

Calendar No. 750

110TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 110-340

FLORIDA SALVAGING LICENSE ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2482



MAY 22, 2008.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

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Mr. INOUE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2482]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2482) to repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill would repeal section 80102 of title 46, United States Code, which adversely affects the Florida salvage industry and was recently determined to be unconstitutional by the U.S. Department of Justice (DOJ).

BACKGROUND AND NEEDS

Section 80102 was codified in 1847 to regulate the wrecking industry, which at the time was associated with piracy and other misconduct, by requiring wreckers to obtain licenses from Federal district court judges. These licenses have not been used since the 1920s when the industry shifted from wrecking to large salvaging corporations. Thus, the provision was largely obsolete.

In 2006, P.L. 109-304, a bill to complete the codification of title 46, was enacted. Unfortunately, it inappropriately altered section 80102 to apply to “salvaging” rather than “wrecking.” This change imposed a judicial licensing requirement on the modern marine assistance and towing industry, which has been licensed under the Coast Guard since its inception in the 1980s. This industry supports boaters along the U.S. eastern coast, performing more than

120,000 towing operations and salvaging tens of thousands of vessels each year, thereby saving millions of dollars in damages for owners and insurance companies, most of them in the State of Florida.

In connection to one petition to obtain a license under this newly resurrected law, the DOJ advised the District Court of Southern Florida of its opinion that the law is unconstitutional on the grounds that it charges judges with a licensing function, which is a responsibility of the Executive Branch. The court denied the petitioner a license, indicating that it was powerless to grant one. The Court also declined to judge whether the law is unconstitutional because such a ruling would have been outside the scope of the suit. The court called on Congress to repeal the law.

Although any prosecution of a salvager for violation of section 80102 would likely fail in court, salvagers in Florida are unable to obtain the licenses required by law. Repealing the law will eliminate the need for further judicial action to resolve this issue.

SUMMARY OF PROVISIONS

The bill would repeal section 80102 of title 46, United States Code, which adversely affects the Florida salvage industry and was recently determined to be unconstitutional by the DOJ.

LEGISLATIVE HISTORY

The bill was introduced on December 13, 2007, by Senator Bill Nelson and ordered to be reported favorably by the Commerce Committee on April 24, 2008. Staff assigned to this legislation are Dabney Hegg, Democratic Senior Professional Staff, and Todd Bertson, Republican Senior Counsel.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

MAY 7, 2008.

Hon. DANIEL K. INOUE,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2482, a bill to repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 2482—A bill to repeal the provision of title 46, United States Code, requiring a license for employment in the business of salvaging on the coast of Florida

S. 2482 would repeal an existing law that requires vessels and their masters to each obtain licenses from a U.S. district court in Florida to operate salvage businesses off that state's coast. CBO estimates that enacting S. 2482 would have no effect on the federal budget because no such licenses are currently issued by the district courts.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The reported bill would affect persons employed or seeking employment as a master of a vessel in the business of salvaging off the coast of Florida.

ECONOMIC IMPACT

S. 2482 is expected to have a positive impact on the economy of the State of Florida. This provision helps relieve an undue burden on the salvaging industry in the State of Florida, which was mistakenly impacted during the recodification of title 46, United States Code in 2006.

PRIVACY

The reported bill is not expected to have any impact on the privacy rights of individuals.

PAPERWORK

There will be no increase in paperwork burdens resulting from the enactment of S. 2482.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that the reported bill contains not congressionally directed spending items.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Repeal of Requirement of License for Employment in the Business of Salvaging on the Coast of Florida.

This section would repeal section 80102 of title 46, United States Code.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 46, UNITED STATES CODE

【§ 80102. License to salvage on Florida coast

【(a) Licensing requirements. To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

【(b) Judicial findings. Before issuing a license under this section, the judge must be satisfied, when the license is for—

【(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

【(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.】