Betting On Consumer Protection: The Need for a Comprehensive Data Protection Law

Samantha Peacock

I. Introduction

The gambling industry is a frequent target of cyberattacks, largely due to having inadequate safeguards for protecting consumer data.[1] Sensitive information such as a gambler's name, social security number, date of birth, address, banking details and security question answers are at risk of being disclosed in a data breach.[2] If this data falls into the hands of hackers, it can lead to identity theft, financial fraud, and significant regulatory consequences for the sportsbook operators.[3] Moreover, a 2023 Pew Research Center study revealed that 56% of Americans routinely click "agree" on privacy policy notices without actually reading their content.[4] Federal law mandates the collection of specific personal data; however, gaming operators also collect personal data for non-regulatory purposes, such as for marketing and business operations.[5] Online gaming operators track users' betting patterns, financial transactions, location data, and even device information.[6] Consequently, the collection of personal data by online gambling and sports betting companies "raises significant concerns about safety, compliance, and growth."[7]

II. Online Gambling: A Brief History

Gambling became a popular social activity in the United States in the nineteenth century, coinciding with the emergence of casino culture.[8] In the twentieth century, Las Vegas became a gambling hub when Nevada legalized almost all forms of gambling in 1931.[9] Before the 1990s, individuals in the United States who wanted to place a casino- or sports-type bet had to travel to a legitimate brick-and-mortar gaming establishment, or place an illegal wager with a bookmaker.[10] Antigua and Barbuda's Free Trade and Processing Act of 1994 lead to a boom in the online gambling industry worldwide.[11] In 2003, internet gambling had generated revenues of more than

---

[1] Yanaisi Gordon, Note, *Betting on Privacy: Safeguarding Data in the Era of Online Gambling*, 15 UNLV GAMING L.J. 189, 194 (2025).
[2] *Id.*
[3] Carole Crawford, *Prioritizing Cybersecurity in the Online Sports Betting Industry*, THE SATURN PARTNERS (Mar. 18, 2025), https://saturnpartners.com/2025/03/prioritizing-cybersecurity-in-the-online-sports-betting-industry/ [https://perma.cc/A87R-3M8M].
[4] Colleen McClain et al., *How Americans View Data Privacy*, PEW RSCH. CTR. (Oct. 18, 2023), https://www.pewresearch.org/internet/2023/10/18/how-americans-view-data-privacy/ [https://perma.cc/6YSW-JP9E].
[5] Gordon, *supra* note 1, at 197.
[6] Team SE, *How to Protect Yourself When Using Sports Betting Apps*, SPORTSEPRENEUR (Aug. 18, 2025), https://sportsepreneur.com/how-to-protect-yourself-using-sports-betting-apps/ [https://perma.cc/6D2P-DFCS].
[7] Gordon, *supra* note 1, at 197.
[8] *Id.* at 192.
[9] *Id.*
[10] U.S. Gen. Acct. Off., *Internet Gambling: An Overview of the Issues*, GAO-03-89 (Dec. 2002) at 6, https://www.gao.gov/assets/gao-03-89.pdf [https://perma.cc/6L5U-6GGD].
[11] Gordon, *supra* note 1, at 192–93; *see also Cover Feature: Exploring the History of Online Casinos*, GAMBLING INSIDER (Apr. 2, 2024), https://www.gamblinginsider.com/magazine/820/cover-feature-exploring-the-history-of-online-gaming (last visited Nov. 4, 2025).

$4 billion and was essentially a borderless activity, making regulation difficult.[12] Further complicating regulation is the fact that the United States does not have a comprehensive data protection law at the federal level.[13]

III. Regulating Gambling Markets

The federal government has occasionally used the power granted by the Commerce Clause to exercise control over online gambling.[14] Specifically, the federal government has passed several statutes that control or have controlled online gambling conduct, including the: (1) Wire Act; (2) Interstate Transportation of Wagering Paraphernalia Act; and (3) Illegal Gambling Business Act.[15] In 1992 Congress passed the Professional and Amateur Sports Protection Act ("PASPA"), followed by the Unlawful Internet Gambling Enforcement Act ("UIGEA") in 2006.[16] The UIGEA is still in force, and expressly prohibits the processing of financial transactions involving unauthorized online gaming platforms.[17] Violations of the UIGEA may give rise to both criminal and civil liability, and the law has been unsuccessfully challenged as unconstitutional, and successfully utilized to challenge illegal gambling practices at the federal level.[18] In 2018, the United States Supreme Court held that PASPA was unconstitutional because the act imposed on state governments' regulation of their citizens by compelling states to enact or administer a federal regulatory program.[19] As such, the ruling leaves the legalization and regulation of internet gambling to individual states.[20]

Currently, 38 states, Washington, D.C., and Puerto Rico offer legal sports betting, with 30 states offering sports betting online via smartphone apps or websites.[21] States that have legalized online sports betting have implemented regulations such as requiring licensing and registration of sportsbook operators, setting standards for the minimum age of customers, and requiring proper identification of customers.[22] Most states also try to promote responsible gambling, with a majority of states maintaining an exclusion list, prohibiting gambling entities from directly marketing or providing services to anyone on the list (typically people who have self-identified as having a

---

[12] U.S. Gen. Acct. Off., *Internet Gambling: An Overview of the Issues*, GAO-03-89 (Dec. 2002) at 2, 6, https://www.gao.gov/assets/gao-03-89.pdf [https://perma.cc/6L5U-6GGD].
[13] Kathryn R.L. Rand & Steven Andrew Light, *Sports Betting and Data Security: Cybersecurity, Data Protection, and Privacy Rights in Gaming Law Practice*, A.B.A.: BUSINESS LAW TODAY (Feb. 10, 2021), https://www.americanbar.org/groups/business_law/resources/business-law-today/2021-february/sports-betting-and-data-security/ (last visited Nov. 6, 2025).
[14] Jason Egielski, Note, *Don't Hate the Player, Hate the Game: Video Game Loot Boxes, Gambling, and a Call for Administrative Regulation*, 50 HOFSTRA L.REV. 175, 193 (2021).
[15] *Id.*
[16] *Id.*
[17] *Id.* at 194.
[18] *Id.*; *see also* CHARLES DOYLE, CONG. RSCH. SERV., 97-619, INTERNET GAMBLING: AN OVERVIEW OF FEDERAL CRIMINAL LAW 17–18 (2012), https://www.congress.gov/crs-product/97-619 (last visited Nov. 6, 2025).
[19] Egielski, *supra* note 14, at 195; *see also Murphy v. Nat'l Collegiate Athletic Ass'n*, 584 U.S. 453 (2018).
[20] Egielski, *supra* note 14, at 195.
[21] Matthew Waters, *Sports Betting States: Latest US Legislation & Bill Tracker*, LEGAL SPORTS REPORT (Jul. 23, 2025), https://www.legalsportsreport.com/sports-betting-states/ [https://perma.cc/5E9F-KPDD].
[22] *Trust and Safety: Protecting Consumers in Online Sports Betting and Paid Fantasy Sports*, FANTASY SPORTS & GAMING ASS'N (2022), https://thefsga.org/wp-content/uploads/2022/04/BettingSafetyUpdate2022.pdf [https://perma.cc/32XD-JPBB].

gambling addiction).[23] Additionally, online gambling platforms have implemented various security measures to protect consumers, such as encryption, secure payment and withdrawal systems, firewalls, device fingerprinting, anti-fraud systems, and regular security audits.[24] Originating from the Patriot Act of 2001, Know Your Customer (KYC) regulations require gaming operators to retain specific personal information about customers to help identify them and prevent financial crimes.[25] The Customer Due Diligence (CDD) Rule, a subset of the KYC requirements, is intended "to enhance transparency and prevent the misuse of businesses, including casinos, for money laundering and other illegal activities[…] by requiring ongoing monitoring of customer activities and transactions."[26] Further, the Anti-Money Laundering (AML) regulation requires gaming operators to retain certain personal information to prevent financial crimes, which may include information such as a patron's occupation or banking information.[27]

While the KYC and AML regulations are helpful, they often conflict with data privacy laws.[28] The required collection and retention of personal data to combat money laundering and other financial crimes creates tension with common data privacy principles such as consent, transparency, and the right to be forgotten.[29] These tensions underscore the need for more explicit guidance while finding solutions that meet regulatory compliance and data protection needs.[30] Compounding the need for a more inclusive solution are the significant risks illegitimate gambling markets pose to consumer data protection. Such markets are unregulated, and thus lack the consumer protections found in legitimate, regulated gambling markets.[31] A 2022 report by the American Gaming Association found that forty-nine percent of sports bettors used illegal operators, and approximately half of those bettors were unaware that the operator was illegitimate.[32] These unregulated markets are particularly appealing to hackers, partially due to the extensive amount of personal information collected by the operators. [33] Another appealing factor is the sheer dollar amount of wagers placed in unregulated online markets, with the American Gaming Association finding that Americans wagered a total $673.6 billion with illegitimate and unregulated gambling operators between 2022 and 2025.[34]

IV. Proposed Solution

The U.S. does not currently have a single, comprehensive law for data protection at the federal level.[35] Instead, there are a number of federal laws that address data protection in specific areas, creating a sort of patchwork quilt of regulation such as the Children's Online Privacy Protection

---

[23] *Id.*
[24] Gordon, *supra* note 1, at 193.
[25] *How to Protect Yourself When Using Sports Betting Apps*, *supra* note 6.
[26] Gordon, *supra* note 1, at 199.
[27] *Id.* at 198, 200.
[28] *Id.* at 200.
[29] *Id.*
[30] *Id.*
[31] *Id.* at 205.
[32] *Id.*
[33] *Id.*
[34] Press Release, Am. Gaming Ass'n, New AGA Analysis Reveals Illegal Gaming Remains Nearly a Third of the U.S. Market (Aug. 13, 2025), https://www.americangaming.org/new-aga-analysis-reveals-illegal-gaming-remains-nearly-a-third-of-the-u-s-market/ (last visited Nov. 6, 2025).
[35] Rand & Light, *supra* note 13.

Act, the Electronic Communications Privacy Act, and the Federal Trade Commission Act.[36] However, because these laws are limited in scope, several states have created their own privacy laws to address the gaps left by the federal laws.[37] As of 2025, nineteen states have passed comprehensive consumer privacy bills.[38] These consumer privacy laws grant consumers specific rights regarding their data, including the right to access it, delete it, transfer it, and opt out of the sale of their personal information.[39] As these laws evolve across the country, a lack of consistency across states poses a significant challenge and underscores the need for a single, comprehensive law at the federal level.[40]

The vast amounts of personal information collected by online gambling platforms, from financial information to behavioral tracking, raises significant concerns about data privacy and consumer protection.[41] Until a comprehensive federal standard is implemented, consumers remain vulnerable to data breaches and data misuse by businesses, and business must navigate inconsistent regulations across jurisdictions.[42] The solution to these challenges is the adoption of a comprehensive, bipartisan federal privacy law that does not supersede state law, but rather provides a baseline standard of protection.[43] Sectors that have successful federal-state regulatory schemes, such as environmental law and financial consumer protection, demonstrate that a similar solution in the gaming law sector also need not infringe states' rights to regulate or legalize gambling, but that it can instead provide a baseline for consistency.[44] Without comprehensive legislation, the United States risks falling behind not only in innovation, but in consumer trust.[45]

---

[36] *Id.*
[37] Gordon, *supra* note 1, at 206.
[38] *See US State Privacy Legislation Tracker 2025: Comprehensive Consumer Privacy Bills*, IAPP, https://iapp.org/media/pdf/resource_center/State_Comp_Privacy_Law_Chart.pdf [https://perma.cc/4ZBM-QZS8].
[39] Gordon, *supra* note 1, at 206.
[40] *Id.* at 207.
[41] *Id.* at 218.
[42] *Id.*
[43] *Id.*
[44] *Id.*
[45] *Id.* at 222.