



SUSPENSIONS NAMING UNITED STATES FEDERAL BUILDINGS

FLOOR SITUATION

The following bills are being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage.

These bills are expected to be considered on the floor on September 8, 2008.

SUMMARY

S. 2403 designates the facility of the Federal Courthouse located in the 700 block of East Broad Street, Richmond, Virginia, as the "Spottswood W. Robinson III and Robert R. Merhige, Jr. Federal Courthouse". This legislation was introduced by Senator John Warner (R-VA) on December 3, 2007. The Senate passed the bill by unanimous consent on June 24, 2008.

S. 2837 designates the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the "Theodore Roosevelt United States Courthouse". This legislation was introduced by Senator Charles Schumer (D-NY) on April 9, 2008. The Senate passed the bill by unanimous consent on June 24, 2008.

STAFF CONTACT

For questions or further information contact Adam Hepburn at 6-2302.



H.R. 4081 – TO PREVENT TOBACCO SMUGGLING, TO ENSURE THE COLLECTION OF ALL TOBACCO TAXES, AND FOR OTHER PURPOSES

FLOOR SITUATION

H.R. 4081 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Anthony Wiener (D-NY) on November 5, 2007. The bill was referred to the House Committee on the Judiciary and was reported, as amended, by voice vote on July 16, 2008.

H.R. 4081 is expected to be considered on the floor of the House on September 8, 2008.

SUMMARY

H.R. 4081 places new requirements on companies that sell and ship tobacco products (specifically, cigarettes and smokeless tobacco) through the mail to consumers.

Shipping and Labeling

Under the bill, companies that ship tobacco products must not sell or ship for single delivery any tobacco product weighing more than ten pounds. Also, every package containing tobacco products must be clearly labeled with the statement: "CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS." Tobacco products that do not have this labeling are non-deliverable.

H.R. 4081 prohibits the United States Postal Service (USPS) from shipping cigarettes or smokeless tobacco (but not cigars), except for shipments within or into any State (including the District of Columbia) that is not contiguous to at least one other State.

Age Verification and Records of Sale

Additionally, the bill requires that all companies who mail tobacco products obtain the name, birthday, and address of anyone placing a mail order for tobacco. This information is to be kept in a database by the seller for four years and is to be available to all Federal, State, and Tribal authorities for compliance verification.

The bill also requires these companies to use delivery methods that verify all persons accepting the delivery of tobacco products are of the minimum age required for the legal purchase of tobacco by providing government identification and signature.

List of Unregistered or Non-compliant Delivery Tobacco Sellers

H.R. 4081 requires all tobacco delivery companies to register with the U.S. Attorney General within ninety days of this bill's enactment, and requires the Attorney General to compile a list of those companies that have not registered or are not in compliance with the provisions of this bill. These companies are to be notified of their inclusion on the non-compliance list.

Taxes

H.R. 4081 requires tobacco delivery companies to charge applicable Federal, State, or local taxes on tobacco products (except cigars) prior to shipping.

Penalties

Tobacco delivery companies found to be in violation of any of the provision of H.R. 4081 will not be subject to civil penalties. Penalties are to be the greater of: 1) two percent of the gross cigarette or smokeless tobacco receipts for the year prior to the date of violation; or 2) \$5,000 for a first violation or



\$10,000 for any other. Common carriers or independent delivery services that are found to enforce effective policies in compliance with this bill will be subject to penalties.

BACKGROUND

According to the U.S. Department of the Treasury, the Jenkins Act of 1946 (P.L. 81-363) regulates the shipment of tobacco products to consumers through mail carriers such as the United States Postal Service and private carriers. The Jenkins Act requires that tobacco delivery companies file monthly reports on all taxes collected with the tax collection agencies in each state that it delivers tobacco products.

Consumers who order tobacco products on the internet from outside the United States are not exempt from paying Federal excise taxes or customs duties. Also, consumers who purchase tobacco products over the internet from another State may have to pay their State's tobacco sales and excise taxes. All tobacco products made in the U.S. and shipped outside the U.S. can not be brought back in to the U.S. through purchase by an individual consumer over the internet.

Several major private shipping companies, such as UPS, DSL, and FedEx, do not ship tobacco products. Currently, most orders for tobacco made over the internet in the U.S. are shipped using the USPS.

According to the Republican Staff of the House Committee on Homeland Security, illegal tobacco trade is one of the most lucrative smuggling operations in the world. Estimates show that five percent of the cigarette market in North America, or 414 billion cigarettes, are illicit. The report indicates that money made through this type of trafficking is linked to funding terrorist organizations such as Hezbollah, Hamas, and al Qaeda.

[Link to report on cigarette and smokeless tobacco smuggling prepared by the Republican Staff of the U.S. House Committee on Homeland Security](#)

[U.S. Alcohol and Tobacco Tax and Trade Bureau](#)

COST

According to the Congressional Budget Office, implementing H.R. 4081 would cost about \$120 million over the 2009-2013 period.

[Link to CBO cost estimate for H.R. 4081](#)

STAFF CONTACT

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S. 2450 – To amend the Federal Rules of Evidence to address the waiver of attorney-client privilege and the work product doctrine

FLOOR SITUATION

S. 2450 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Senator Patrick Leahy (D-VT) on December 11, 2007. The bill passed the Senate by unanimous consent on February 27, 2008.

S. 2450 is expected to be considered on the floor of the House on September 8, 2008.

SUMMARY

S. 2450 amends the Federal Rules of Evidence regarding the disclosure of communication or information covered under attorney-client privilege and work product protection. This bill clarifies that when a disclosure is made in a federal proceeding, and waives the attorney-client privilege or work-product protection, the waiver extends to an undisclosed communication or information in a federal or state proceeding in certain cases. The waiver must be intentional, the disclosed and undisclosed communications or information must concern the same subject matter, and they ought in fairness to be considered together.

S. 2450 provides that if a disclosure is made in a federal proceeding, it does not operate as a waiver in a federal or state proceeding if the disclosure is inadvertent, the holder of the privilege took reasonable steps to prevent disclosure, and the holder promptly took reasonable steps to rectify the error.

Finally, this legislation states that when a disclosure is made in a state proceeding, it does not operate as a waiver in a federal proceeding if the disclosure would not be a waiver under this rule if it had been made in a federal proceeding, or is not waived under law of the state where the disclosure occurred.

BACKGROUND

In recent years, the rise of email and other electronic communication and records have greatly increased the volume of documents which must be reviewed by attorneys during litigation, in order to prevent the unintentional disclosure of information protected by attorney-client privilege. Such review of email and other electronic information has dramatically driven up the time and costs of litigation. This legislation attempts to amend the Federal Rules of Evidence in order to limit the consequences of inadvertent disclosure of privileged information.

The Federal Rules of Evidence were adopted by Congress in 1975 (P.L. 93-595), and govern the admission of evidence in Federal courts. Many states also model their evidence rules after the Federal Rules of Evidence. The Supreme Court is allowed to amend the Rules, subject to Congressional approval.

COST

The Congressional Budget Office (CBO) estimates that implementing S. 2450 “would have no significant effect on the federal budget.” [Full CBO Cost Estimate](#)

STAFF CONTACT

For questions or further information contact Adam Hepburn at 6-2302.



S. 2135 – CHILD SOLDIERS ACCOUNTABILITY ACT

FLOOR SITUATION

S. 2135 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Senator Richard Durbin (D-IL) on October 3, 2007. The Senate passed the bill by unanimous consent on December 19, 2007.

S. 2135 is expected to be considered on the floor of the House on September 8, 2008.

SUMMARY

S. 2135 amends Title 18 of the United States Code to impose a fine and/or a prison sentence of up to 20 years if that person recruits, enlists, or conscripts a person 15 years old or younger into an armed force or uses that child in hostilities. In the case that the death of any person results from such action, the offender may be fined and imprisoned for any number of years or life.

S. 2135 provides jurisdiction under this Act if the offender is a U.S. national or legal alien, or if the offender habitually resides in the United States, or is present in the U.S. irrespective of nationality. If the offense concerning child soldiers occurs in whole or part in the U.S., the offender is also under the jurisdiction of this Act.

This legislation also amends the Immigration and Nationality Act (P.L. 89-236) to state that any alien who has recruited or used child soldiers may be inadmissible to the United States or deportable. In addition, such aliens would be disqualified for asylum.

BACKGROUND

According to the U.S. State Department, child soldiering is a form of trafficking in persons that involves the recruitment of children to be used in conflict areas. Governments, paramilitary organizations, and rebel groups all are known to recruit and utilize child soldiers. The use of child soldiers is most frequent in Africa and Asia, but also occurs in the Americas, Eurasia, and the Middle East. Children may be recruited as combatants, or utilized as spies, guards, cooks, or servants in conflict zones. Young girls are often the victims of sex crimes in these situations. In Nepal, Sri Lanka, and Uganda, at least one-third of child soldiers are female.

The Department of State's annual "Trafficking in Persons Report" details actions to combat child soldiering. According to this year's report, more than 300,000 children under 18 are currently being exploited in more than 30 armed conflicts worldwide. The majority of child soldiers are between the ages of 15 and 18, but some are as young as 7 or 8 years of age.

[State Department – The Facts about Child Soldiers](#)

COST

The Congressional Budget Office (CBO) estimates that implementing S. 2135 "would have no significant cost to the federal government." [Full CBO Cost Estimate](#)

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