

107TH CONGRESS
2D SESSION

H. R. 4652

To prevent fraud and deception in network recreational games.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2002

Ms. KILPATRICK introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To prevent fraud and deception in network recreational
games.

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 “Consumer Protection
5 for On-Line Games Act”.

6 **SEC. 2. FEDERAL TRADE COMMISSION RULES REQUIRED.**

7 (a) IN GENERAL.—The Commission shall prescribe
8 rules in accordance with this section to prohibit unfair and
9 deceptive acts and practices in the labeling and advertising
10 of games of chance and games of skill offered by means

1 of the communications networks by network game opera-
2 tors. Such rules shall—

3 (1) prohibit network game operators from mak-
4 ing false, nonsubstantiated, nonverifiable, or mis-
5 leading claims regarding—

6 (A) the fairness of any specific such game
7 of chance or game of skill, or combination
8 thereof played by the consumer;

9 (B) whether the game offered is a game of
10 skill or a game of chance, or a combination
11 thereof; and

12 (C) if the game offered is a game of
13 chance, or a combination of skill and chance,
14 whether all participants (including the game op-
15 erator) are accorded equal or unequal chance;

16 (2) prohibit such operators from displaying or
17 advertising any seal or insignia attesting to the fair-
18 ness of any game of chance or game of skill, or other
19 matters described in paragraph (1), unless such seal
20 or insignia has been awarded by a self-regulatory or-
21 ganization that complies with section 4.

22 (b) EVASIONS.—The rules issued by the Commission
23 under this section shall include provisions to prohibit un-
24 fair or deceptive acts or practices that evade such rules

1 or undermine the rights provided to customers under this
2 Act.

3 **SEC. 4. ROLE OF SELF-REGULATORY ORGANIZATIONS.**

4 For purposes of section 3(a)(2), a self-regulatory or-
5 ganization does not comply with the requirements of this
6 section unless—

7 (1) the self-regulatory organization is registered
8 with the Commission, by filing with the Commission
9 an application for registration that—

10 (A) is in such form as the Commission, by
11 rule, may prescribe;

12 (B) contains the rules of the self-regu-
13 latory organization and such other information
14 and documents as the Commission, by rule,
15 may prescribe as necessary or appropriate;

16 (2) the Commission determines that—

17 (A) such self-regulatory organization is so
18 organized and has the capacity to be able to
19 carry out the purposes of this Act and to com-
20 ply, and to enforce compliance by its members,
21 with the provisions of this Act, the rules there-
22 under, and the rules of the self-regulatory orga-
23 nization;

24 (B) the rules of the self-regulatory organi-
25 zation are designed to prevent fraudulent and

1 deceptive acts and practices, and, in general, to
2 protect consumers and the public interest;

3 (C) the rules of the self-regulatory organi-
4 zation provide that its members shall be appro-
5 priately disciplined for violation of the provi-
6 sions of this Act, the rules thereunder, or the
7 rules of the self-regulatory organization, by ex-
8 pulsion, revocation of the authority to display
9 or advertise any seal or insignia, or any other
10 fitting sanction; and

11 (D) the rules of the self-regulatory organi-
12 zation provide a fair procedure for the dis-
13 ciplining of members; and

14 (3) the Commission has not revoked or sus-
15 pended the Commission's determination under para-
16 graph (2) with respect to such self-regulatory orga-
17 nization.

18 **SEC. 5. ACTIONS BY STATES.**

19 (a) IN GENERAL.—Whenever an attorney general of
20 any State has reason to believe that the interests of the
21 residents of that State have been or are being threatened
22 or adversely affected because any person has engaged or
23 is engaging in a pattern or practice which violates any rule
24 of the Commission under section 3(a), the State may bring
25 a civil action on behalf of its residents in an appropriate

1 district court of the United States to enjoin such pattern
2 or practice, to enforce compliance with such rule of the
3 Commission, to obtain damages on behalf of their resi-
4 dents, or to obtain such further and other relief as the
5 court may deem appropriate.

6 (b) NOTICE.—The State shall serve prior written no-
7 tice of any civil action under subsection (a) upon the Com-
8 mission and provide the Commission with a copy of its
9 complaint, except that if it is not feasible for the State
10 to provide such prior notice, the State shall serve such
11 notice immediately upon instituting such action. Upon re-
12 ceiving a notice respecting a civil action, the Commission
13 shall have the right (1) to intervene in such action, (2)
14 upon so intervening, to be heard on all matters arising
15 therein, and (3) to file petitions for appeal.

16 (c) VENUE.—Any civil action brought under this sec-
17 tion in a district court of the United States may be
18 brought in the district wherein the defendant is found or
19 is an inhabitant or transacts business or wherein the viola-
20 tion occurred or is occurring, and process in such cases
21 may be served in any district in which the defendant is
22 an inhabitant or wherever the defendant may be found.

23 (d) INVESTIGATORY POWERS.—For purposes of
24 bringing any civil action under this section, nothing in this
25 Act shall prevent the attorney general from exercising the

1 powers conferred on the attorney general by the laws of
2 such State to conduct investigations or to administer oaths
3 or affirmations or to compel the attendance of witnesses
4 or the production of documentary and other evidence.

5 (e) EFFECT ON STATE COURT PROCEEDINGS.—

6 Nothing contained in this section shall prohibit an author-
7 ized State official from proceeding in State court on the
8 basis of an alleged violation of any general civil or criminal
9 antifraud statute of such State.

10 (f) LIMITATION.—Whenever the Commission has in-
11 stituted a civil action for violation of any rule or regulation
12 under this Act, no State may, during the pendency of such
13 action instituted by the Commission, subsequently insti-
14 tute a civil action against any defendant named in the
15 Commission’s complaint for violation of any rule as alleged
16 in the Commission’s complaint.

17 (g) ACTIONS BY OTHER STATE OFFICIALS.—

18 (1) Nothing contained in this section shall pro-
19 hibit an authorized State official from proceeding in
20 State court on the basis of an alleged violation of
21 any general civil or criminal statute of such State.

22 (2) In addition to actions brought by an attor-
23 ney general of a State under subsection (a), such an
24 action may be brought by officers of such State who
25 are authorized by the State to bring actions in such

1 State for protection of consumers and who are des-
2 ignated by the Commission to bring an action under
3 subsection (a) against persons that the Commission
4 has determined have or are engaged in a pattern or
5 practice which violates a rule of the Commission
6 under section 3(a).

7 **SEC. 6. ADMINISTRATION AND APPLICABILITY.**

8 (a) IN GENERAL.—Except as otherwise provided in
9 section 5, this Act shall be enforced by the Commission
10 under the Federal Trade Commission Act (15 U.S.C. 41
11 et seq.). Consequently, no activity which is outside the ju-
12 risdiction of that Act shall be affected by this Act, except
13 for purposes of this Act.

14 (b) RULEMAKING.—The Commission shall prescribe
15 the rules under section 3(a) within 270 days after the date
16 of enactment of this Act. A rule issued under this sub-
17 section shall be treated as a rule issued under section
18 18(a)(1)(B) of the Federal Trade Commission Act (15
19 U.S.C. 57a(a)(1)(B)).

20 (c) ENFORCEMENT.—Any violation of any rule pre-
21 scribed under subsection (a) shall be treated as a violation
22 of a rule respecting unfair or deceptive acts or practices
23 under section 5 of the Federal Trade Commission Act (15
24 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act
25 (15 U.S.C. 45(a)(2)), communications common carriers

1 shall be subject to the jurisdiction of the Commission for
2 purposes of this Act.

3 (d) ACTIONS BY THE COMMISSION.—The Commis-
4 sion shall prevent any person from violating a rule of the
5 Commission under section 3 in the same manner, by the
6 same means, and with the same jurisdiction, powers, and
7 duties as though all applicable terms and provisions of the
8 Federal Trade Commission Act (15 U.S.C. 41 et seq.)
9 were incorporated into and made a part of this Act. Any
10 person who violates such rule shall be subject to the pen-
11 alties and entitled to the privileges and immunities pro-
12 vided in the Federal Trade Commission Act in the same
13 manner, by the same means, and with the same jurisdic-
14 tion, power, and duties as though all applicable terms and
15 provisions of the Federal Trade Commission Act were in-
16 corporated into and made a part of this Act.

17 **SEC. 7. DEFINITIONS.**

18 As used in this Act:

19 (1) COMMISSION.—The term “Commission”
20 means the Federal Trade Commission.

21 (2) NETWORK GAME OPERATOR.—The term
22 “network game operator” means a public or private
23 business enterprise that engages in the business of
24 providing game playing services (as opposed to the
25 sale or download of a game as a publisher or dis-

1 tributor), either for a fee or for free, using a com-
2 munication path between the player and the game
3 operator that is part of a communications network.

4 (3) COMMUNICATIONS NETWORK.—The term
5 “communications network” means a public or pri-
6 vate communication system that is used for the ex-
7 change of information or participation in trans-
8 actions (or both) and includes systems such as the
9 telephone system, cable systems, satellite systems,
10 wireless systems, or the Internet.

11 (4) GAME OF SKILL.—The term “game of skill”
12 means a game in which there are few or no inde-
13 pendent chance elements (such as die rolls, spinning
14 wheels, drawn cards, or other random event genera-
15 tors) that substantially affect a game’s outcome be-
16 yond the control of one or more of the players.

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