

9-1-1997

## Gambling to Be Competitive: The Gorton Amendment and International Law

Brian C. O'Donnell

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### Recommended Citation

O'Donnell, Brian C. (1997) "Gambling to Be Competitive: The Gorton Amendment and International Law," *Penn State International Law Review*: Vol. 16: No. 1, Article 7.

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# Gambling to Be Competitive: The Gorton Amendment and International Law

## I. Introduction

On August 23, 1994, the United States Congress passed the Federal Aviation Administration Authorization Act.<sup>1</sup> Section 41311 of the law (the Gorton Amendment) prohibits any air carrier from installing, transporting, operating or permitting the use of any gambling device on an aircraft.<sup>2</sup> This law applies to foreign airlines as well as to airlines based in the United States.<sup>3</sup> As a result, gambling is banned on all international aircraft flying into or out of the United States.<sup>4</sup>

The Gorton Amendment has had a significant impact on air carriers worldwide. Several foreign airlines have been planning to offer gambling to their passengers.<sup>5</sup> Recent technological advances have made it possible for airlines to install entertainment video systems with gambling software.<sup>6</sup> However, the Gorton Amendment prevents foreign airlines from allowing gambling on planes serving the U.S., even when foreign aircraft fly over the high seas or their own airspace.<sup>7</sup> Foreign airlines around the world have united to protest this law.

This Comment analyzes the U.S. passage of the Gorton Amendment and the impact of the law on the international aviation community. Part II provides a brief background of the previous U.S. gambling law that was amended and its impact on the international aviation community. Part II also describes the video machines and how these machines forced Congress to amend the

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1. 49 U.S.C. § 41311 (1994) [hereinafter Gorton Amendment].

2. *Id.*

3. *Id.*

4. Meg Nugent, *Airlines Try Video Gambling Despite Ban on U.S. Flights*, THE STAR-LEDGER, Aug. 13, 1996, at 15.

5. *Id.*

6. Steven J. Viuker, *High Stakes: Some hard-headed companies are betting on the biggest gambling score of all*, BARRONS, June 10, 1996, at 20.

7. Douglas W. Nelms, *Regulatory Overreach. (U.S. International Aviation Law)*, AIR TRANSPORT WORLD, Mar. 1, 1996, at 44.

old gambling law. In addition, Part II discusses the general reactions of opponents and proponents of the Gorton Amendment.

Part III describes pertinent international law and analyzes the united attack on the Gorton Amendment by foreign airlines. Part IV compares the U.S. law pertaining to the legalization of gambling on U.S. cruise ships to the Gorton Amendment. Part V discusses the future of the Gorton Amendment and the reasons why Congress may change it. Part VI concludes that although the Gorton Amendment may achieve its goal of leveling competition between U.S. and foreign airlines, Congress must change it to comply with the principles of international law, as the legislature did with cruise ship law.

## II. Background

There are supporters of legalized gambling and there are opponents of legalized gambling. The supporters describe all the financial benefits that gambling produces.<sup>8</sup> Opponents argue that these financial benefits are outweighed by the socio-economic costs associated with gambling.<sup>9</sup> Nevertheless, gambling in the U.S. has spread rapidly in the last twenty years.<sup>10</sup>

### *A. Gambling in U.S. and Foreign Air Transportation Prior to the Passage of the Gorton Amendment.*

The Gambling Devices Act of 1962<sup>11</sup> is the basis for all gambling legislation in the United States.<sup>12</sup> The law prohibits gambling on U.S. airlines during international flights.<sup>13</sup> This law made it illegal for U.S. carriers to even install gambling equipment on their aircraft.<sup>14</sup> The Gambling Devices Act did not apply to foreign carriers.<sup>15</sup> Until recently, there was no U.S. law that

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8. DEPARTMENT OF TRANSPORTATION, 104TH CONG., 2d Sess. REPORT ON VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION (1996) [hereinafter VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION].

9. *Id.*

10. *Id.* at 7.

11. 15 U.S.C. §§ 1171-1178 (1962).

12. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 53.

13. *See supra* note 11.

14. Roger Bray, *Airlines See Gambling on the Fly as Entertainment: Airborne Betting Terminals Could Net Revenue Jackpot Worth Almost \$350 Million annually to U.S. Carriers Alone*, FIN. POST, Sept. 18, 1996, at 50.

15. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 53.

prevented foreign airlines from offering gambling outside U.S. airspace.<sup>16</sup>

In the 1980's, some foreign airlines offered chartered gambling flights, but these flights never competed with U.S. airlines.<sup>17</sup> The foreign airlines could not develop a safe, efficient program for gambling.<sup>18</sup> At that time, there was no feasible and efficient way for airlines to offer gambling to passengers during flights.<sup>19</sup> As a result, no U.S. airlines complained about the Gambling Devices Act for 31 years.<sup>20</sup>

In 1993, Northwest Airlines became the first U.S. airline to push Congress to amend the Gambling Devices Act and legalize in-flight gambling for U.S. carriers.<sup>21</sup> Northwest complained to Congress after learning that video gambling had become available to airlines.<sup>22</sup> Video gambling is a feasible and efficient way to offer gambling on flights.<sup>23</sup> However, the Gambling Devices Act still prevented American carriers, like Northwest, from offering gambling; meanwhile, nothing prevented their foreign competitors from installing video gambling and offering it to passengers.

#### *B. The In-Flight Video Gambling Systems*

Video gambling in airplanes has emerged as a feasible option for airlines. Technological advances in telecommunications have created the opportunity for gambling on aircraft.<sup>24</sup> The recent

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16. Bray, *supra* note 14. The British Gaming Board admits that in-flight gambling is not against British Law. *Id.* Nonetheless, they are still concerned about the expansion of casino gambling in the air. *Id.*

17. Paul Burnham Finney, *In-Flight Gambling Takes Off in European Skies; High Flying Betting Systems Limited to Foreign Airlines*, ROCKY MTN. NEWS, May 19, 1996, at 1T. Chartered flights between Australia and Tasmania offered gambling to passengers in the 1980s. *See also* VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 7 n.1. Singapore Airlines also offered gambling in the 1980s. However, the airline eventually stopped offering gambling for passengers because the slot machines, located in the back of the planes, became so popular that their use disrupted the flights. *Id.* The number of people attempting to gamble offset the planes' balance and required the aircrafts to use more fuel to keep the planes level. *Id.*

18. Finney, *supra* note 17, at 1T.

19. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 8.

20. Julie Schmit, *Senate Panel Rejects Airline Gambling*, USA TODAY, Nov. 10, 1993, at 1B.

21. *Id.*

22. *Id.*

23. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 7.

24. *See also infra* part II.B.

24. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 7.

telecommunications technology enables greater amounts of information to be transmitted and processed rapidly from almost anywhere.<sup>25</sup> Furthermore, society has welcomed the expansion of gambling opportunities.<sup>26</sup> This growing acceptance of gambling as entertainment has made video gambling more enticing to airlines.<sup>27</sup> Several airlines, including Swissair and Debonair, have already purchased interactive video gambling games to offer to their passengers.<sup>28</sup> Swissair plans to have gambling available by January 1998 in twenty-one of their large planes.<sup>29</sup> Other foreign airlines, like Virgin, are considering buying and installing in-flight gambling equipment.<sup>30</sup>

Airlines wishing to install video gambling first need to install an interactive entertainment system.<sup>31</sup> These entertainment systems are already on many airplanes.<sup>32</sup> They offer many customer services including telephone, fax, and digital audio.<sup>33</sup> Now these systems can offer video-on-demand and other interactive features.<sup>34</sup> Installation of the video gambling only involves adding a gambling software program to the interactive entertainment systems.<sup>35</sup>

According to the foreign carriers and game developers, the gambling is designed to be "non-threatening fun" to entertain passengers.<sup>36</sup> Therefore, the carriers have planned to regulate the in-flight gambling. Gambling would only be available to passengers 18 years of age and over and losses would be limited.<sup>37</sup> One foreign airline is going so far as to provide warning screens and

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25. *Id.*

26. *Id.* at 10.

27. *Id.* at 7. See also Adam Keats, *In-Flight Gaming Opposed*, LAS VEGAS REV-J, July 3, 1994 at 13E. Because many people still see gambling as sin, some airlines are apprehensive about endorsing video gambling for their airline. *Id.*

28. Bray, *supra* note 14, at 50.

29. Ralph Schoenstein, *You can bet gambling is attractive to U.S. airlines*, SAN DIEGO UNION TRIBUNE, Sept. 7, 1997, at F1.

30. Nugent, *supra* note 4, at 15.

31. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 8.

32. *Id.*

33. *Id.* at 9.

34. *Id.*

35. *Id.* at 8.

36. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 8-9.

37. Nugent, *supra* note 4, at 15. Depending on the airline, the betting limit would be set from \$100 to \$300. *Id.*

odds of winning on the games.<sup>38</sup> Furthermore, in-flight gambling would be only one of the entertainment options available to passengers on long trips.<sup>39</sup> The airlines have emphasized that in-flight gambling, as well as the other types of video games, would be installed only to entertain passengers.<sup>40</sup> While the opportunity for a large increase in revenue exists, the carriers introducing the gaming insist that the gambling is strictly for entertainment purposes.<sup>41</sup> British Airways has said that it would not be involved if there was not a demand for gambling by prospective passengers.<sup>42</sup> A survey performed by the Department of Transportation supports that assertion.<sup>43</sup> The survey showed that although most international air travelers are not frequent gamblers, they view in-flight gambling as "convenient, fun and enjoyable."<sup>44</sup> However, the survey also showed that international travelers favored the entertainment system without gambling over systems featuring gambling.<sup>45</sup> The survey really shows that international air travelers are hungry for some kind of entertainment.

Skeptics of in-flight gambling argue that airlines are really more interested in the revenue gambling provides.<sup>46</sup> The Department of Transportation has estimated that the U.S. Airlines could

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38. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 9.

39. *Id.*

40. James McKillop, *A Fly Wee Flutter: James McKillop reveals the British Airways plan for in-flight gambling is a safe bet for adding to profits*, THE HERALD (LONDON), Apr. 12, 1996, available in 1996 WL 7995638.

41. Sim Wai Chew, *SIA among airline group working against US ban on in-flight gambling*, SINGAPORE STRAITS TIMES, August 5, 1996, available in 1996 WL 6328378.

42. McKillop, *supra* note 40.

43. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 19. The survey was performed by Yankelovich Partners Inc. which is a research firm "with experience in surveying consumer attitudes on gambling and travel preferences". *Id.* A group of 394 people who live in the United States and who had taken trans-Atlantic or trans-Pacific flights in 1995 was surveyed. *Id.* That group was split into two groups based upon travel experience and demographics and economic characteristics. *Id.* One group of 198 people was presented with the concept of video entertainment system with gambling; the other group of 196 people was presented with the concept of the video entertainment system without gambling. *Id.* The reason for separating the groups was to distinguish the reactions to video gambling from those concerning the entertainment system in general. *Id.*

44. *Id.*

45. *Id.*

46. McKillop, *supra* note 40.

gross approximately \$300 million per year from gambling.<sup>47</sup> That revenue would enable the airlines to pay for the cost of the in-flight entertainment and keep ticket prices for transatlantic flights from increasing.<sup>48</sup> British Airways has figured that in-flight gambling system will do much more than pay for itself.<sup>49</sup> The airline found that all the money spent on research and development, as well as the installation of the gambling equipment will be recovered in only two years after they activate the equipment.<sup>50</sup> The opponents of in-flight gambling argue that if the opportunity for revenue was not there, gambling would not be an issue.<sup>51</sup>

The safety of video gambling is an issue. According to British Airways, the gambling equipment is technically safe.<sup>52</sup> The equipment would neither affect the navigational systems or disturb non-gambling passengers on board.<sup>53</sup> A Department of Transportation study supports that assertion.<sup>54</sup> The study reported that from a technical standpoint, the entertainment systems that include gambling "have been certificated as safe" by the Federal Aviation Administration.<sup>55</sup> The Association of Flight Attendants disputes the British Airways assertion.<sup>56</sup> The Association contends that there is no conclusive evidence that the gaming systems would not affect the navigational systems.<sup>57</sup> However, the Association gave no evidence supporting its assertion.<sup>58</sup>

### C. *The Need for New Legislation*

The Gambling Devices Act favored the foreign airlines over U.S. carriers because it only prohibited gambling on U.S. aircraft.<sup>59</sup> Northwest Airlines and TWA complained to Congress

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47. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8 at 46.

48. Michael Pina, *TWA, BA, Virgin's U.S. flights would have gaming. (if law permitting gambling on aircraft is passed)*, TRAVEL WKLY., June 15, 1995 at 32.

49. McKillop, *supra* note 40.

50. *Id.*

51. *Id.*

52. Pina, *supra* note 48, at 32.

53. *Id.*

54. See VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 4.

55. *Id.*

56. Pina, *supra* note 48, at 32.

57. *Id.*

58. See *Id.*

59. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 53.

that they were at a competitive disadvantage to foreign carriers.<sup>60</sup> The foreign airlines countered that in-flight gambling would give foreign carriers no advantage over U.S. airlines.<sup>61</sup> They contended that passengers choose an airline based on the total in-flight service package, not just one aspect.<sup>62</sup> However, the U.S. airlines' complaint was supported by an aviation consulting firm.<sup>63</sup> The consulting firm concluded that U.S. airlines could lose up to \$680 million a year because they cannot offer gambling.<sup>64</sup> The firm asserted that passengers will choose foreign carriers over U.S. carriers because foreign carriers could offer gambling as an on-board entertainment option.<sup>65</sup>

The Department of Transportation performed its own study on the financial ramifications of the Gambling Devices Act and concluded that foreign carriers had a competitive advantage over U.S. carriers.<sup>66</sup> First, the agency found that both U.S. and foreign airlines will install entertainment systems to recruit passengers.<sup>67</sup> However, because of the Gorton Amendment, U.S. carriers will not be able to include the gambling feature in their entertainment systems.<sup>68</sup> This will result in a significant loss of revenue. In addition to the total cost of installing the system, \$444 million, U.S. carriers would also lose approximately \$490 million in lost revenue from customers.<sup>69</sup> Surveys show that if gambling is available, 18 percent of the passengers will gamble, amounting to roughly \$592 million in revenue for the foreign airlines.<sup>70</sup> The Department of Transportation estimates that the amount of revenue the U.S. airlines loses by not being able to offer gambling is about \$300 million per year.<sup>71</sup> Therefore, the Department of Transportation concluded, "the ability of [the] foreign carriers to offer gambling

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60. Nelms, *supra* note 7, at 44.

61. Keats, *supra* note 27, at 13E.

62. *Id.*

63. *Id.* The Aviation Consulting firm was Roberts, Roach and Associates. *Id.*

64. *Id.*

65. *Id.*

66. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 38.

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.* at 39.

71. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 39.



could provide them with [the] substantial revenue advantage over their U.S. rivals."<sup>72</sup>

U.S. carriers lobbied Congress to eliminate this competitive disadvantage.<sup>73</sup> Northwest Airlines asked the Aviation Committees of the U.S. Congress to amend the Gambling Devices Act and legalize gambling in U.S. aircraft.<sup>74</sup> This request was not without precedent.<sup>75</sup> In 1993, the cruise industry was able to convince Congress to amend the Johnson Act,<sup>76</sup> and legalize gambling on U.S. cruise ships in international waters. The change was made because U.S. ships were at an economic disadvantage to their foreign competitors.<sup>77</sup> However, it did take the cruise industry three years of lobbying to get Congress to change that law.<sup>78</sup>

Nonetheless, Congress rejected the request of Northwest Airlines to legalize gambling on all international flights.<sup>79</sup> Instead of easing restrictions, Congress widened them, enabling U.S. carriers to compete better by prohibiting gambling on any international flight to or from the United States.<sup>80</sup> Representative Jim Oberstar<sup>81</sup> rejected the idea of gambling aboard an aircraft.<sup>82</sup> He stated that gambling was inappropriate for aviation and he questioned the safety and management of gambling in an airplane.<sup>83</sup> Senator Slade Gorton, the author of the Gorton Amendment,<sup>84</sup> led the way in the Senate to prohibit in-flight gambling. Gorton stated that prohibiting gambling in all international flights was the best way to level airline competition.<sup>85</sup> The opposition to in-flight gambling was so strong in Congress that Senator Richard Bryan never even offered his amendment that would legalize gambling in U.S. aircraft.<sup>86</sup> However, Bryan did try to get a

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72. *Id.* at 38.

73. Nelms, *supra* note 7, at 44.

74. *Id.*

75. *See infra* part IV.

76. 15 U.S.C. § 1175 (1951).

77. Tom Hamburger, *Northwest's bid for gambling on international flights spurned; Senate committee in effect walks away from issue*, STAR-TRIBUNE, Nov. 11, 1993 at 1D.

78. Schmit, *supra* note 20, at 1B.

79. *Id.*

80. Nelms, *supra* note 7, at 44.

81. Rep. Oberstar (D-Minn) is chairman of the House Aviation Subcommittee.

82. Hamburger, *supra* note 77, at 1D.

83. *Id.*

84. (R-Wash).

85. Keats, *supra* note 27, at 13E.

86. Hamburger, *supra* note 77, at 1D.

compromise between Gorton's total ban and the in-flight gambling proponents' lifting of restrictions.<sup>87</sup>

#### *D. Reactions to the Gorton Amendment*

The Gorton Amendment has received mixed reviews. Northwest Airlines, like some other U.S. airlines, was disappointed by the passage of the Gorton Amendment.<sup>88</sup> However, the airline considered the Amendment an improvement over the old law because it reduced the competitive advantage held by the foreign airlines.<sup>89</sup>

The new law prohibiting gambling has gained some support. The Casino Association of New Jersey is a group opposed to in-flight gambling.<sup>90</sup> They contend that in-flight gambling would create "one of the most prolific, most addictive forms of gaming in an uncontrolled environment."<sup>91</sup> In addition, flight attendants fear dealing with out of control gamblers while they work, and have thus become the biggest proponents of the Gorton Amendment.<sup>92</sup>

The Association of Flight Attendants fought extremely hard against the concept of in-flight gambling.<sup>93</sup> It feared that the gambling devices could divert the crew members from their safety roles.<sup>94</sup> Flight attendants claimed that they already have a "long and demanding list of safety duties."<sup>95</sup> If gambling were allowed on board, the flight attendants contend that they would also "be called on to serve as casino police, gambling cashiers, addiction counselors and computer technicians."<sup>96</sup>

There has also been extreme opposition to the gambling ban from the foreign carriers.<sup>97</sup> Many of them have joined the International Airline Coalition on the Rule of Law.<sup>98</sup> The members of the Coalition are Air New Zealand, All Nippon Airways, British Airways, Japan Airlines, Japan Air System, KLM Royal Dutch Airlines, Lufthansa German Airlines, QANTAS

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87. Keats, *supra* note 27, at 13E.

88. Hamburger, *supra* note 77, at 1D.

89. *Id.*

90. Nugent, *supra* note 4, at 15.

91. *Id.*

92. Nelms, *supra* note 7, at 44.

93. Pina, *supra* note 48, at 32.

94. *Id.*

95. *Id.*

96. *Id.*

97. Nelms, *supra* note 7, at 44.

98. *Id.*

Airways, Singapore Airlines, Swissair, TAP and Air Portugal.<sup>99</sup> As expected, this group is supported by the producers of the gambling software.<sup>100</sup> But more importantly, eighteen foreign governments and the European Union Commission have joined the foreign airlines in their opposition to the in-flight gambling ban.<sup>101</sup>

The most persuasive argument of the Coalition<sup>102</sup> is that the United States, by forcing the in-flight gambling ban upon foreign airlines, is violating established principles of international law.<sup>103</sup> "International law is crystal clear that when an aircraft flying an international route is outside a particular state's territorial jurisdiction, only the state of the aircraft's nationality is competent to permit, regulate, or prohibit. . . gambling. . . and the like."<sup>104</sup> The Coalition argued that the Gorton Amendment violates these principles of the international air law.<sup>105</sup>

The main problem stems from the phrase "may not install, [or] transport."<sup>106</sup> If this provision was deleted from the law, then foreign air carriers could simply turn off the gambling software when they reached U.S. airspace.<sup>107</sup> However, as the language indicates, the Gorton Amendment prohibits foreign air carriers from even having the gambling software on the plane.<sup>108</sup> This prohibition serves as an explanation as to why the foreign carriers have complained that the U.S. often oversteps its jurisdiction.<sup>109</sup> The Federal Aviation Administration contends that carriers that want to fly into the U.S. must meet its standards.<sup>110</sup>

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99. The Coalition is represented by Mr. William Karas, a partner at Steptoe & Johnson.

100. Nelms, *supra* note 7, at 44.

101. *Id.*

102. See *infra* part III for a more in depth analysis of the Coalition's response.

103. Chew, *supra* note 41.

104. *International Airline Coalition on the Rule of Law Concerning the Extra-Territorial Aspect of the Bill: Hearing on H.R. 969 Before the Subcomm. on Aviation of the Senate Comm. on Transportation and Infrastructure*, 104th Cong., 2nd Sess. (1996)(testimony of William Karas, attorney for the Coalition) [hereinafter *Hearing*].

105. *Id.*

106. Nelms, *supra* note 7, at 44 (quoting 49 U.S.C. § 41311 (1994)).

107. *Id.*

108. *Id.*

109. *Id.* One example of the U.S. overstepping its jurisdiction is the FAA's proposal of drug and alcohol testing of pilots entering the U.S. *Id.* Another example of this is the age cutoff for pilots at 60 while the international standard has been set at 65. *Id.* A third example of the U.S. overreaching its jurisdiction is that the U.S. is demanding that all international airports meet U.S. security standards. *Id.*

110. *Id.*

British Airways, like the some other foreign airlines, plans to respect the in-flight gambling ban.<sup>111</sup> The airline will comply not because of the law's stated authority;<sup>112</sup> rather, it is respecting the Gorton Amendment because U.S. routes are so important to British Airways economically that it is afraid of upsetting U.S. authorities.<sup>113</sup>

### III. The International Response to the In-Flight Gambling Ban

The Gorton Amendment has been a source of serious concern for foreign airlines as well as many foreign nations and the European Commission.<sup>114</sup> The foreign nations and the European Commission delivered a note to the U.S. State Department objecting to the gambling ban on international flights.<sup>115</sup> Each of the foreign governments objected to the Act because it represented "an infringement of its nation's sovereignty."<sup>116</sup> The foreign governments also stated that the law was an "unprecedented intrusion" on international civil aviation law.<sup>117</sup>

The foreign airlines manifested their opposition by forming the International Airline Coalition on the Rule of Law.<sup>118</sup> The attorney for the Coalition testified before Congress expressing the Coalition's objections to the gambling ban.<sup>119</sup> The Coalition also submitted a position paper to the Department of Transportation urging them to recommend an amendment to the gambling ban.<sup>120</sup> The Coalition called for an amendment to the in-flight gambling ban consistent with the rules of international civil aviation.<sup>121</sup>

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111. McKillop, *supra* note 40.

112. *Id.*

113. *Id.*

114. William Karas, Position Paper Regarding Principles of International Air Law Governing the Exercise of National Jurisdiction to Control Conduct aboard Civil Aircraft 2,3 (May 31, 1995)(on file with author).

115. *Id.* at 3, n.4.

116. Letter from the Embassies of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, The United Kingdom and the European Commission to the U.S. State Department 1 (Aug. 19, 1994)(on file with William Karas).

117. *Id.*

118. *See infra* part II.

119. *See Hearing, supra* note 104.

120. *Id.*

121. *Id.*

A. *The International Aviation Rules Governing Jurisdiction*

The basic rules governing international aviation were developed at the Convention on International Civil Aviation, signed in Chicago in 1944.<sup>122</sup> The Convention stated in Article 1 that each nation has "complete and exclusive sovereignty over the airspace above its territory."<sup>123</sup> Articles 11 and 12 stipulate that when airplanes are flying over foreign territory they must comply with the laws of that nation.<sup>124</sup>

Another important basic rule of the Chicago Convention is found in Article 17, which provides that an aircraft's nationality is that of the nation in which it is registered.<sup>125</sup> This provision is significant because it gives a specific nation jurisdiction over all aircraft having its nationality.<sup>126</sup> An aircraft possessing nationality receives the benefits and duties granted by its national state.<sup>127</sup> Nevertheless, when an aircraft flies over a foreign country, the aircraft must adhere to the laws of that foreign nation.<sup>128</sup> Indeed, territorial jurisdiction takes precedence over nationality.<sup>129</sup>

The Chicago Convention did not rule on sovereignty over the high seas, but this issue is crucial in determining whether the United States has the jurisdiction to enforce the in-flight gambling ban.<sup>130</sup> The Geneva Convention on the High Seas of 1958 ruled that the high seas are not subject to the sovereignty of any State.<sup>131</sup> Furthermore, the freedom of the high seas also includes the concomitant freedom to fly over the high seas.<sup>132</sup> When an aircraft flies over areas of undetermined sovereignty, such as the high seas, it is subject to the jurisdiction of its state of registry (or

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122. Nelms, *supra* note 7, at 44.

123. Convention on International Civil Aviation, Dec. 7, 1944, Art. 1, 15 U.N.T.S. 295 [hereinafter the Chicago Convention].

124. *Id.* at Art. 11-12.

125. *Id.* at Art. 17.

126. *Hearing, supra* note 104, at 9.

127. Bin Cheng, *Air Law*, in 11 ENCYC. INT'L L. 5, 7 (Rudolph Dolzer, et al. eds., 1981).

128. *See supra* note 104, at 10.

129. *Id.*

130. *See Chicago Convention, supra* note 123.

131. Kay Hailbronner, *Airspace Over Maritime Law*, in 11 ENCYCL. PUB. INT'L L. 27 (Rudolph Dolzer, et al. eds., 1981).

132. *Id.*

nationality).<sup>133</sup> Therefore, no nation may claim to have control over a foreign aircraft when it is flying over the high seas.<sup>134</sup>

### *B. The Coalition's Argument*

The Coalition accepts the fact that the United States may ban gambling in a foreign aircraft while that plane is on U.S. soil or flying within its airspace.<sup>135</sup> The Coalition has also made it clear that the United States can enforce the gambling ban on its own airplanes.<sup>136</sup> However, the Coalition believes that no nation may "assert its jurisdiction extra-territorially."<sup>137</sup>

The Coalition's argument is simply that the United States may not prohibit gambling on a foreign aircraft while the aircraft is outside United States territory.<sup>138</sup> The Coalition argued that the ban violates international law even if the aircraft is traveling to or from the United States.<sup>139</sup> The Coalition also contended that the law is unprecedented in its disregard for international law<sup>140</sup> and is completely inconsistent with the international aviation rules discussed above.<sup>141</sup>

First, the Coalition applied the rules of the Chicago Convention.<sup>142</sup> It argued that, according to Article 1 of the Chicago Convention, when an aircraft is flying over a nation's territory, the aircraft is under the exclusive jurisdiction of that nation.<sup>143</sup> Therefore, if a nation allows in-flight gambling, obviously that nation's aircraft should be able to provide gambling while flying in its home territory.<sup>144</sup> The United States' in-flight gambling ban violates Article 1 because it prohibits gambling in foreign aircraft while the aircraft are still within their own airspace.<sup>145</sup> Additionally, the United States has no power to forbid gambling in a foreign

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133. Michael Milde, *Aircraft*, in 11 ENCYC. PUB. INT'L. L. 23 (Rudolph Dolzer, et al. eds., 1981).

134. *Id.* at 30.

135. Karas, *supra* note 114, at 10.

136. *See id.* at 4. However, the United States must follow the laws of other nations while flying over their respective territories. *Id.*

137. *Id.* at 5.

138. *See id.* at 10.

139. *Id.* at 19.

140. Karas, *supra* note 114, at 11.

141. *Id.*

142. *Id.*

143. *Id.*

144. *See id.*

145. Karas, *supra* note 114, at 11.

aircraft when the aircraft is flying over another country.<sup>146</sup> The foreign aircraft is only subject to the laws of the territory over which it is flying.<sup>147</sup> Pursuant to Article I, the United States may only enforce its gambling ban while the aircraft is flying over U.S. territory.<sup>148</sup> Second, the Coalition argued that the in-flight gambling ban violated international law pursuant to the Convention of the High Seas.<sup>149</sup> It argued that because no nation may have jurisdiction over the high seas, planes flying over the high seas are under the exclusive jurisdiction of their home country.<sup>150</sup> Therefore, if a nation allows in-flight gambling in its aircraft then that aircraft may provide gambling while the plane is above the high seas.<sup>151</sup> The U.S. in-flight gambling ban cannot be enforced on an aircraft while it is flying over the high seas because the United States lacks the jurisdiction.<sup>152</sup> Only the State that gives nationality to the aircraft has the authority to permit, regulate or prohibit gambling while the plane is over international airspace.<sup>153</sup>

The Coalition was also able to refute a possible defense by the United States. The United States allows a nation to exercise jurisdiction outside its borders only if there is conduct that could have a substantial harmful effect within the nation.<sup>154</sup> The Coalition argued that the substantial effects principle only applies to things such as serious crimes committed on board a foreign aircraft traveling in "U.S. foreign commerce."<sup>155</sup> The Coalition contended that the gambling on a foreign aircraft outside U.S. territory has very little effect, if any, on the United States.<sup>156</sup> The gambling would take place outside U.S. territory, by people not necessarily U.S. citizens, in an airplane from another country.<sup>157</sup> Furthermore, gambling is widespread in the United States anyway, so restricting it cannot be that important to the United States.<sup>158</sup>

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146. *See id.*

147. *See Karas, supra* note 114, at 11.

148. *See id.*

149. *Id.* at 12.

150. *Id.*

151. *Id.* at 11.

152. *Karas, supra* note 114, at 11.

153. *Id.*

154. *Id.* at 20.

155. *Id.* at 21.

156. *Id.*

157. *Karas, supra* note 114, at 24.

158. *Id.*

Therefore, the in-flight gambling ban is not a "reasonable exercise of U.S. jurisdiction."<sup>159</sup>

The Coalition then responded to comments made by American officials. The Federal Aviation Administration stated that "[a]ny carrier that wants to fly into our market has to meet our standards."<sup>160</sup> In addition, a U.S. representative stated that the United States has the authority "to allow [foreign airlines] service, subject to conditions as to how the service will be operated."<sup>161</sup> The Coalition conceded that the United States may prohibit the foreign aircraft from entering U.S. territory.<sup>162</sup> However, allowing a foreign airline the right to fly in the United States does not give the United States the power to impose conditions on that airline.<sup>163</sup>

The Coalition's attack on the in-flight gambling ban is well-supported by international aviation law. In contrast, the Gorton Amendment is oblivious to international law. It seems it was created purely for the benefit of U.S. domestic policy. The author of the act, Sen. Gorton, stated that the bill was designed help level the competition between U.S. airlines and foreign airlines.<sup>164</sup> In addition, the Senator simply did not believe that there should be gambling on an airplane.<sup>165</sup> There is no mention of international aviation law in the very brief legislative history of the Gorton Amendment.<sup>166</sup> Moreover, the Coalition suggested that the brief legislative history is evidence that the in-flight gambling ban was "hastily included" in the FAA Authorization Act.<sup>167</sup> Congress

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159. *Id.*

160. Nelms, *supra* note 7, at 44.

161. Karas, *supra* note 114, at 22, (quoting Rep. Norman Y. Mineta in a letter to the Netherlands Embassy. *Id.* at 22 n.46).

162. *Id.* at 22.

163. *Id.* According to the Coalition that would give the United States authority to regulate every detail of an airline, including the color of the planes, the health insurance carrier, etc. *Id.*

164. Keats, *supra* note 27, at 13E; see also discussion *supra* part II.

165. Nelms *supra* note 7, at 44; see also discussion *supra* part II.

166. H.R. Conf. Rep. No. 103-677, at 1742 (1994). The legislative history consists simply of two eight line paragraphs. One paragraph is the Senate amendment and the other paragraph is the conference substitute. This law was not discussed in the House. The only information here not provided in the actual law is that an additional study is required to see if gambling should be allowed on aircraft operated in foreign air transportation.

167. Karas, *supra* note 114, at 3.



should review the in-flight gambling ban<sup>168</sup> and amend it to better comply with the international aviation laws.

*C. Consequences of the Continued Existence of the In-Flight Gambling Ban.*

The Department of Transportation, in its report to Congress, recommended that no changes be made to the current law banning in-flight gambling.<sup>169</sup> Therefore, the foreign airlines and foreign governments who oppose the law may be forced to take some kind of action. Some possible options include: (1) settling the dispute through diplomatic channels; (2) challenging the law in a United States or international tribunal; or (3) seeking a solution through a multilateral agreement.<sup>170</sup> However these options are not threatening to the United States. The worst-case scenario for the United States is that Congress may be forced to amend the in-flight gambling provision.

However, if the United States does not amend the law, there is the potential for retaliation against U.S. airlines by foreign governments.<sup>171</sup> Since the United States exercises jurisdiction to restrict activities like gambling outside of U.S. territory, nothing will prevent other nations from exercising similar jurisdiction over U.S. registered aircraft.<sup>172</sup> These retaliatory regulations could potentially harm U.S. airlines. The Coalition contended that the United States would not tolerate any restrictions that hurt U.S. airlines and violate international law.<sup>173</sup> Therefore, by the same token, the U.S. should not impose its restrictions on foreign airlines.

Moreover, the Coalition predicted that continuing the in-flight gambling ban would open a "Pandora's Box of immense and dangerous proportions."<sup>174</sup> Not only would U.S. carriers be hurt by the retaliatory acts, but the legal structure of international civil

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168. The Coalition asserted that Congress realized the gambling ban needed to be reviewed. That is the reason Congress authorized the Department of Transportation to review the provision banning in-flight gambling. *Id.*

169. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 2. The Department wanted to study the foreign airlines' implementation of the gambling software on foreign airlines and then recommend any appropriate changes that it found. *Id.*

170. Nelms, *supra* note 7, at 44.

171. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 52.

172. Karas, *supra* note 114, at 30.

173. *See id.*

174. *Id.*

aviation created at the Chicago Convention would break down.<sup>175</sup>

The key to the rules developed at the Chicago Convention was the "idea of reciprocity among nations working within the parameters of international law to promote the free flow of commerce."<sup>176</sup> If the nations of the Chicago Convention are able to make laws and regulations to benefit their own self-interests instead of working together, international aviation law will crumble.<sup>177</sup> Thus, neither the United States nor any other nation should be allowed to exercise extraterritorial jurisdiction.<sup>178</sup>

#### IV. Gambling in the Cruise Ship Industry

After Congress amended the law to allow gambling on U.S. cruise ships, airlines hoped Congress would legalize gambling on U.S. airplanes.<sup>179</sup> However, although Congress did not legalize gambling for U.S. air carriers, it did open the door for change in the current policy. In that respect, the U.S. cruise industry has had a major effect on the U.S. airline industry.

##### A. Background

In 1991, the U.S. cruise ship industry was in the same situation as the U.S. airlines were prior to the passage of the Gorton Amendment.<sup>180</sup> U.S. cruise ships were at an economic disadvantage in relation to the foreign cruise lines.<sup>181</sup> U.S. cruise ships were prohibited from allowing gambling unless it was done exclusively within the waters of a state that had legalized gambling.<sup>182</sup> However, foreign-flagged vessels were able to install and use gambling equipment on their ship outside U.S. territorial waters.<sup>183</sup> As a result, the U.S. Cruise ship industry suffered immensely. In 1991, there were only two large U.S. cruise ships with a total capacity of 1,550 passengers.<sup>184</sup> Meanwhile, there were 75 foreign flag cruise ships with a total passenger capacity of

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175. *Id.*

176. Nelms, *supra* note 7, at 44.

177. Karas, *supra* note 114, at 30.

178. *Id.*

179. Hamburger, *supra* note 77, at 1D.

180. See H.R. Rep. No. 102-357 (1991).

181. Hamburger, *supra* note 77, at 1D.

182. H.R. Rep. No. 102-357, *supra* note 180.

183. *Id.*

184. *Id.*

80,765.<sup>185</sup> There was no way the United States cruise ship industry could compete at such a dramatic disadvantage.

The Cruise Lines International Association estimated that roughly 3.5 million Americans spent approximately \$4.5 billion on cruises in a year.<sup>186</sup> Moreover, they estimated that U.S. citizens gambled \$1.8 billion on foreign cruise ships.<sup>187</sup> For these reasons Congress decided to amend the Johnson Act<sup>188</sup> and legalize gambling on cruise ships.<sup>189</sup> Representative Gene Taylor<sup>190</sup> introduced the bill, known as the U.S. Flag Cruise Ship Competitiveness Act of 1991 (Cruise Ship Act).<sup>191</sup> Pursuant to this act, the gambling devices are sealed when the cruise ships are in U.S. territorial waters and activated when the ship reaches international waters.<sup>192</sup> The Cruise Ship Act made gambling legal on U.S. flagged ships in international waters as long as the principal use of the vessel is not gambling.<sup>193</sup> The purpose of the Cruise Ship Act was to reduce the competitive advantage enjoyed by the foreign-flagged ships, which were already offering gambling in international waters.<sup>194</sup>

Congress hoped that legalizing gambling would give incentives for the U.S. to increase its cruise ship fleet.<sup>195</sup> Congress believed that adding more ships to the cruise ship fleet would, among other things, improve the United States' trade balance, create more jobs for Americans and maintain the shipbuilding industrial base.<sup>196</sup>

The Cruise Ship Act did not give a green light for floating casinos because it prohibited gambling on voyage-to-nowhere cruises.<sup>197</sup> A voyage-to-nowhere cruise is a "voyage in which a vessel departs a place in the United States, sails to a point beyond the territorial sea, and returns to the same place."<sup>198</sup> Congress

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185. *Id.*

186. *Id.*

187. H.R. Rep. No. 102-357, *supra* note 180.

188. 15 U.S.C. § 1175 (1951).

189. H.R. Rep. No. 102-357, *supra* note 180, at 2.

190. (D-Miss.).

191. *Witnesses Back Gambling on U.S.-Flagged Cruise Ships*, TRAVEL WKLY., Oct. 21, 1991 [hereinafter *Witnesses Back Gambling*] at 3.

192. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 56.

193. H.R. Rep. No. 102-357, *supra* note 180, at 4.

194. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 56.

195. H.R. Rep. No. 102-357, *supra* note 180, at 2.

196. *Witnesses Back Gambling*, *supra* note 191, at 3.

197. H.R. Rep. No. 102-357, *supra* note 180, at 4.

198. *Id.*

wanted to allow gambling on cruise ships but it did not want gambling to be the sole purpose of the trip.<sup>199</sup> Congress' purpose was to help the cruise ship industry, not just extend gambling opportunities.<sup>200</sup>

The new legislation was enthusiastically endorsed by U.S. maritime companies and unions.<sup>201</sup> However, support for the bill was not unanimous. In 1990, the Justice Department opposed the legislation to allow gambling on cruise ships.<sup>202</sup> The Justice Department believed that cruise ship gambling would attract crimes such as money laundering and embezzlement.<sup>203</sup> Furthermore, they contended that even if it were possible to devise a regulatory scheme, the expense would make gambling operations unprofitable.<sup>204</sup> However, a year later, the Justice Department shifted its stance and stated that it would support "a narrowly drafted bill" such as the one that was eventually passed by Congress.<sup>205</sup>

The International Council of Cruise Lines objected to the U.S. Flag Cruise Ship Competitiveness Act. The Council opposed the legislation because it believed that it was an extension of the jurisdiction of federal laws to foreign-flag vessels that are operating beyond the territorial waters of the United States.<sup>206</sup> Furthermore, the Council believed that the legislation would create "discriminatory treatment" of foreign cruise ships and therefore set a bad precedent.<sup>207</sup> Nonetheless, the Council does not believe that its members would really be affected by the territorial water issue and declined to testify at the House subcommittee hearing.<sup>208</sup>

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199. Paul Doocey, *Will the Proliferation of Land-Based Casinos Sink Cruise Ship Gaming? Growth of Shipboard Casinos Continues Despite Threats from Growth of Land Based Casinos*, INT'L GAMING AND WAGERING BUS., Oct. 5, 1994, at 20.

200. See H.R. Rep. No. 102-357, *supra* note 180.

201. *Id.*

202. Jennifer Dorsey, *Justice Opposes Gaming on U.S. Ships, Says "No Dice" to Law That Would Allow Gambling: Department of Justice*, TRAVEL WEEKLY, Oct. 11, 1990, at 2.

203. *Id.*

204. *Id.*

205. *Witnesses Back Gambling*, *supra* note 191, at 2.

206. *Id.*

207. Dorsey, *supra* note 202, at 2.

208. *Id.*

*B. Comparison: The Gorton Amendment and The Cruise Ship Act*

The Gorton Amendment and the Cruise Ship Act were created by Congress for the same reason: to prevent foreign competitors from enjoying a competitive advantage. The Gorton Amendment was created to even the competition for U.S. airlines<sup>209</sup> while the Cruise Ship Act was created to even competition for the U.S. cruise ship industry.<sup>210</sup> However, this is the only similarity between the laws.

The major difference is obvious. The Cruise Ship Act legalized gambling on U.S. ships so they may better compete with foreign cruise ships, which already offered gambling to passengers.<sup>211</sup> In contrast, the Gorton Amendment bans gambling equipment in all aircraft flying into the United States.<sup>212</sup> The goal was to allow U.S. airlines to compete better with foreign airlines by prohibiting gambling on any flight to the U.S.<sup>213</sup> However, there are more significant differences.

One significant difference is that the Gorton Amendment may violate international aviation law while the Cruise Ship Act complies with international law. The Cruise Ship Act was created to help the U.S. cruise industry while adhering to international law.<sup>214</sup> The House report explains that the U.S. can enforce the law while not violating international law.<sup>215</sup>

The Gorton Amendment, on the other hand, was created without mention of international law.<sup>216</sup> It seems that it was created simply to protect U.S. air carriers without regard for international law.<sup>217</sup> Only the Department of Transportation study, which was completed after passage of the Gorton Amend-

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209. See *supra* part II.C.

210. See *supra* part IV.A.

211. 15 U.S.C. § 1175 (1991)

212. 49 U.S.C. § 41311(a) (1994)

213. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 1.

214. See H.R. Rep. No. 102-357, *supra* note 180, at 5.

215. H.R. Rep. No. 102-357, *supra* note 180, at 5. The U.S. enforcement of the restrictions on foreign ships regarding voyage-to-nowhere cruises "when they are operated in international waters is governed by customary international law. Accordingly, the United States may board the vessel in international waters to enforce these restrictions with the permission of the flag state of the vessel." *Id.*

216. See 49 U.S.C. § 41311(a)(1994). See also H.R. Conf. Rep. No. 103-677, *supra* note 166.

217. See Karas, *supra* note 114, at 3. See also *infra* part III.B.

ment, reviewed international aviation law.<sup>218</sup> However, there was no attempt by the Department to resolve the possible inconsistency with international law.<sup>219</sup> As previously stated, the Gorton Amendment gives the United States the power to impose conditions and restrictions on foreign aircraft flying to the United States, even when the aircraft is outside U.S. territory.<sup>220</sup> However, pursuant to customary international aviation law, the U.S. has jurisdiction over foreign aircraft only when the aircraft is flying over U.S. territory.<sup>221</sup> This potential inconsistency with international law was not accounted for in the statute.

This leads to another significant difference between the two laws. The passage of the Gorton Amendment has caused "formal diplomatic protests."<sup>222</sup> It has also caused the foreign airlines to unite in an effort to fight the law.<sup>223</sup> The foreign airlines have submitted a position paper to the Department of Transportation and have testified before Congress contending that the Gorton Amendment violates international aviation law.<sup>224</sup> In contrast, the Cruise Ship Act has drawn only minor opposition from the international cruise ship industry.<sup>225</sup> The International Council of Cruise lines voiced its displeasure because the act discriminated against foreign cruise lines.<sup>226</sup> However, they declined the opportunity to testify against the bill.<sup>227</sup> It is apparent that the Gorton Amendment has had a much greater negative impact on the international community than the Cruise Ship Competitiveness Act.

## V. The Future of the Gorton Amendment

In March 1996, the Department of Transportation recommended to Congress that no immediate changes be made to the Gorton Amendment.<sup>228</sup> The Department wanted to study gam-

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218. See VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 52.

219. See *Id.*

220. Karas, *supra* note 114, at 22.

221. Chicago Convention, *supra* note 123, Art. 1.

222. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 52.

223. *Id.* See also *supra* part III.

224. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 52. See also *supra* part III.A-B.

225. Dorsey, *supra* note 202, at 2.

226. *Id.*

227. *Id.*

228. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 2.

bling by foreign air carriers before it recommended any changes to the law.<sup>229</sup> Therefore, the in-flight gambling ban will likely continue for at least the very near future.

Nevertheless, at some point the United States may amend the law prohibiting gambling on foreign airlines. Congress may want to change the rule for several reasons. First, it may realize that the law does not comply with customary international aviation laws and should therefore be corrected. Second, they may want to avoid retaliatory actions by foreign nations.<sup>230</sup> Third, Congress may want to allow gambling on all airlines, including U.S. carriers, to enable U.S. carriers to reap the revenue gambling offers.

The Senate has already expressed concern that prohibiting gambling on all flights to and from the United States may not be the right method for ensuring fair competition in the future.<sup>231</sup> During deliberations, the Senator discussed different approaches that may be more appropriate in the future.<sup>232</sup> One alternate approach was to permit U.S. carriers to offer gambling on international flights when they fly outside of U.S. airspace.<sup>233</sup> (Congress did not consider allowing gambling on any flight within United States airspace.)<sup>234</sup> Therefore it is a distinct possibility that Congress will eliminate the in-flight gambling ban for both foreign and domestic air carriers.

## VI. Conclusion

Under international law, the U.S. has no jurisdiction over foreign aircraft flying outside U.S. airspace. Nevertheless, Congress passed a law granting the U.S. this power. U.S. airlines needed a law that would enable them to better compete with foreign airlines; however, the Gorton Amendment is the wrong law to achieve that goal. It may have made U.S. airlines more competitive, but it violates basic provisions of international law. The Coalition correctly stated that "[t]he rules exist, are well-known, and should not be ignored for the sake of political fashion, expediency or any other reason."<sup>235</sup>

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229. *Id.*

230. *See* Karas, *supra* note 114, at 30.

231. VIDEO GAMBLING IN FOREIGN AIR TRANSPORTATION, *supra* note 8, at 1.

232. *Id.*

233. *Id.*

234. *Id.* at 1, n.6.

235. Karas, *supra* note 114, at 29.

Congress has three options. First, it can keep the Gorton Amendment and continue to violate international law. Second, it can reinstate the previous law and force U.S. airlines to compete at a disadvantage. Third, it can legalize gambling on U.S. aircraft for international flights. The third option would keep the U.S. and foreign airline competition equal, while not violating international law.

Legalizing gambling on U.S. aircraft is the best option. Not only does it maintain the competitive balance while complying with international law, but it also allows U.S. airlines to receive the revenue that gambling offers. Opponents of in-flight gambling have legitimate concerns about the problems that are associated with gambling. However, the tight gambling restrictions planned by the airlines should greatly limit these problems. Therefore, the Gorton Amendment should be repealed and gambling should be legalized on U.S. aircraft on international flights.

*Brian C. O'Donnell*



