

107TH CONGRESS
2D SESSION

S. 3006

To prohibit Internet gambling.

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

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—

1 (A) by striking “wire communication” and
2 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 facili-
2 tating or enabling the placing or receipt of bets
3 or wagers in a jurisdiction where such betting
4 is illegal;

5 “(C) advertising relating to betting or wa-
6 gering in a jurisdiction where such betting or
7 wagering is legal, as long as such advertising
8 does not solicit or provide information for the
9 purpose of facilitating or enabling the placing
10 or receipt of bets or wagers in a jurisdiction
11 where such betting is illegal;

12 “(D) the transmission of information as-
13 sisting in the placing of bets or wagers from a
14 State or foreign country where such bets or wa-
15 gers are legal into a State or foreign country in
16 which such betting or wagering is legal; or

17 “(E) information exchanged through tele-
18 communications connections using bi-directional
19 communication with external associated equip-
20 ment utilizing communication protocols that en-
21 sure that erroneous data or signals will not ad-
22 versely affect or influence the operation of gam-
23 ing devices connected to an accounting system,
24 if the information is used only to monitor gam-
25 ing device play, display prize amounts, provide

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

prizes daily, weekly, or monthly during the regular season or after each round of postseason play based on total points accrued, or other prizes at the conclusion of the regular season or postseason, or both based on the cumulative points accrued during the regular season or postseason, or both;

“(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

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

“(9) The term ‘bets or wagers’ means the staking or risking by any person of something of value upon—

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

“(B) one or more sporting events or contests, or one or more performances of the par-

1 participants 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, gam-
2 bling related material, or activity that allegedly vio-
3 lates this section, and allege that such facility, mate-
4 rial, or activity violates this section;

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

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

15 “(D) provide information that is reasonably suf-
16 ficient to permit the provider of the wire commu-
17 nication facility to contact the law enforcement
18 agency that issued the notice, including the name of
19 the law enforcement agency, and the name and tele-
20 phone number of an individual to contact at the law
21 enforcement agency (and, if available, the electronic
22 mail address of that individual); and

23 “(E) declare under penalties of perjury that the
24 person submitting the notice is an official of the law
25 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.”.

