



Legislative Bulletin..... July 29, 2014

Contents:

- H.R. 3896- To amend the Longshore and Harbor Workers' Compensation Act to provide a definition of recreational vessel for purposes of such Act**
- H.R. 4626 - SAFE Act Confidentiality and Privilege Enhancement Act**
- H.R. 5062 - Examination and Supervisory Privilege Parity Act of 2014**
- H.R. 4809 - To reauthorize the Defense Production Act, to improve the Defense Production Act Committee, and for other purposes, as amended**
- H.R. 4709 - Ensuring Patient Access and Effective Drug Enforcement Act of 2014, as amended**

H.R. 3896 – To amend the Longshore and Harbor Workers' Compensation Act to provide a definition of recreational vessel for purposes of such Act — (Wasserman Schultz – D, FL)

Order of Business: [H.R. 3896](#) is scheduled to be considered on July 29, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

Summary: This bill would amend the Longshore and Harbor Workers' Compensation Act to define "recreational vessel" as a vessel:

- being manufactured or operated primarily for pleasure; or
- leased, rented, or chartered to another for the latter's pleasure.

The following rules apply for this definition:

- A vessel being manufactured or built, or being repaired under warranty by its manufacturer or builder, is a recreational vessel if the vessel appears intended, based on its design and construction, to be for ultimate recreational uses. Requires the manufacturer or builder to bear the burden of establishing that a vessel is recreational under this standard;
- A vessel being repaired, dismantled for repair, or dismantled at the end of its life will be treated as recreational at the time of repair, dismantling for repair, or dismantling, provided that such vessel shares elements of design and construction of traditional recreational vessels and is not normally engaged in a military, commercial, or traditionally commercial undertaking; and
- A vessel will be treated as a recreational vessel if it is a public vessel, such as a vessel owned or chartered and operated by the United States, or by a state or local government, at the time of repair, dismantling for repair, or dismantling, provided that such vessel

shares elements of design and construction with traditional recreational vessels and is not normally engaged in a military, commercial, or traditionally commercial undertaking.

In addition, this bill requires the Secretary of Labor to amend the regulations so its definitions align with the new definition, and make no further modification to the definition in any other regulation or administrative directive.

Additional Background: First enacted in 1927, the Longshore and Harbor Workers' Compensation Act (LHWCA) is a workers' compensation program administered by the Office of Workers' Compensation Programs (OWC) and provides for medical care and compensation to employees that are disabled from injuries occurring on the navigable waters of the United States, or in repairing, building, unloading, or loading such vessels. The Act covers workers employed in maritime occupations, including longshore workers or other persons in longshore operations, and any harbor workers, including ship repairers, shipbuilders, and shipbreakers.

The American Recovery and Reinvestment Act of 2009 (ARRA) amended the Longshore and Harbor Workers' Compensation Act to reduce the number of workers in the recreational-vessel-repair industry covered under the Longshore Act. According to the [Department of Labor](#), "Prior to the ARRA amendment, workers employed to build, repair, or dismantle any recreational vessel under 65 feet in length were excluded from Longshore Act coverage, provided that they were covered by a State's workers' compensation law. This law had been in place since the 1984 Amendments to the Act. The ARRA amendment changed this exclusion by eliminating the length limitation as follows."

Currently, individuals employed to repair any recreational vessel (or to dismantle any part of a recreational vessel to make repairs), regardless of vessel length, are excluded from coverage. As before, this exclusion only applies if these individuals are covered by a State's workers' compensation law.

According to a memo released by the [Small Business Committee](#), the ARRA amendment was designed to completely exempt businesses that repair and dismantle recreational vessels of any length; however, there has been concern about how the Department of Labor interpreted the amendment during the rule making process. Employers with employees subject to the Longshore and Harbor Workers' Compensation Act are required to purchase insurance or self insure. After the issuance of the final rule on this topic, the Small Business Committee concluded that as a result, recreational vessels undergoing repair which were intended to be exempt from the Longshore and Harbor Workers' Compensation Act, were now covered thereby imposing unnecessary costs on small business.

H.R. 3896 clarifies recreational boat repair workers will not be subject to the Longshore and Harbor Workers' Compensation Act.

Committee Action: H.R. 3896 was introduced on January 16, 2014, and referred to the House Education and the Workforce Committee. On June 13, 2014, the bill was referred to the House Subcommittee on Workforce Protections where it awaits further action.

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: No CBO cost estimate is available at this time.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the power of Congress to provide for the general welfare of the United States, as enumerated in Article 1, Section 8, Clause 1 of the United States Constitution, and to regulate commerce as enumerated in Article 1, Section 8, Clause 3.” Read the statement [here](#).

RSC Staff Contact: Rebekah Armstrong, Rebekah.Armstrong@mail.house.gov, 202-226

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

H.R. 4626 - SAFE Act Confidentiality and Privilege Enhancement Act (Capito, R-WV)

Order of Business: This legislation is scheduled for consideration on Tuesday, July 29, 2014, subject to a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: [H.R. 4626](#) will allow further information sharing between state and federal regulators with safeguards aiming to preserve confidentiality and privilege. Specifically, the bill amends the S.A.F.E. Mortgage Licensing Act of 2008 ([12 U.S.C. 5111 \(a\)](#)) to allow state and federal financial agencies to share privileged information held by the [National Mortgage Licensing System and Registry](#) with federal and state regulatory officials with the goal of increased uniformity and reduced regulatory burdens.

Committee Action: The legislation was introduced on May 9, 2014, and referred to the House Committee on Financial Services. The House Committee on Financial Services conducted a [hearing](#) on the topic addressed by the bill on July 15, 2014.

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: No Congressional Budget Office cost estimate is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I Section 1: All legislative Powers herein granted shall be vested in a Congress of the United States.” Congresswoman Capito’s statement in the Congressional Record can be viewed [here](#).

RSC Staff Contact: Scott Herndon, Scott.Herndon@mail.house.gov, (202) 226-2076.

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

H.R. 5062 - Examination and Supervisory Privilege Parity Act of 2014 (Perlmutter, D-CO)

Order of Business: This legislation is scheduled for consideration on Tuesday, July 29, 2014, subject to a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: [H.R. 5062](#) amends the Consumer Financial Protection Act of 2010 ([12 U.S.C. 5514](#)) to clarify that when information is shared between federal and state banking regulators and regulators that license, supervise, or examine financial products or services, that any privilege a person may claim with respect to the shared information under Federal or state law is not waived.

Additional Information: The Consumer Financial Protection Bureau (CFPB) coordinates the supervisory of regulatory agencies between state and federal regulators. More information about the CFPB can be found [here](#).

Committee Action: The legislation was introduced on July 10, 2014, and referred to the House Committee on Financial Services. The House Committee on Financial Services held a [hearing](#) on the bill on July 15, 2014.

Administration Position: No Statement of Administrative Policy is available.

Cost to Taxpayers: No Congressional Budget Office cost estimate is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 3.” Congressman Perlmutter’s statement in the Congressional Record can be viewed [here](#).

RSC Staff Contact: Scott Herndon, Scott.Herndon@mail.house.gov, (202) 226-2076.

NOTE: *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

H.R. 4809 - To reauthorize the Defense Production Act, to improve the Defense Production Act Committee, and for other purposes, as amended (Campbell, R-CA)

Order of Business: This legislation is scheduled for consideration on Tuesday, July 29, 2014, subject to a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: [H.R. 4809](#) contains reforms to and reauthorizes the Defense Production Act (DPA) ([50 U.S.C. app. 50 2061](#)) through FY 2019. The reforms clarify that the President may not delegate the decision to start small defense acquisition projects to address shortfalls in the domestic defense industrial base, requires that such projects be the most cost-effective way to address such shortfalls, and requires any such project that is, or accrues over time to be, \$50 million or greater, be separately authorized by Congress. In addition, the legislation authorizes an annual appropriation of \$133 million through FY 2019.

Additional Information: The Defense Production Act, first authorized during the Korean War in 1950, allows the President to take action to expand and ensure the nation has an adequate supply of critical resources necessary for national security. The current authorization for the Defense Production Act of 1950 expires on September 30, 2014. More information about the DPA can be viewed [here](#).

Committee Action: The legislation was introduced on June 9, 2014, and referred to the House Committee on Financial Services. On June 11, 2014, the Committee favorably reported the bill by [voice vote](#).

Administration Position: No Statement of Administration Policy is available.

Cost to Taxpayers: According to the Congressional Budget Office [cost estimate](#) “implementing the act would cost \$390 million over the 2015-2019 period, assuming appropriation of the necessary amounts.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: The Constitutional Authority Statement is unavailable online.

RSC Staff Contact: Scott Herndon, Scott.Herndon@mail.house.gov, (202) 226-2076.

NOTE: RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.

H.R. 4709 - Ensuring Patient Access and Effective Drug Enforcement Act of 2014, as amended — (Marino-R, PA)

Order of Business: [H.R. 4709](#) is scheduled to be considered on July 29, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: This bill amends the Controlled Substances Act to provide a determination by the Attorney General that a registration to manufacture, distribute, or dispense a controlled substance is "consistent with the public health and safety." In addition, it clarifies that a finding of "imminent danger to the public health or safety" means that, in the absence of an immediate suspension, the controlled substance will continue to be intentionally distributed outside the usual course of professional practice or in a manner that poses a foreseeable risk.

Prior to revoking or suspending a registration to manufacture, distribute, or dispense a controlled substance, the Attorney General must provide the registrant a statement of denial, revocation, or suspension, including specific citations to any laws or regulations alleged to be violated. In addition the Attorney General must direct the registrant to appear within thirty days, and notify the registrant of the opportunity to submit a corrective action plan. After receiving the corrective action plan, the Attorney General will determine whether the denial, revocation, or suspension proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to such plan.

The Secretary of Health and Human Services is required to submit a report to Congress identifying the obstacles to legitimate patient access to controlled substances; issuers with diversion of controlled substances; and, how collaboration between Federal, State, local, and tribal law enforcement agencies and the pharmaceutical industry can benefit patients and prevent diversion and abuse of controlled substances. This report shall incorporate feedback and recommendations from relevant stakeholders.

Additional Background: According to the committee, the sponsors introduced this bill to help prevent prescription drug abuse while creating clear and consistent enforcement standards. In 2011, the [CDC](#) reported 41,340 drug overdoses in the United States were due to pharmaceuticals. In addition, [deaths](#) from prescription painkiller overdoses among women have increased more than 400% and increased 265% in men since 1999.

Committee Action: This bill was introduced on May 21, 2014, by Representative Marino, and referred to the Committee on Energy and Commerce. On June 9, 2014, the committee held a [mark up](#) and the bill was ordered to be reported, as amended, by voice vote.

Administration Position: No Statement of Administration Policy is available at this time.

Cost to Taxpayers: [CBO](#) estimates that implementing the bill would cost less than \$500,000 in 2015; any spending would be subject to availability of appropriated funds.

Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 4709 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to the power granted to Congress under Article I, Section 8, Clause 3 of the United States Constitution. The Constitution's Commerce Clause allows Congress to enact laws when reasonably related to the regulation of interstate commerce.” Read the statement [here](#).

RSC Staff Contact: Rebekah Armstrong, Rebekah.Armstrong@mail.house.gov, 202-226-0678

###