



Legislative Bulletin.....June 10, 2003

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S.J.Res. 8—Expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month (Sen. Brownback)

Order of Business: The joint resolution is scheduled to be considered on Tuesday, June 10, 2003, under a motion to suspend the rules and pass the bill.

Summary: The bill has 12 findings regarding sexual assault and the National Sexual Assault Awareness and Prevention Month (which was in April) and the bill resolves that:

“(1) it is the sense of Congress that--

(A) National Sexual Assault Awareness and Prevention Month provides a special opportunity to educate the people of the United States about sexual violence and to encourage both the prevention of sexual assault and the prosecution of its perpetrators;

(B) it is appropriate to salute the more than 20,000,000 victims who have survived sexual assault in the United States and the efforts of victims, volunteers, and professionals who combat sexual assault;

(C) national and community organizations and private sector supporters should be recognized and applauded for their work in promoting awareness about sexual assault, providing information and treatment to its victims, and encouraging the increased prosecution and punishment of its perpetrators; and

(D) police, forensic workers, and prosecutors should be recognized and applauded for their hard work and innovative strategies to increase the percentage of sexual assault cases that result in the prosecution and incarceration of the offenders;

(2) Congress urges national and community organizations, businesses in the private sector, and the media to promote, through National Sexual Assault Awareness and Prevention Month, awareness of sexual violence and strategies to decrease the incidence of sexual assault; and

(3) Congress supports the goals and ideals of National Sexual Assault Awareness and Prevention Month.”

Committee Action: The joint resolution passed the Senate on April 11, 2003 and was referred to the House Judiciary Committee where it was considered on May 7th and passed by voice vote.

Cost to Taxpayers: CBO estimates that S.J.Res. 8 has no cost. The joint resolution would not authorize any expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: The House Judiciary Committee (In Report 108-113) finds authority under in Article I, Section 8 (Powers of Congress) but fails to cite a specific clause.

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H.R. 1529—Involuntary Bankruptcy Improvement Act (Sensenbrenner)

Order of Business: The bill is scheduled to be considered on Tuesday, June 10th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1529 would allow an individual who is the victim of a fraudulent involuntary bankruptcy petition (that is dismissed by a bankruptcy court) to file a motion to have all the references and records relating to such petition expunged from the records of the court. Additionally, the bill would authorize bankruptcy courts to issue an order prohibiting credit reporting agencies from issuing a consumer report containing any reference to a fraudulent involuntary bankruptcy case (for individuals whose cases have been dismissed by a bankruptcy court).

Additional Background: Current law provides that a person can voluntarily commence a bankruptcy case or be involuntarily forced into bankruptcy, under certain circumstances. One or more creditors (meeting specified criteria) can file an involuntary petition for bankruptcy relief under chapter 7 (liquidation) or chapter 11 (business reorganization) of the Bankruptcy Code against an individual or certain types of business entities, if grounds for granting such relief are established.

If the person who is the subject of an involuntary bankruptcy petition does not timely oppose the petition, the court enters an “order for relief,” which formally commences the bankruptcy

case. If the involuntary petition is opposed by the subject of the petition, then the court must conduct a trial.

Should the court dismiss an involuntary petition, the court may impose various sanctions against the party who filed the petition, such as costs, reasonable attorneys' fees, and punitive damages, if appropriate under the circumstances.

According to the House Judiciary Committee, fewer than one percent of all bankruptcy case filings are commenced involuntarily. As with most documents filed in connection with a bankruptcy case, the filing of an involuntary bankruptcy petition is a matter of public record and is open for examination by any entity. In addition, the Fair Credit Reporting Act permits credit reporting agencies to note the involuntary bankruptcy filing on a person's credit report for up to ten years. Although a consumer can have his or her credit report revised to reflect the dismissal of an involuntary bankruptcy case, a credit report can often still refer to the filing of the case.

Also according to the Judiciary Committee, tax protesters “and other extremists” have resorted to filing fraudulent involuntary bankruptcy petitions against public officials and other innocent parties. Last year, for example, one tax protester filed fraudulent involuntary bankruptcy petitions against 36 local public officials in Wisconsin, some of whom did not find out about the petitions until they attempted to use their credit cards or execute some other financial transaction.

Committee Action: On May 7, 2003, the House Judiciary Committee marked up and favorably reported this bill by voice vote.

Cost to Taxpayers: CBO reports that H.R. 1529 would have no significant impact on the federal budget.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: The Judiciary Committee, in House Report 108-110, cites constitutional authority in Article I, Section 8, Clause 4, which grants Congress the power to establish “uniform Laws on the subject of Bankruptcies throughout the United States.”

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H.R. 1086—Standards Development Organization Advancement Act of 2003 (Sensenbrenner)

Order of Business: The bill is scheduled for consideration on Tuesday, June 10th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 1086 amends the National Cooperative Research Act (NCRA) to provide standards development organizations (SDOs) certain protection from antitrust laws

(protection currently given under NCRA to those carrying out a joint venture). An SDO is defined in the bill as an organization “that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus.”

Specifically, H.R. 1086 would:

- Extend application of the “rule of reason” (a reasonableness test that balances the pro-competitive effects against the anti-competitive effects of alleged antitrust misconduct to determine if a violation of antitrust laws has occurred) to standards development activity;
- Limit recovery of antitrust damages against SDOs if the nature and scope of the standards development activity is pre-disclosed to the proper antitrust authorities (see also the fourth bullet point below). SDOs would still be liable for treble damages (damages three times the actual damages) if they did not file a pre-disclosure notice;
- Include SDOs in the existing framework for the awarding of “reasonable attorneys’ fees” to the substantially prevailing party in a lawsuit; and
- Require SDOs to file a written notification disclosing standards development activity to the Department of Justice and the Federal Trade Commission within 90 days of commencing such activity. The bill stipulates that the decision of an SDO not to file a notification will not create a negative inference that the organization engaged in anti-competitive conduct.

Committee Action: H.R. 1086 was referred to the Judiciary Committee on March 3 and reported by voice vote on May 7.

Cost to Taxpayers: The Congressional Budget Office estimates that H.R. 1086 would have no significant cost.

Does the Bill Create New Federal Programs or Rules?: The bill provides SDOs with certain protections from antitrust laws.

Constitutional Authority: The Judiciary Committee, in House Report 108-125, cites Article I, Section 8, but fails to cite a specific clause.

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H.Res. 252—Expressing the sense of the House of Representatives supporting the United States in its efforts within the World Trade Organization (WTO) to end the European Union’s protectionist and discriminatory trade practices of the past five years regarding agriculture biotechnology (Blunt)

Order of Business: The resolution is scheduled for consideration on Tuesday, June 10th, under a motion to suspend the rules and pass the bill.

Summary: H.Res. 252 resolves that the House of Representatives:

“supports and applauds the efforts of the Administration on behalf of the Nation's farmers and sound science by challenging the long-standing, unwarranted moratorium imposed in the European Union on agriculture and food biotech products and encourages the President to continue to press this issue at the G-8 Summit in June 2003.”

Additional Background: In October 1998, the European Union (EU) stopped regulatory approval of new agriculture biotechnology products (genetically modified foods). This moratorium has effectively prohibited all U.S. corn exports to the EU, costing an estimated \$300 million annually, and has also dramatically affected soybean exports, resulting in a decline of \$1 billion annually (according to the USDA). The U.S. Trade Representative recently filed a challenge against the EU with the WTO, asserting that the moratorium violates EU law and WTO rules.

Committee Action: The resolution was referred to the Committee on Ways and Means on May 22, but was not considered.

Cost to Taxpayers: The resolution authorizes no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.Con.Res. 110—Recognizing the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years and expressing support for the goals and ideals of Human Genome Month and DNA Day (*Slaughter*)

Order of Business: The resolution is scheduled to be considered on Tuesday, June 10th, under a motion to suspend the rules and pass the bill.

Summary: H.Con.Res. 110 would resolve that Congress:

- “recognizes the sequencing of the human genome as one of the most significant scientific accomplishments of the past one hundred years;
- “honors the 50th anniversary of the outstanding accomplishment of describing the structure of DNA, the essential completion of the sequencing of the human genome in April 2003, and the development a plan for the future of genomics;
- “supports the goals and ideals of Human Genome Month and DNA Day; and
- “encourages schools, museums, cultural organizations, and other educational institutions in the United States to recognize Human Genome Month and DNA Day with appropriate programs and activities centered on human genomics, using

information and materials provided through the National Human Genome Research Institute and other sources.”

Additional Background: April 25, 2003 was the 50th anniversary of the publication of the description of the double-helix structure of deoxyribonucleic acid (DNA) in *Nature* magazine by James D. Watson and Francis H.C. Crick. The Human Genome Project, the complete mapping of all human genes, was finished in April of this year. For more information on the Project, visit this website: <http://www.ncbi.nlm.nih.gov/genome/guide/human/>

The National Human Genome Research Institute, which conducted the Project, has designated April 2003 as “Human Genome Month” and April 25, 2003, as “DNA Day.”

Committee Action: On April 30, 2003, the Energy & Commerce Committee marked up and favorably reported the resolution by voice vote.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Create New Federal Programs or Rules?: No.

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H.R. 2030— To designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the “Patsy Takemoto Mink Post Office Building” (*Case*)

Order of Business: The bill is scheduled to be considered on Tuesday, June 10, 2003, under a motion to suspend the rules and pass the bill.

Summary: The bill will designate the U.S. Post Office, located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the “Patsy Takemoto Mink Post Office Building,” in honor of the late Rep. Patsy Mink. Rep. Mink was elected in 1965 to represent Hawaii in the U.S. House of Representatives (six years after Hawaii became the 50th state). She served six consecutive terms, left for an unsuccessful bid for the U.S. Senate, and was reelected to the House in 1990, where she served until her death in September 28, 2002, at the age of 73.

Additional Information: On October 1, 2002, the House passed by voice vote H.Res. 566, “Expressing the condolences of the House of Representatives on the death of the Honorable Patsy T. Mink, a Representative from Hawaii.”

On Oct. 9, 2002, the House passed H.J.Res. 113, “Recognizing the contributions of Patsy Takemoto Mink” 410 - 0 ([Roll no. 449](#)), which resolved that Title IX of the Education Amendments of 1972 may be cited as the “Patsy T. Mink Equal Opportunity in Education Act.” See <http://www.house.gov/burton/RSC/Lb10902.pdf>.

Committee Action: The bill was introduced on May 8 and referred to the House Committee on Government Reform. The committee did not consider the bill.

Cost to Taxpayers: The minimal costs associated with this resolution involve changing signs at the post office.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: A Government Reform Committee report citing constitutional authority is unavailable.

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H.R. 925—Cesar Chavez Post Office Redesignation Act (*Gutierrez*)

Order of Business: The bill is scheduled to be considered on Tuesday, June 10th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 925 would redesignate the U.S. Postal Service facility at 1859 South Ashland Avenue in Chicago, Illinois, currently known as the “Pilsen Post Office,” as the “Cesar Chavez Post Office.”

Additional Background: Cesar Estrada Chavez founded and led the first farm workers' union in American history. He became famous for organizing strikes against agricultural businesses and for long fasts to draw attention to his claims about working conditions for migrant farm workers. When he passed away on April 23, 1993, he was president of the United Farm Workers of America, AFL-CIO.

Chavez is widely cited as a hero for anti-capitalists and Marxists.

For more biographical information (from websites favorable to Chavez), visit these websites:
<http://cnet.ucr.edu/research/chavez/bio/>
<http://www.ufw.org/cecstory.htm>

Committee Action: On February 26, 2003, this bill was referred to the Committee on Government Reform, but the Committee never considered the legislation.

Cost to Taxpayers: The only costs associated with a post office renaming are those for sign and map changes, none of which significantly affect the federal budget.

Does the Bill Create New Federal Programs or Rules?: No.

Constitutional Authority: No committee report citing constitutional authority is available. Article I, Section 8, Clause 7 of the Constitution grants Congress the authority to “establish Post Offices and post Roads.”

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H.R. 2143— Unlawful Internet Gambling Funding Prohibition Act (Bachus)

Order of Business: The bill is scheduled to be considered on Tuesday, June 10, 2003 under a structured rule with three amendments and one motion to recommit made in order. The text of the amendments may be found temporarily on the Rules Committee website <http://www.house.gov/rules/108rule2143.htm>

Note: In the 107th Congress, on October 1, 2002, the House passed by voice vote a bill (H.R. 556) that addressed Internet gambling. The bill came up on suspension of the rules along with 35 other bills considered by the House that day. See <http://www.house.gov/burton/RSC/Lb10102.pdf>

In the 106th Congress, on July 17, 2000, the House defeated on suspension of the rules 245-159 (two-thirds having been necessary for passage) the Internet Gambling Prohibition Act (H.R. 3125) <http://clerkweb.house.gov/cgi-bin/vote.exe?year=2000&rollnumber=404> See <http://www.house.gov/burton/RSC/NetGambling.PDF>

Summary: H.R. 2143 would require new federal regulations regarding electronic payment systems relating to the identification and blocking of “**unlawful** Internet gambling” (emphasis added). In other words, the regulations would require, for example, credit card companies to take steps to identify and then block payments from betting or wagering that is part of unlawful Internet gambling. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Trade Commission would enforce the provisions and regulations of H.R. 2143 as they apply to financial institutions.

The bill lays out four definitions for the term “bets or wagers” and nine definitions of things that are *not* considered bets and wagers, including certain types of simulation sports games and “any **lawful** transaction with a business licensed or authorized by a State” (emphasis added).

Amendments:

#1) Kelly Amendment: In an effort to address those who say the bill authorizes some forms of internet gambling the amendment adds a new section that reads:

“Sec. 5. Common Sense Rule of Construction. No provision of this Act shall be construed as altering, limiting, extending, changing the status of, or other-wise affecting any law relating to, affecting, or regulating gambling within the United States.”

#2) Jackson-Lee Amendment: This amendment strikes credit cards from the list of restricted transactions for Internet gambling. This amendment would allow credit cards to be used with offshore Internet gambling, for example, though according to her Rules Committee summary Rep. Jackson-Lee says that her reason for removing credit cards is that the age requirements necessary for obtaining a credit card provide a means of preventing minor's use of Internet gambling websites. [Note: The underlying bill is intended to ban Internet gambling for all ages, not just minors.]

Effect of Jackson-Lee Amendment (shown in red bolded strikethrough):

SEC. 4. DEFINITIONS.

(1) RESTRICTED TRANSACTION- The term `restricted transaction' means any transaction or transmittal to any person engaged in the business of betting or wagering, in connection with the participation of another person in unlawful Internet gambling, of--

~~(A) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);~~

(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the other person;

(C) any check, draft, or similar instrument which is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or

(D) the proceeds of any other form of financial transaction as the Federal functional regulators may prescribe by regulation which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.

#3) Sensenbrenner/Cannon/Conyers Amendment: The amendment strikes a section which says that a bet or wager does not include “any lawful transaction with a business licensed or authorized by a State.” This was an amendment originally adopted in the Judiciary Committee’s mark of the original bill (H.R. 21). According to *National Journal’s* mark-up report, the amendment offered by Rep. Cannon in committee, “eliminated an exemption in the bill cracking down on Internet gambling for states that permit in-state gambling, an exception favored by states with horse racing, dog racing, jai alai and Keno. Some outside conservative groups argued that the bill with an exception for state gambling laws could expand Internet gambling, rather than curb it - a claim denied by the bill's supporters.” (emphasis added).

Effect of Sensenbrenner Amendment (shown in red bolded strikethrough):

SEC. 4. DEFINITIONS.

(2) BETS OR WAGERS- The term `bets or wagers'--

(E) does not include--

...

~~(ix) any lawful transaction with a business licensed or authorized by a State.~~

Committee Action: H.R. 2143 was introduced on May 19, 2003, considered by the Financial Services Committee, and reported out by voice vote on May 21, 2003.

The original legislation with the same title (H.R. 21), introduced by Rep. Leach in January 2003, was referred to both the House Financial Services Committee (which reported it out by voice vote on March 13, 2003) and to the Judiciary Committee (which reported it out with an amendment by a 16-15 vote on May 14, 2003). One of the biggest changes made in the

Judiciary Committee through Rep. Cannon's amendment was the elimination of Section 4(2)(E) (iv), which exempts from the bill's definition of a bet or wager any legal transaction authorized by a state. Five days after the Judiciary Committee amended H.R. 21, Rep. Bachus dropped another version, H.R. 2143, also entitled the "Unlawful Internet Gambling Funding Prohibition Act." The bill re-added the exception deleted by the Cannon Amendment in the Judiciary Committee and dropped all of the provisions that would have required a joint referral to the Judiciary Committee. Among the provisions dropped in H.R. 2143 that were included in H.R. 21 were the sections making Internet gambling a crime under Title 18 of the U.S. Code, the liability provisions for those who knowingly allowed Internet gambling, and the civil remedy provisions.

Additional Information:

Internet gambling currently constitutes illegal gambling activity in all 50 States. In June of 2001, the Nevada legislature authorized the Nevada Gaming Commission to legalize on-line, Internet gambling operations if and when such operations can be conducted in compliance with Federal law. According to the Financial Services Committee, the Gaming Commission believes that such compliance cannot be ensured at present. It is estimated that currently 2,000 Internet gambling sites operate from offshore locations in the Caribbean and elsewhere. As such, they currently operate effectively beyond the reach of U.S. regulators and law enforcement, as well as the statutory anti-money laundering regimes that apply to U.S.-based casinos.

Like its predecessor from the 107th Congress, H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act, builds on the recommendations of the National Gambling Impact Study Commission by prohibiting gambling businesses from accepting credit cards or other bank instruments in connection with unlawful Internet gambling

According to the Committee, many legal experts, including officials from the Department of Justice, State attorneys general, and others involved in law enforcement, hold the view that Internet gambling is generally prohibited under various Federal statutes. Among them, the Federal Wire Act (Title 18, United States Code, section 1084) criminalizes the knowing use of a wire communication facility by a gambling establishment for the transmission of bets or wagers in interstate or foreign commerce. Conventional forms of gambling activities, such as casino wagering, State lotteries, slot machines, and horseracing, legal in many jurisdictions, are regulated by the individual States. Virtually all States prohibit the operation of gambling businesses not expressly permitted by their respective constitutions or special legislation.

Organizations supporting H.R. 2143 include: Focus on the Family, Family Research Council, Concerned Women for America, Christian Coalition, Southern Baptist Convention, NFL, NCAA, Visa, MasterCard, American Express, Federal Law Enforcement Officers Association, among others.

Organizations opposing H.R. 2143 include: Americans for Tax Reform and The Free Congress Foundation. Traditional Values Coalition opposes the bill as reported, supports the Sensenbrenner amendment, and would support final passage only if the Sensenbrenner

amendment is adopted. The National Indian Gaming Association has announced it supports the Sensenbrenner Amendment and opposes the Kelly Amendment.

Cost to Taxpayers: CBO estimates that implementing the bill would result in no significant cost to the federal government, though it would negligibly increase administrative costs of the FDIC and the Federal Reserve System.

Does the Bill Create New Federal Programs or Rules?: Yes. The bill creates new regulations and enforcement mechanisms on issues relating to Internet gambling.

Constitutional Authority: The Financial Services Committee (in Report 108-133) finds authority in Article 1, Section 8, Clause 1 (relating to the general welfare of the United States) and Clause 3 (relating to the power to regulate interstate commerce).

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