

105TH CONGRESS  
1ST SESSION

# S. 474

To amend sections 1081 and 1084 of title 18, United States Code.

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IN THE SENATE OF THE UNITED STATES

MARCH 19, 1997

Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HUTCHINSON, Mr. GRASSLEY, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend sections 1081 and 1084 of title 18, United States Code.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Internet Gambling  
5       Prohibition Act of 1997”.

6       **SEC. 2. DEFINITIONS.**

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

9               (1) in the matter immediately following the  
10       colon, by designating the first 5 undesignated para-

1 graphs as paragraphs (1) through (5), respectively,  
2 and indenting each paragraph accordingly;

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

4 (A) by striking “wire communication” and  
5 inserting “communication”;

6 (B) by striking “transmission of writings”  
7 and inserting “transmission or receipt of data,  
8 writings”; and

9 (C) by striking “or other like” and all that  
10 follows before the period and inserting “radio,  
11 electromagnetic, photo-optical, photoelectric, or  
12 other similar facility”; and

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

14 “(6) BETS OR WAGERS.—The term ‘bets or wa-  
15 gers’—

16 “(A) means the staking or risking by any  
17 person of something of value upon the outcome  
18 of a contest of chance or a future contingent  
19 event not under the control or influence of the  
20 person, upon an agreement or understanding  
21 that the person or another person will receive  
22 something of value in the event of a certain out-  
23 come;

24 “(B) includes the purchase of a chance or  
25 opportunity to win a lottery or other prize; and

1 “(C) does not include—

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

11 “(ii) a contract of indemnity or guar-  
12 antee; or

13 “(iii) a contract for life, health, or ac-  
14 cident insurance.”.

15 **SEC. 3. TRANSMISSION OF WAGERING INFORMATION; PEN-**  
16 **ALTIES.**

17 Section 1084 of title 18, United States Code, is  
18 amended—

19 (1) by striking subsections (a) and (b) and in-  
20 serting the following:

21 “(a) IN GENERAL.—

22 “(1) PERSONS ENGAGED IN THE BUSINESS OF  
23 BETTING OR WAGERING.—Whoever, being engaged  
24 in the business of betting or wagering knowingly  
25 uses a communication facility for the transmission

1 or receipt in interstate or foreign commerce of bets  
2 or wagers, information assisting in the placing of  
3 bets or wagers, or a communication that entitles the  
4 transmitter or receiver to the opportunity to receive  
5 money or credit as a result of bets or wagers, shall  
6 be fined not more than \$10,000, imprisoned not  
7 more than 2 years, or both.

8 “(2) OTHER PERSONS.—Whoever (other than a  
9 person described in paragraph (1)) knowingly uses a  
10 communication facility for the transmission or re-  
11 ceipt in interstate or foreign commerce of bets or  
12 wagers, information assisting in the placing of bets  
13 or wagers, or a communication that entitles the  
14 transmitter or receiver to the opportunity to receive  
15 money or credit as a result of bets or wagers, shall  
16 be fined not more than \$5,000, imprisoned not more  
17 than 1 year, or both.

18 “(b) EXCEPTIONS.—

19 “(1) NEWS REPORTING; LEGAL BETS AND WA-  
20 GERS.—Nothing in this section shall be construed to  
21 prohibit the transmission or receipt in interstate or  
22 foreign commerce of any information—

23 “(A) for use in the news reporting of any  
24 activity, event, or contest upon which bets or  
25 wagers are based; or

1           “(B) relating to the placing of bets or wa-  
2           gers, if such betting or wagering—

3                   “(i) is legal in the State or foreign  
4                   country in which the transmission origi-  
5                   nates; and

6                   “(ii) is legal in each State and each  
7                   foreign country in which the transmission  
8                   is received.

9           “(2) STATE LAW.—Nothing in this section shall  
10          be construed to preempt any State law.”; and

11          (2) in subsection (d)—

12                   (A) by striking “(d) When” and inserting  
13          the following:

14          “(d) DUTIES OF COMMON CARRIERS AND INTER-  
15          ACTIVE COMPUTER SERVICE PROVIDERS.—

16                   “(1) IN GENERAL.—If”;

17                   (B) by inserting “or interactive computer  
18                   service provider” after “common carrier” each  
19                   place that term appears;

20                   (C) by striking “Nothing” and inserting  
21                   the following:

22                   “(3) JUDICIAL ACTION.—Nothing”; and

23                   (D) by inserting after paragraph (1), as so  
24                   designated by subparagraph (A) of this para-  
25                   graph, the following:

1           “(2) INJUNCTIVE RELIEF.—Any Federal, State,  
2           or local law enforcement agency acting within its ju-  
3           risdiction, shall have the authority, following the is-  
4           suanance of a notice under paragraph (1), to seek an  
5           injunction or other appropriate relief from a Federal  
6           or State court of competent jurisdiction barring ac-  
7           cess to the communication facility at issue or pre-  
8           venting the use of such facility for the purpose of  
9           transmitting or receiving gambling information in  
10          interstate or foreign commerce in violation of Fed-  
11          eral, State, or local law.”.

12 **SEC. 4. SENSE OF THE SENATE.**

13          It is the sense of the Senate that the Federal Govern-  
14          ment should have extraterritorial jurisdiction over the  
15          transmission to or receipt from the United States of—

16                (1) bets or wagers (as that term is defined in  
17                section 1081 of title 18, United States Code);

18                (2) information assisting in the placing of bets  
19                or wagers; and

20                (3) any communication that entitles the trans-  
21                mitter or recipient to the opportunity to receive  
22                money or credit as a result of bets or wagers.

1 **SEC. 5. REPORT.**

2 Not later than 360 days after the date of enactment  
3 of this Act, the Attorney General shall submit a report  
4 to Congress that includes—

5 (1) an analysis of the problems, if any, associ-  
6 ated with enforcing section 1084 of title 18, United  
7 States Code, as amended by this Act;

8 (2) recommendations for the best use of the re-  
9 sources of the Department of Justice to enforce that  
10 section;

11 (3) recommendations for the best use of the re-  
12 sources of the Federal Communications Commission  
13 to enforce that section; and

14 (4) an estimate of the amount of activity and  
15 money being used to gamble on the Internet (as that  
16 term is defined in section 230(e)(1) of the Commu-  
17 nications Act of 1934 (47 U.S.C. 230(e)(1)).

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