H.R. REP. 87-967, H.R. Rep. No. 967, 87TH Cong., 1ST Sess. 1961, 1961 U.S.C.C.A.N. 2631, 1961 WL 4794 (Leg.Hist.)

**\*2631** P.L. 87-216, SPORTING EVENTS-- TRANSMISSION OF BETS, WAGERS, AND RELATED INFORMATION

Senate Report No. 87-588,

July 14, 1961 (To accompany S. 1656)

House Report No. 87-967,

Aug. 17, 1961 (To accompany S. 1656)

The House Report is set out.

                                                                                 (CONSULT NOTE FOLLOWING TEXT FOR INFORMATION ABOUT OMITTED MATERIAL.  EACH     COMMITTEE REPORT IS A SEPARATE DOCUMENT ON WESTLAW.)

House Report No. 87-967

Aug. 17, 1961

THE Committee on the Judiciary, to whom was referred the bill (S. 1656) to amend chapter 50 of title 18, United States Code, with respect to the transmission of bets, wagers, and related information, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

PURPOSE OF THE AMENDMENTS

The first amendment is purely technical in order to correct a typographical error.

Amendment No. 2 adds the Commonwealth of Puerto Rico, which is not encompassed by the wording in subsection (c) since it is neither a State, territory, nor possession, in order to insure that it will be included within the scope of that subsection, the purpose of which makes certain that the area encompassed by the bill is not preempted by the Federal Government.

PURPOSE OF THE BILL

The purpose of the bill is to assist the various States and the District of Columbia in the enforcement of their laws pertaining to gambling, bookmaking, and like offenses and to aid in the suppression of organized gambling activities by prohibiting the use of wire communication facilities which are or will be used for the transmission of bets or wagers and gambling information in interstate and foreign commerce.

BACKGROUND

H.R. 7039 was introduced by the chairman of the Committee on the Judiciary on May 15, 1961, after a communication from the Attorney General dated April 6, 1961. H.R. 7039 is identical to S. 1656 as introduced in the Senate. S. 1656, with amendments, passed the Senate on July 28, 1961, and was referred to the Committee on the Judiciary. Your committee considered S. 1656 as passed by the Senate and, with two amendments, recommends that it do pass.

STATEMENT

Testimony before your Committee on the Judiciary revealed that modern bookmaking depends in large measure on the rapid transmission of gambling information by wire communication facilities. For example, **\*2632** at present the immediate receipt of information as to results of a horserace permits a bettor to place a wager on a successive race. Likewise, bookmakers are dependent upon telephone service for the placing of bets and for layoff betting on all sporting events. The availability of wire communication facilities affords opportunity for the making of bets or wagers and the exchange of related information almost to the very minute that a particular sporting event begins.

The bill does not include within its provisions radio and television stations. The Attorney General is of the opinion, and the Federal Communications Commission agrees, that the Commission has adequate authority under existing law to prevent the transmission of gambling information over the radio and television facilities. It is evident that this power to act to revoke a station's license when that station is not operated in the public interest (47 U.S.C. 312) is preventing the misuse of these means of communication.

SECTIONAL ANALYSIS

The first section of the bill amends section 1081 of title 18, United States Code, by adding to that section of the chapter on gambling a new definition. The definition is that of ‘wire communication facility‘ and as defined is similar to the definition of ‘wire communication‘ or ‘communication by wire‘ as defined in section 153 of title 47, United States Code-- the Communications Act.

Section 2 of the bill amends chapter 50 of title 18, United States Code, by adding a new section designated ‘Section 1084. Transmission of wagering information; penalties.‘

Subsection (a) of the new section prohibits those persons who are engaged in the business of betting or wagering from knowingly using a wire communication facility for the transmission of bets or wagers or information assisting in the placing of bets or waters in interstate or foreign commerce on any sporting event or contest. It also prohibits the transmission of a wire communication which entitles the recipient to receive money or credit as a result of a bet or wager or for information assisting in the placing of bets or wagers. A penalty of $10,000 or imprisonment not more than 2 years, or both, is placed upon such transmission.

Subsection (b) contains an exemption from the prohibitions of subsection (a) for bona fide news reporting of sporting events or contests. A further exemption is contained in subsection (b) which would exempt the transmission of gambling information from a State where the placing of bets and wagers on a sporting event is legal, to a State where betting on that particular event is legal. Phrased differently, the transmission of gambling information on a horserace from a State where betting on that horserace is legal to a state where betting on the same horserace is legal is not within the prohibitions of the bill. Since Nevada is the only State which has legalized offtrack betting, this exemption will only be applicable to it. For example, in New York State parimutuel betting at a racetrack is authorized by State law. Only in Nevada is it lawful to make and accept bets on the race held in the State of New York where parimutuel betting at a racetrack is authorized by law. Therefore, **\*2633** the exemption will permit the transmission of information assisting in the placing of bets and wagers from New York to Nevada. On the other hand, it is unlawful to make and accept bets in New York State on a race being run in Nevada. Therefore, the transmission of information assisting in the placing of bets and wagers from Nevada to New York would be contrary to the provisions of the bill. Nothing in the exemption, however, will permit the transmission of bets and wagers or money by wire as a result of a bet or wager from or to any State whether betting is legal in that State or not.

Subsection (c) would make certain that the Federal Government is not preempting the area encompassed by the bill. Thus, the right of a State to prosecute for a violation of its penal laws is preserved by this subsection which is a disclaimer of any possible preemption by the Federal Government.

Subsection (d) provides that any common carrier, subject to the jurisdiction of the Federal Communications Commission, which is notified in writing by a Federal, State, or local law enforcement agency acting within its jurisdiction that any facility furnished by the common carrier is being used or will be used for the purpose of transmitting or receiving gambling information which is in violation of Federal, State, or local law shall discontinue or refuse to furnish its wire facility. However, before removal or refusal by the common carrier it must give reasonable notice to the subscriber of the facility. It further provides that the common carrier would be immunized from any damages, penalties, or forfeitures, either civil or criminal, for the acts done in compliance with the notice it received from a law enforcement agency.

This subsection also provides that nothing in this section shall prejudice the right of any person affected by this section to obtain an appropriate determination as otherwise provided by Federal, State, or local law in a Federal or State court or before a local tribunal or agency that the facility should not be removed or discontinued or that it should be restored.

Attached hereto and made a part of this report is a communication from the Attorney General to the Speaker of the House of Representatives dated August 6, 1961.

OFFICE OF THE ATTORNEY GENERAL,

Washington, D.C. April 6, 1961.

The SPEAKER,

House of Representatives,

Washington, D.C.

DEAR MR. SPEAKER: There is attached for your consideration and appropriate action a legislative proposal to amend chapter 50 of title 18, United States Code, with respect to the transmission of bets, wagers, and related information.

The purpose of this legislation is to assist the various States, territories, and possessions of the United States and the District of Columbia in the enforcement of their laws pertaining to gambling, bookmaking, and like offenses and to aid in the suppression of organized gambling activities by prohibiting the use of or the leasing, furnishing, or maintaining of wire communication facilities which are or will be used for the transmission of certain gambling information in interstate and foreign commerce. Radio and television stations have not been included since we believe **\*2634** that the Federal Communications Commission has ample authority to control transmission of gambling information by such facilities.

Modern bookmaking depends in large measure on the rapid transmission of gambling information by wire communication facilities. For example, at present the immediate receipt of information as to the results of a horserace permits a bettor to place a wager on a succeeding race. Likewise, bookmakers are dependent upon telephone service for the placing of bets and for layoff betting on all sporting events. The availability of wire communication facilities affords opportunity for the making of bets and wagers, and the exchange of related information almost to the very minute that a particular sporting event begins.

The enclosed proposal would prohibit the leasing, furnishing, or maintaining of wire communication facilities, as defined therein, with intent that they be used for the transmission of bets or wagers or information assisting in the placing of bets or wagers, and would prohibit the use of such facilities for the transmission of gambling information. A criminal sanction of $10,000 or imprisonment for not more than 2 years or both is prescribed for violations of the act.

It should be noted that the news broadcasting of sporting events or contests will not be affected by this legislation.

Accordingly, I urge the early introduction and enactment of this legislative proposal.

The Bureau of the Budget has advised that there is no objection to the submission of this recommendation.

Sincerely,

ROBERT F. KENNEDY, Attorney General.

                                                                                 (Note:  1.  PORTIONS OF THE SENATE, HOUSE AND CONFERENCE REPORTS, WHICH ARE     DUPLICATIVE OR ARE DEEMED TO BE UNNECESSARY TO THE INTERPRETATION OF THE LAWS, ARE OMITTED.  OMITTED MATERIAL IS INDICATED BY FIVE ASTERISKS:  \*\*\*\*\*.                  2.  TO RETRIEVE REPORTS ON A PUBLIC LAW, RUN A TOPIC FIELD SEARCH       USING THE PUBLIC LAW NUMBER, e.g., TO(99-495))

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