

107TH CONGRESS  
2D SESSION

# S. 3006

To prohibit Internet gambling.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2002

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 prohibit Internet gambling.

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 “Comprehensive Inter-  
5 net Gambling Prohibition Act of 2002”.

**6 SEC. 2. DEFINITIONS.**

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

9               (1) by designating the five undesignated para-  
10 graphs that begin with “The term” as paragraphs  
11               (1) through (5) respectively;

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

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

3 (B) by inserting "satellite, microwave,"  
4 after "cable,"; and

5 (C) by inserting “(whether fixed or mo-  
6 bile)” after “connection”; and

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

8                 “(6) The term ‘information assisting in the  
9 placing of bets or wagers’ means information know-  
10 ingly transmitted by an individual in the business of  
11 betting or wagering for use in placing, receiving,  
12 making, or otherwise enabling or facilitating a bet or  
13 wager that violates applicable Federal, State, tribal,  
14 or local law, but does not include—

15                         “(A) the transmission of information for  
16                         use in news reporting of wagering activities, as  
17                         long as such transmission does not solicit or  
18                         provide information for the purpose of facili-  
19                         tating or enabling the placing or receipt of bets  
20                         or wagers in a jurisdiction where such betting  
21                         is illegal;

22                   “(B) any posting or reporting of any edu-  
23                   cational information on how to make a legal bet  
24                   or wager or the nature of betting or wagering,  
25                   as long as such transmission does not solicit or

1 provide information for the purpose of facilitating or enabling the placing or receipt of bets  
2 or wagers in a jurisdiction where such betting  
3 is illegal;

5 “(C) advertising relating to betting or wagering 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;

12 “(D) the transmission of information assisting in the placing of bets or wagers from a  
13 State or foreign country where such bets or wagers are legal into a State or foreign country in  
14 which such betting or wagering is legal; or

17 “(E) information exchanged through telecommunications connections using bi-directional  
18 communication with external associated equipment utilizing communication protocols that ensure that erroneous data or signals will not adversely affect or influence the operation of gaming devices connected to an accounting system,  
19 if the information is used only to monitor gaming device play, display prize amounts, provide  
20  
21  
22  
23  
24  
25

1 security information, or provide other account-  
2 ing information when such information is trans-  
3 mitted among one or more Class II or Class III  
4 gaming facilities as defined in section 4 of the  
5 Indian Gaming Regulatory Act (25 U.S.C.  
6 2703).

7 “(7) The term ‘transmission’ or ‘transmit’  
8 means to place, send, receive, transfer, post, dissemi-  
9 nate, or otherwise convey from one person or place  
10 to another.

11 “(8) The term ‘fantasy sports league or rotis-  
12 serie league’ means an activity that—

13 “(A) consists of persons who pay an en-  
14 trance or administrative fee to participate in a  
15 league that allows each participant to create a  
16 fictitious team composed of athletes from a pro-  
17 fessional sport;

18 “(B) allows for the selection or subsequent  
19 replacement of players without charging any  
20 fees in excess of the initial entrance or adminis-  
21 trative fee;

22 “(C) allows a participant to accrue points  
23 for the performance of that participant’s team  
24 that can be compared to the points secured by  
25 other participants and may award de minimis

1           prizes daily, weekly, or monthly during the reg-  
2           ular season or after each round of postseason  
3           play based on total points accrued, or other  
4           prizes at the conclusion of the regular season  
5           or postseason, or both based on the cumulative  
6           points accrued during the regular season or  
7           postseason, or both;

8                     “(D) designates the specific prizes (including amounts, if monetary prizes) to be won by participants in the league at the start of the regular season before the registration of, or acceptance of fees from, the participants and does not base the value of prizes on the number of participants or the total amount of entrance or administrative fees collected; and

16                   “(E) provides to each participant the rules  
17                   governing the conduct of the fantasy sports  
18                   league.

19                   “(9) The term ‘bets or wagers’ means the stak-  
20                   ing or risking by any person of something of value  
21                   upon—

22                   “(A) any contest or game based in whole  
23                   or in part on chance, including a lottery;

24                   “(B) one or more sporting events or con-  
25                   tests, or one or more performances of the par-

1           ticipants in such events or contests, including  
2           any scheme of a type described in section 3702  
3           of title 28; or

4           “(C) a future contingent event not under  
5           the person’s control or influence;

6           with an agreement or understanding that the person  
7           or another person will or may receive something of  
8           value as a result of such stake or risk. However,  
9           such term does not include a bona fide business  
10          transaction in securities or commodities of the na-  
11          ture governed by the Federal securities and trading  
12          laws of the United States, a contract of indemnity  
13          or guarantee, a contract for insurance, or an en-  
14          trance or administrative fee collected by a fantasy  
15          sports or rotisserie league where the operation of or  
16          participation in such league does not violate applica-  
17          ble Federal, State, tribal, or local laws and such  
18          league does not collect fees from or allow participa-  
19          tion by individuals under the age of 18.”.

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

21           (a) IN GENERAL.—Section 1084 of title 18, United  
22          States Code, is amended to read as follows:

1   **“§ 1084. Use of a communication facility to transmit**  
2                   **bets or wagers; penalties**

3       “(a) Whoever being engaged in the business of bet-  
4       ting or wagering knowingly uses a communication  
5       facility—

6               “(1) for the transmission in interstate or for-  
7       eign commerce, within the special maritime and ter-  
8       ritorial jurisdiction of the United States, or to or  
9       from any place outside the jurisdiction of any nation  
10      with respect to any transmission to or from the  
11      United States, of bets or wagers, or information as-  
12      sisting in the placing of bets or wagers; or

13       “(2) for the transmission of a communication in  
14      interstate or foreign commerce, within the special  
15      maritime and territorial jurisdiction of the United  
16      States, or to or from any place outside the jurisdic-  
17      tion of any nation with respect to any transmission  
18      to or from the United States, which entitles the re-  
19      cipient to receive money or credit as a result of bets  
20      or wagers, or for information assisting in the placing  
21      of bets or wagers,

22      shall be fined under this title or imprisoned not more than  
23      two years, or both.

24       “(b) Nothing contained in this section creates immu-  
25      nity from criminal prosecution under any laws of any  
26      State or tribe.

1       “(c)(1) When any person or entity is notified in writ-  
2 ing by a Federal, State, tribal, or local law enforcement  
3 agency, acting within its jurisdiction, that any communica-  
4 tion facility furnished by it is being used or will be used  
5 by its subscriber for the purpose of transmitting bets or  
6 wagers, or information assisting in the placing of bets or  
7 wagers, in interstate or foreign commerce, within the spe-  
8 cial maritime and territorial jurisdiction of the United  
9 States, or to or from any place outside the jurisdiction  
10 of any nation with respect to any transmission to or from  
11 the United States in violation of Federal, State, tribal, or  
12 local law, it shall discontinue or refuse the leasing, fur-  
13 nishing, or maintaining of such facility, after reasonable  
14 notice to the subscriber, but no damages, penalty, or for-  
15 feiture, civil or criminal, shall be found against any person  
16 or entity for any act done in compliance with any notice  
17 received from a law enforcement agency. Nothing in this  
18 section shall be deemed to prejudice the right of any per-  
19 son affected thereby to secure an appropriate determina-  
20 tion, as otherwise provided by law, in a Federal court or  
21 in a State, tribal, or local tribunal or agency, that such  
22 facility should not be discontinued or removed, or should  
23 be restored.

24       “(2) A notice described in this subsection must—

1           “(A) identify the communication facility, gambling related material, or activity that allegedly violates this section, and allege that such facility, material, or activity violates this section;

5           “(B) provide information reasonably sufficient to permit the provider of the communication facility to locate (and, as appropriate, to discontinue or refuse the leasing, furnishing, or maintaining) of such facility;

10          “(C) be supplied to any agent of a provider of the communication facility designated in accordance with section 512(c)(2) of title 17, if information regarding such designation is readily available to the public;

15          “(D) provide information that is reasonably sufficient to permit the provider of the wire communication facility to contact the law enforcement agency that issued the notice, including the name of the law enforcement agency, and the name and telephone number of an individual to contact at the law enforcement agency (and, if available, the electronic mail address of that individual); and

23          “(E) declare under penalties of perjury that the person submitting the notice is an official of the law enforcement agency described in subparagraph (D).

1       “(d) Nothing in this section shall repeal or amend  
2 the rights or privileges secured tribes under the Indian  
3 Gaming Regulatory Act of 1988 (25 U.S.C. 2701 et seq.)  
4 or under Indian treaties.

5       “(e)(1) An interactive computer service provider shall  
6 not be liable, under this section or any other provision of  
7 Federal or State law prohibiting or regulating gambling  
8 or gambling-related activities, for the use of its facilities  
9 or services by another person to engage in Internet gam-  
10 bling activity that violates such law—

11       “(A) arising out of any transmitting, routing,  
12 or providing of connections for gambling-related ma-  
13 terial or activity (including intermediate and tem-  
14 porary storage in the course of such transmitting,  
15 routing, or providing connections) by the provider,  
16 if—

17           “(i) the material or activity was initiated  
18 by or at the direction of a person other than  
19 the provider;

20           “(ii) the transmitting, routing, or pro-  
21 viding of connections is carried out through an  
22 automatic process without selection of the mate-  
23 rial or activity by the provider;

24           “(iii) the provider does not select the re-  
25 cipients of the material or activity, except as an

1           automatic response to the request of another  
2           person; and

3           “(iv) the material or activity is transmitted  
4           through the system or network of the provider  
5           without modification of its content; or

6           “(B) arising out of any gambling-related mate-  
7           rial or activity at an online site residing on a com-  
8           puter server owned, controlled, or operated by or for  
9           the provider, or arising out of referring or linking  
10          users to an online location containing such material  
11          or activity, if the material or activity was initiated  
12          by or at the direction of a person other than the pro-  
13          vider.

14          “(2) An interactive computer service provider shall  
15          not be liable, under any provision of Federal or State law  
16          prohibiting or regulating gambling or gambling-related ac-  
17          tivities, or under any State law prohibiting or regulating  
18          advertising and promotional activities, for content, pro-  
19          vided by another person, that advertises or promotes gam-  
20          bling activity that violates such law, unless the provider  
21          is engaged in the business of such gambling.

22          “(3)(A) An interactive computer service provider  
23          shall not be liable for any damages, penalty, or forfeiture,  
24          civil or criminal, under Federal or State law for taking

1 in good faith any action to comply with a notice described  
2 in subsection (c).

3       “(B) Nothing in this section may be construed to im-  
4 pose or authorize an obligation on an interactive computer  
5 service provider—

6           “(i) to monitor material or use of its service; or  
7           “(ii) except as required by a notice under sub-  
8           section (c), to discontinue or refuse the leasing, fur-  
9           nishing, or maintaining of a facility.

10       “(4) As used in this subsection:

11           “(A) The term ‘interactive computer service’  
12 means any interactive computer service that operates  
13 in interstate or foreign commerce and provides or  
14 enables access by multiple users to a computer serv-  
15 er, including a service that—

16           “(i) provides an information location tool  
17 to refer to link users to an online location, in-  
18 cluding a directory, index, or hypertext link;

19           “(ii) is engaged in the transmission, stor-  
20 age, retrieval, hosting, formatting, or trans-  
21 lation of a communication made by another per-  
22 son without selection or alteration of the con-  
23 tent of that communication, other than that  
24 done in good faith to prevent or avoid a viola-  
25 tion of law; or

1                 “(iii) provides access to the Internet.

2                 “(B) The term ‘interactive computer service  
3 provider’ means any person that provides an inter-  
4 active computer service, to the extent that such per-  
5 son offers or provides such service.

6                 “(C) The term ‘Internet’ means the inter-  
7 national computer network of both Federal and non-  
8 Federal interoperable packet switched data net-  
9 works.

10                “(f) As used in this section:

11                “(1) The term ‘State’ means a State of the  
12 United States, the District of Columbia, the Com-  
13 monwealth of Puerto Rico, or a commonwealth, ter-  
14 ritory, or possession of the United States.

15                “(2) The term ‘tribe’ or ‘tribal’ refers to an In-  
16 dian tribe, as defined under section 4(5) of the In-  
17 dian Gaming Regulatory Act of 1988 (25 U.S.C.  
18 2703(5)).”.

19                (b) CLERICAL AMENDMENT.—The table of sections  
20 at the beginning of chapter 50 of that title is amended  
21 by striking the item relating to section 1084 and inserting  
22 the following new item:

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

