interference.[8]

The characteristics of Internet gambling are unique: online players can gamble 24 hours a day from home; children may play without sufficient age verification; and betting with a credit card can undercut a player's perception of the value of cash, leading to addiction, bankruptcy and crime. The anonymity of Internet gambling, and the fact that players are shielded from public scrutiny in the comfort of their homes are of particular concern as they relate to underage and or compulsive gamblers. In addition, the Department of Justice has testified that Internet gambling serves as a vehicle for organized crime syndicates to conduct illegal activity, including money laundering.[9]

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[2] 18 U.S.C. § 1084 (2000).

[3] Pub. L. 95–515, codified at 15 U.S.C. §§ 3001–3007 (2000).

[4] Pub. L. 100–497, codified at 25 U.S.C. § 2701 (2000).

[5] CRS Report RS 21275, "Internet Gambling: A Sketch of Legislative Proposals in the 107th Congress," (October 8, 2002).

[6] CRS Report RS 22418, "Internet Gambling: Two approaches in the 109th Congress," (April 3, 2006).

[7] Testimony of Rep. Bob Goodlatte, Subcommitte on Crime, Terrorism and Homeland Security, Legislative Hearing on H.R. 4777, (April 5, 2006).

[8] CRS Report RS 22418, "Internet Gambling: Two approaches in the 109th Congress," (April 3, 2006).

[9] Testimony of Bruce Ohr, Subcommittee on Crime, Terrorism and Homeland Security, Legislative Hearing on H.R. 4777, April 5, 2006, and CRS Report RS 21487, "Internet Gambling: A Sketch of Legislative Proposals in the 108th and 109th Congresses," (April 5, 2006).

State attorneys general have been frustrated in their attempts to prevent Internet gambling in their respective States. Some have attempted to charge Internet gambling providers with violations of State consumer fraud laws, but jurisdictional issues and other problems have thwarted these efforts. Attorneys general report that citizens are often unaware that gambling on the Internet is illegal, even if those same persons are aware that their State of residence does not allow gaming.[10]

H.R. 4777 brings clarity and certainty to Federal law that operating an Internet gambling business is a violation of Federal law. However, the legislation does not supersede the traditional leadership roles of States in enforcing gambling laws within their borders. It addresses a growing problem that no single State can adequately address. Because of the uniquely interstate and international nature of the Internet, H.R. 4777 is necessary, and provides the States and the Federal government with the tools needed to reduce the prevalence of Internet gambling—while providing additional tools to enforce these prohibitions.

HEARINGS

The House Committee on the Judiciary's Subcommittee on Crime, Terrorism and Homeland Security held a legislative hearing on H.R. 4777 on April 5, 2006. Testifying before the Subcommittee were: (1) the Honorable Bob Goodlatte, 6th Congressional District of Virginia, Member of Congress; (2) Mr. Bruce Ohr, Chief, Organized Crime and Racketeering Section, DOJ; (3) Mr. John Kindt, Professor, University of Illinois; (4) Mr. Sam Vallandingham, Vice President, the First State Bank, West Virginia.

COMMITTEE CONSIDERATION

On May 3, 2006, the House Committee on the Judiciary's Subcommittee on Crime, Terrorism and Homeland Security met in open session and ordered favorably reported the bill H.R. 4777 without amendment, by a voice vote, a quorum being present. On May 25, 2006, the Committee on the Judiciary met in open session and ordered favorably reported the bill H.R. 4777 as amended by a recorded vote of 25 ayes to 11 nays, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were recorded votes during the Committee consideration of H.R. 4777.

1. An amendment to the amendment in the nature of a substitute was offered by Mr. Wexler to insert language exempting betting and wagering on parimutuel gambling activities, (*e.g.*, dog racing and jai alai), authorized and licensed or regulated by the state in which the bet or wager is received. The amendment was defeated by a rollcall vote of 15 ayes to 21 nays.

Subject: Wexler Amendment to the Goodlatte Amendment in the Nature of a Substitute to H.R. 4777, which was not agreed to by a rollcall vote of 15 ayes to 21 nays.

[10] CRS Report RS 21487, and House Report 107–591, Part 1.

ROLLCALL NO. 1—DATE: MAY 25, 2006

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble	X		
Mr. Smith		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Lungren		X	
Mr. Jenkins		X	
Mr. Cannon		X	
Mr. Bachus		X	
Mr. Inglis		X	
Mr. Hostettler		X	
Mr. Green		X	
Mr. Keller		X	
Mr. Issa		X	
Mr. Flake			
Mr. Pence		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Feeney	X		
Mr. Franks		X	
Mr. Gohmert		X	
Mr. Conyers	X		
Mr. Berman	X		
Mr. Boucher		X	
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee	X		
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt	X		
Mr. Wexler	X		
Mr. Weiner	X		
Mr. Schiff	X		
Ms. Sanchez	X		
Mr. Van Hollen		X	
Ms. Wasserman Schultz	X		
Mr. Sensenbrenner, Chairman		X	
TOTAL	15	21	

2. An amendment to the amendment in the nature of a substitute was offered by Mr. Conyers, to insert language regarding residence and age-verification-systems, and the bet or wager to be placed and accepted in a state that authorizes such wagers. The amendment was defeated by a rollcall vote of 14 ayes to 17 nays, and one Member voting present.

Subject: Conyers Amendment to the Goodlatte Amendment in the Nature of a Substitute to H.R. 4777, which was not agreed to by a rollcall vote of 14 ayes, 17 nays, and 1 present.

ROLLCALL NO. 2—DATE: MAY 25, 2006

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble		X	
Mr. Smith		X	
Mr. Gallegly			
Mr. Goodlatte		X	
Mr. Chabot		X	

ROLLCALL NO. 2—DATE: MAY 25, 2006—Continued

	Ayes	Nays	Present
Mr. Lungren		X	
Mr. Jenkins		X	
Mr. Cannon		X	
Mr. Bachus			
Mr. Inglis		X	
Mr. Hostettler		X	
Mr. Green	X		
Mr. Keller		X	
Mr. Issa		X	
Mr. Flake			
Mr. Pence		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Feeney		X	
Mr. Franks			
Mr. Gohmert			X
Mr. Conyers	X		
Mr. Berman	X		
Mr. Boucher		X	
Mr. Nadler			
Mr. Scott	X		
Mr. Watt	X		
Ms. Lofgren	X		
Ms. Jackson Lee			
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt	X		
Mr. Wexler	X		
Mr. Weiner	X		
Mr. Schiff	X		
Ms. Sanchez	X		
Mr. Van Hollen	X		
Ms. Wasserman Schultz	X		
Mr. Sensenbrenner, Chairman		X	
TOTAL	14	17	1

3. An amendment to the amendment in the nature of a substitute was offered by Mr. Scott to extend the criminal liability provisions of the bill to individuals. The amendment was defeated by a rollcall vote of 6 ayes to 30 nays.

Subject: Scott Amendment to the Goodlatte Amendment in the Nature of a Substitute to H.R. 4777, which was not agreed to by a rollcall vote of 6 ayes to 30 nays.

ROLLCALL NO. 3—DATE: MAY 25, 2006

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble		X	
Mr. Smith		X	
Mr. Gallegly		X	
Mr. Goodlatte		X	
Mr. Chabot		X	
Mr. Lungren		X	
Mr. Jenkins		X	
Mr. Cannon		X	
Mr. Bachus		X	
Mr. Inglis		X	
Mr. Hostettler		X	
Mr. Green	X		
Mr. Keller		X	

ROLLCALL NO. 3—DATE: MAY 25, 2006—Continued

	Ayes	Nays	Present
Mr. Issa		X	
Mr. Flake			
Mr. Pence		X	
Mr. Forbes		X	
Mr. King		X	
Mr. Feeney		X	
Mr. Franks		X	
Mr. Gohmert	X		
Mr. Conyers	X		
Mr. Berman	X		
Mr. Boucher		X	
Mr. Nadler			
Mr. Scott	X		
Mr. Watt		X	
Ms. Lofgren	X		
Ms. Jackson Lee		X	
Ms. Waters		X	
Mr. Meehan			
Mr. Delahunt		X	
Mr. Wexler		X	
Mr. Weiner		X	
Mr. Schiff		X	
Ms. Sanchez		X	
Mr. Van Hollen		X	
Ms. Wasserman Schultz		X	
Mr. Sensenbrenner, Chairman		X	
TOTAL	6	30	

4. Final Passage. The motion to report favorably H.R. 4777, as amended by the amendment in the nature of a substitute offered by Mr. Goodlatte, Mr. Cannon, and Mr. Boucher, as amended, was agreed to by a rollcall vote of 25 ayes to 11 nays.

Subject: Motion to Favorably Report H.R. 4777 as an Amendment in the Nature of the Substitute, as amended, which was agreed to by a rollcall vote of 25 ayes to 11 nays.

ROLLCALL NO. 4—DATE: MAY 25, 2006

	Ayes	Nays	Present
Mr. Hyde			
Mr. Coble	X		
Mr. Smith	X		
Mr. Gallegly	X		
Mr. Goodlatte	X		
Mr. Chabot	X		
Mr. Lungren	X		
Mr. Jenkins	X		
Mr. Cannon	X		
Mr. Bachus	X		
Mr. Inglis	X		
Mr. Hostettler	X		
Mr. Green	X		
Mr. Keller	X		
Mr. Issa	X		
Mr. Flake			
Mr. Pence	X		
Mr. Forbes	X		
Mr. King	X		
Mr. Feeney	X		
Mr. Franks	X		
Mr. Gohmert	X		

ROLLCALL NO. 4—DATE: MAY 25, 2006—Continued

	Ayes	Nays	Present
Mr. Conyers		X	
Mr. Berman		X	
Mr. Boucher	X		
Mr. Nadler			
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Ms. Waters	X		
Mr. Meehan			
Mr. Delahunt		X	
Mr. Wexler		X	
Mr. Weiner		X	
Mr. Schiff		X	
Ms. Sanchez		X	
Mr. Van Hollen	X		
Ms. Wasserman Schultz	X		
Mr. Sensenbrenner, Chairman	X		
TOTAL	25	11	

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4777, the following estimate and comparison prepared by the Director of the Congressional Budget Office under the section 402 of the Congressional Budget Act of 1974.

JUNE 26, 2006.

Hon. F. James Sensenbrenner, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4777, the Internet Gambling Prohibition Act.

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

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 4777—Internet Gambling Prohibition Act

Summary: H.R. 4777 would broaden the coverage of the current laws against Internet gambling and would increase penalties for such offenses. The bill would authorize the appropriation of $10 million for each of fiscal years 2007 through 2010 for the Department of Justice to investigate and prosecute violators of the bill's provisions.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost $40 million over the 2007–2011 period. H.R. 4777 could affect direct spending and receipts, but we estimate that any such effects would be less than $500,000 annually.

H.R. 4777 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that costs to state, local, and tribal governments, if any, would be small, and would not exceed the threshold established in UMRA ($64 million in 2006, adjusted annually for inflation).

H.R. 4777 would impose new private-sector mandates, as defined in UMRA, on certain gambling businesses that use wireless communication systems to transfer data, providers of Internet service, and individuals seeking damages against providers of Internet service who have taken actions required by certain law enforcement notices. Based on information from government and industry sources, CBO expects that the aggregate direct cost of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($128 million in 2006, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4777 is shown in the following table. For this estimate, CBO assumes that the bill will be enacted by the beginning of fiscal year 2007. CBO assumes that the amounts authorized by the bill will be appropriated by the start of each fiscal year and that outlays will follow the historical rate of spending for similar activities. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	10	10	10	10	0
Estimated Outlays	8	10	10	10	2

In addition to the costs shown in the table, enacting H.R. 4777 could increase collections of civil and criminal fines for violations of the bill's provisions. CBO estimates that any additional collections would not be significant because of the relatively small number of additional cases likely to be affected. Civil fines are recorded as revenues. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation.

Estimated impact on State, local, and tribal governments: H.R. 4777 contains intergovernmental mandates as defined in UMRA because it would preempt the authority of states to regulate certain gambling activities within their borders, prohibit the sale by states of lottery tickets over the Internet, and require Internet Service Providers (ISPs)—some of which are governmental entities—to disable certain features when notified by law enforcement agencies. Most gaming activities conducted by tribal entities would not be affected.

CBO estimates that the costs of complying with these mandates would be small for several reasons. First, several states—including Michigan and Missouri—have passed or are considering legislation that would make Internet gambling illegal under state law, limiting the effect of this legislation on those states. Second, no state currently sells lottery tickets over the Internet, so the federal prohibition would be unlikely to result in lost revenues over the next five years. Finally, based on information from the Department of

Justice, CBO estimates that the number of public ISPs that would be required to act would be small. CBO estimates, therefore, that the net costs of these mandates to state, local, and tribal governments would not exceed the threshold established in UMRA ($64 million in 2006, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 4777 would impose new private-sector mandates, as defined in UMRA, on certain gambling businesses that use wireless communication systems to transfer data, providers of Internet service, and individuals seeking damages against providers of Internet service who have taken actions required by certain law enforcement notices. Based on information from government and industry sources, CBO expects that the aggregate direct cost of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($128 million in 2006, adjusted annually for inflation).

Gambling businesses and the use of communication facilities

The bill would prohibit anyone engaged in a gambling business from knowingly using a communication facility for the transmission of bets or wagers, or for the transmission of a communication that entitles the recipient to receive money or credit as a result of bets or wagers when the transmission occurs in interstate or foreign commerce, within U.S. special maritime or territorial jurisdiction, or into or out of the United States. The prohibitions would apply to transmissions by wire, cable, radio, or an electromagnetic, photoelectronic or photo-optical system. The bill defines bets or wagers to include any contest in which participants stake or risk "something of value" and the "opportunity to win is predominantly subject to chance," including the purchase of a chance to win a lottery. Thus, the bill would prohibit persons engaged in a gambling business from conducting lotteries over the Internet. The prohibition would not apply to certain popular legal games that charge fees, including sports and educational contests.

H.R. 4777 would have only a limited effect on the private sector because the Federal Interstate Wire Act ("Wire Act") currently prohibits the use of wire communication facilities to place or receive bets or wagers or to transmit information that assists persons who place bets or wagers on sporting events and certain contests. The Wire Act applies to all wires and cables used to transmit information across state lines, including telephone lines, cable television systems, and the Internet, and effectively prohibits many forms of Internet gambling. Other federal statutes, such as racketeering laws, also apply to Internet gambling. It is not clear, however, that existing federal law prohibits all forms of Internet gambling.

According to the National Gambling Impact Study Commission Report, no known privately operated Internet lotteries are located in the United States. Privately operated lotteries are generally illegal under state laws. Domestic lotteries are generally run by states and Indian tribes. Moreover, according to industry sources, almost all Internet gambling businesses operate outside of the United States and currently no viable gambling business uses the communication systems added under this bill. Therefore, CBO expects that the costs of this mandate would be minimal.

Interactive computer services

The bill also would impose a mandate on interactive computer services commonly known as Internet Service Providers. H.R. 4777 would require ISPs to remove or disable access to a specific Internet site when notified by law enforcement agencies. Based on information from the Department of Justice, CBO estimates that the number of Internet service providers that would receive such notices would be low. In addition, according to industry sources, many ISPs currently remove or disable access when requested by law enforcement. Consequently, CBO estimates that the costs to ISPs of complying with this mandate would be small.

In addition, the bill would prohibit a person from receiving any damages, penalty, or forfeiture in civil or criminal proceedings from a person or entity for any act done in compliance with any notice from a law enforcement agency pursuant to this bill. Because the bill would eliminate existing rights to seek compensation for damages caused by certain acts, it would impose a private-sector mandate. The direct cost of the mandate would be the forgone net value of awards and settlements in such claims. According to government and industry sources, no such lawsuits have been filed, and those sources expect that it is unlikely that there will be many such cases in the future. Consequently, CBO estimates that the direct cost of the mandate would be small relative to the annual threshold.

Previous CBO estimates: On May 26, 2006, CBO transmitted a cost estimate for H.R. 4411, the Unlawful Internet Gambling Enforcement Act of 2006, as ordered reported by the House Committee on the Judiciary on May 25, 2006. The bill would impose a mandate by requiring the Secretary of the Treasury and the Board of Governors of the Federal Reserve System to prescribe regulations that would require financial institutions to identify and block restricted transactions in connection with unlawful gambling. CBO was not able to determine the direct cost of complying with the mandate because the regulations have not been prescribed.

On March 30, 2006, CBO transmitted a cost estimate for H.R. 4411 as ordered reported by the House Committee on Financial Services on March 15, 2006. Those two bills are virtually identical, the mandates are the same, and CBO estimated that implementing either version of H.R. 4411 would cost about $2 million over the 2007–2011 period, assuming appropriation of the necessary amounts.

Estimate prepared by: Federal Costs: Mark Grabowicz; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4777 is intended to reduce the flow of revenue to gambling businesses, and limit the devastating effect Internet gambling has on our nation's youth and on compulsive gamblers. The bill will also provide Federal, State,

local and tribal law enforcement with additional tools to investigate effectively and prosecute Internet gambling and criminal activity.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in art. I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short title

This section provides that the legislation may be cited as the "Internet Gambling Prohibition Act."

Section 2. Definitions

This section amends the definitions of the Wire Act, including adding a definition for "communication facility" to make it clear that the Wire Act also applies to wireless communications, upon which Internet based communications increasingly rely.

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). Expressly provides 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;
- Fantasy sports leagues.

The Committee does not intend to outlaw on-line contests that award prizes to participants who predict the outcome of actual events, including sporting events, when there is no charge associated with participating in those contests, and nothing is staked by the participant to participate. Pursuant to 18 U.S.C. § 1081(6), therefore, a free contest to determine who can most accurately predict the winners of events or contests would not be included in the term "bets or wagers" for purposes of this legislation since the participant is not wagering or paying anything to participate.

It is the view of the Committee that the definition of "bets or wagers" does not include information exchanged via private network if the information is used only to monitor gaming device play, display prize amounts, provide security information, and provide other accounting information. Furthermore, it is the view of the Committee that information exchanged via a linked progressive game accounting system that does not accept bets or wagers and that does not affect game outcome is not included in the definition of the term "bets or wagers."

The Committee recognizes that some computer or video games played on the Internet are based on skill, and thus not intended to be included within the definition of "bets or wagers." Also, such computer and video games, including those that feature real sports teams and/or teams that are members of amateur or professional

sports organizations, do not involve the staking or risking by any person of something of value.

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, or

(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.

Defines "gambling business" as a business of betting or wagering.

Section 3. Modification of existing prohibitions

This section only prohibits activities of a "gambling business", but does not criminalize the actions of the individual gambler. Specifically, the section:

(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 five 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 five 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, and 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 authorizes anything prohibited by 28 U.S.C. 178, The Professional and Amateur Sports Protection.

(g) 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.

(h) 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:

a. 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 which 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 concert with a violator and receives actual notice of the relief;

b. Be available only after notice and an opportunity to appear are provided to the interactive computer service;

c. Not impose any obligation on the interactive computer service to monitor its service or affirmatively seek facts indicating violating activity;

d. Specify the interactive computer service to which it applies;

e. Specifically identify the offending website's or hyperlink's location that must be removed or disabled.

Section 4. Authorization of appropriations

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

Section 5. Rule of construction

States that nothing in this Act may be construed to prohibit any activity that is allowed under the Interstate Horseracing Act.

Section 6. Sense of Congress

This section makes it clear that this Act is neutral as it relates to the Interstate Horseracing Act, and does not change which activities related to horse racing may or may not be allowed under federal law.

Section 7. Rule of construction

This section makes it clear that nothing in this Act may be construed to preempt state law prohibiting gambling.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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CHAPTER 50—GAMBLING

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§1081. Definitions

As used in this chapter:

(1) The term "gambling ship" means a vessel used principally for the operation of one or more gambling establishments. Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).

(2) The term "gambling establishment" means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

(3) The term "vessel" includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

(4) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

[The term "wire communication facility" means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.]

(5) The term "communication facility" means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, radio, or an electromagnetic, photoelectronic or photooptical system, or other like connection (whether fixed or mobile) between the points of origin and reception of such transmission.

(6) 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); and

(C) does not include—

(i) a 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 (15

U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

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

(iv) a contract of indemnity or guarantee;

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

(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest involves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

(III) No winning outcome is based—(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

(7) The term "foreign jurisdiction" means a jurisdiction of a foreign country or political subdivision thereof.

(8) The term "gambling business" means a business of betting or wagering;

(9) The term "information assisting in the placing of bets or wagers" means 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 and does not include—

(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal; or

(B) advertising relating to betting or wagering in a jurisdiction where such betting or wagering is legal, as long as such advertising does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal.

(10) The term "person" includes a government (including any governmental entity (as defined in section 3701(2) of title 28)).

(11) The term "State" means a State of the United States, the District of Columbia, or a commonwealth, territory, or possession of the United States.

(12) The terms "credit", "creditor", and "credit card" have the meanings given such terms in section 103 of the Truth in Lending Act.

(13) The term "electronic fund transfer"—

(A) has the meaning given such term in section 903 of the Electronic Fund Transfer Act; or

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

(14) The term "financial institution" has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

(15) The term "insured depository institution"—

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

(B) includes any insured credit union (as defined in section 101 of the Federal Credit Union Act).

(16) 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.

(17) The terms "own or control" and to be "owned or controlled" have the same meanings as in section 2(a)(2) of the Bank Holding Company Act of 1956.

(18) The term "Secretary" means the Secretary of the Treasury.

(19) The term "Tribe" or "tribal" means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988.

* * * * * * *

[§ 1084. Transmission of wagering information; penalties

[(a) Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire 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, shall be fined under this title or imprisoned not more than two years, or both.

[(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

[(c) Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State.

[(d) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

[(e) As used in this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory or possession of the United States.]

§ 1084. Use of a communication facility to transmit bets or wagers; penalties

(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, 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;

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

(b) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign

commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

(1) credit, or the proceeds of credit, extended to or on behalf of another (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 through any financial institution; or

(4) the proceeds of any other form of financial transaction as the Secretary of the Treasury 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,

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

(c) Nothing in this section prohibits—

(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law; or

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

(d) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers is physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

(2) the State or Tribe has explicitly authorized such bets and wagers;

(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets

and wagers, and the support service within its borders or the Tribe has explicitly authorized and licensed the operation of such gambling business, any facility processing the bets and wagers, and the support service on Indian lands within its jurisdiction;

(4) with respect to class II or class III gaming, the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act;

(5) with respect to class III gaming under the Indian Gaming Regulatory Act, the game is authorized under, and is conducted in accordance with, the respective Tribal-State compact of the Tribe having jurisdiction over the Indian lands where the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers are physically located; and

(6) with respect to class III gaming under the Indian Gaming Regulatory Act, each such 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) Nothing in this section creates immunity from criminal prosecution under any laws of any State or Tribe.

(f) Nothing in this section authorizes activity that is prohibited under chapter 178 of title 28, United States Code.

(g) When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, tribal or local law enforcement agency, acting within its jurisdiction, that any communication facility furnished by it is being used or will be used by its subscriber for the purpose of transmitting or receiving gambling information, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

(h)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934) shall—

(A) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this section, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief;

(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

(D) specify the interactive computer service to which it applies; and

(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

* * * * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

THURSDAY, MAY 25, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in Room 2141, Rayburn House Office Building, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

Before proceeding to today's legislative business, the Chair would like to announce that the Committee intends to publish a non-legislative report entitled "Plane Clothes: Lack of Anonymity at the Federal Air Marshals Service Compromises Aviation and National Security." Rule VII of the Judiciary Committee Rules of Procedure requires that following the announcement to publish a non-legislative report, Members of the Committee shall be given at least 3 calendar days to file supplemental, additional, or dissenting views as a part of the report. Committee Members and their staff may obtain a copy of this draft report in the Committee's 2138 Rayburn Office. Views also should be submitted to that location no later than 5:00 p.m. on Wednesday, May 31.

Pursuant to notice, I now call up H.R. 4777, the "Internet Gambling Prohibition Act." The Chair recognizes Mr. Coble, the Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security, for a motion.

The Chair recognizes the gentleman from North Carolina for a motion.

Mr. COBLE. Mr. Chairman, I move—the Subcommittee on Crime, Terrorism, and Homeland Security reports favorably H.R. 4777, the "Internet Gambling Prohibition Act" and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 4777, follows:]

I

109TH CONGRESS
2D SESSION

H. R. 4777

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2006

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. WOLF, Mr. MCINTYRE, Mr. PITTS, Mr. PENCE, Mr. SHADEGG, Mr. ADERHOLT, Mr. AKIN, Mr. ALEXANDER, Mr. BACHUS, Mr. BAKER, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BASS, Mr. BOEHLERT, Mr. BONNER, Mr. BOOZMAN, Mr. BOUSTANY, Mr. BURGESS, Mr. BURTON of Indiana, Mr. BUYER, Mr. CANTOR, Mrs. CAPITO, Mr. CHABOT, Mr. COBLE, Mr. CONAWAY, Mr. CRENSHAW, Mr. CULBERSON, Mrs. JO ANN DAVIS of Virginia, Mr. TOM DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEFAZIO, Mr. LINCOLN DIAZ-BALART of Florida, Mrs. DRAKE, Mr. DUNCAN, Mr. EHLERS, Mrs. EMERSON, Mr. EVERETT, Mr. FORBES, Mr. FORTENBERRY, Mr. FRANKS of Arizona, Mr. FORTUÑO, Mr. FRELINGHUYSEN, Ms. FOXX, Mr. GALLEGLY, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGREY, Mr. GOHMERT, Mr. GOODE, Mr. GUTKNECHT, Ms. HART, Mr. HAYES, Mr. HEFLEY, Mr. HERGER, Mr. HOBSON, Mr. HOEKSTRA, Mr. HOSTETTLER, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. JENKINS, Mr. JINDAL, Mrs. JOHNSON of Connecticut, Mr. JONES of North Carolina, Mr. KELLER, Mrs. KELLY, Mr. KENNEDY of Minnesota, Mr. KING of Iowa, Mr. KINGSTON, Mr. KUHL of New York, Mr. LEWIS of California, Mr. LINDER, Mr. LUCAS, Mr. DANIEL E. LUNGREN of California, Mr. MCCRERY, Mr. MCKEON, Mr. MILLER of Florida, Mr. MORAN of Kansas, Mr. MORAN of Virginia, Mrs. MUSGRAVE, Mrs. MYRICK, Mr. NEUGEBAUER, Mr. NORWOOD, Mr. NUSSLE, Mr. OSBORNE, Mr. PETERSON of Minnesota, Mr. POE, Mr. PUTNAM, Mr. RAMSTAD, Mr. REGULA, Mr. REHBERG, Mr. REYNOLDS, Mr. ROGERS of Alabama, Mr. ROGERS of Michigan, Mr. SCHWARZ of Michigan, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMMONS, Mr. SMITH of Texas, Mr. SODREL, Mr. SOUDER, Mr. SULLIVAN, Mr. TERRY, Mr. THOMAS, Mr. TIAHRT, Mr. WALDEN of Oregon, Mr. WALSH, Mr. WELDON of Florida, Mr. WESTMORELAND, Mr. WICKER, Mr. WILSON of South Carolina, Mrs. WILSON of New Mexico, Mr. BRADY of Texas, Mr. DELAY, and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to expand and modernize the prohibition against interstate gambling, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Gambling Prohibition Act''.

SEC. 2. DEFINITIONS.

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

(1) by designating the five undesignated paragraphs that begin with ''The term'' as paragraphs (1) through (5), respectively;

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

(A) by striking ''wire communication'' and inserting ''communication'';

(B) by inserting ''satellite, microwave,'' after ''cable,''; and

(C) by inserting ''(whether fixed or mobile)'' after ''connection''; and

(3) by adding at the end the following:

''(6) 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); and

"(C) does not include—

"(i) a 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 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Ex-

change Act (7 U.S.C. 7) or to any transaction subject to an exemption pursuant to section 4(c) of such Act;

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

"(iv) a contract of indemnity or guarantee;

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

"(vi) participation in any game or contest in which participants do not stake or risk anything of value other than—

"(I) personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or

"(II) point or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor; or

"(vii) participation in any simulation sports game or educational game or contest in which (if the game or contest in-

volves a team or teams) all teams are fictional and no team is a member of an amateur or professional sports organization (as those terms are defined in section 3701 of title 28) and that meets the following conditions:

"(I) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants.

"(II) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals (athletes in the case of sports events) in multiple real-world sporting or other events.

"(III) No winning outcome is based—

"(aa) on the score, point-spread or any performance or performances of any single real-world team or any combination of such teams; or

"(bb) solely on any single performance of an individual athlete in any single real-world sporting or other event.

"(7) The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) The term 'gambling business' means a business of betting or wagering;

"(9) The term 'information assisting in the placing of bets or wagers' means 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 and does not include—

"(A) any posting or reporting of any educational information on how to make a legal bet or wager or the nature of betting or wagering, as long as such posting or reporting does not solicit or provide information for the purpose of

1 facilitating or enabling the placing or receipt of
2 bets or wagers in a jurisdiction where such bet-
3 ting is illegal; or
4 ''(B) advertising relating to betting or wa-
5 gering in a jurisdiction where such betting or
6 wagering is legal, as long as such advertising
7 does not solicit or provide information for the
8 purpose of facilitating or enabling the placing
9 or receipt of bets or wagers in a jurisdiction
10 where such betting is illegal.
11 ''(10) The term 'person' includes a government
12 (including any governmental entity (as defined in
13 section 3701(2) of title 28)).
14 ''(11) The term 'State' means a State of the
15 United States, the District of Columbia, or a com-
16 monwealth, territory, or possession of the United
17 States.
18 ''(12) The terms 'credit', 'creditor', and 'credit
19 card' have the meanings given such terms in section
20 103 of the Truth in Lending Act.
21 ''(13) The term 'electronic fund transfer'—
22 ''(A) has the meaning given such term in
23 section 903 of the Electronic Fund Transfer
24 Act; or

"(B) any fund transfer covered by Article 4A of the Uniform Commercial Code, as in effect in any State.

"(14) The term 'financial institution' has the meaning given such term in section 903 of the Electronic Fund Transfer Act.

"(15) The term 'insured depository institution'—

"(A) has the same meaning as in section 3(c) of the Federal Deposit Insurance Act; and

"(B) includes any insured credit union (as defined in section 101 of the Federal Credit Union Act).

"(16) 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.

"(17) The terms 'own or control' and to be 'owned or controlled' have the same meanings as in section 2(a)(2) of the Bank Holding Company Act of 1956.

"(18) The term 'Secretary' means the Secretary of the Treasury.

"(19) The term 'Tribe' or 'tribal' means an Indian tribe, as defined under section 4(5) of the Indian Gaming Regulatory Act of 1988).".

SEC. 3. MODIFICATION OF EXISTING PROHIBITION.

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

"§ 1084. Use of a communication facility to transmit bets or wagers; penalties

"(a) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly uses a communication facility—

"(1) for the transmission in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, of bets or wagers, or information assisting in the placing of bets or wagers; or

"(2) for the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States, 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;

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

"(b) Except as otherwise provided in this section, whoever, being engaged in a gambling business, knowingly accepts, in connection with the transmission of a communication in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States of bets or wagers or information assisting in the placing of bets or wagers—

"(1) credit, or the proceeds of credit, extended to or on behalf of another (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 through any financial institution; or

"(4) the proceeds of any other form of financial transaction as the Secretary of the Treasury 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,

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

"(c) Nothing in this section prohibits—

"(1) the transmission of information assisting in the placing of bets or wagers for use in news reporting if such transmission does not solicit or provide information for the purpose of facilitating or enabling the placing or receipt of bets or wagers in a jurisdiction where such betting is illegal;

"(2) the transmission of information assisting in the placing of bets or wagers from a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law into a State or foreign country in which such betting on the same event is permitted under Federal, State, tribal, or local law; or

"(3) the interstate transmission of information relating to a State-specific lottery between a State or foreign country where such betting or wagering is permitted under Federal, State, tribal, or local law

and an out-of-State data center for the purposes of assisting in the operation of such State-specific lottery.

"(d) Nothing in this section prohibits the use of a communication facility for the transmission of bets or wagers or information assisting in the placing of bets or wagers, if—

"(1) at the time the transmission occurs, the individual or entity placing the bets or wagers or information assisting in the placing of bets or wagers, the gambling business, and any facility or support service processing those bets or wagers is physically located in the same State, and the State has a secure and effective customer verification and age verification system to assure compliance with age and residence requirements, and for class II or class III gaming under the Indian Gaming Regulatory Act, are physically located on Indian lands within that State;

"(2) the State or Tribe has explicitly authorized such bets and wagers;

"(3) the State has explicitly authorized and licensed the operation of the gambling business, any facility processing the bets and wagers, and the support service within its borders or the Tribe has ex-

1 plicitly authorized and licensed the operation of such
2 gambling business, any facility processing the bets
3 and wagers, and the support service on Indian lands
4 within its jurisdiction;

5 "(4) with respect to class II or class III gam-
6 ing, the game is permitted under and conducted in
7 accordance with the Indian Gaming Regulatory Act;

8 "(5) with respect to class III gaming under the
9 Indian Gaming Regulatory Act, the game is author-
10 ized under, and is conducted in accordance with, the
11 respective Tribal-State compact of the Tribe having
12 jurisdiction over the Indian lands where the indi-
13 vidual or entity placing the bets or wagers or infor-
14 mation assisting in the placing of bets or wagers, the
15 gambling business, and any facility or support serv-
16 ice processing those bets or wagers are physically lo-
17 cated; and

18 "(6) with respect to class III gaming under the
19 Indian Gaming Regulatory Act, each such Tribal-
20 State compact expressly provides that the game may
21 be conducted using a communication facility to
22 transmit bets or wagers or information assisting in
23 the placing of bets or wagers.

24 "(e) Nothing in this section creates immunity from
25 criminal prosecution under any laws of any State or Tribe.

1 "(f) Nothing in this section shall be construed to pro-
2 hibit an activity allowed under Public Law 95–515 (15
3 U.S.C. 3001 et seq.).
4 "(g) Nothing in this section authorizes activity that
5 is prohibited under chapter 178 of title 28, United States
6 Code.
7 "(h) When any common carrier, subject to the juris-
8 diction of the Federal Communications Commission, is no-
9 tified in writing by a Federal, State, tribal or local law
10 enforcement agency, acting within its jurisdiction, that
11 any communication facility furnished by it is being used
12 or will be used by its subscriber for the purpose of trans-
13 mitting or receiving gambling information, in interstate or
14 foreign commerce, within the special maritime and terri-
15 torial jurisdiction of the United States, or to or from any
16 place outside the jurisdiction of any nation with respect
17 to any transmission to or from the United States in viola-
18 tion of Federal, State, tribal or local law, it shall dis-
19 continue or refuse, the leasing, furnishing, or maintaining
20 of such facility, after reasonable notice to the subscriber,
21 but no damages, penalty or forfeiture, civil or criminal,
22 shall be found against any common carrier for any act
23 done in compliance with any notice received from a law
24 enforcement agency. Nothing in this section shall be
25 deemed to prejudice the right of any person affected there-

by to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State, tribal, or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

"(i)(1) A Federal, State, tribal, or local law enforcement agency, acting within its jurisdiction may, in a civil action, obtain injunctive or declaratory relief to restrain or prevent any person from paying or assisting in the payment of bets or wagers, or communicating information assisting in the placing of bets or wagers, in interstate or foreign commerce, within the special maritime and territorial jurisdiction of the United States, or to or from any place outside the jurisdiction of any nation with respect to any transmission to or from the United States in violation of Federal, State, tribal, or local law.

"(2) No damages, penalty, or forfeiture, civil or criminal, shall be found against any person or entity for any act done in compliance with any notice received from a law enforcement agency.

"(3) Relief granted under paragraph (1) against an interactive computer service (as defined in section 230(f) of the Communications Act of 1934) shall—

"(A) be limited to the removal of, or disabling of access to, an online site violating this section, or a hypertext link to an online site violating this sec-

tion, that resides on a computer server that such service controls or operates; except this limitation shall not apply if the service is violating this section or is in active concert with a person who is violating this section and receives actual notice of the relief;

''(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

''(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this section;

''(D) specify the interactive computer service to which it applies; and

''(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums authorized to be appropriated for this purpose, there are authorized to be appropriated for each of fiscal years 2007 through 2010 $10,000,000 for investigations and prosecutions of violations of section 1084 of title 18, United States Code.

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from North Carolina to strike the last word.

Mr. COBLE. I thank the Chairman.

On April 5, 2006, the Subcommittee held a legislative hearing on the bill. The hearing examined the problems associated with Internet Gambling, particularly as it relates to children, addictive gamblers, and organized crime. The Subcommittee was pleased to have four distinguished witnesses, including the primary sponsor of the bill, the distinguished gentleman from Virginia, Mr. Goodlatte.

On May 3, 2006, Mr. Chairman, the Subcommittee favorably reported the bill without amendment. I want to take a moment and thank Mr. Goodlatte for his tireless effort on this matter, and I understand that Mr. Goodlatte would like to be heard, and I yield my time to him.

Mr. GOODLATTE. I thank the gentleman from North Carolina for yielding to me, and I'd like to thank him as the Subcommittee Chairman and Chairman Sensenbrenner for moving this legislation forward. This is an important piece of legislation that we have been working on for many years. It actually went through a hiatus for a few years until there was a revelation here in Washington of all of the measures that were taken by some lobbyists who were acting in a manner that was inconsistent with the truth to misrepresent what the legislation did.

We are now bringing this legislation back again with very strong support. More than 140 cosponsors in the House are anxious to have the opportunity to expunge that smear on the House of Representatives that occurred based upon those activities of a number of years ago. The legislation is badly needed because during the time that has transpired, the amount of money going to these illegal, unregulated offshore enterprises has quadrupled to $12 billion a year, of which it's estimated about $6 billion is coming out of the United States.

In the United States, gambling is essentially illegal unless regulated by the States. This is a measure to work through that to make sure that the States are indeed protected in their right to continue to regulate gambling. Some States, like the State of Utah, represented by the gentleman from Utah, Mr. Cannon, have no legal gambling enterprises. Other States choose to have a number of different types of enterprises. Forty-nine of the 50 States Attorney Generals have asked the Congress to act on this measure because the Wire Act, which is the Federal measure to enforce gambling place by electronic means is over 40 years out-of-date. It was passed in the 1960s, and today it does not adequately address modern technology, nor is it completely clear that it covers all forms of gambling. This legislation makes it clear that it does cover all forms of gambling and all forms of technology.

I have worked with the gentleman from Utah, and I am pleased that he has offered improvements to the bill, which we will subsequently offer today, along with the gentleman from Virginia, Mr. Boucher, who has been a longtime supporter and champion of this measure as well. And I appreciate their efforts to improve the bill, and we will offer that manager's amendment at the appropriate time.

At this time I would urge all of my colleagues to support this measure and we'll discuss the details of some of the amendments that may be offered as they are offered.

Thank you, Mr. Chairman.

Mr. COBLE. Mr. Chairman, I yield back.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott, do you have an opening statement on behalf of the Democrats?

Mr. CONYERS. Mr. Chairman, could I start it off?

Mr. SCOTT. I have a statement.

Chairman SENSENBRENNER. The gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. Then yield to my dear friend from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman, for holding the markup on H.R. 4777, the "Internet Gambling Prohibition Act of 2006." The bill provides for Federal regulation of gambling over the Internet. I believe that all gambling should be tightly regulated. Traditionally, the regulation of gambling has been primarily a State responsibility, and it should continue to do so in my judgment, although the Federal Government has had and should continue to have a role to assist the States in the total regulatory scheme.

The Federal Government undertook such a role in passing the 1961 Wire Communications Act as a way to assist in the fight against gambling by organized crime syndicates. The Department of Justice contends that it can prosecute Internet gambling businesses under that law, but there's a question as to whether that is the case under the Interstate Horse Racing Act. Clearly, the 1961 act was not designed with Internet gambling in mind. And while I appreciate the desire of the author of the bill, my friend and colleague from Virginia, Mr. Goodlatte, to update the ability of the Department to address illegal gambling over the Internet, I do not believe that H.R. 4777 is likely to be an effective way to do so.

Regulating anything over the Internet is problematic, even when desirable. Most law enforcement jurisdiction—most law enforcement is jurisdiction dependent. The Internet has no jurisdiction, and as a result I suspect that even if we were successful in closing down business sites physically located in the United States or in countries that we can get to cooperate, because of the nature of the Internet and the ingenuity of people using it, the approach in H.R. 4777 will ultimately be ineffective.

As we've heard during the hearing on this bill, as written it will create an enforcement nightmare for financial institutions that it requires to look up and stop illegal gambling transactions. Identifying Internet gambling transactions will be very difficult, if not impossible. While some companies may be able to identify some gaming transactions by the codes used, such enforcement can easily be thwarted. Business may have one code for payment purposes, but may engage in several activities, including Internet gambling, under that code.

For example, Caesar's Palace or a foreign company could have a hotel and a gaming operation that are paid as a single account over the Internet, or an e-cash or electronic payment system, or any escrow agent can relocate to another country, and, therefore, evade enforcement mechanisms in the bill or even do so domestically. All the bank may know is that the payment came from, say, PayPal

and with some gaming activities that use the Internet being legal, how would the financial institution be able to distinguish between a legal and illegal check to that business?

Furthermore, Mr. Chairman, we should not overestimate the cooperation we will get from other countries. According to one consulting firm, the Internet gambling websites brought in $14 billion worldwide last year, which was up from $8 billion the year before. That number is expected to almost double to $24 billion by 2010. Presently, over 85 foreign governments specifically authorize some kind of gambling online, and that number is likely to grow as well. So what governments are likely to cooperate with us in prosecuting businesses that they authorize to operate? And even if we are successful in getting cooperation from such countries, it would simply be increasing the profit opportunities for uncooperative countries, especially those with whom the United States does not have normal diplomatic relations.

This bill as written does not prohibit Internet gambling. It prohibits running the operation. If we want it to be effective in prosecuting illegal gambling over the Internet, we would prosecute the individual gamblers. A few sting operations would get the word out that if you gamble over the Internet, you are at the mercy of law enforcement because they leave a trail, a paper trail that they can follow. So long as individuals can gamble over the Internet with impunity, the market will be provided for them, which the regulatory scheme in this bill will not be able to stop.

Just look at our experience in the War on Drugs. Although we prohibit the sale of drugs and the purchase of drugs, we see that as long as there's a demand, we'll only have limited success. But if we look at the approach in this bill, we would be prosecuting the seller but not the buyer and have even less success than we're having today.

Mr. Chairman, I believe that there are more effective ways—there are more effective Internet gambling regulatory approaches than provided in 4777. H.R. 1223, authorized by the full Committee Ranking Member, Mr. Conyers, in the last Congress is one such approach. It initially created a study commission that would study the issue and make recommendations for a regulatory scheme for Internet gambling that would be controlled by the individual States. Under the bill's regulatory——

Chairman SENSENBRENNER. The time of the gentleman from Michigan has expired.

Mr. SCOTT. Mr. Chairman, could he have an additional 1 minute?

Chairman SENSENBRENNER. Without objection.

Mr. SCOTT. Under the bill's regulatory scheme, if Nevada opted to allow Internet gambling within its borders, it could. If Utah prohibited individuals in that State from gambling over the Internet, it could. And that would be enforceable by the Federal Government, by the States that allow the gambling, and by the State of Utah as well because in the fullness of time, a gambler would be required to provide a mailing address in order to get paid.

Legal gambling in this country and around the world is a fact of life, and so is the Internet. As more and more of our daily activities intersect with the Internet, it is only logical that gambling would as well. I believe that we should regulate Internet gambling, but we should do so effectively. We should not subject any single busi-

ness sector to the sole or principal responsibility for doing the bulk work of enforcement, whether it's the banking industry, as in this bill, or the Internet service industry, as tried in prior bills. There are ways to regulate——

Chairman SENSENBRENNER. The time of the gentleman has once again expired.

Mr. SCOTT. Mr. Chairman, if I could have one more sentence?

Chairman SENSENBRENNER. Without objection, the filibuster will——

Mr. SCOTT. There are ways to regulate the Internet gambling effectively, and I believe that some amendments offered today will help us do so, and so I thank—Mr. Chairman, I thank you for holding the markup to allow us to explore these issues.

Chairman SENSENBRENNER. Without objection, all Members may place opening statements in the record at this point.

[The prepared statement of Mr. Conyers follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND RANKING MEMBER, COMMITTEE ON THE JUDICIARY

Aside from an updated bill number and a few modest changes in drafting, many of the problems that existed in the internet gambling bill we considered last Congress continue to exist in this measure.

For example, while the bill claims to ban all forms of online gambling, it specifically exempts betting on horseracing and state-owned and operated lotteries. In other words, the bill only establishes a "partial ban" on internet gambling.

In the past, the Department of Justice has gone to great lengths to highlight this fact. However, proponents of this measure have been unwilling to eliminate the bill's numerous carve-outs for its favorite industries.

Second, contrary to the assertions of some, the bill is not likely to lead to a meaningful reduction in the current number of Americans that place bets online. Major financial service organizations already employ the bill's main enforcement mechanisms, and Americans can easily circumvent these prohibitions by using third-party payers or foreign banks.

Third, by eliminating a customer's access to the U.S. financial services industry, the bill may make the most pressing dangers posed by the internet gambling industry even worse. After all, credit cards play a vital role in determining an individual bettor's age and tracking his or her potential earnings or losses. By prohibiting their use, we effectively lose access to this key information.

Finally, the bill proposes to establish a complex regulatory system for banks that is all but impossible to comply with. Under the specific provisions of this bill, banks would be asked to determine the legality of a particular transaction based upon the type of gambling activity involved; the location of the transaction; and whether or not the transaction involved interstate commerce. Just this week, the Chamber of Commerce supplied members of this Committee with a letter indicating their opposition to such language.

If we really want to gain effective control of the online gambling industry, we must regulate it. Establishing a "partial ban" that allows some forms of gambling to continue without the benefit of adequate checks and balances only threatens to make the current situation even more problematic.

Are there amendments? The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Mr. Chairman, I have an amendment in the nature of a substitute offered by myself, Mr. Cannon, and Mr. Boucher.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to H.R. 4777, offered by Mr. Goodlatte (for himself, Mr. Cannon, and Mr. Boucher). Strike all after the enacting clause and insert the following——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

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AMENDMENT TO H.R. 4777

Offered by Mr. Goodlatte (for himself, Mr. Cannon, and Mr. Boucher)

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Internet Gambling
3 Prohibition Act".

4 **SEC. 2. DEFINITIONS.**

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

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

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

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

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1 between the points of origin and reception of such
2 transmission."; and
3 (3) by adding at the end the following:
4 "(6) The term 'bets or wagers'—
5 "(A) means the staking or risking by any
6 person of something of value upon the outcome
7 of a contest of others, a sporting event, or a
8 game predominantly subject to chance, upon an
9 agreement or understanding that the person or
10 another person will receive something of greater
11 value than the amount staked or risked in the
12 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); and
17 "(C) does not include—
18 "(i) a bona fide business transaction
19 governed by the securities laws (as that
20 term is defined in section 3(a)(47) of the
21 Securities Exchange Act of 1934 (15
22 U.S.C. 78c(a)(47))) for the purchase or
23 sale at a future date of securities (as that
24 term is defined in section 3(a)(10) of the

1 Securities Exchange Act of 1934 (15
2 U.S.C. 78c(a)(10)));
3 "(ii) a transaction on or subject to the
4 rules of a contract market designated pur-
5 suant to section 5 of the Commodity Ex-
6 change Act (7 U.S.C. 7) or to any trans-
7 action subject to an exemption pursuant to
8 section 4(c) of such Act;
9 "(iii) any over-the-counter derivative
10 instrument;
11 "(iv) a contract of indemnity or guar-
12 antee;
13 "(v) a contract for life, health, or ac-
14 cident insurance;
15 "(vi) participation in any game or
16 contest in which participants do not stake
17 or risk anything of value other than—
18 "(I) personal efforts of the par-
19 ticipants in playing the game or con-
20 test or obtaining access to the Inter-
21 net; or
22 "(II) point or credits that the
23 sponsor of the game or contest pro-
24 vides to participants free of charge
25 and that can be used or redeemed

1 only for participation in games or con-
2 tests offered by the sponsor; or
3 "(vii) participation in any simulation
4 sports game or educational game or con-
5 test in which (if the game or contest in-
6 volves a team or teams) all teams are fic-
7 tional and no team is a member of an
8 amateur or professional sports organiza-
9 tion (as those terms are defined in section
10 3701 of title 28) and that meets the fol-
11 lowing conditions:
12 "(I) All prizes and awards of-
13 fered to winning participants are es-
14 tablished and made known to the par-
15 ticipants in advance of the game or
16 contest and their value is not deter-
17 mined by the number of participants
18 or the amount of any fees paid by
19 those participants.
20 "(II) All winning outcomes re-
21 flect the relative knowledge and skill
22 of the participants and are determined
23 predominantly by accumulated statis-
24 tical results of the performance of in-
25 dividuals (athletes in the case of

1 sports events) in multiple real-world
2 sporting or other events.
3 "(III) No winning outcome is
4 based—
5 "(aa) on the score, point-
6 spread or any performance or
7 performances of any single real-
8 world team or any combination of
9 such teams; or
10 "(bb) solely on any single
11 performance of an individual ath-
12 lete in any single real-world
13 sporting or other event.
14 "(7) The term 'foreign jurisdiction' means a ju-
15 risdiction of a foreign country or political subdivision
16 thereof.
17 "(8) The term 'gambling business' means a
18 business of betting or wagering;
19 "(9) The term 'information assisting in the
20 placing of bets or wagers' means information know-
21 ingly transmitted by an individual in a gambling
22 business for use in placing, receiving, making, or
23 otherwise enabling or facilitating a bet or wager and
24 does not include—

1 "(A) any posting or reporting of any edu-
2 cational information on how to make a legal bet
3 or wager or the nature of betting or wagering,
4 as long as such posting or reporting does not
5 solicit or provide information for the purpose of
6 facilitating or enabling the placing or receipt of
7 bets or wagers in a jurisdiction where such bet-
8 ting is illegal; or
9 "(B) advertising relating to betting or wa-
10 gering in a jurisdiction where such betting or
11 wagering is legal, as long as such advertising
12 does not solicit or provide information for the
13 purpose of facilitating or enabling the placing
14 or receipt of bets or wagers in a jurisdiction
15 where such betting is illegal.
16 "(10) The term 'person' includes a government
17 (including any governmental entity (as defined in
18 section 3701(2) of title 28)).
19 "(11) The term 'State' means a State of the
20 United States, the District of Columbia, or a com-
21 monwealth, territory, or possession of the United
22 States.
23 "(12) The terms 'credit', 'creditor', and 'credit
24 card' have the meanings given such terms in section
25 103 of the Truth in Lending Act.

1 "(13) The term 'electronic fund transfer'—

2 "(A) has the meaning given such term in

3 section 903 of the Electronic Fund Transfer

4 Act; or

5 "(B) any fund transfer covered by Article

6 4A of the Uniform Commercial Code, as in ef-

7 fect in any State.

8 "(14) The term 'financial institution' has the

9 meaning given such term in section 903 of the Elec-

10 tronic Fund Transfer Act.

11 "(15) The term 'insured depository

12 institution'—

13 "(A) has the same meaning as in section

14 3(c) of the Federal Deposit Insurance Act; and

15 "(B) includes any insured credit union (as

16 defined in section 101 of the Federal Credit

17 Union Act).

18 "(16) The terms 'money transmitting business'

19 and 'money transmitting service' have the meanings

20 given such terms in section 5330(d) of title 31,

21 United States Code.

22 "(17) The terms 'own or control' and to be

23 'owned or controlled' have the same meanings as in

24 section 2(a)(2) of the Bank Holding Company Act

25 of 1956.

1 "(18) The term 'Secretary' means the Secretary
2 of the Treasury.
3 "(19) The term 'Tribe' or 'tribal' means an In-
4 dian tribe, as defined under section 4(5) of the In-
5 dian Gaming Regulatory Act of 1988).".

6 **SEC. 3. MODIFICATION OF EXISTING PROHIBITION.**

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

9 **"§ 1084. Use of a communication facility to transmit**
10 **bets or wagers; penalties**

11 "(a) Except as otherwise provided in this section,
12 whoever, being engaged in a gambling business, knowingly
13 uses a communication facility—
14 "(1) for the transmission in interstate or for-
15 eign commerce, within the special maritime and ter-
16 ritorial jurisdiction of the United States, or to or
17 from any place outside the jurisdiction of any nation
18 with respect to any transmission to or from the
19 United States, of bets or wagers, or information as-
20 sisting in the placing of bets or wagers; or
21 "(2) for the transmission of a communication in
22 interstate or foreign commerce, within the special
23 maritime and territorial jurisdiction of the United
24 States, or to or from any place outside the jurisdic-
25 tion of any nation with respect to any transmission

1 to or from the United States, which entitles the re-
2 cipient to receive money or credit as a result of bets
3 or wagers, or for information assisting in the placing
4 of bets or wagers;
5 shall be fined under this title or imprisoned not more than
6 five years, or both.
7 "(b) Except as otherwise provided in this section,
8 whoever, being engaged in a gambling business, knowingly
9 accepts, in connection with the transmission of a commu-
10 nication in interstate or foreign commerce, within the spe-
11 cial maritime and territorial jurisdiction of the United
12 States, or to or from any place outside the jurisdiction
13 of any nation with respect to any transmission to or from
14 the United States of bets or wagers or information assist-
15 ing in the placing of bets or wagers—
16 "(1) credit, or the proceeds of credit, extended
17 to or on behalf of another (including credit extended
18 through the use of a credit card);
19 "(2) an electronic fund transfer or funds trans-
20 mitted by or through a money transmitting business,
21 or the proceeds of an electronic fund transfer or
22 money transmitting service, from or on behalf of the
23 other person;
24 "(3) any check, draft, or similar instrument
25 which is drawn by or on behalf of the other person

1 and is drawn on or payable through any financial in-
2 stitution; or
3 "(4) the proceeds of any other form of financial
4 transaction as the Secretary of the Treasury may
5 prescribe by regulation which involves a financial in-
6 stitution as a payor or financial intermediary on be-
7 half of or for the benefit of the other person,
8 shall be fined under this title or imprisoned not more than
9 five years, or both.
10 "(e) Nothing in this section prohibits—
11 "(1) the transmission of information assisting
12 in the placing of bets or wagers for use in news re-
13 porting if such transmission does not solicit or pro-
14 vide information for the purpose of facilitating or
15 enabling the placing or receipt of bets or wagers in
16 a jurisdiction where such betting is illegal;
17 "(2) the transmission of information assisting
18 in the placing of bets or wagers from a State or for-
19 eign country where such betting or wagering is per-
20 mitted under Federal, State, tribal, or local law into
21 a State or foreign country in which such betting on
22 the same event is permitted under Federal, State,
23 tribal, or local law; or
24 "(3) the interstate transmission of information
25 relating to a State-specific lottery between a State or

1 foreign country where such betting or wagering is
2 permitted under Federal, State, tribal, or local law
3 and an out-of-State data center for the purposes of
4 assisting in the operation of such State-specific lot-
5 tery.

6 "(d) Nothing in this section prohibits the use of a
7 communication facility for the transmission of bets or wa-
8 gers or information assisting in the placing of bets or wa-
9 gers, if—

10 "(1) at the time the transmission occurs, the
11 individual or entity placing the bets or wagers or in-
12 formation assisting in the placing of bets or wagers,
13 the gambling business, and any facility or support
14 service processing those bets or wagers is physically
15 located in the same State, and the State has a se-
16 cure and effective customer verification and age ver-
17 ification system to assure compliance with age and
18 residence requirements, and for class II or class III
19 gaming under the Indian Gaming Regulatory Act,
20 are physically located on Indian lands within that
21 State;

22 "(2) the State or Tribe has explicitly authorized
23 such bets and wagers;

24 "(3) the State has explicitly authorized and li-
25 censed the operation of the gambling business, any

1 facility processing the bets and wagers, and the sup-
2 port service within its borders or the Tribe has ex-
3 plicitly authorized and licensed the operation of such
4 gambling business, any facility processing the bets
5 and wagers, and the support service on Indian lands
6 within its jurisdiction;
7 "(4) with respect to class II or class III gam-
8 ing, the game is permitted under and conducted in
9 accordance with the Indian Gaming Regulatory Act;
10 "(5) with respect to class III gaming under the
11 Indian Gaming Regulatory Act, the game is author-
12 ized under, and is conducted in accordance with, the
13 respective Tribal-State compact of the Tribe having
14 jurisdiction over the Indian lands where the indi-
15 vidual or entity placing the bets or wagers or infor-
16 mation assisting in the placing of bets or wagers, the
17 gambling business, and any facility or support serv-
18 ice processing those bets or wagers are physically lo-
19 cated; and
20 "(6) with respect to class III gaming under the
21 Indian Gaming Regulatory Act, each such Tribal-
22 State compact expressly provides that the game may
23 be conducted using a communication facility to
24 transmit bets or wagers or information assisting in
25 the placing of bets or wagers.

1 "(e) Nothing in this section creates immunity from
2 criminal prosecution under any laws of any State or Tribe.
3 "(f) Nothing in this section authorizes activity that
4 is prohibited under chapter 178 of title 28, United States
5 Code.
6 "(g) When any common carrier, subject to the juris-
7 diction of the Federal Communications Commission, is no-
8 tified in writing by a Federal, State, tribal or local law
9 enforcement agency, acting within its jurisdiction, that
10 any communication facility furnished by it is being used
11 or will be used by its subscriber for the purpose of trans-
12 mitting or receiving gambling information, in interstate or
13 foreign commerce, within the special maritime and terri-
14 torial jurisdiction of the United States, or to or from any
15 place outside the jurisdiction of any nation with respect
16 to any transmission to or from the United States in viola-
17 tion of Federal, State, tribal or local law, it shall dis-
18 continue or refuse, the leasing, furnishing, or maintaining
19 of such facility, after reasonable notice to the subscriber,
20 but no damages, penalty or forfeiture, civil or criminal,
21 shall be found against any common carrier for any act
22 done in compliance with any notice received from a law
23 enforcement agency. Nothing in this section shall be
24 deemed to prejudice the right of any person affected there-
25 by to secure an appropriate determination, as otherwise

1 provided by law, in a Federal court or in a State, tribal,
2 or local tribunal or agency, that such facility should not
3 be discontinued or removed, or should be restored.
4 "(h)(1) A Federal, State, tribal, or local law enforce-
5 ment agency, acting within its jurisdiction may, in a civil
6 action, obtain injunctive or declaratory relief to restrain
7 or prevent any person from paying or assisting in the pay-
8 ment of bets or wagers, or communicating information as-
9 sisting in the placing of bets or wagers, in interstate or
10 foreign commerce, within the special maritime and terri-
11 torial jurisdiction of the United States, or to or from any
12 place outside the jurisdiction of any nation with respect
13 to any transmission to or from the United States in viola-
14 tion of Federal, State, tribal, or local law.
15 "(2) No damages, penalty, or forfeiture, civil or
16 criminal, shall be found against any person or entity for
17 any act done in compliance with any notice received from
18 a law enforcement agency.
19 "(3) Relief granted under paragraph (1) against an
20 interactive computer service (as defined in section 230(f)
21 of the Communications Act of 1934) shall—
22 "(A) be limited to the removal of, or disabling
23 of access to, an online site violating this section, or
24 a hypertext link to an online site violating this sec-
25 tion, that resides on a computer server that such

1 service controls or operates; except this limitation
2 shall not apply if the service is violating this section
3 or is in active concert with a person who is violating
4 this section and receives actual notice of the relief;
5 "(B) be available only after notice to the inter-
6 active computer service and an opportunity for the
7 service to appear are provided;
8 "(C) not impose any obligation on an inter-
9 active computer service to monitor its service or to
10 affirmatively seek facts indicating activity violating
11 this section;
12 "(D) specify the interactive computer service to
13 which it applies; and
14 "(E) specifically identify the location of the on-
15 line site or hypertext link to be removed or access
16 to which is to be disabled.".

17 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

18 In addition to any other sums authorized to be appro-
19 priated for this purpose, there are authorized to be appro-
20 priated to the Department of Justice for each of fiscal
21 years 2007 through 2010 $10,000,000 for investigations
22 and prosecutions of violations of section 1084 of title 18,
23 United States Code.

1 **SEC. 5. RULE OF CONSTRUCTION.**

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

5 **SEC. 6. SENSE OF CONGRESS.**

6 It is the sense of Congress that this Act does not
7 change which activities related to horse racing may or may
8 not be allowed under Federal law; section 5 is intended
9 to address concerns that this Act could have the effect
10 of changing the existing relationship between the Inter-
11 state Horseracing Act (15 U.S.C. 3001 et seq.), and other
12 Federal statutes that were in effect at the time of this
13 Act's consideration; this Act is not intended to change that
14 relationship; and this Act is not intended to resolve any
15 existing disagreements over how to interpret the relation-
16 ship between the Interstate Horseracing Act and other
17 Federal statutes.

Chairman SENSENBRENNER. The gentleman from Virginia is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Chairman, I offer this substitute amendment with Congressman Cannon to further strengthen this legislation. At the request of the Department of Justice, additional language has been included in this amendment to ensure that it is not technology specific and will accommodate future advances in new technology, such as fiberoptics. In addition, we have included language that has been negotiated with the Department of Justice to further tighten the bill by clarifying that this act does not change which activities related to horse racing may or may not be allowed under Federal law. This additional language satisfies the concerns expressed by the Department of Justice by ensuring that this act does not have the effect of changing the existing relationship between the Interstate Horse Racing Act and other Federal statutes currently in effect.

Lastly, the manager's amendment clarifies that the $10 million authorized for enforcement and prosecution under this act should be appropriated to the Department of Justice.

I thank Mr. Cannon and Mr. Boucher for working with me on this legislation. I urge Members of the Committee to support this amendment, and I would note the importance of not only the portion of this legislation that we have brought forward to modernize the Wire Act to make it clear that it applies to all forms of gambling, that there are no carve-outs, no exceptions in this bill, that it protects the right of the States to do what they have historically done to regulate gambling as they see fit. And it also gives the States another new tool that they desire, and the Justice Department, and that is to work with the financial services industry through our legal system, as they have done with money laundering, as they have done with drug smuggling, as they have done with other efforts by criminals to transfer funds using our banking system to criminal enterprises. This legislation will give that new tool to the States and the Federal Government with regard to preventing this money from going out of the country by all the host of different means that are used to send money.

I am under no illusion that we can stop a determined gambler from sending money to these offshore sites, but I think the vast majority of it, if it's made inconvenient by no longer making it available through the normal banking transactions that take place, much of it will be cut off.

I again thank the gentleman from Utah, and I urge my colleagues to support this substitute.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. GOODLATTE. I yield back.

Mr. CONYERS. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Michigan, Mr. Conyers.

Mr. CONYERS. I am sorry to rise to oppose the amendment, but it's the same reason that we have reservations in the underlying text of the base bill. It fails to close the numerous exemptions which would allow gamblers to continue to cast bets on such activities as horse racing and State lotteries.

Moreover, with regard to such activities, it fails to include the necessary safeguards to protect against underage gambling and concerns regarding money laundering.

This substitute fails to address the concerns of countless local bankers who've testified before this Committee and pointed out that the underlying bill proposes to establish a complex regulatory system virtually impossible to comply with. It won't work. This latter concern has been echoed by members of the Chamber of Commerce, and ultimately proponents of a ban on Internet gambling simply can't have it both ways, as section 5 attempts to accomplish.

I'll read the section to you: "It is the sense of Congress that this act does not change which activities related to horse racing may or may not be allowed under Federal law." So if the goal of the underlying bill and the amendment before us to prohibit online gambling, then why would both bills continue to allow betting on horse racing? Well, we know, thanks to a recent Baltimore Sun article, that the horse racing industry intends to use this exemption to encourage youth to bet on the sport. And so until these issues are adequately addressed, I encourage my colleagues to oppose the amendment, the substitute before us, and I return my time.

[The prepared statement of Mr. Conyers follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND RANKING MEMBER, COMMITTEE ON THE JUDICIARY

I'm opposed to this amendment for the same reasons that I oppose the underlying text of the base bill.

Namely, it fails to close the numerous exemptions which would allow gamblers to continue to cast bets on such activities as horseracing and state lotteries. Moreover, with regard to such activities, it fails to include the necessary safeguards to protect against underage gambling and concerns regarding money laundering.

The manager's amendment also fails to address the concerns of countless local bankers who have testified before this Committee and pointed out that the underlying bill proposes to establish a complex regulatory system that is virtually impossible to comply with. This latter concern has been echoed by members of the Chamber of Commerce.

Ultimately, proponents of a ban on internet gambling simply can't have it both ways, as section 5 attempts to accomplish. That section, in relevant part, reads: "It is the sense of Congress that this Act does not change which activities related to horse racing MAY or MAY NOT be allowed under federal law."

If, as the sponsors contend, the goal of the underlying bill and the manager's amendment before us is to prohibit online gambling, then why would both bills continue to allow betting on horse racing? We know, thanks to a recent article printed in the Baltimore Sun, that the horse racing industry intends to use this exemption to encourage youth to bet on their sport.

Until these issues are adequately addressed, I strongly encourage my colleagues to oppose this amendment and the underlying bill.

Chairman SENSENBRENNER. Are there any second-degree amendments to the amendment in the nature of a substitute offered by Mr. Goodlatte?

Mr. CANNON. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Utah, Mr. Cannon.

Mr. CANNON. I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the second-degree amendment.

The CLERK. Amendment to H.R. 4777, offered by Mr. Cannon of Utah and Mr. Goodlatte of Virginia. At the end the following: Rule

of Construction. Nothing in this act may be construed to preempt State tax law prohibiting gambling.

[The amendment follows:]

AMENDMENT TO H.R. 4777

OFFERED BY MR. CANNON OF UTAH AND MR. GOODLATTE OF VIRGINIA

Add at the end the following:

RULE OF CONSTRUCTION

SEC. ____. Nothing in this act may be construed to preempt State law prohibiting gambling.

Chairman SENSENBRENNER. The gentleman from Utah is recognized for 5 minutes.

Mr. CANNON. Mr. Chairman, this amendment is a reaffirmation that this legislation in no way preempts States' rights as it relates to the State's decision on prohibiting gambling. Over the years, I have consistently worked to make this bill work in the peculiar circumstances of the State of Utah, my home State. We don't have gambling. I have fought and won amendments on this Committee with the support of the Chair to strike out provisions that have been referred to as "carveouts."

One particular carveout related to the Interstate Horse Racing Act. In 1978, Congress passed the Interstate Horse Racing Act, which is what originally allowed off-track betting facilities to take bets on horse races in other States. Obviously, the statute was written long before the advent of the Internet. Over the years, the Department of Justice and the horse racing industry have been at loggerheads on whether betting over the Internet would constitute a violation of the Wire Act and contribute to a proliferation of Internet gambling. It was my concern that previous versions of the legislation pronounced horse racing as the winner in this debate. If previous versions had become law, it was my concern that the law would regulate the Internet so that certain forms of gambling would be legalized, especially in Utah.

More particularly, it was my apprehension, which was shared by the Department of Justice, that individuals, especially the people of Utah, could bet from their living rooms or, worse, a child could bet from his bedroom. I couldn't let Federal law allow that.

In the intervening time from the Subcommittee mark to today's full Committee mark, we have reached accommodation with the Department of Justice and with the author of this legislation to make sure this legislation prevents this type of activity. We have accomplished that in two ways. First, the horse racing carveout language has been removed. It is not an amendment to the Wire Act. If the horse racing language remained in that section, it would have made it a peculiar—a particular exception to the law that could have affected the right of States to prohibit gambling.

Although I am happy with this change, I still have concerns about some of the language in the bill. So Mr. Goodlatte and I have worked out further protections to maintain the rights of States to determine what is permissible within their borders. That is the reason for the amendment that I have offered and which Mr. Goodlatte has supported with me. That preserves the rights of States and that nothing in this act will interfere with the State law that prohibits gambling. This amendment will help shut the door on any ambiguity and rightfully reaffirm Utah's and any other State's right to determine what is permissible on this crucial issue.

After years of working on this issue, it appears the dust has settled and we have finally reached an accommodation that even recently was not conceivable, and I'd like to thank Mr. Goodlatte, who's worked extraordinarily hard with a broad array of people to get to a point where we can actually move a bill that is very sensible. I also want to thank Branden Ritchie of his staff, Will Michel of the Department of Justice, who spent a great deal of time and effort on this, and his staff, and my staff, especially Matt Iandoli, who has worked diligently on this. And I want to thank all of them

for helping to develop a position that is workable on this issue, and I yield back the balance of my time——

Mr. GOODLATTE. Would the gentleman yield?

Mr. CANNON. Yes, I'd be happy to yield to Mr. Goodlatte.

Mr. GOODLATTE. I thank the gentleman for yielding and for his comments, and I strongly support his amendment, which is an improvement to the bill, and urge my colleagues to support it as well.

Mr. CANNON. Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. The question is on agreeing to the second-degree amendment to the amendment in the nature of a substitute offered by Mr. Cannon. Those in favor will say aye? Opposed, no?

The ayes appear to have it. The ayes have it. The second-degree amendment is agreed to.

Are there further second-degree amendments?

Mr. WEXLER. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Florida seek recognition?

Mr. WEXLER. To offer an amendment, Mr. Chairman.

Chairman SENSENBRENNER. The clerk will report the amendment.

Mr. WEXLER. I think it's the amendment labeled Wexler 26.

The CLERK. Amendment to H.R. 4777, offered by Mr. Wexler of Florida. Page 14, after line 3, insert the following: Section (h) Nothing in this section prohibits the use of a communications facility for the transmission of bets or wagers——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 4777

OFFERED BY MR. WEXLER OF FLORIDA

Page 14, after line 3, insert the following:

1 "(h) Nothing in this section prohibits the use of a
2 communications facility for the transmission of bets or wa-
3 gers or information assisting in the placing of bets or wa-
4 gers, if such bets or wagers—
5 "(1) are made in relation to an event described
6 in section 3704(a)(4) of title 28; and
7 "(2) are expressly authorized, and licensed or
8 regulated by the State in which such bet or wager
9 is received.

Redesignate succeeding subsections and all cross references accordingly.

Chairman SENSENBRENNER. The gentleman from Florida is recognized for 5 minutes.

Mr. WEXLER. Thank you, Mr. Chairman.

If I could try to sum this up—and we've had this discussion and debate in this Committee in the past. If this bill were only about regulating offshore gambling via the Internet, there would be no controversy. At least there'd be no controversy with me.

We are not doing that in this bill alone. We are doing more than that. And if I could sum up the positions as they have been expressed in the past and in effect are being expressed today, Mr. Cannon in effect in the past has said he's against any expansion of gambling—no ifs, no ands, no buts—and as a result in the past offered amendments which would have stripped from the bill any opportunity for any of the industries to argue that there was an opportunity to expand gambling on the Internet.

I took the position that I'm not really for expanding gambling on the Internet, and I'm not against it. But if you're going to allow it or you're going to prohibit—you know, don't allow it, do it evenly. Don't pick and choose between lawful businesses. If you're going to allow parimutuels that are allowed under State law like horses to do it, then allow dog tracks and jai-alai to do it if they, too, are permitted under State law. If you're not going to allow horses, don't allow dogs, don't allow jai-alai.

But this Congress should not be in the business, in my view, of picking between lawful businesses and saying, okay, a State may authorize jai-alai, horses, and dogs, but we, the great mighty Congress, we're only going to say horses alone can do gambling on the Internet.

So I offered amendments that said treat them all even. That's what this amendment is.

Now, Mr. Goodlatte, in fairness, what he usually says and what I imagine he will say next is, No, Wexler, you got it all wrong, that his bill doesn't allow horses to gamble over the Internet because—— [Laughter.]

People to bet on horses. [Laughter.]

But if you allowed horses, you should allow dogs. What Mr. Goodlatte will say is, no, horses are regulated under an entirely different statute and, therefore, we really don't say that in this bill. It just so happens we incorporate that statute into this bill.

Now, with all due respect, let's forget the legality. The bottom line is here. We've got legal parimutuel industries in America. You can be for them, you can be against them. That's the way it stands. In Utah, I believe they don't allow them. In Florida, they do, under strict regulation. What this amendment simply says, if—whatever rules you've got for horse tracks, you have them for dog tracks, you have them for jai-alai. It's fairness. It would be absolutely absurd for this Committee to pick between legal, law-abiding, tax-paying businesses and saying, one, you're okay, one, you're not. That is an absurd result.

Thank you, Mr. Chair—oh, and if I may just add one thing. This isn't partisan. And the colleagues on this side, please don't be persuaded by the offeror of the amendment. In the past—— [Laughter.]

In the past, Mr. Chairman, Chairman Sensenbrenner has supported an identical amendment. Mr. Hyde has supported an iden-

tical amendment. Mr. Coble has supported an identical amendment. Many of the newer Members have not had an opportunity yet to voice their view on this. Of course, I don't speak for anyone else, but I wouldn't want anyone to have the impression that there was anything partisan about this. There is not.

Mr. GOODLATTE. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Virginia, Mr. Goodlatte, seek recognition?

Mr. GOODLATTE. To speak in opposition to the amendment.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Wexler, you are wrong. [Laughter.]

I oppose this amendment, and we have worked through this, and we've had discussions about this. In fact, in my original bill, offered many years ago, we included a carveout for dogs and jai-alai, and that was indeed a carveout. But the difference is your amendment offered today is to a very different bill, and the amendment would create the first carveout in this bill.

This amendment seeks to create a specific exception in the bill for dog racing and would create the first carveout in the bill. The author argues that this legislation created a carveout for horse racing, but that is simply not the case. H.R. 4777 does not have a carveout for horse racing. Horse racing is unique because almost 30 years ago Congress passed the Interstate Horse Racing Act. There is no Interstate Dog Racing Act. If the gentleman wants to go and get such a thing passed, he would have the same argument the horse racing industry has, but he would also have the same problem the horse racing industry has, which is that the United States Department of Justice disagrees that the Interstate Horse Racing Act allows the horse racing industry to do what they're doing.

We have very carefully stayed out of that debate because this legislation is about dealing with offshore gambling, and it is about protecting the rights of the States to regulate gambling. That dispute should be kept out of this debate and handled separately. While the Interstate Horse Racing Act addresses these activities, there is an ongoing dispute with the Justice Department and the horse racing industry as to whether these activities would be prohibited under certain other Federal statutes. H.R. 4777 and the language that Mr. Cannon and I have offered does not in any way alter the ongoing debate on that, but it does make it perfectly clear that this legislation in no way enhances the horse racing industry. And, therefore, it would be absolutely inappropriate to the purpose of this legislation to accept an amendment that does alter the status of the dog racing industry by putting them ahead of everybody else. And there are many other gambling enterprises who would like to have that same type of a carveout. We are being as strong as we have ever been—in fact, Mr. Cannon would certainly argue much stronger—in making absolutely sure that this legislation does not have carveouts and does not get into the issue of whether or not the States or the Federal Government should legalize any particular type of gambling enterprise. This is about strengthening law enforcement by modernizing the Wire Act and about making sure that it is more difficult to send this money out of this country. So whether you like gambling or not, there are many reasons to support this bill and many reasons to oppose the amendment.

I oppose gambling because I think it causes many, many problems in our society, family problems, problems with bankruptcy, problems with minors gambling, problems with gambling addiction, problems with organized crime, problems with money laundering, problems with even the possibility of terrorist organizations using these offshore sites which are in many countries receiving almost no oversight, using them to raise money for terrorist organizations and other types of criminal activities. This legislation goes after that problem. Let's not get sidetracked on carveouts.

I urge my colleagues to oppose the amendment and yield back.

Chairman SENSENBRENNER. For what purpose does the gentleman from California, Mr. Schiff, seek recognition?

Mr. SCHIFF. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCHIFF. Mr. Chairman, I don't have a horse in this race, and I don't have a dog in this race, either. [Laughter.]

I don't have a dog in this fight, and I certainly don't have any jai-alai, so I will yield my time to the gentleman from Florida.

Mr. WEXLER. Thank you very much.

Mr. Goodlatte, I wish it were so. Everyone, please, on the bill turn to page 16. "Rule of Construction," at the top. "Nothing in this act may be construed to prohibit any activity that is allowed under Public Law 95–515 as amended." That's the law that allows horse track betting.

Mr. GOODLATTE. Would the gentleman yield?

Mr. WEXLER. Sure.

Mr. GOODLATTE. The United States Department of Justice doesn't agree with that. It simply says we're not overturning that law, whatever that law means.

Mr. WEXLER. If we were only doing what you wanted to do regarding law enforcement, there'd be no reason for this provision. Let's at least get it straight. For the purists who do not want gambling, you shouldn't vote for this bill because you are, in fact, giving horse track betting a better opportunity to argue that Internet gambling is okay.

Now, I'm all for that, but don't delude yourselves if you're against gambling to think that you somehow are not adding to gambling opportunities. If you took out this section, I guess I'd be all right because horses—horse tracks couldn't gamble, dog tracks couldn't gamble, jai-alai couldn't. But if you've got this section in, horses are treated better than dogs or jai-alai——

Mr. CANNON. Would the gentleman from California yield?

Mr. SCHIFF. Yes. I can tell this debate is going to the dogs, and I'd be delighted to yield——

Mr. CANNON. As long as I have the time, let us throw the bone to the dogs at the Justice Department and look at the letter that has been sent, I think today, to Mr. Sensenbrenner from the—everybody has a copy now, and I think that the argument of the gentleman was persuasive historically. But the fundamental changes—one of the fundamental changes to the bill today is that it is actually clearly neutral and does not change either to make it more difficult to bet on horse racing or less difficult. And that I think is what has been clarified with great effort and through the hearings that we've had on this subject matter.

Thank you, and I yield back to the——

Mr. WEXLER. May I ask a question?

Mr. SCHIFF. Reclaiming my time——

Mr. WEXLER. Why do we——

Mr. SCHIFF.—and yielding it to the gentleman with the argument of the horse——

Mr. WEXLER. If it's so clear, why do we need to make it clearer with the Rule of Construction? The Rule of Construction here is designed for one purpose only. Let's at least be honest. It's to protect the horse tracks from betting on the Internet. I'm willing to say yes, let them do it, and I'm willing to support the bill with this in it. But don't argue, respectfully, that we're somehow being neutral, when we're not. If you pass this bill with this Rule of Construction in it, you're saying horse tracks, you go ahead and gamble away on the Internet, and you've got an extraordinary competitive advantage over your legal competitors, and let the States do that, let the people who regulate it do it, if that's what they're going to do. But why in God's name would we do it?

Mr. GOODLATTE. Would the gentleman from California yield?

Mr. SCHIFF. Yes, I'd be delighted to yield.

Mr. GOODLATTE. I would just call again the attention of every Member to the letter from the Justice Department. They have strongly and publicly disputed what the gentleman says about whether the horse racing industry can do what they claim to be able to do under the Interstate Horse Racing Act. That's a separate Federal statute. As I've said earlier, the gentleman can offer an Interstate Dog Racing Act as a separate measure if he wishes to. But in this legislation, the gentleman is barking up the wrong tree. [Laughter.]

Mr. SCHIFF. On that, I reclaim my time and——

Mr. SMITH. Mr. Chairman?

Mr. SCHIFF. As I'm all out of puns, I yield back my time.

Mr. SMITH. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentleman from Texas, Mr. Smith, seek——

Mr. SMITH. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SMITH. Mr. Chairman, I oppose this amendment, and I support the underlying bill, as I have in the past.

Mr. Chairman, let me change the subject a little and also lower the decibel level. I know that organized gambling does not like this bill, but this legislation protects families and upholds the rule of law. The fact is that any gambling not currently regulated by the States is illegal in this country. But the Internet has given anyone who knows how to use a computer, including children, access to unlimited gambling.

Unfortunately, illegal gambling businesses are rarely prosecuted. These 24-hour-a-day businesses hook children and adults and can lead to addiction, criminal behavior, financial troubles, and worse. These Internet gambling sites establish themselves offshore so they are not subject to U.S. laws. But what they do impacts every American.

Also, officials from the FBI recently testified that Internet gambling serves as a vehicle for money-laundering activities by terror-

ists. The Internet Gambling Prohibition Act simply updates current law to make sure that all methods of gambling, even those done using the latest and ever-changing technologies, are covered under the established law known as the Wire Act. The bill marginalizes organized gambling by banning those businesses from taking checks, wire transfers, and credit cards in payment for illegal gambling.

Mr. Chairman, I'd like to thank Mr. Goodlatte for offering this legislation, and I urge my colleagues to oppose the amendment and support the underlying bill. And I'll yield back my——

Ms. JACKSON LEE. Mr. Chairman? Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentlewoman from Texas seek recognition?

Ms. JACKSON LEE. Strike the last word.

Chairman SENSENBRENNER. The gentlewoman's recognized for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, let me commend the gentleman from Virginia for the effort that he is making and the issues that he is attempting to address with this legislation, and as he well knows, I had originally had great interest in it for its value as it relates to children and gambling. But I rise to support the gentleman's amendment from Florida and express at the same time this degree of unreadiness. The very fact that we're debating the confusion that seems to exist in the bill, whether one aspect of gambling is acceptable and one is not, says to me that there is additional work to be done.

Particularly, I know that this bill attempts to clarify the Wire Act and to prohibit not only sports betting but traditional gambling such as online poker. But my concern is whether the factual record regarding the need for amending the Wire Act has not been demonstrated and, more important, we do not have the benefit of the views of senior prosecutors in the Department of Justice. As I recall, unless there was an additional witness, the witness that came was not a Presidential appointee and he was not authorized to speak for the Administration. There may be subsequent letters, but I do think there is a great need for additional work so that the discriminatory aspect of this bill does not go forward. And so I see a lack of legislative-executive coming together on this bill.

My second concern is, of course—is that the carveout that I see in H.R. 4777 on horse racing will place the United States at risk of being found in violation of trade laws by the World Trade Organization. The bill as written can arguably be characterized as disadvantaging European and Australian-based Internet gambling companies who would be excluded from the American market.

And then I am concerned about the involvement of our community independent banks. When we heard from the Vice President of First State Bank testified with great knowledge and conviction that financial institutions especially relatively small ones, like the ones he represents, to identify, monitor, and track Internet gambling transactions of its account holders would be a very difficult concept. And he informed the Subcommittee that financial institutions simply did not possess the sophisticated detection technology that could be made—that could make it conceivable to identify problematic accounts.

Now, since the risks of violation of H.R. 4777 is great, it carries penal sanctions, it does not appear wise or prudent at this time to burden small financial institutions.

Now, I am moved by the proponents of this bill's comments as it relates to terrorism, and anytime we hear that word in this Congress, we are bound by our duty to stand alert. If that is the case, I would seek the jurisdiction of the Homeland Security Committee to investigate potential terrorist activities and Internet gambling connections to terrorism and money laundering, particularly as it relates to terrorism, and I certainly welcome the expressions of the proponents of this bill to raise that issue in the Homeland Security Committee, as they are raising it in this Committee with respect to its jurisdiction on crime and terrorism.

But in that vein, then, I think that again, although this bill has come up again, there is a sense of unreadiness and possibly needing additional work as we make our way to the floor.

I conclude by simply saying we should all be concerned about children accessing the Internet and accessing this gambling process. And I would like to work along those lines for some comfort level that this is the direct focus of this legislation as opposed to the broad-based impact that it seems to have.

So I indicate to the gentleman that I hope that this will be clear as it makes its way to the floor, and I yield back my time.

Ms. WASSERMAN SCHULTZ. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentlewoman from Florida, Ms. Wasserman Schultz, seek recognition.

Ms. WASSERMAN SCHULTZ. I move to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, some people would agree—or would argue that we should just let sleeping dogs lie and not allow an exemption for dog racing. However, that dog just won't hunt.

I support this bill, and I'm a cosponsor of the Leach bill, as a matter of fact, but we should be consistent in our application of policy. It's a dog-eat-dog world, Mr. Chairman, particularly in the parimutuel industry. Therefore, I must associate myself with the gentleman from Florida's remarks and urge my colleagues to support this amendment and support a level playing field when it comes to Internet gambling and the parimutuel industry as that is the only fair approach to this whole issue in this dog-eat-dog world, or this whole issue will go to the dogs. And I yield back the balance of my time.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentleman from Florida, Mr. Wexler. All those in favor of the amendment will please say "woof." [Laughter.]

Those opposed, say no.

The "woofs" appear to be defeated, and the noes have it.

Mr. WEXLER. Recorded vote.

Chairman SENSENBRENNER. A recorded vote is ordered. Those in favor of the Wexler amendment will, as your names are called, answer aye, those opposed no, and the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Coble?

[No response.]
The CLERK. Mr. Smith?
Mr. SMITH. No.
The CLERK. Mr. Smith, no. Mr. Gallegly?
Mr. GALLEGLY. No.
The CLERK. Mr. Gallegly, no. Mr. Goodlatte?
Mr. GOODLATTE. No.
The CLERK. Mr. Goodlatte, no. Mr. Chabot?
Mr. CHABOT. No.
The CLERK. Mr. Chabot, no. Mr. Lungren?
Mr. LUNGREN. No.
The CLERK. Mr. Lungren, no. Mr. Jenkins?
Mr. JENKINS. No.
The CLERK. Mr. Jenkins, no. Mr. Cannon?
Mr. CANNON. No.
The CLERK. Mr. Cannon, no. Mr. Bachus?
Mr. BACHUS. No.
The CLERK. Mr. Bachus, no. Mr. Inglis?
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. No.
The CLERK. Mr. Hostettler, no. Mr. Green?
Mr. GREEN. No.
The CLERK. Mr. Green, no. Mr. Keller?
Mr. KELLER. No.
The CLERK. Mr. Keller, no. Mr. Issa?
Mr. ISSA. No.
The CLERK. Mr. Issa, no. Mr. Flake?
[No response.]
The CLERK. Mr. Pence?
Mr. PENCE. No.
The CLERK. Mr. Pence, no. Mr. Forbes?
Mr. FORBES. No.
The CLERK. Mr. Forbes, no. Mr. King?
Mr. KING. No.
The CLERK. Mr. King, no. Mr. Feeney?
Mr. FEENEY. Yes.
The CLERK. Mr. Feeney, yes. Mr. Franks?
Mr. FRANKS. No.
The CLERK. Mr. Franks, no. Mr. Gohmert?
Mr. GOHMERT. No.
The CLERK. Mr. Gohmert, no. Mr. Conyers?
Mr. CONYERS. Aye.
The CLERK. Mr. Conyers, aye. Mr. Berman?
Mr. BERMAN. Aye.
The CLERK. Mr. Berman, aye. Mr. Boucher?
Mr. BOUCHER. No.
The CLERK. Mr. Boucher, no. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. Aye.
The CLERK. Mr. Scott, aye. Mr. Watt?
Mr. WATT. Woof. [Laughter.]
The CLERK. Mr. Watt, aye. Ms. Lofgren?
Ms. LOFGREN. Aye.

The CLERK. Ms. Lofgren, aye. Ms. Jackson Lee?
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee, aye. Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler, aye. Mr. Weiner?
Mr. WEINER. Aye.
The CLERK. Mr. Weiner, aye. Mr. Schiff?
Mr. SCHIFF. Aye.
The CLERK. Mr. Schiff, aye. Ms. Sánchez?
Ms. SÁNCHEZ. Aye.
The CLERK. Ms. Sánchez, aye. Mr. Van Hollen?
Mr. VAN HOLLEN. No.
The CLERK. Mr. Van Hollen, no. Ms. Wasserman Schultz?
Ms. WASSERMAN SCHULTZ. Aye.
The CLERK. Ms. Wasserman Schultz, aye. Mr. Chairman?
Chairman SENSENBRENNER. No.
The CLERK. Mr. Chairman, no.
Mr. COBLE. Mr. Chairman?
Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? The gentleman from North Carolina, Mr. Coble.
Mr. COBLE. If "woof" is aye, I vote aye.
The CLERK. Mr. Coble, aye.
Chairman SENSENBRENNER. The gentleman from South Carolina, Mr. Inglis?
Mr. INGLIS. No.
The CLERK. Mr. Inglis, no.
Chairman SENSENBRENNER. The gentleman from Massachusetts, Mr. Delahunt?
Mr. DELAHUNT. Woof.
The CLERK. Mr. Delahunt, aye.
Chairman SENSENBRENNER. Further Members who wish to cast or change their votes? If not, the clerk will report.
The CLERK. Mr. Chairman, there are 15 ayes and 21 nays.
Chairman SENSENBRENNER. And the amendment is not agreed to.
Are there further second-degree amendments to the amendment in the nature of a substitute?
Mr. WEXLER. Mr. Chairman?
Chairman SENSENBRENNER. The gentleman from Florida, Mr. Wexler.
Mr. WEXLER. I have one other amendment, please.
Chairman SENSENBRENNER. The clerk will report the amendment.
The CLERK. Amendment to the Goodlatte amendment in the nature of a substitute to H.R. 4777, offered by Mr. Wexler of Florida. Beginning on page 11, strike line 6 and all that follows through line——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 4777

OFFERED BY MR. WEXLER OF FLORIDA

Beginning on page 11, strike line 6 and all that follows through line 25 on page 12.

Strike sections 5 and 6.

Chairman SENSENBRENNER. The gentleman from Florida is recognized for 5 minutes.

Mr. WEXLER. Thank you, Mr. Chairman.

This amendment is, in effect, the identical amendment that Mr. Cannon in the past had filed. I will not repeat the arguments of the past debate. I will simply point out what, in effect, this amendment would do.

This amendment would strike sections 5 and 6, which is page 16, the last page of the bill. In effect, if this amendment were adopted, we would do exactly what Mr. Goodlatte said we're out to do: send the Senate a clean bill that does all the proper law enforcement objectives that Mr. Goodlatte outlined. What we won't do is protect a certain industry.

If things were exactly as Mr. Goodlatte argued they were, why do we need not only section 5, which says this tough law enforcement bill that we're about to pass shouldn't be construed to prohibit any behavior that's allowed under another statute, and number 6, which is the sense of Congress, simply says even though we just passed a great law enforcement bill and we're going after all these offshore online gambling guys, we don't want anyone to think that Congress wishes to change activities already related to horse racing, which may or may not be allowed under Federal law?

Well, nobody, I don't think, here reasonably believes that this bill is going to shut down Yonkers Race Track, do we? Do we think we're shutting down horse track betting in the United States of America? Of course we're not. What might we be doing if numbers 5—section 5 and 6 weren't in this bill? We might truly be limiting online gambling. What a thought.

Let's at least be honest. Let's at least be pure. Either shut it all down or let all the legal businesses do it. I would prefer to let all the legal businesses do it, but I lost that vote. So having lost that vote, now I'm simply offering what Mr. Cannon in the past has offered, which is don't even give anybody the opportunity to make the argument that horses somehow fall under an exemption be-

cause we passed this bill so many years ago before the Internet was even around. If you're against expansion for gambling, you must vote for this amendment. If you are not against necessarily the expansion of gambling but think that if it is going to be permitted, it should be permitted in an equitable way, you should be for this amendment, too.

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. GOODLATTE. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Chairman, I strongly oppose this amendment. This amendment would infringe on the State's rights and is the proverbial poison pill of this bill, regardless of the intentions of the gentleman from Florida in offering it. Forty-nine of 50 States Attorney General have come out in support of a ban on Internet gambling. This amendment restricts the rights of the States to continue to permit certain types of gambling within their borders and threatens to derail the bill by removing State support for the bill. States have always had the right to allow or prohibit gambling activities within their borders. This legislation continues to ensure that States have that right while imposing strict safeguards to ensure that the activity stays within State borders and does not extend to other States.

These safeguards include requiring that the bettor, the gambling business, any facility processing bets and wagers, and any support service all be physically located within the authorizing State and that age and residency requirements are effective and in place. Furthermore, it ensures that a State explicitly authorizes each type of gambling activity and the gambling business and facilities and support services processing the bets or wagers.

As an additional protection, H.R. 4777 gives new authority to the Federal, State, local, and tribal law enforcement to enforce the provisions of this bill to ensure that States comply with the intrastate safeguards established in the bill and that the law is enforced to the greatest extent possible.

For example, if the Virginia lottery were to cross State lines and communicate information assisting in the placing of bets or wagers to citizens in North Carolina, then North Carolina's Attorney General could obtain injunctive relief to prevent such activities and would have the incentive to do so. This amendment would eliminate all of these explicit protections in H.R. 4777 which ensure that legal gambling stays within the State that provided for it.

In addition, the gentleman again raises the horse racing industry. This bill does not have a carveout for horse racing. Horse racing is unique because for almost 30 years Congress has passed the Interstate Horse Racing Act, which provides rules for horse racing-related betting across State lines, in States where that conduct is legal.

While that act addresses those activities, there is, as I said before, an ongoing dispute with the Department of Justice and the horse racing industry as to whether these activities would be pro-

hibited by certain other Federal statutes. All of the language that Mr. Cannon and I have put in the bill at the request of the United States Department of Justice is being struck by the gentleman from Florida in this amendment. H.R. 4777 does not alter this ongoing debate one way or the other. The bill recognizes that the act is in existence without taking any sides in the dispute between the Department of Justice and the horse racing industry. This amendment clearly is nothing more than a poison pill to kill the legislation.

For the past two Congresses, this amendment or one very similar was narrowly adopted by the Committee. After this amendment was adopted in both the previous Congresses, the legislation was stopped dead in its tracks and progressed no further than the Committee. Had this legislation passed in the 107th Congress, we would not be here talking about all the ills of Internet gambling once again. We would not have seen the industry quadruple. In fact, Internet gambling has exploded in volume since then. This is the poison pill that was promoted by Jack Abramoff 5 years ago. Don't support it today.

Mr. CANNON. Would the gentleman yield? The gentleman from Virginia yield? Mr. Goodlatte, would you yield?

Mr. GOODLATTE. I yield to the gentleman.

Mr. CANNON. Thank you. Listen, unfortunately, the gentleman just mentioned by the gentleman from Virginia had some involvement in this issue sometime before. I don't think that was the—what was happening, and as the gentleman from Florida had just suggested, I was deeply involved in this issue in the past, and I would just suggest to the gentleman from Florida, if you wish to introduce a bill to eliminate horse racing in America, I will be your prime cosponsor. So if you'd just let me know about that, we'll try and take care of your concerns in a way that is direct instead of a way that would impede the advance of this bill that would constrain and control gambling on the Internet.

Thank you, Mr. Goodlatte.

Mr. GOODLATTE. Reclaiming my time, let me just say to the gentleman from Utah, I very much appreciate those comments, and as we have noted before, this is a new bill and a new day, and those who have expressed concerns in the past that are legitimate have been addressed. This undoes all the concerns that the gentleman from Utah worked to accomplish in the bill.

Mr. CANNON. That's exactly the case, and I yield back.

Chairman SENSENBRENNER. Does the gentleman from Virginia yield back?

Mr. GOODLATTE. Sorry, Mr. Chairman. Yes, I yield back.

Chairman SENSENBRENNER. For what purpose does the gentleman from California, Mr. Schiff, seek recognition?

Mr. SCHIFF. Mr. Chairman, move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCHIFF. Mr. Chairman, I think we're at risk of beating a dead horse here, so I'm going to yield to the gentleman from Florida if he promises not to take the full 5 minutes.

Mr. WEXLER. Forty-five seconds. Section 5 and section 6 of this bill do nothing other than relate to the horse racing industry. If we were not seeking to protect the horse racing industry in this bill,

there'd be no reason for section 5 and section 6. All this amendment does is strike them. You've got all your law enforcement provisions left in there. It just takes out the protection for a certain industry.

That's it. I'm done.

Mr. SCHIFF. Mr. Chairman, I yield back.

Chairman SENSENBRENNER. Thank you.

The question is on agreeing to the Wexler amendment in the second degree to the amendment in the nature of a substitute offered by the gentleman from Virginia, Mr. Goodlatte. Those in favor will say aye? Opposed, no?

The noes appear to have it. The noes have it. The amendment is not agreed to.

Are there further amendments?

Mr. CONYERS. Mr. Chairman, I have an amendment at——

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to the Manager's Amendment to H.R. 4777, offered by Mr. Conyers. On page 16, line 4——

Mr. CONYERS. Mr. Chairman, I ask unanimous consent the amendment be considered as read.

Chairman SENSENBRENNER. Without objection, so ordered.

[The amendment follows:]

Amendment to

the Manager's Amendment to HR 4777

Offered by Mr. Conyers

On page 16, line 4, strike the period and insert the following:

"where such wager is subject to a secure and effective customer identity verification system to assure compliance residence requirements, is subject to a secure and effective customer age verification system to assure compliance with age requirements and is placed from a state that has explicitly authorized the placement of such wagers and accepted in a state which has explicitly authorized the acceptance of such wagers."

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. CONYERS. Ladies and gentlemen of the Committee, this is a straightforward amendment that makes sure underage kids cannot gamble on the Internet, whether it is interstate or intrastate. This is something that I hope all Members can agree on on a bipartisan basis. To me, children being taken advantage of on the Internet is one of the most important things that we can do as a Committee to prevent. They should not be taken advantage of whether it's with regard to gambling, pornography, or in any other respect. Children should be off limits to predators of any form on the Internet.

The problem is, as currently drafted, the bill has a loophole. Intrastate bets have protections for children, and ironically, interstate bets, which is squarely within our congressional jurisdiction, are left out. My concerns are not hypothetical. The Baltimore Sun just ran an article where the horse racing industry admitted that they hoped to prosper by reaching out to underage children, and I'd like to ask unanimous consent to enter this article into the record.

Mr. SMITH. [Presiding.] Without objection, the article will be a part of the record.

[The article follows:]

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From the Baltimore Sun

Horse racing is betting on Internet wagering

Md. industry chief De Francis says it could attract youth

By Bill Ordine
Sun reporter

May 15, 2006

Horse racing's problem is obvious: a decades-long slump in attendance and wagering at the track.

Horse racing's solution might be less obvious: Get people to stay home -- and bet.

In a seemingly paradoxical and counterintuitive turn, online technology, which would appear to discourage going to the races, is being viewed as a potential life-saver for a sport on life support.

"Over the 25 years I've been in this industry, not one day has gone by when I haven't heard people complaining that our customer base is getting older and we can't attract young people," said Joseph A. De Francis, chief executive officer of the Maryland Jockey Club and executive vice president for operations of interactive betting channels for parent Magna Entertainment Corp. "And this gives us an opportunity to expand into the youth market unlike any we've ever had before."

When the 131st Preakness Stakes is run Saturday at Pimlico Race Course in Baltimore, advanced-deposit wagering -- the broader category of which online betting forms the greatest share -- is expected to make up a growing portion of the bottom line. So-called ADW handle, meaning the money wagered, comes from bettors using telephones and other interactive devices as well as computers.

Last year, ADW handle accounted for $39 million, or nearly 8 percent of the total for racing at Pimlico and Laurel Park, according to the Maryland Jockey Club, which runs the tracks. Nationally, of the $14.6 billion wagered on horse racing in 2005, approximately 88 percent was off-track, and ADW handle was about $1.16 billion, according to data published by the Oregon Racing Commission.

During this year's Kentucky Derby Day, Youbet.com -- the largest provider of Internet racing content in the country -- processed nearly $5.6 million in wagers, a 34 percent increase over 2005.

Horse racing and online wagering officials say the near-term consequence of online betting is an increase in the racing industry's overall handle. But just as important, they contend, is that in the long run, people who are introduced to horse racing via the computer will be enticed to see the real thing more often.

Racing hopes to follow the lead of poker, where card-playing Web sites, along with televised tournaments, inspired a rejuvenation of poker playing at brick-and-mortar casinos.

"If you find a shoe that fits -- steal it," said Youbet.com CEO Chuck Champion. A publicly traded company based in California, Youbet.com handled about $395 million in wagers last year, according to the company's annual report. Youbet.com's business plan calls for the company to retain 6 percent of the handle, and tens of millions of dollars were passed on to the racing industry last year.

Champion said a number of strategies employed by offshore gambling sites, which often include betting opportunities beyond horse racing, such as team sports and casino games, provide other lessons. One is to offer a nongambling version of a Web site (usually designated as a .net rather than a .com) to educate the public with tutorials and play-money games. Such Web sites also allow operators to get around federal bans on advertising for Internet gambling, especially on television.

Youbet.com has introduced such a .net version.

"Our sport is harder to understand than poker," Champion said, referring to the nuances of handicapping.

De Francis, who oversees Magna Entertainment's similar Web site, XpressBet, said people unfamiliar with poker usually would be too intimidated to play in a casino, but the online playing experience gives them the confidence to try the real thing.

"I've seen people come to the track -- you'll see them at the Preakness next Saturday -- and these are smart people, but they're not regulars, and they don't know what to do. They don't know what an exacta is, what across-the-board means, what a furlong is -- and they don't want to look foolish," De Francis said. "If they learn about these things online in their home, then we may have new fans."

Some are not convinced that online bettors will become regular railbirds.

Hall of Fame trainer D. Wayne Lukas, a spokesman for Youbet.com, is sold on the benefits of online wagering for his industry but wonders about its impact at the track.

"We thought simulcasting would help with attendance, and I'm not sure that happened," he said. But he said online wagering is a necessary adaptation.

"We always worry about handle, but there's also the issue of a fan base that we have to grow," he said. "I had always said that people relate to the horses. But now, the thing that young people relate to is the technology."

And technology is what drives online horse wagering. The most sophisticated Web sites offer a menu of entertainment and information choices. A Web visitor can view the racing charts for dozens of racetracks, watch the races -- both live and on replay -- and wager on the outcomes.

"As we head toward what technology people call convergence between the computer and the TV, what we have at the end of the line is a product that appears to be ideally tailored for horse racing," De Francis said. "Where someone goes online, and with a high-resolution LCD screen, can see the post

parade and get all the information needed to make an informed wager."

Still, there are obstacles posed by legal complexities at home and by illegal (in the United States) competitors offshore.

While the horse racing industry contends that federal legislation enacted in 1978 and amended in 2001 gives the green light to online wagering in states where it is legal, the Department of Justice holds that pre-existing statutes make the practice unlawful.

Last month, a Justice Department lawyer told a congressional subcommittee that the department is undertaking a civil investigation of a potential violation of law on interstate horse betting.

A department spokesman said there have been no prosecutions involving horse racing advanced deposit wagering operators.

Web sites also have varying approaches for individual states. For instance, Youbet.com will accept wagers from bettors who live in all but 11 states. TVG.com, owned by publicly traded Gemstar-TV Guide International, takes wagers from bettors in only 12 states. Both take bets from Maryland residents.

And there is formidable competition from offshore Internet sites that generally operate without U.S. legal constraints. One of the most popular, Bodog.com, which has a marketing partnership with Preakness-bound Brother Derek's racing team, reported in a news release a 100 percent year-over-year growth in betting volume for the Kentucky Derby without being specific about the figures.

De Francis concedes that offshore Web sites are "killing" the onshore competition because they offer rebates, give bettors the chance to gamble on other sports and extend credit. And little of the millions made offshore finds its way to the racing industry.

Still, he considers regulated online wagering important for horse racing.

"It's really the future," De Francis said. "When you look at the [wagering] numbers, you see us going from zero to something that's beginning to be significant. And if you plot that curve, there's no telling where the numbers will be in 10 years."

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Mr. CONYERS. In conclusion, to me this isn't right. We ought to make sure that this legislation, which is purportedly designed to limit Internet gambling, does not actually encourage it, especially for children. The last thing we should be doing as a Congress is putting children at risk on the Internet. My amendment would eliminate the loophole in the bill for interstate bets by children. I ask the Members of the Committee to join me in supporting this common-sense——

Ms. JACKSON LEE. Would the gentleman yield?

Mr. CONYERS. Of course.

Ms. JACKSON LEE. Let me say to the gentleman that that is the clearest pronouncement, if you will, of where I think all of us are trying to go, and I thank the gentleman for offering such an instructive and insightful amendment.

From MySpace to OurSpace, we know that children are on the Internet, and we also know that they're victims of the Internet. So I thank the gentleman for offering that amendment, and as we could cite any number of statistics, all we have to do is go to Missing and Exploited Children's website to know how children are victimized. It's a very important amendment, and I thank the gentleman and——

Mr. CONYERS. I thank the gentlelady.

Ms. JACKSON LEE.—I hope that they will support it. I yield back.

Mr. CONYERS. I yield back my time.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Mr. Chairman, I speak in opposition to——

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. GOODLATTE. First of all, I commend the gentleman from Michigan for his effort to keep children from being able to gamble on the Internet. However, this is injecting itself once again into the issue of horse racing because this relates to the interpretation under the separate Federal statute, the Interstate Horse Racing Act, and I believe that the language in this amendment, which says that the State has explicitly authorized placing such wagers contradicts the actions of a number of States that have cooperated in that regard. And I think that this Committee should again stay out of this specific issue with regard to this measure and let that be resolved between the Department of Justice and those who have participated in this activity. The Department of Justice is satisfied with the language that they have in this legislation, protecting their right to take that action if they determine to do so, and I would, therefore, urge my colleague to oppose it.

Mr. CONYERS. Would the gentleman yield for a moment?

Mr. GOODLATTE. Yes.

Mr. CONYERS. Thank you. Today, only 17 States have expressly authorized the placement of advance deposit horse bets, including Internet bets. Yet one provider of Internet horse betting services, Youbet, takes bets from over 40 States, Mr. Goodlatte, despite having received cease-and-desist letters from the Attorneys General. And that's why I'm trying to make this very clear that it's not a carveout or it's not a penalty to anybody, but we've got to protect our kids better than we're doing right now.

Mr. GOODLATTE. I appreciate the gentleman's comments on that. I would just say that we have to let the Department of Justice do its job, and I think they have certainly, by their engagement on this issue, their testimony before this Committee, gotten that message. And so I appreciate the gentleman's effort to reinforce it, but I do not think that this legislation is the place to get into this issue.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. GOODLATTE. I do.

Chairman SENSENBRENNER. The question is on the Conyers amendment. Those in favor will say aye? Opposed, no?

The noes appear to have it——

Mr. CONYERS. A record vote is requested.

Chairman SENSENBRENNER. A rollcall is ordered. Those in favor of the Conyers amendment in the second degree to the amendment in the nature of a substitute offered by the gentleman from Virginia, Mr. Goodlatte, will as your names are called answer aye, those opposed no, and the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Coble?

[No response.]

The CLERK. Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith, no. Mr. Gallegly?

[No response.]

The CLERK. Mr. Goodlatte?

Mr. GOODLATTE. No.

The CLERK. Mr. Goodlatte, no. Mr. Chabot?

[No response.]

The CLERK. Mr. Lungren?

[No response.]

The CLERK. Mr. Jenkins?

Mr. JENKINS. No.

The CLERK. Mr. Jenkins, no. Mr. Cannon?

Mr. CANNON. No.

The CLERK. Mr. Cannon, no. Mr. Bachus?

[No response.]

The CLERK. Mr. Inglis?

Mr. INGLIS. No.

The CLERK. Mr. Inglis, no. Mr. Hostettler?

Mr. HOSTETTLER. No.

The CLERK. Mr. Hostettler, no. Mr. Green?

Mr. GREEN. Pass.

The CLERK. Mr. Green, pass. Mr. Keller?

Mr. KELLER. No.

The CLERK. Mr. Keller, no. Mr. Issa?

Mr. ISSA. Pass.

The CLERK. Mr. Issa, pass. Mr. Flake?

[No response.]

The CLERK. Mr. Pence?

Mr. PENCE. No.

The CLERK. Mr. Pence, no. Mr. Forbes?

Mr. FORBES. No.

The CLERK. Mr. Forbes, no. Mr. King?

Mr. KING. Pass.
The CLERK. Mr. King, pass. Mr. Feeney?
Mr. FEENEY. No.
The CLERK. Mr. Feeney, no. Mr. Franks?
[No response.]
The CLERK. Mr. Gohmert?
Mr. GOHMERT. Pass.
The CLERK. Mr. Gohmert, pass. Mr. Conyers?
Mr. CONYERS. Aye.
The CLERK. Mr. Conyers, aye. Mr. Berman?
Mr. BERMAN. Aye.
The CLERK. Mr. Berman, aye. Mr. Boucher?
Mr. BOUCHER. No.
The CLERK. Mr. Boucher, no. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. Aye.
The CLERK. Mr. Scott, aye. Mr. Watt?
Mr. WATT. Aye.
The CLERK. Mr. Watt, aye. Ms. Lofgren?
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren, aye. Ms. Jackson Lee?
[No response.]
The CLERK. Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
[No response.]
The CLERK. Mr. Wexler?
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler, aye. Mr. Weiner?
Mr. WEINER. Aye.
The CLERK. Mr. Weiner, aye. Mr. Schiff?
Mr. SCHIFF. Aye.
The CLERK. Mr. Schiff, aye. Ms. Sánchez?
Ms. SÁNCHEZ. Aye.
The CLERK. Ms. Sánchez, aye. Mr. Van Hollen?
Mr. VAN HOLLEN. Aye.
The CLERK. Mr. Van Hollen, aye. Ms. Wasserman Schultz?
Ms. WASSERMAN SCHULTZ. Aye.
The CLERK. Ms. Wasserman Schultz, aye. Mr. Chairman?
Chairman SENSENBRENNER. No.
The CLERK. Mr. Chairman, no.
Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? The gentleman from North Carolina, Mr. Coble.
Mr. COBLE. No.
The CLERK. Mr. Coble, no.
Chairman SENSENBRENNER. The gentleman from California, Mr. Issa.
Mr. ISSA. No.
The CLERK. Mr. Issa, no.
Chairman SENSENBRENNER. The gentleman from Wisconsin, Mr. Green.

Mr. GREEN. Aye.

The CLERK. Mr. Green, aye.

Chairman SENSENBRENNER. Further Members who wish to cast or—the gentleman from Massachusetts, Mr. Delahunt.

Mr. DELAHUNT. Aye.

The CLERK. Mr. Delahunt, aye.

Chairman SENSENBRENNER. The gentleman from Ohio, Mr. Chabot.

Mr. CHABOT. No.

The CLERK. Mr. Chabot, no.

Chairman SENSENBRENNER. The gentleman from Iowa, Mr. King.

Mr. KING. No.

The CLERK. Mr. King, no.

Chairman SENSENBRENNER. The gentleman from California, Mr. Lungren.

Mr. LUNGREN. No.

The CLERK. Mr. Lungren, no.

Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? If not, the clerk will report.

The CLERK. Mr. Chairman, there are 14 ayes, 17 nays, and two present.

Chairman SENSENBRENNER. And the amendment is not agreed to.

Are there further amendments? The gentleman from Virginia, Mr. Scott, for what purpose do you seek recognition?

Mr. SCOTT. Mr. Chairman, I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Mr. Chairman, if I could get the attention of my colleague from Virginia, Mr. Chairman, as my statement indicated, my opening statement indicated, I've been critical of the requirements imposed on the banking industry because my view is that those requirements are overburdensome and probably ineffective. Those same concerns were highlighted in a letter that was forwarded to the Committee from the Chamber of Commerce of the United States just yesterday. I had amendments to address some of these concerns, but it's my understanding, Mr. Chairman, that my colleague from Virginia, Mr. Goodlatte, has been working with the industry, and so I would inquire to him if it is his intention to continue working with the banking industry and business groups to try to address many of their concerns.

I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman from Virginia for yielding, and yes, indeed, we have been discussing and will continue to discuss with representatives of various aspects of the banking industry the most appropriate way to ensure that funds are not transferred to these offshore sites illegally taking bets from the United States, but not do so in a way that is disruptive to their businesses, particularly small banks.

As the gentleman may know, this legislation differs from the legislation offered in the Financial Services Committee, which is more of a regulatory approach. Ours is injunctive relief, and when a law enforcement entity seeks injunctive relief and goes to the court to ask them to require a bank to do certain things, there are many tests that the court applies. Two of those are the cost of compliance

and the ease with which it can be complied with. And so we believe that there are protections existing already, but we would be happy to work to see if additional ones can be achieved. And it is not set forth in the bill that any of the—some of the things that have been cited as things that banks would have to do, they're not contained in the bill. That is speculation. But we can work to try to ease those concerns.

Mr. SCOTT. Reclaiming my time, Mr. Chairman, I have another amendment. Could I yield back on this and then seek——

Chairman SENSENBRENNER. The gentleman yields back his time. For what purpose does the gentleman from Virginia seek recognition?

Mr. SCOTT. Mr. Chairman, I have an amendment at the desk.

Chairman SENSENBRENNER. The clerk will report the amendment.

The CLERK. Amendment to the Goodlatte amendment in the nature of a substitute to H.R. 4777, offered by Mr. Scott of Virginia. Page 15, line 16, strike close quotation mark and the period which——

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 4777

OFFERED BY MR. SCOTT OF VIRGINIA

keyed to manager's amendment

Page 15, line 16, strike close quotation mark and the period which follows.

Page 15, after line 16, insert the following:

1 ''(i) Whoever knowingly places a bet or wager with
2 a gambling business, using a communication facility in or
3 affecting interstate or foreign commerce, shall, if the
4 transmission in interstate or foreign commerce of that bet
5 or wager by such business would be unlawful under this
6 section, be fined under this title or imprisoned for not
7 more than 2 years, or both.''.

Chairman SENSENBRENNER. The gentleman from Virginia is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, this simply states that whoever knowingly places a bet or wager with a gambling business, using a communication facility in or affecting interstate or foreign commerce, shall, in the transmission—if the transmission is unlawful, they would be fined or imprisoned. This bill—this amendment addresses the fact that the bill does not prohibit Internet gambling, notwithstanding the title. It prohibits running the operation.

Now, if we're going to be effective in prosecuting illegal gambling over the Internet, we should prosecute individual gamblers. A few sting operations would get the word around that if you gamble over the Internet, you're at the mercy of law enforcement because you will leave a paper trail. So long as individuals can gamble over the Internet with impunity, a market will be provided for them, which the regulatory scheme in this bill will not stop. This amendment, Mr. Chairman, just simply conforms the substance of the bill to the bill title and addresses all of the concerns that have been expressed, such as those articulated by the gentleman from Texas, Mr. Smith, about the concerns of Internet gambling. This would prohibit gambling on the Internet, plain and simple.

I yield back.

Mr. GOODLATTE. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman's recognized for 5 minutes.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Mr. Chairman, I speak in opposition to this amendment. The current Wire Act targets entities engaged in a gambling enterprise. The gentleman correctly notes that this modernization of the Wire Act does the same thing. It does not target individual bettors. The legislation is meant to help prevent gambling businesses that may be legal in one State from circumventing the laws of others that prohibit gambling activities, and particularly offshore enterprises that are doing that.

Gambling laws have traditionally been left to the individual States to decide. Some States already have on the books to prohibit individuals from betting. In fact, most States do, unless it is within a regulated gambling enterprise. Other States have decided that individuals within their borders should be allowed to gamble.

Regulating an individual's conduct is a matter that should continue to be left to the States where enforcement is more likely and appropriate. When States have technical or jurisdictional problems enforcing these laws, then the Federal Government has come in to assist the States in their efforts. This legislation is another effort to do just that. The Internet presents a serious jurisdictional problem for enforcing State gambling laws. Thus, this legislation is needed to ensure that the legal intrastate gambling activity continues to stay wholly within the borders of the State that allows it.

In addition, this bill would help prevent offshore, fly-by-night gambling businesses from violating the laws of all States by mak-

ing clear that all technologies, not just the phone lines, are covered and that all forms of gambling, not just sports-related bets, are illegal under the Wire Act. This clarity is what the Department of Justice needs to bring prosecutions against these offshore operations and against those businesses within the United States that violate State prohibitions on gambling. We should not get involved in what has always historically been the province of the States in deciding whether or not the activities of individual bettors should be legal or illegal, and I urge my colleagues to oppose the amendment.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. GOODLATTE. I yield back.

Chairman SENSENBRENNER. The question is——

Mr. WATT. Mr. Chairman?

Chairman SENSENBRENNER. The gentleman from North Carolina, Mr. Watt, for what purpose do you seek recognition?

Mr. WATT. Move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. WATT. Mr. Chairman, I am going to vote against Mr. Scott's amendment, but I rise to speak because it does make the point that a number of people have been making. I think the proponents of this bill want to have their cake and eat it, too. And you can't do that. I mean, you either got to go with gambling or you got to leave it alone, in my opinion. So I just—I think Mr. Scott's amendment—I guess if I voted for it, it would be voting for something I don't support because I didn't like the bill that I don't support either. So I guess my best course of action is to vote against both of them and let it go at that.

And with that, I'll yield back the balance of my time, having told my good colleague from Virginia what I'm going to do on his bill and why—on his amendment. Thanks.

Chairman SENSENBRENNER. The question is on the amendment offered by the gentleman from Virginia, Mr. Scott, as a second-degree amendment to the amendment in the nature of a substitute offered by the gentleman from Virginia, Mr. Goodlatte. Those in favor will say aye.

Opposed, no.

The noes appear to have it. They have it and the amendment is not——

Mr. SCOTT. Recorded vote, please.

Chairman SENSENBRENNER. Recorded vote is ordered. Those in favor of the Scott amendment to the Goodlatte amendment, will, as your names are called, answer aye, those opposed no, and the clerk will call the roll.

The CLERK. Mr. Hyde?

[No response.]

The CLERK. Mr. Coble?

Mr. COBLE. No.

The CLERK. Mr. Coble, no. Mr. Smith?

Mr. SMITH. No.

The CLERK. Mr. Smith, no. Mr. Gallegly?

Mr. GALLEGLY. No.

The CLERK. Mr. Gallegly, no. Mr. Goodlatte?

Mr. GOODLATTE. No.

The CLERK. Mr. Goodlatte, no. Mr. Chabot?

Mr. CHABOT. No.
The CLERK. Mr. Chabot, no. Mr. Lungren?
Mr. LUNGREN. No.
The CLERK. Mr. Lungren, no. Mr. Jenkins?
Mr. JENKINS. No.
The CLERK. Mr. Jenkins, no. Mr. Cannon?
Mr. CANNON. No.
The CLERK. Mr. Cannon, no. Mr. Bachus?
Mr. BACHUS. No.
The CLERK. Mr. Bachus, no. Mr. Inglis?
[No response.]
The CLERK. Mr. Hostettler?
Mr. HOSTETTLER. No.
The CLERK. Mr. Hostettler, no. Mr. Green?
Mr. GREEN. Aye.
The CLERK. Mr. Green, aye. Mr. Keller?
Mr. KELLER. No.
The CLERK. Mr. Keller, no. Mr. Issa?
Mr. ISSA. No.
The CLERK. Mr. Issa, no. Mr. Flake?
[No response.]
The CLERK. Mr. Pence?
Mr. PENCE. No.
The CLERK. Mr. Pence, no. Mr. Forbes?
Mr. FORBES. No.
The CLERK. Mr. Forbes, no. Mr. King?
Mr. KING. No.
The CLERK. Mr. King, no. Mr. Feeney?
Mr. FEENEY. No.
The CLERK. Mr. Feeney, no. Mr. Franks?
Mr. FRANKS. No.
The CLERK. Mr. Franks, no. Mr. Gohmert?
[No response.]
The CLERK. Mr. Conyers?
Mr. CONYERS. Aye.
The CLERK. Mr. Conyers, aye. Mr. Berman?
Mr. BERMAN. Aye.
The CLERK. Mr. Berman, aye. Mr. Boucher?
Mr. BOUCHER. No.
The CLERK. Mr. Boucher, no. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. Aye.
The CLERK. Mr. Scott, aye. Mr. Watt?
Mr. WATT. No.
The CLERK. Mr. Watt, no. Ms. Lofgren?
[No response.]
The CLERK. Ms. Jackson Lee?
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee, no. Ms. Waters?
Ms. WATERS. No.
The CLERK. Ms. Waters, no. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
[No response.]

The CLERK. Mr. Wexler?
[No response.]
The CLERK. Mr. Weiner?
Mr. WEINER. Pass.
The CLERK. Mr. Weiner, pass. Mr. Schiff?
Mr. SCHIFF. Pass.
The CLERK. Mr. Schiff, pass. Ms. Sánchez?
Ms. SÁNCHEZ. Pass.
The CLERK. Ms. Sánchez, pass. Mr. Van Hollen?
Mr. VAN HOLLEN. No.
The CLERK. Mr. Van Hollen, no. Mrs. Wasserman Schultz?
Ms. WASSERMAN SCHULTZ. No.
The CLERK. Ms. Wasserman Schultz, no. Mr. Chairman?
Chairman SENSENBRENNER. No.
The CLERK. Mr. Chairman, no.
Chairman SENSENBRENNER. Further Members wish to cast or change their votes? Gentleman from South Carolina, Mr. Inglis?
Mr. INGLIS. No.
The CLERK. Mr. Inglis, no.
Chairman SENSENBRENNER. Gentleman from California, Mr. Schiff?
Mr. SCHIFF. No.
The CLERK. Mr. Schiff, no.
Chairman SENSENBRENNER. Gentlewoman from California, Ms. Lofgren?
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren, aye.
Chairman SENSENBRENNER. Further Members who wish to cast or change—gentleman from Florida, Mr. Wexler?
Mr. WEXLER. No.
The CLERK. Mr. Wexler, no.
Chairman SENSENBRENNER. Further Members who wish to cast or change their votes? Gentleman from Texas, Mr. Gohmert.
Mr. GOHMERT. Yes.
The CLERK. Mr. Gohmert, yes.
Chairman SENSENBRENNER. Gentleman from New York, Mr. Weiner?
Mr. WEINER. No.
The CLERK. Mr. Weiner, no.
Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? Gentlewoman from California, Ms. Sánchez?
Ms. SÁNCHEZ. No.
The CLERK. Ms. Sánchez, no.
Chairman SENSENBRENNER. Further Members who wish to cast or change their votes? If not, the clerk will—gentleman from Massachusetts, Mr. Delahunt?
Mr. DELAHUNT. No.
The CLERK. Mr. Delahunt, No.
Chairman SENSENBRENNER. The clerk will try again.
[Pause.]
The CLERK. Mr. Chairman, there are 6 ayes and 30 nays.
Chairman SENSENBRENNER. And the amendment is not agreed to. Are there further amendments to the amendment in the nature of a substitute? If not, the question occurs on agreeing to the Goodlatte——

Mr. KING. Mr. Chairman? Mr. Chairman, over here on your right.

Chairman SENSENBRENNER. Gentleman from Iowa, Mr. King.

Mr. KING. Thank you. I move to strike the last word.

Chairman SENSENBRENNER. The gentleman is recognized for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. I will be brief, but I wanted to bring up a point here.

And first I want to congratulate Mr. Goodlatte for his work on this, and I'm a proud cosponsor of this underlying bill. I speak in support of the substitute amendment and the underlying bill.

And I also speak at a point of clarification I think that needs to be emphasized, and that is that the prohibition for Internet online lottery sales is the prohibition that limits those requirements to being age verifications and residency verifications. And that is in the bill currently. It's impossible to circumvent that with current technology, and I just wish to stipulate that the intent of this language, as I understand it, is to prohibit and not to allow the Internet online lottery sales, and I hope to continue to monitor this situation, but I'm fully in support of the bill and the intent of the language that's there, and I congratulate and thank the gentleman from Virginia for his work, and I intend to support the bill.

Thank you, and I yield back.

Chairman SENSENBRENNER. The question is on agreeing to the Goodlatte amendment in the nature of a substitute as amended. All in favor will aye.

Opposed no.

The ayes appear to—the ayes appear to have it. The ayes have it. The amendment in the nature of a substitute as amended is agreed to.

Mr. CONYERS. A record vote is——

Ms. JACKSON LEE. Mr. Chairman?

Chairman SENSENBRENNER. The request for a record vote is withdrawn. The question now occurs on the motion——

Ms. JACKSON LEE. Mr. Chairman?

Chairman SENSENBRENNER. For what purpose does the gentlewoman from Texas seek recognition?

Ms. JACKSON LEE. While the bill is open, I'd like to indicate that if I had been present—I was detained—I would have voted aye on the Conyers amendment regarding children. I'd like it placed in the record.

Chairman SENSENBRENNER. Would the gentlewoman yield back the balance?

Ms. JACKSON LEE. Yield back.

Chairman SENSENBRENNER. A reporting quorum is present. The question occurs on the motion to report the bill, H.R. 4777, favorably as amended. All in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it, and the motion to report favorably is——

Mr. CONYERS. Record vote is requested.

Chairman SENSENBRENNER. Record vote is requested. Those in favor of reporting the bill favorably as amended, will, as your names are called, answer aye, those opposed no, and the clerk will call the roll.

The CLERK. Mr. Hyde?
[No response.]
The CLERK. Mr. Coble?
Mr. COBLE. Aye.
The CLERK. Mr. Coble, aye. Mr. Smith?
Mr. SMITH. Aye.
The CLERK. Mr. Smith, aye. Mr. Gallegly?
Mr. GALLEGLY. Aye.
The CLERK. Mr. Gallegly, aye. Mr. Goodlatte?
Mr. GOODLATTE. Aye.
The CLERK. Mr. Goodlatte, aye. Mr. Chabot?
Mr. CHABOT. Aye.
The CLERK. Mr. Chabot, aye. Mr. Lungren?
Mr. LUNGREN. Aye.
The CLERK. Mr. Lungren, aye. Mr. Jenkins?
Mr. JENKINS. Aye.
The CLERK. Mr. Jenkins, aye. Mr. Cannon?
Mr. CANNON. Aye.
The CLERK. Mr. Cannon, aye. Mr. Bachus?
Mr. BACHUS. Aye.
The CLERK. Mr. Bachus, aye. Mr. Inglis?
Mr. INGLIS. Aye.
The CLERK. Mr. Inglis, aye. Mr. Hostettler?
Mr. HOSTETTLER. Aye.
The CLERK. Mr. Hostettler, aye. Mr. Green?
Mr. GREEN. Aye.
The CLERK. Mr. Green, aye. Mr. Keller?
Mr. KELLER. Aye.
The CLERK. Mr. Keller, aye. Mr. Issa?
Mr. ISSA. Aye.
The CLERK. Mr. Issa, aye. Mr. Flake?
[No response.]
The CLERK. Mr. Pence?
Mr. PENCE. Aye.
The CLERK. Mr. Pence, aye. Mr. Forbes?
Mr. FORBES. Aye.
The CLERK. Mr. Forbes, aye. Mr. King?
Mr. KING. Aye.
The CLERK. Mr. King, aye. Mr. Feeney?
Mr. FEENEY. Aye.
The CLERK. Mr. Feeney, aye. Mr. Franks?
Mr. FRANKS. Aye.
The CLERK. Mr. Franks, aye. Mr. Gohmert?
Mr. GOHMERT. Aye.
[No response.]
The CLERK. Mr. Conyers?
Mr. CONYERS. No.
The CLERK. Mr. Conyers, no. Mr. Berman?
Mr. BERMAN. No.
The CLERK. Mr. Berman, no. Mr. Boucher?
Mr. BOUCHER. Aye.
The CLERK. Mr. Boucher, aye. Mr. Nadler?
[No response.]
The CLERK. Mr. Scott?
Mr. SCOTT. No.

The CLERK. Mr. Scott, no. Mr. Watt?
Mr. WATT. No.
The CLERK. Mr. Watt, no. Ms. Lofgren?
Ms. LOFGREN. No.
The CLERK. Ms. Lofgren, no. Ms. Jackson Lee?
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee, no. Ms. Waters?
Ms. WATERS. Aye.
The CLERK. Ms. Waters, aye. Mr. Meehan?
[No response.]
The CLERK. Mr. Delahunt?
Mr. DELAHUNT. No.
The CLERK. Mr. Delahunt, no. Mr. Wexler?
Mr. WEXLER. No.
The CLERK. Mr. Wexler, no. Mr. Weiner?
Mr. WEINER. No.
The CLERK. Mr. Weiner, no. Mr. Schiff?
Mr. SCHIFF. No.
The CLERK. Mr. Schiff, no. Ms. Sánchez?
Ms. SÁNCHEZ. No.
The CLERK. Ms. Sánchez, no. Mr. Van Hollen?
Mr. VAN HOLLEN. Aye.
The CLERK. Mr. Van Hollen, aye. Ms. Wasserman Schultz?
Ms. WASSERMAN SCHULTZ. Aye.
The CLERK. Ms. Wasserman Schultz, aye. Mr. Chairman?
Chairman SENSENBRENNER. Aye.
The CLERK. Mr. Chairman, Aye.
Chairman SENSENBRENNER. Any Members who wish to cast or change their votes? Gentleman from Texas, Mr. Gohmert?
Mr. GOHMERT. Aye.
The CLERK. Mr. Gohmert, aye.
Chairman SENSENBRENNER. Further Members who wish to cast or change their vote? If not, the clerk will report.
[Pause.]
The CLERK. Mr. Chairman, there are 25 ayes and 11 nays.
Chairman SENSENBRENNER. And the bill as amended is favorably reported. Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendments agreed to here today. Without objection, the staff will be directed to make any technical and conforming changes, and all Members will be given 2 days, as provided by the House rules, in which to submit additional dissenting supplemental or minority views.
Mr. SCOTT. Mr. Chairman?
Chairman SENSENBRENNER. For what purpose is the gentleman from Virginia——
Mr. SCOTT. Reserving the right to object just a moment. Mr. Chairman, I'd like unanimous consent to insert into the record a letter from Antigua outlining some WTO reservations about this legislation.
Chairman SENSENBRENNER. Without objection.
The gentleman withdraws his reservation?
Mr. SCOTT. Withdrawn.
[Intervening business.]
[Whereupon, at 1:53 p.m., the Committee was adjourned.]

DISSENTING VIEWS

We, respectfully, submit the following set of dissenting views to express our serious concerns with H.R. 4777, the "Internet Gambling Prohibition Act," and the approach that it takes to deal with this very important issue.

As an initial matter, instead of providing minors with greater protections, H.R. 4777 threatens to make it much easier for minors to utilize the services of online gambling companies that operate across state lines. In addition, the legislation has the potential to generate a substantial increase in acts of money laundering and undoubtedly will expose various banks and Internet service providers to excessive liability and burdensome regulations.

According to the bill's lead sponsor, Representative Bob Goodlatte (R–VA), one of the primary purposes behind the introduction of H.R. 4777 was to stop online gambling from occurring.[1] However, in its current form, the legislation only prohibits certain forms of online gambling while expressly permitting several other forms to proceed unfettered. Interestingly enough, these 'special interest carve-outs' were the main focal point of a recent article in The Hill newspaper.[2]

In that article, H.R. 4777 was compared to a similar Internet gambling bill that had been introduced by Rep. Goodlatte and defeated in a previous Congress. The article determined that,

> *The same Internet gambling legislation Abramoff fought so hard to defeat on behalf of a client that helped states conduct lotteries over the Internet now includes an exemption to protect those lotteries.*[3] (emphasis added)

The article went on to point out that in addition to the exemption for lotteries, H.R. 4777 also includes language to protect wagering on interstate pari-mutuel betting on horse races from the scope of the bill's ban.[4]

These blanketed exemptions are obviously the byproduct of powerful gambling interests and can be directly traced back to three particular provisions of the bill—sections 3, 5 and 6. Section 3, for example, includes language which expressly exempts gambling on intrastate sanctioned activities, such as lotteries.

Section 5, a late addition to the underlying text of the bill and only added during the course of the Full Committee's markup, incorporates a rule of construction which maintains that

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[1] Hearing on H.R. 4777, the "Internet Gambling Prohibition Act," before the Subcomittee on Crime, Terrorism and Homeland Security of the House Committee on the Judiciary, 109th Cong. (2006) (testimony of Rep. Goodlatte, Member, House Comm. on the Judiciary).

[2] Patrick O'Connor, *Abramoff Gets Payback in Gaming Bill*, The Hill, March 29, 2006, pg. 1.

[3] Id.

[4] Id.

> *Nothing in this Act may be construed to prohibit any activity that is allowed under Public Law 95–515 as amended (15 U.S.C. 3001 et seq.).*[5] (emphasis added)

It's worth noting that it has been the longstanding position of members of the horse racing industry that Public Law 95–515 (often referred to as the "Interstate Horseracing Act"), along with its subsequent amendments, provides individuals with the right to legally cast bets on interstate pari-mutuel horse racing contests.[6]

Finally, Section 6 of the bill, which was also added during the course of the Full Committee's markup of the legislation, incorporates language expressing the Sense of Congress that,

> *[H.R. 4777] does not change which activities related to horse racing may or may not be allowed under Federal law.*[7] (emphasis added)

In other words, this new language, in unmistakable terms, makes clear once-and-for-all that the scope of the bill's ban does not expressly prohibit online gambling on interstate competitions involving horse races.

To fully understand the impact this exemption will have on Internet gambling companies who provide services in this sector, one only need to consider the public statements made by representatives of the horse racing industry the day after our full committee's markup of H.R. 4777. On that day, the National Thoroughbred Racing Association (NTRA) issued a press release that included the following:

> The House of Representatives Judiciary Committee on Thursday passed a bill sponsored by Representative Bob Goodlatte (R–VA) that would crack down on off-shore gambling and on gambling with the assistance of the Internet.
>
> * * * * * * *
>
> *The bill includes an exemption that would allow the United States horse racing industry to continue to conduct interstate, account, and Internet wagering.* (emphasis added)
>
> * * * * * * *
>
> "Today was excellent news for the racing industry," said Greg Avioli, the NTRA's Executive Vice President. "Not only did the bill pass by a significant margin, but three separate amendments to either slip out or substantially limit our exception were all defeated."
>
> * * * * * * *
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> "Despite that opposition and close to 90 minutes of heated debate, we were able to prevail on every vote."
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> * * * * * * *

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[5] *See*, Section 5 of H.R. 4777, the "Internet Gambling Prohibition Act," as reported by the House Committee on the Judiciary, 109th Cong. (2006).

[6] Letter from Honorable William E. Moschella, Assistant Attorney General, U.S. Department of Justice to F. Jams Sensenbrenner, Chairman, House Committee on the Judiciary (May 24, 2006) (on file at the U.S. Department of Justice).

[7] *See*, Section 6 of H.R. 4777, the "Internet Gambling Prohibition Act," as reported by the House Committee on the Judiciary, 109th Cong. (2006).

> "For the horse racing industry, this is particularly important because having that exception allows horse racing to continue to operate interstate simulcasting and account wagering," Avioli said. *"If that bill would have passed without the exception in it, it would have effectively outlawed those activities."*[8] (emphasis added)

These statements are reminiscent of comments made by the NTRA when a similar bill introduced by Congressman Goodlatte was considered in 2001. As reported by the National Journal:

> [Gregory Avioli] said that as a result of "well-spent contributions we made in Washington to various campaign committees, excellent work by our lobbyists, and just a lot of time educating Congressman Goodlatte and his staff, on the day before they introduced the bill they went back and made one final revision to say, 'This does not apply to any wagering [conducted in accordance] with the Interstate Horseracing Act."[9]

It is for these reasons, and those that follow, that we respectfully dissent.

1. H.R. 4777 only bans certain forms of online gambling, while legalizing many others

H.R. 4777 proposes to address the concerns and problems created by Internet gambling by prohibiting those in the gambling business from transmitting or facilitating the placement of a bet or wager. However, despite its title and language, H.R. 4777 is not a prohibition on Internet gambling. Rather, the legislation is simply a regulatory bill that prohibits certain types of Internet gambling while expressly sanctioning others. The legislation expressly exempts (1) interstate Internet betting on horse racing; (2) intra-state Internet betting on lotteries; (3) intra-tribal Internet betting; and (4) certain intra-state Internet betting. At the same time, the bill prohibits (1) Internet betting on dog racing; (2) Internet betting on jai alai; (3) interstate Internet betting on lotteries; and (4) Internet betting on casino games.

When one compares the activities that are prohibited and those that are allowed, it is difficult to determine exactly where the line is being drawn. There seems to be little difference between betting on a dog race and betting on a horse race; all of these involve similar amounts of chance. Earlier this year, the Department of Justice expressed similar concerns stating that the legislation "would permit gambling over the Internet from the home and favor certain industries over others."[10]

2. H.R. 4777 exposes banks to burdensome regulations that create compliance concerns

H.R. 4777 would amend the prohibition against interstate gambling and criminalize the knowing acceptance of credit, credit proceeds, electronic fund transfers or other such monetary payments

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[8] NTRA Press Release available at http://www.ntra.com/content.aspx?type=pac&id=18064.

[9] *Lobbying and Law—High Stakes on Web Gambling*, The National Journal, May 13, 2006.

[10] Hearing on H.R. 4777, the "Internet Gambling Prohibition Act," before the Subcommittee on Crime, Terrorism and Homeland Security of the House Committee on the Judiciary, 109th Cong. (2006) (testimony of Bruce G. Ohr, Chief of the Organized Crime and Racketeering Section, U.S. Department of Justice).

by anyone in the gambling business. The burden of regulation and compliance created by this proposal is substantial, as a key enforcement mechanism would require banks to identify and block transactions between bank customers and Internet gaming companies.

This proposal does not recognize that the check clearing system and the Automated Clearing House (ACH) network do not have the same capabilities as the credit card association networks to identify different types of transactions. These systems were never intended to identify illegal activity, monitor individual transactions and regulate enforcement functions. The payments system was not designed to be a transaction monitoring service. It was designed to be an effective and efficient method for transferring dollars from one party to another. This legislation, if passed, would not only necessitate a massive overhaul of our Nation's check clearing and ACH systems, but also create enormous regulatory burden requiring the deputization of financial institutions to identify and block illegal transactions.

According to National Automated Clearing House Association ("NACHA"), over twelve billion transactions worth more than $28 trillion were conducted by the Automated Clearing House Network in 2004, up from the approximately three billion transactions worth $10 trillion in 1994. Financial institutions rely heavily on ACH transfers as a more efficient and less expensive means of moving funds than the primary alternatives of paper checks and wire transfers. As is clear from the sheer volume of ACH transactions, the efficient operations of ACH networks is critical to the functioning of the United States financial system.

ACH transactions, however, involve only the information necessary to process the payments quickly and effectively. The ACH itself, which is merely a conduit for transactions, has no means of obtaining additional information beyond what banks provide. Banks research their customers before opening their accounts and monitor the accounts for suspicious activity patterns, but they have no practical means of learning the facts surrounding each individual transaction in which a customer engages. Given that banks originate and receive literally billions of ACH transactions each year, many of them automatically requested, it would be virtually impossible for banks to inquire about and describe each ACH transaction in detail.

One of the most difficult aspects of implementing the proposed regulation is that financial institutions would have the judicial-like duty of distinguishing between legal and illegal transactions because, as earlier mentioned, H.R. 4777 does not prohibit all forms of Internet gambling. Rather, it creates a distinction between legal and illegal Internet gambling. This distinction turns on the type of gambling (horseracing versus poker), the location of the transaction (interstate versus intrastate or tribal) and the source of the gambling (offshore Internet website versus U.S.—based casino). Thus, the burden is placed on a bank to identify if a transaction originated at an Internet gambling site, to distinguish what portion of the transaction was legal or illegal and to determine where the transaction occurred. Particularly, in the case of checks that move with the customer, it is impossible for a bank to determine the lo-

cation of a transaction and thus, whether a wager was legal or illegal.

H.R. 4777, if passed, would necessitate a cumbersome and expensive overhaul of the ACH and check networks. This overhaul would impede their efficiency and accuracy and increase inconvenience and costs to customers. Not surprisingly, similar sentiments were recently echoed in a letter written by R. Bruce Josten, Executive Vice-President, Chamber of Commerce to Chairman Sensenbrenner and Ranking Member Conyers.[11] Among other things, Mr. Josten proclaimed that,

> *requiring financial institutions to seek to determine the purpose of such transactions is a substantial regulatory burden which could require substantial changes to the systems by which such instruments are processed*.[12] (emphasis added)

Ultimately, our Nation's payments system is the global model of speed and efficiency. It was designed to permit consumers and businesses to complete transactions quickly and accurately. The proposed legislation would undermine the system and threaten the economy. Under this proposed regulatory framework, the simple act of writing a check would require recording extensive additional information, including the location of the transaction, business of the payee and legal character of each part of the transaction. The likely result is that banks would deny many legal transactions and the payments system will be significantly slowed.

3. H.R. 4777's failure to ban all forms of online gambling will likely result in an increase in the number of underage gamblers

As previously mentioned, while H.R. 4777 portends to prohibit all forms of online gambling, the legislation includes numerous exemptions for several of the more powerful and popular gambling industries. One exemption, in particular, relates to the horse racing industry and the ability of an individual bettor, even after the enactment of this bill, to legally cast bets on interstate pari-mutuel contests involving horses. This exemption is of great concern.

Recent studies have often demonstrated the ease by which minors have been able to gain access to various Internet gaming sites to engage in online wagering. In fact, a 2004 study conducted by GamCare, Citizencard and the Children's Charities' Coalition on Internet Safety (CHIS) tested 37 such sites to ascertain the level of difficulty minors would encounter when trying to set up accounts for purposes of online gambling.[13] Not surprisingly, the study's findings determined that a minor was able to successfully open up an account and access gambling systems on 30 of these sites.[14]

Unfortunately, reports such as this are becoming far too common. Just last fall, the Annenberg Public Policy Center announced that almost 600,000 youth (ages 14–22) reported gambling on the Inter-

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[11] Letter from R. Brice Josten, Executive Vice President of Government affairs, U.S. Chamber of Commerce to F. James Sensenbrener and John Conyers, Jr., Chairman and Ranking Member (respectively), House Committee on the Judiciary (May 24, 2006) (on file with the author).

[12] Id.

[13] BBC News, *Children "able to gamble on net"* (July 27, 2004), available at http://news.bbc.co.uk/2/hi/uk_news/3927645.stm

[14] Id.

net on a weekly basis.[15] This figure is roughly double the number of youth who reported engaging in such conduct in the prior year (2004),[16] but significantly less than the nearly 20% of young men (ages 14–22) who acknowledge using one or more Internet gambling sites on a monthly basis.[17]

Figures such as these, when coupled with H.R. 4777's current exemption and the recent comments of horse racing executives, are of great concern. After all, earlier this month, individuals within the industry were reported to have publicly acknowledged that they intend to use the Internet to target youth as potential gambling customers.[18] As reported in the Baltimore Sun:

> Over the 25 years I've been in this industry, not one day has gone by when I haven't heard people complaining that our customer base is getting older and we can't attract young people,' said Joseph A. De Francis, chief executive officer of the Maryland Jockey Club and executive vice president for operations of interactive betting channels for parent Magna Entertainment corp. *"And this gives us an opportunity to expand into the youth market unlike any we've ever had before."*[19] (emphasis added)

4. H.R. 4777 may invite retaliation by trading partners and allies, including the United Kingdom

In signing the General Agreement on Trade in Services (GATS), the United States committed to provide foreign entities access to its market for remote gambling and betting services. In April 2005, a WTO Appellate Body held that U.S. federal laws prohibiting Internet gambling are inconsistent with U.S.'s GATS commitment, because they restrict foreign nations from accessing the gambling market via the Internet. Most federal U.S. prohibitions were held to be permissible, however, under the GATS exemption for "laws necessary to protect public morals." This exemption is permitted so long as the law in question is applied in a nondiscriminatory manner.

The court held that one U.S. federal law, the Interstate Horseracing Act (IHA), does not meet the criteria for this exemption, because it appears to permit betting on horseracing over the Internet and phones across state lines while prohibiting the foreign supply of this service. The decision also makes clear that, if properly pled before an international body, inconsistent U.S. state laws regarding Internet gambling would likely violate the GATS agreement as well.

The present case was brought by the nation of Antigua and Barbuda, but was supported by the U.K., E.U. and Japan. The U.S. had until April 3, 2006, to bring its laws into conformity with its international commitments, and having failed to do so, Antigua and Barbuda may now seek to impose trade retaliations and, more

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[15] Press Release, The Annenberg Public Policy Center of the University of Pennsylvania, *Card Playing Trend in Young People Continues* (September 28, 2005) (available at http://www.annenbergpublicpolicycenter.org/07_adolescent_____risk/GamblingRelease20050928.pdf

[16] Id.

[17] Id.

[18] Bill Ordine, *Horse racing is betting on Internet wagering; Md industry chief De Francis says it could attract youth*, The Baltimore Sun, May 15, 2006, at A1.

[19] Id.

importantly, major trading partners may bring litigation permitting them to do the same. These trading partners, like most other developing nations, have taken steps to regulate Internet gaming, rather than prohibiting it outright.

The Office of the U.S. Trade Representative has indicated its strategy for complying with the WTO ruling is to confirm that all forms of Internet gaming are prohibited, including online horserace betting, whether foreign or domestic. However, any statute that permits some forms of Internet gaming while prohibiting others could undermine the U.S.'s claim to the "public morals" exception under the GATS, and expose it to additional trade sanctions.

By validating certain forms of Internet gambling to the exclusions of others, H.R. 4777 further entrenches U.S. violation of these commitments and exposes the U.S. to costly retaliation by the United Kingdom, European Union, Japan, and other major trading partners that are moving to regulate Internet gambling, rather than simply prohibit it.

Description of amendments offered by Democratic Members

1. Amendment Offered by Rep. Robert Wexler (#1)

Description of amendment: The Wexler amendment sought to eliminate from the scope of the definition of "unlawful Internet gambling," bets made in connection with pari-mutuel animal racing or jai-alai activities that were expressly authorized or licensed by the state in which they were cast or received.

The amendment was defeated by a vote of 15 to 21. Ayes: Representatives Conyers, Berman, Boucher, Scott, Watt, Lofgren, Waters, Wexler, Weiner, Schiff, Sanchez, Wasserman Schultz, Coble, Feeney, Delahunt. Nays: Representatives Smith, Gallegly, Goodlatte, Chabot, Lungren, Jenkins, Cannon, Bachus, Hostettler, Green, Keller, Issa, Pence, Forbes, King, Feeney, Franks, Gohmert, Van Hollen. Sensenbrenner, Inglis.

2. Amendment Offered by Rep. Robert Wexler (#2)

Description of amendment: The Wexler amendment proposed to strike sections 5 and 6, in their entirety, from the text of the underlying bill. As earlier mentioned, Section 5 provided a rule of construction regarding the Interstate Horseracing Act. While, Section 6 added language declaring it to be the Sense of the Congress that none of the bill's prohibitions were intended to affect the horse racing industry.

The amendment was defeated by voice-vote.

3. Amendment Offered by Rep. John Conyers, Jr.

Description of amendment: The Conyers amendment proposed to modify section 5 of the bill to require all interstate gambling transactions covered under that provision to occur with secure and effective age and identification verification technology.

The amendment was defeated by a vote of 14 to 17, with one member (Gohmert) having voted present. Ayes: Representatives Green, Conyers, Berman, Scott, Watt, Lofgren, Waters, Delahunt, Wexler, Weiner, Schiff, Sanchez, Van Hollen, Wasserman Schultz.

Nays: Representatives Coble, Smith, Goodlatte, Chabot, Lungren, Jenkins, Cannon, Inglis, Hostettler, Keller, Issa, Pence, Forbes, King, Feeney, Boucher, Sensenbrenner.

4. Amendment Offered by Rep. Bobby Scott

Description of amendment: The Scott amendment sought to impose a fine or criminal penalty of up to 2 years imprisonment against any individual who unlawfully places a bet or wager with an illegal gambling entity, as defined under the terms of the bill.

The amendment was defeated by a vote of 6 to 30. Ayes: Representatives Green, Gohmert, Conyers, Berman, Scott, Lofgren. Nays: Representatives Coble, Smith, Gallegley, Goodlatte, Chabot, Lungren, Jenkins, Cannon, Bachus, Inglis, Hostettler, Keller, Issa, Pence, Forbes, King, Feeney, Franks, Boucher, Watt, Jackson Lee, Waters, Delahunt, Wexler, Weiner, Schiff, Sanchez, Van Hollen, Wasserman Schultz, Sensenbrenner.

JOHN CONYERS, JR.
SHEILA JACKSON-LEE.
ROBERT WEXLER.
LINDA T. SÁNCHEZ.

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