

109TH CONGRESS
2D SESSION

S. 2827

To amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2006

Mr. AKAKA (for himself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Privacy Officer With
5 Enhanced Rights Act of 2006” or the “POWER Act of
6 2006”.

1 **SEC. 2. AUTHORITIES OF THE PRIVACY OFFICER OF THE**
2 **DEPARTMENT OF HOMELAND SECURITY.**

3 Section 222 of the Homeland Security Act of 2002
4 (6 U.S.C. 142) is amended—

5 (1) by inserting “(a) APPOINTMENT AND RE-
6 SPONSIBILITIES.—” before “The Secretary”; and

7 (2) by adding at the end the following:

8 “(b) AUTHORITY TO INVESTIGATE.—

9 “(1) IN GENERAL.—The senior official ap-
10 pointed under subsection (a) may—

11 “(A) have access to all records, reports,
12 audits, reviews, documents, papers, rec-
13 ommendations, and other materials available to
14 the Department that relate to programs and op-
15 erations with respect to the responsibilities of
16 the senior official under this section;

17 “(B) make such investigations and reports
18 relating to the administration of the programs
19 and operations of the Department that are nec-
20 essary or desirable as determined by that senior
21 official;

22 “(C) require by subpoena the production,
23 by any person other than a Federal agency, of
24 all information, documents, reports, answers,
25 records, accounts, papers, and other data and
26 documentary evidence necessary to performance

1 of the responsibilities of the senior official
2 under this section; and

3 “(D) administer to or take from any per-
4 son an oath, affirmation, or affidavit, whenever
5 necessary to performance of the responsibilities
6 of the senior official under this section.

7 “(2) ENFORCEMENT OF SUBPOENAS.—Any sub-
8 poena issued under paragraph (1)(C) shall, in the
9 case of contumacy or refusal to obey, be enforceable
10 by order of any appropriate United States district
11 court.

12 “(3) EFFECT OF OATHS.—Any oath, affirma-
13 tion, or affidavit administered or taken under para-
14 graph (1)(D) by or before an employee of the Pri-
15 vacy Office designated for that purpose by the senior
16 official appointed under subsection (a) shall have the
17 same force and effect as if administered or taken by
18 or before an officer having a seal of office.

19 “(c) SUPERVISION.—

20 “(1) IN GENERAL.—The senior official ap-
21 pointed under subsection (a) shall report to, and be
22 under the general supervision of the Secretary.

23 “(2) NOTIFICATION TO CONGRESS.—If the Sec-
24 retary removes the senior official appointed under
25 subsection (a) or transfers that senior official to an-

1 other position or location within the Department, the
2 Secretary shall—

3 “(A) promptly submit a written notifica-
4 tion of the removal or transfer to Houses of
5 Congress; and

6 “(B) include in any such notification the
7 reasons for the removal or transfer.

8 “(d) REPORTS BY SENIOR OFFICIAL TO CON-
9 GRESS.—The senior official appointed under subsection
10 (a) shall submit reports directly to the Congress regarding
11 performance of the responsibilities of the senior official
12 under this section, without any prior comment or amend-
13 ment by the Secretary, Deputy Secretary, or any other of-
14 ficer or employee of the Department or the Office of Man-
15 agement and Budget.”.

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