



## Lawmakers Challenge DoJ's Lifting of Online Gambling Ban

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By Jennifer G. Hickey

Congressional lawmakers have reignited a heated debate over online gambling with a proposal that would restore a ban that existed before the Justice Department's 2011 reinterpretation of an older law.

The bill would re-establish the 1961 Wire Act before it was changed by the Justice Department, and would ban licensed online gambling in states where it is currently legal.

Utah Republican Rep. Jason Chaffetz, the House's main sponsor of the Restoration of America's Wire Act, said he is chiefly concerned with the way Justice circumvented Congress.

"There is a right way to do things and there is a wrong way to do things. And what the Justice Department did was wrong. They just decided one day to make fundamental changes to existing law without any consultation with Congress," Chaffetz told Newsmax.

"There is a reason we used the word 'restoration' in the title. This bill is not as much about gambling as it is about restoring the law to what it was before the Justice Department decided to unilaterally reinterpret it. This is just one of any number of issues on which this administration has failed to consult Congress and ignored the law," Chaffetz said.

Chaffetz said the bill has attracted bipartisan support because "regardless of where members stand on the issue, they know it is wrong for any administration to try an end run around Congress' constitutional role."

The genesis of the controversy is a legal opinion released on Dec. 21, 2011 by the Department of Justice's Office of Legal Counsel dealing with the [scope of the Wire Act](#), which was passed in 1961 to prohibit the use of wire communications for the interstate transfer of wagers.

The opinion was drafted in response to inquiries from Illinois and New York concerning proposals to use the Internet to buy out-of-state lottery tickets.

The Justice Department concluded that "interstate transmissions of wire communications that do not relate to a 'sporting event or contest' fall outside the reach of the Wire Act," which essentially eliminated most federal restrictions on online gaming except for wagering on sports.

The Chaffetz legislation is co-sponsored by Democratic Reps. Tulsi Gabbard of Hawaii and Jim Matheson of Utah, among others. A Senate version was introduced by Republican Lindsey Graham of South Carolina, with co-sponsors Dianne Feinstein, a California Democrat, and Republicans Mike Lee of Utah and Kelly Ayotte of New Hampshire.

Chaffetz acknowledges he and his constituents support prohibitions on some forms of online gambling, but says his goal is to restore the original interpretation of the Wire Act and then to engage in a full and open debate on how best to regulate online gambling.

The debate over online gambling was simmering before the Graham-Chaffetz bills were introduced last month.

In a January [op-ed in The Hill](#), Geoff Freeman, president of the American Gaming Association, said prohibition of online gaming has created a vibrant illegal black market.

"Where prohibition has failed, legalization, oversight, and a strong regulatory regime" can provide sufficient consumer protections, Freeman said.

In February, 16 state attorneys general [sent a letter to Congress](#) seeking to reverse Justice's action, saying it would "give federal and state law enforcement agencies time to fully assess and report on the implications Internet gambling has on our respective charges to protect the citizens of our states."

Although the sides do not necessarily break down along party lines, politics clearly enters the debate.

Two prominent Republican governors — South Carolina's [Nikki Haley and Rick Perry](#) of Texas — have expressed their support for an Internet gaming ban.

Conversely, the Democratic Governors Association sent a letter to the congressional leadership asserting that "gaming and lotteries are critical to producing the revenue needed to fund important state and local governmental services, such as public education."

And casino mogul Sheldon Adelson, a major GOP donor, is behind the Coalition to Stop Internet Gambling.

The coalition argues that online gambling "targets the young, the poor and the elderly where they live" and "crosses the line of responsible gaming by bringing gambling into our living rooms and onto our smartphones, tablets and home computers 24 hours a day without necessary protections."

In 2006, Congress issued a ban on the use of credit cards and other payment cards for the purpose of Internet gambling. Known as the Unlawful Internet Gambling Enforcement Act, the measure was a complement to the Wire Act, but its focus was primarily on financial transactions rather than on the act of gambling.

The 2006 Internet gambling act was employed in the prosecution of 11 individuals associated with the world's largest online poker operators in April 2011.

The Department of Justice, which seized 75 bank accounts from 14 countries, charged those who were rounded up with [money laundering and bank fraud](#).

But law enforcement groups are taking the middle ground on the current issue, with the Fraternal Order of Police working against a nationwide online gaming ban but seeking a reform of the law.

"What we have been saying for some time is that the Wire Act is insufficient to combat illegal Internet gambling and what we need and what we have been asking for is a comprehensive reform of the act," said Tim Richardson, FOP's senior legislative liaison. "The Wire Act was passed in 1961 and is in serious need of an update."

Richardson said the FOP does not support a national ban on online gambling because they believe it will deny law enforcement the tools they need to monitor illegal activity.

"We continue to believe that a national ban on online gaming would just drive it further and further underground and increase the risk to consumers," Richardson told Newsmax.

Since the Justice Department's reinterpretation of the law in 2011, several measures have been introduced in Congress.

A bill sponsored by New York Republican Rep. Peter King would legalize all forms of online gambling with the exception of sports betting. Another bill sponsored by Republican Rep. Joe Barton of Texas would legalize online poker, but would leave states the discretion to choose whether they want to allow residents to play poker on the Internet.

Kristen Hawn of Granite Integrated Strategies, which represents the Coalition for Consumer and Online Protection, said states "should be able to decide for themselves whether they want to implement" prohibitions on gaming.

"Innovation [of online gambling] will happen and there is no turning back. We need to find a way to regulate it in a responsible way that does not feed the black market that is already thriving. We need to have the input from the states included in determining a regulated marketplace," Hawn told Newsmax.

New Jersey, Delaware, and Nevada have legalized online gambling, while Illinois, Indiana, Washington, Louisiana, Oregon, Montana, and South Dakota have enacted express prohibitions, according to the House Commerce Committee.

While most interest groups favor some regulation, Libertarians oppose any federal involvement.

"I oppose any restriction of online gambling for reasons due to freedom. We allow people to gamble on the stock market. We allow people to place bets at the race track, so it just seems completely bizarre that they would attempt to restrict this form of gambling," said Jeffrey Miron, an economics professor at Harvard and director of Economic Policy Studies at the Cato Institute. "But even if we were to ban it, it will only create a market for offshore gambling and create a group of people who will act outside the law to provide access to gambling."

Miron believes the laws governing technology are lagging behind the technology itself and does not see that as a necessarily bad thing.

"The government at various times has felt that it was appropriate to regulate things it deems as harmful to people, from books to religion," he said. "I do not think the government has a place in deciding what is best for individuals and then trying to impose that belief through regulation."