

108TH CONGRESS
1ST SESSION

H. R. 1223

To create a commission on Internet gambling licensing and regulation.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2003

Mr. CONYERS (for himself, Mr. CANNON, Ms. BERKLEY, and Mr. BACA) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To create a commission on Internet gambling licensing and regulation.

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 shall be known as the “Internet Gambling
5 Licensing and Regulation Commission Act”.

6 **SEC. 2. FINDINGS AND POLICY.**

7 The Congress finds the following:

8 (1) Gambling is regulated primarily by State
9 and tribal governments, whose statutes and regula-

1 tions govern the placement and acceptance of wagers
2 within state boundaries.

3 (2) Online gaming is an activity occurring in
4 interstate commerce with millions of Americans par-
5 ticipating.

6 (3) The advent of advanced telecommunications
7 technologies, and the Internet in particular, has ren-
8 dered state regulation less effective and confusing
9 with respect to online wagering.

10 (4) Federal statutes governing interstate place-
11 ment of wagers are contradictory and confusing, and
12 they do not adequately address the issues involved
13 with gambling over the Internet, including gambling
14 by minors, problem gamblers, and the susceptibility
15 of Internet gambling to money laundering.

16 (5) Commercial casino operations, Native
17 American tribal gaming operations, State lotteries,
18 horse and dog racing tracks, jai alai, and card rooms
19 have made legal land-based gambling available to the
20 vast majority of Americans.

21 (6) The use of various types of credit, credit
22 cards, electronic fund transfers, and bank instru-
23 ments is the principal manner in which individuals
24 fund their engagement in Internet gambling.

1 (7) Online gaming should be subject to the con-
2 sumer protection laws of the United States.

3 (8) Various forms of gambling, including inter
4 alia, casino-style, sports wagering, parimutuel wa-
5 gering (including horse racing, dog racing, and jai
6 alai), State lotteries, noncasino slot machines and
7 others, are subject to disparate Federal, State, and
8 tribal laws and regulations.

9 (9) Because of the nature of the Internet, legis-
10 lative attempts to prohibit Internet gambling are un-
11 likely to be effective, and may adversely impact
12 American's rights to due process and individual pri-
13 vacy.

14 (10) It is the policy of the Congress in this Act
15 to establish a commission to study and resolve issues
16 posed by the regulation of interstate commerce with
17 respect to Internet gambling.

18 **SEC. 3. INTERNET GAMBLING LICENSING AND REGULA-**
19 **TION STUDY COMMISSION.**

20 (a) ESTABLISHMENT OF COMMISSION.—There is es-
21 tablished a commission to be known as the Internet Gam-
22 bling Licensing and Regulation Study Commission (here-
23 inafter referred to in this Act as the “Commission”). The
24 Commission shall—

1 (1) be composed of 5 members appointed in ac-
2 cordance with subsection (b); and

3 (2) conduct its business in accordance with the
4 provisions of this Act.

5 (b) MEMBERSHIP.—

6 (1) IN GENERAL.—The Commissioners shall be
7 appointed for the life of the Commission as follows:

8 (A) 1 shall be appointed by the Speaker of
9 the House of Representatives.

10 (B) 1 shall be appointed by the Minority
11 Leader of the House of Representatives.

12 (C) 1 shall be appointed by the Majority
13 Leader of the Senate.

14 (D) 1 shall be appointed by the Minority
15 Leader of the Senate.

16 (E) The 4 commissioners appointed in sub-
17 paragraphs (A), (B), (C), and (D) shall select
18 by consensus the fifth Commissioner, who shall
19 be the Chairman of the Commission.

20 (2) PERSONS ELIGIBLE.—The members of the
21 Commission shall be individuals who have knowledge
22 or expertise, whether by experience or training, in
23 matters to be studied by the Commission under sec-
24 tion 4. The members may be from the public or pri-
25 vate sector, and may include Federal, State, local, or

1 Native American tribal officers or employees, mem-
2 bers of academia, nonprofit organizations, industry,
3 or other interested individuals.

4 (3) CONSULTATION REQUIRED.—The Speaker
5 of the House of Representatives, the Minority Lead-
6 er of the House of Representatives, the Majority
7 Leader of the Senate, and the Minority Leader of
8 the Senate shall consult among themselves prior to
9 the appointment of the members of the Commission
10 in order to achieve, to the maximum extent possible,
11 fair and equitable representation of various points of
12 view with respect to the matters to be studied by the
13 Commission under section 4.

14 (4) COMPLETION OF APPOINTMENTS; VACAN-
15 CIES.—The Speaker of the House of Representa-
16 tives, the Minority Leader of the House of Rep-
17 resentatives, the Majority Leader of the Senate, and
18 the Minority Leader of the Senate shall conduct the
19 consultation required under paragraph (3) and shall
20 each make their respective appointments not later
21 than 60 days after the date of enactment of this
22 Act. Any vacancy that occurs during the life of the
23 Commission shall not affect the powers of the Com-
24 mission, and shall be filled in the same manner as

1 the original appointment not later than 60 days
2 after the vacancy occurs.

3 (5) OPERATION OF THE COMMISSION.—

4 (A) MEETINGS.—The Commission shall
5 meet at the call of the Chairman. The initial
6 meeting of the Commission shall be conducted
7 not later than 30 days after the appointment of
8 the last member of the Commission, or not later
9 than 30 days after the date on which appro-
10 priated funds are available for the Commission,
11 whichever is later.

12 (B) QUORUM; VOTING; RULES.—A major-
13 ity of the members of the Commission shall
14 constitute a quorum to conduct business, but
15 the Commission may establish a lesser quorum
16 for conducting hearings scheduled by the Com-
17 mission. Each member of the Commission shall
18 have 1 vote, and the vote of each member shall
19 be accorded the same weight. The Commission
20 may establish by majority vote any other rules
21 for the conduct of the Commission's business, if
22 such rules are not inconsistent with this Act or
23 other applicable law.

24 **SEC. 4. DUTIES OF THE COMMISSION.**

25 (a) STUDY.—

1 (1) IN GENERAL.—It shall be the duty of the
2 Commission to conduct a comprehensive study of the
3 existing legal framework governing Internet gam-
4 bling and the issues involved with the licensing and
5 regulation of Internet gambling.

6 (2) MATTERS TO BE STUDIED.—The matters
7 studied by the Commission under paragraph (1)
8 shall include, but not be limited to—

9 (A) a review of existing international, Fed-
10 eral, State, tribal, and local laws governing var-
11 ious forms of wagering over the Internet, the
12 effectiveness of those laws, and their conformity
13 with each other;

14 (B) an assessment of the impact of Inter-
15 net gambling with respect to problem gambling;

16 (C) an assessment of the impact of Inter-
17 net gambling on the availability of gambling to
18 minors;

19 (D) an assessment of the susceptibility of
20 Internet gambling to money laundering by ter-
21 rorists or criminal enterprises;

22 (E) the potential of regulatory measures to
23 minimize any adverse impacts of Internet gam-
24 bling, including the problems identified in sub-
25 paragraphs (B), (C), and (D);

1 (F) an evaluation of the personal use of
2 credit, credit cards, electronic fund transfers,
3 and bank instruments to fund the engagement
4 in Internet gambling, including an assessment
5 of the potential of these means to minimize any
6 adverse impacts of Internet gambling, including
7 the problems identified in subparagraphs (B),
8 (C), and (D);

9 (G) issues of federalism posed by the regu-
10 lation of Internet gambling, and the reconcili-
11 ation of a state-based legal framework with an
12 inherently interstate and international medium
13 such as the Internet;

14 (H) the problems of unregulated inter-
15 national Internet wagering, and options for the
16 Federal Government to seek international co-
17 operation in the licensing and regulation of
18 such gambling; and

19 (I) an assessment of the activities in the
20 European Union member states to regulate and
21 license Internet gambling.

22 (b) REPORT.—Not later than 1 year after the date
23 on which the Commission first meets, the Commission
24 shall submit to the President, the Congress, State Gov-
25 ernors, and Native American tribal governments a com-

1 prehensive report on the Commission's findings and con-
2 clusions.

3 (c) RECOMMENDATIONS.—Not later than 6 months
4 after the submission of the report under subsection (b)
5 the Commission shall issue proposed changes to Federal
6 laws and regulations to provide for the licensing and regu-
7 lation of Internet gambling in the United States. These
8 proposals shall—

9 (1) preserve the prerogatives of States with re-
10 spect to intrastate gambling and wagering within
11 their borders, and the further prerogative of States
12 to regulate the placement and acceptance of online
13 wagers by their citizens, including to adopt measures
14 to prevent wagering by individuals in States where
15 all gambling is illegal;

16 (2) include measures to minimize adverse im-
17 pacts of Internet gambling, including—

18 (A) measures to prevent minors from gam-
19 bling online;

20 (B) measures to prevent the use of Inter-
21 net gambling as a money laundering channel
22 for terrorists and criminal enterprises; and

23 (C) measures to identify, and where pos-
24 sible, provide assistance to problem gamblers
25 online;

1 (3) preserve tribal sovereignty with respect to
2 gaming and Internet gaming in a manner consistent
3 with the decision of the Supreme Court of the
4 United States in *California v. Cabazon Band of Mis-*
5 *sion Indians*, 480 U.S. 202, 107 S. Ct. 1083 (1987);

6 (4) clarify and harmonize the Federal laws gov-
7 erning gambling as they apply to Internet gambling,
8 and eliminate the disparate treatment of various
9 forms of Internet gambling, except in cases where
10 the disparity serves a compelling State interest;

11 (5) provide for the appropriate taxation of
12 Internet gambling enterprises;

13 (6) provide for the licensing of enterprises both
14 within the United States and outside of its borders;

15 (7) consider and, where possible, remain con-
16 sistent with the goals, principles, and obligations of
17 the United States in other international negotiations
18 governing electronic commerce; and

19 (8) include measures to discourage, prohibit, or
20 prevent United States citizens from wagering with
21 unlicensed Internet gambling operations outside of
22 the United States.

23 **SEC. 5. POWERS OF THE COMMISSION.**

24 (a) HEARINGS.—

1 (1) IN GENERAL.—The Commission may hold
2 such hearings, sit and act at such times and places,
3 administer such oaths, take such testimony, and re-
4 ceive such evidence as the Commission considers ad-
5 visable to carry out its duties under section 4.

6 (2) WITNESS EXPENSES.—Witnesses requested
7 to appear before the Commission shall be paid the
8 same fees as are paid to witnesses under section
9 1821 of title 28, United States Code. The per diem
10 and mileage allowances for witnesses shall be paid
11 from funds appropriated to the Commission.

12 (b) SUBPOENAS.—

13 (1) IN GENERAL.—If a person fails to supply
14 information requested by the Commission, the Com-
15 mission may by majority vote require by subpoena
16 the production of any written or recorded informa-
17 tion, document, report, answer, record, account,
18 paper, computer file, or other data or documentary
19 evidence necessary to carry out its duties under sec-
20 tion 4. The Commission shall transmit to the Attor-
21 ney General a confidential, written notice at least 10
22 days in advance of the issuance of any such sub-
23 poena. A subpoena under this paragraph may re-
24 quire the production of materials from any place
25 within the United States.

1 (2) INTERROGATORIES.—The Commission may,
2 with respect only to information necessary to under-
3 stand any materials obtained through a subpoena
4 under paragraph (1), issue a subpoena requiring the
5 person producing such materials to answer, either
6 through a sworn deposition or through written an-
7 swers provided under oath (at the election of the
8 person upon whom the subpoena is served), to inter-
9 rogatories from the Commission regarding such in-
10 formation. A complete recording or transcription
11 shall be made of any deposition made under this
12 paragraph.

13 (3) CERTIFICATION.—Each person who submits
14 materials or information to the Commission pursu-
15 ant to a subpoena issued under paragraph (1) or (2)
16 shall certify to the Commission the authenticity and
17 completeness of all materials or information sub-
18 mitted. The provisions of section 1001 of title 18,
19 United States Code, shall apply to any false state-
20 ments made with respect to the certification required
21 under this paragraph.

22 (4) TREATMENT OF SUBPOENAS.—Any sub-
23 poena issued by the Commission under paragraph
24 (1) or (2) shall comply with the requirements for

1 subpoenas issued by a United States district court
2 under the Federal Rules of Civil Procedure.

3 (5) FAILURE TO OBEY A SUBPOENA.—If a per-
4 son refuses to obey a subpoena issued by the Com-
5 mission under paragraph (1) or (2), the Commission
6 may apply to a United States district court for an
7 order requiring that person to comply with such sub-
8 poena. The application may be made within the judi-
9 cial district in which that person is found, resides,
10 or transacts business. Any failure to obey the order
11 of the court may be punished by the court as civil
12 contempt.

13 (c) INFORMATION FROM FEDERAL AGENCIES.—The
14 Commission may secure directly from any Federal depart-
15 ment or agency such information as the Commission con-
16 siders necessary to carry out its duties under section 4.
17 Upon the request of the Commission, the head of such
18 department or agency may furnish such information to the
19 Commission.

20 (d) INFORMATION TO BE KEPT CONFIDENTIAL.—
21 The Commission shall be considered an agency of the Fed-
22 eral Government for purposes of section 1905 of title 18,
23 United States Code, and any individual employed by an
24 individual, entity, or organization under contract to the
25 Commission under section 7 shall be considered an em-

1 ployee of the Commission for the purposes of section 1905
2 of title 18, United States Code. Information obtained by
3 the Commission, other than information available to the
4 public, shall not be disclosed to any person in any manner,
5 except—

6 (1) to Commission employees or employees of
7 any individual, entity, or organization under contract
8 to the Commission under section 7 for the purpose
9 of receiving, reviewing, or processing such informa-
10 tion;

11 (2) upon court order; or

12 (3) when publicly released by the Commission
13 in an aggregate or summary form that does not di-
14 rectly or indirectly disclose—

15 (A) the identity of any person or business
16 entity; or

17 (B) any information which could not be re-
18 leased under section 1905 of title 18, United
19 States Code.

20 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

21 (a) COMPENSATION OF MEMBERS.—Each member of
22 the Commission who is not an officer or employee of the
23 Federal Government, or whose compensation is not pre-
24 cluded by a State, local, or Native American tribal govern-
25 ment position, shall be compensated at a rate equal to the

1 daily equivalent of the annual rate of basic pay prescribed
2 for level IV of the Executive Schedule under section 5315
3 of title 5, United States Code, for each day (including
4 travel time) during which such member is engaged in the
5 performance of the duties of the Commission. All members
6 of the Commission who are officers or employees of the
7 United States shall serve without compensation in addi-
8 tion to that received for their services as officers or em-
9 ployees of the United States.

10 (b) TRAVEL EXPENSES.—The members of the Com-
11 mission shall be allowed travel expenses, including per
12 diem in lieu of subsistence, at rates authorized for employ-
13 ees of agencies under subchapter I of chapter 57 of title
14 5, United States Code, while away from their homes or
15 regular places of business in the performance of service
16 for the Commission.

17 (c) STAFF.—

18 (1) IN GENERAL.—The Chairman of the Com-
19 mission may, without regard to the civil service laws
20 and regulations, appoint and terminate an executive
21 director and such other additional personnel as may
22 be necessary to enable the Commission to perform
23 its duties. The employment and termination of an
24 executive director shall be subject to confirmation by
25 a majority of the members of the Commission.

1 (2) COMPENSATION.—The executive director
2 shall be compensated at a rate not to exceed the rate
3 payable for level V of the Executive Schedule under
4 section 5316 of title 5, United States Code. The
5 Chairman may fix the compensation of other per-
6 sonnel without regard to the provisions of chapter
7 51 and subchapter III of chapter 53 of title 5,
8 United States Code, relating to classification of posi-
9 tions and General Schedule pay rates, except that
10 the rate of pay for such personnel may not exceed
11 the rate payable for level V of the Executive Sched-
12 ule under section 5316 of such title.

13 (3) DETAIL OF GOVERNMENT EMPLOYEES.—
14 Any Federal Government employee, with the ap-
15 proval of the head of the appropriate Federal agen-
16 cy, may be detailed to the Commission without reim-
17 bursement, and such detail shall be without inter-
18 ruption or loss of civil service status, benefits, or
19 privilege.

20 (d) PROCUREMENT OF TEMPORARY AND INTERMIT-
21 TENT SERVICES.—The Chairman of the Commission may
22 procure temporary and intermittent services under section
23 3109(b) of title 5, United States Code, at rates for individ-
24 uals not to exceed the daily equivalent of the annual rate

1 of basic pay prescribed for level V of the Executive Sched-
2 ule under section 5316 of such title.

3 **SEC. 7. CONTRACTS FOR RESEARCH.**

4 (a) ADVISORY COMMISSION ON INTERGOVERN-
5 MENTAL RELATIONS.—

6 (1) IN GENERAL.—In carrying out its duties
7 under section 4, the Commission shall contract with
8 the Advisory Commission on Intergovernmental Re-
9 lations for—

10 (A) a thorough review and cataloging of all
11 applicable Federal, State, local, and Native
12 American tribal laws, regulations, and ordi-
13 nances that pertain to gambling in the United
14 States; and

15 (B) assistance in conducting the studies
16 required by the Commission under section 4(a),
17 and in particular the review and assessments
18 required in subparagraphs (A), (E), and (G) of
19 paragraph (2) of such section.

20 (2) REPORT REQUIRED.—The contract entered
21 into under paragraph (1) shall require that the Advi-
22 sory Commission on Intergovernmental Relations
23 submit a report to the Commission detailing the re-
24 sults of its efforts under the contract not later than

1 15 months after the date upon which the Commis-
2 sion first meets.

3 (b) NATIONAL RESEARCH COUNCIL.—

4 (1) IN GENERAL.—In carrying out its duties
5 under section 4, the Commission shall contract with
6 the National Research Council of the National Acad-
7 emy of Sciences for assistance in conducting the
8 studies required by the Commission under section
9 4(a).

10 (2) REPORT REQUIRED.—The contract entered
11 into under paragraph (1) shall require that the Na-
12 tional Research Council submit a report to the Com-
13 mission detailing the results of its efforts under the
14 contract not later than 15 months after the date
15 upon which the Commission first meets.

16 (c) OTHER ORGANIZATIONS.—Nothing in this section
17 shall be construed to limit the ability of the Commission
18 to enter into contracts with other entities or organizations
19 for research necessary to carry out the Commission’s du-
20 ties under section 4.

21 **SEC. 8. DEFINITIONS.**

22 For the purposes of this Act:

23 (1) BANK INSTRUMENT.—The term “bank in-
24 strument” means any instrument drawn on or pay-

1 able through a financial institution (including any
2 check, draft, or similar instrument).

3 (2) CREDIT AND CREDIT CARD.—The terms
4 “credit” and “credit card” have the meanings given
5 such terms in section 103 of the Truth in Lending
6 Act (15 U.S.C. 1602).

7 (3) ELECTRONIC FUND TRANSFER.—The term
8 “electronic fund transfer”—

9 (A) has the meaning given such term in
10 section 903 of the Electronic Fund Transfer
11 Act (15 U.S.C. 1693a); and

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

15 (4) FINANCIAL INSTITUTION.—The term “fi-
16 nancial institution” has the meaning given such
17 term in section 903 of the Electronic Fund Transfer
18 Act (15 U.S.C. 1693a).

19 (5) GAMBLING.—

20 (A) Except as provided in subparagraph
21 (B), the term “gambling” means any legalized
22 form of wagering or betting conducted in a ca-
23 sino, on a riverboat, on an Indian reservation,
24 or at any other location under the jurisdiction
25 of the United States. Such term includes any

1 casino game, parimutuel betting, sports-related
2 betting, lottery, pull-tab game, slot machine,
3 any type of video gaming, computerized wager-
4 ing or betting activities (including any such ac-
5 tivity conducted over the Internet), and philan-
6 thropic or charitable gaming activities.

7 (B) The term “gambling” does not in-
8 clude—

9 (i) any activity governed by the secu-
10 rities laws (as that term is defined in sec-
11 tion 3(a)(47) of the Securities Exchange
12 Act of 1934) for the purchase or sale of se-
13 curities (as that term is defined in section
14 3(a)(10) of such Act);

15 (ii) any transaction conducted on or
16 subject to the rules of a registered entity
17 or exempt board of trade pursuant to the
18 Commodity Exchange Act;

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

21 (iv) any contract of indemnity or
22 guarantee;

23 (v) any contract for insurance;

24 (vi) any deposit or other transaction
25 with a depository institution (as defined in

1 section 3(c) of the Federal Deposit Insur-
2 ance Act); or

3 (vii) any participation in a simulation
4 sports game or an educational game or
5 contest that—

6 (I) is not dependent solely on the
7 outcome of any single sporting event
8 or nonparticipant’s singular individual
9 performance in any single sporting
10 event;

11 (II) has an outcome that reflects
12 the relative knowledge and skill of the
13 participants with such outcome deter-
14 mined predominantly by accumulated
15 statistical results of sporting events;
16 and

17 (III) offers a prize or award to a
18 participant that is established in ad-
19 vance of the game or contest and is
20 not determined by the number of par-
21 ticipants or the amount of any fees
22 paid by those participants.

23 (6) NATIVE AMERICAN TRIBAL GOVERNMENT.—

24 The term “Native American tribal government”
25 means an Indian tribe, as defined under section 4(5)

1 of the Indian Gaming Regulatory Act of 1988 (25
2 U.S.C. 2703(5)).

3 (7) STATE.—The term “State” means each of
4 the several States of the United States, the District
5 of Columbia, the Commonwealth of Puerto Rico, the
6 Virgin Islands, Guam, American Samoa, and the
7 Commonwealth of the Northern Mariana Islands.

8 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) IN GENERAL.—There are authorized to be appro-
10 priated to the Commission, the Advisory Commission on
11 Intergovernmental Relations, and the National Academy
12 of Sciences such sums as may be necessary to carry out
13 the purposes of this Act. Any sums appropriated shall re-
14 main available, without fiscal year limitation, until ex-
15 pended.

16 (b) LIMITATION.—No payment may be made under
17 section 6 or 7 of this Act except to the extent provided
18 for in advance in an appropriation Act.

19 **SEC. 10. TERMINATION OF THE COMMISSION.**

20 The Commission shall terminate 60 days after the
21 Commission submits the report required under section
22 4(b).

○