

1 NATIONAL CAPITOL CONTRACTING

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3 MARKUP OF H.R. 2831; H.R. 2832; AND H.R. 1584

4 Wednesday, December 2, 2015

5 House of Representatives

6 Committee on the Judiciary

7 Washington, D.C.

8 The Committee met, pursuant to call, at 10:30 a.m., in
9 Room 2141, Rayburn House Office Building, Hon. Bob
10 Goodlatte, [Chairman of the Committee] presiding.

11 Present: Representatives Goodlatte, Sensenbrenner,
12 Smith, Chabot, Forbes, Franks, Gohmert, Jordan, Poe,
13 Chaffetz, Marino, Gowdy, Labrador, Collins, Walters, Buck,
14 Radcliffe, Trott, Bishop, Conyers, DelBene, Jeffries, Peters

15 Staff Present: Shelley Husband, Staff Director; Branden
16 Ritchie, Deputy Staff Director/Chief Counsel; Allison
17 Halataei, Parliamentarian & General Counsel; Kelsey
18 Williams, Clerk; Stephanie Gadbois, Senior Counsel; Chris
19 Grieco, Counsel, Subcommittee on Crime, Terrorism, Homeland

20 Security, and Investigations; Perry Apelbaum, Minority Chief
21 Counsel, Chief of Staff, Staff Director; Danielle Brown,
22 Minority Parliamentarian and Chief Legislative Counsel; Joe
23 Graupensperger, Minority Chief Counsel, Subcommittee on
24 Crime, Terrorism, Homeland Security and Investigations;
25 Tiffany Josslyn, Minority Deputy Chief Counsel, Crime,
26 Terrorism, Homeland Security, and Investigations; Lillian
27 German, Minority Counsel; Eric Williams, Minority Crime
28 Detailee; Veronica Eligan, Minority Professional Staff.

29 Chairman Goodlatte. Good morning. The Judiciary
30 Committee will come to order, and without objection, the
31 chair is authorized to declare a recess of the committee at
32 any time. Pursuant to notice, I now call up H.R. 2831 for
33 purposes of markup and move that the committee report the
34 bill favorably to the House. The clerk will report the
35 bill.

36 Ms. Williams. H.R. 2831, to make technical amendments
37 to update statutory references to provisions classified to
38 chapters 44, 45, 46, and 47 of title 50, United States Code.

39 [The bill follows:]

40 ***** COMMITTEE INSERT *****

41 Chairman Goodlatte. Without objection, the bill is
42 considered as read and open for amendment at any point. I
43 will begin by recognizing myself for an opening statement.
44 As I stated at our last markup, the Office of the Law
45 Revision Counsel must occasionally undertake editorial
46 reclassification projects to reorganize areas of law that
47 have outgrown their original boundaries or to eliminate
48 organizational units that are no longer efficient. H.R.
49 2831 reflects yet another of the office's editorial
50 reclassification efforts. And I am pleased that Ranking
51 Member Conyers is joining me in sponsoring this bill.

52 Mr. Conyers. Thank you.

53 Chairman Goodlatte. H.R. 2831 will update statutory
54 references to provisions classified to title 50. The Office
55 of the Law Revision Counsel has prepared this bill and
56 submitted it to the committee as a part of the office's
57 ongoing responsibility to maintain the code and assist the
58 committee in the revision and codification of federal
59 statutes. In May of 2013, title 50 was editorially
60 reorganized to set forth more clearly the provisions of the
61 National Security Act of 1947, the Central Intelligence
62 Agency Act of 1949, the National Security Agency Act of
63 1959, and certain other related statutes. No statutory text
64 was altered in the reorganization. The provisions were

65 merely transferred from one place to another in title 50.

66 The change was necessary to improve the organizational
67 structure of the material in the United States Code. The
68 decision to transfer provisions in the United States Code is
69 not undertaken lightly by the Office of Law Revision
70 Counsel. After careful study, the office concluded that
71 certain organizational deficiencies in title 50 needed to be
72 corrected. The office assures us that the short-term
73 inconvenience of adjusting to these new classifications is
74 greatly outweighed by the benefit of making much-needed
75 long-term improvements in the organizational structure of
76 our national security laws. The technical amendments made
77 by this act update United States Code citations embedded in
78 the text of our public laws to reflect the new code
79 citations for the provisions. Further, to eliminate any
80 confusion, the Office of Law Revision Counsel provides a
81 comprehensive guide to the old and new code citations for
82 this title on its website, uscode.house.gov.

83 H.R. 2831 is an important bill because it helps ensure
84 that our laws are up to date and accurately reflect the
85 location of statutory text in the United States Code. For
86 these reasons, I urge my colleagues to support this bill.
87 And I now recognize our ranking member, Mr. Conyers of
88 Michigan, for his opening statement.

89 [The prepared statement of Chairman Goodlatte follows:]

90

91

***** COMMITTEE INSERT *****

92 Mr. Conyers. Thank you, Chairman Goodlatte. I would
93 like to point out that we reorganized chapter 15 of title 50
94 of the United States Code into four new chapters. Title 50
95 of the code concerns national security matters. In turn,
96 chapter 15 of that title presently consists of the National
97 Security Act of 1947, the Central Intelligence Agency Act of
98 1949, and the National Security Agency Act of 1959, and
99 certain other related statute.

100 Over the years, there has been a series of amendments
101 to these laws. And as a result, chapter 15 has become, in
102 my view, overly cluttered. And its structure has become
103 opaque. H.R. 2831 is intended to reduce the resultant
104 overcrowding, and to reflect more clearly the underlying
105 structure of the individual statutes by reorganizing the
106 content of it, in chapter 15, into four new chapters. We
107 want to, recognizing the content in chapter 15 into four new
108 chapters. The bill makes no substantive changes to current
109 law, because it simply transfers provisions from one place
110 in title 50 to another place in the same title. The measure
111 also makes various conforming technical revisions. And so,
112 I am pleased to join with the chairman of the committee and
113 support the legislation. And I yield back the balance of my
114 time.

115 [The prepared statement of Mr. Conyers follows:]

116 ***** COMMITTEE INSERT *****

117 Chairman Goodlatte. Chair thanks the gentleman.
118 Without objection, all of the opening statements will be a
119 part of the record. I now recognize myself for purposes of
120 offering an amendment in the nature of a substitute. The
121 clerk will report the amendment.

122 Ms. Williams. Amendment in the nature of a substitute
123 to H.R. 2831 offered by Mr. Goodlatte of Virginia. Strike
124 all after the..

125 [The amendment offered by Chairman Goodlatte follows:]

126 ***** COMMITTEE INSERT *****

127 Chairman Goodlatte. Without objection, the amendment
128 in the nature of a substitute is considered as read, and I
129 will recognize myself to explain the amendment. The
130 amendment in the nature of a substitute makes the proposed
131 amendments more accurate and reflects changes required
132 because of laws enacted after H.R. 2831 was introduced,
133 either by omitting amendments that became obsolete, or
134 amending new cross-references. Are there any amendments to
135 the amendment? The question is on the amendment, to the
136 amendment in the nature of a substitute.

137 Those in favor, respond by saying aye.

138 Those opposed, no.

139 In the opinion of the chair, the ayes have it. And the
140 amendment is agreed to.

141 Are there any other amendments to the amendment? The
142 question is on a reporting quorum being present, the
143 question is on the motion to report the bill H.R. 2831 as
144 amended favorably to the House.

145 Those in favor will say aye.

146 Those opposed, no.

147 The ayes have it. And the bill, as amended, is ordered
148 reported favorably. Members will have two days to submit
149 views. Without objection, the bill will be reported as a

150 single amendment in the nature of a substitute,
151 incorporating all adopted amendments. And staff is
152 authorized to make technical and conforming changes.

153 Pursuant to notice, I now call up H.R. 2832 for
154 purposes of markup and move that the committee report the
155 bill favorably to the House. The clerk will report the
156 bill.

157 Ms. Williams. H.R. 2832, to make technical amendments
158 to update statutory references to certain provisions
159 classified to title 52, United States Code.

160 [The bill follows:]

161 ***** COMMITTEE INSERT *****

162 Chairman Goodlatte. Without objection, the bill is
163 considered as read and open for amendment at any point. And
164 I will begin by recognizing myself for an opening statement.
165 H.R. 2832 is yet another bill addressing a reclassification
166 of the United States Code by the Office of Law Revision
167 Counsel. And I am pleased to be joined in sponsoring this
168 noble bill by Ranking Member Conyers. It is only fitting
169 that he co-sponsor the bill recognizing the creation of a
170 new title of the United States Code dedicated exclusively to
171 voting and election laws.

172 In 1926, when the organizational structure of the
173 United States Code was established, no separate title for
174 voting and elections was created. At that time, only two
175 federal statutory provisions relating to voting and
176 elections existed. Since 1960, an extensive body of federal
177 statutory law relating to voting and elections has been
178 enacted, including title III of the Civil Rights Act of
179 1960, the Voting Rights Act of 1965, the Federal Election
180 Campaign Act of 1971, the Voting Accessibility for the
181 Elderly and Handicapped Act, the Uniformed and Overseas
182 Citizens Absentee Voting Act, the National Voter
183 Registration Act of 1993, and the Help America Vote Act of

184 2002.

185 Upon enactment, each of these laws was incorporated
186 into the existing structure of the code in the most logical
187 manner possible. However, as this body of law grew and
188 evolved, it became increasingly apparent to the office of
189 Law Revision Counsel that a separate title was needed. On
190 September 1, 2014, title 52, Voting and Elections, was
191 established. This new title provides a well-organized,
192 coherent structure for this important body of law. H.R.
193 2832 will update the citations in our public laws that refer
194 to provisions altered by the reclassification. These
195 updates are necessary to conform the citations to the
196 current codification of the text. In addition, to eliminate
197 any confusion, the Office of Law Revision Counsel provides a
198 comprehensive guide to the old and new code citations for
199 these provisions on its website, uscode.house.gov.

200 As is the case with reclassification projects, no
201 statutory text was altered in this reorganization. The
202 provisions were merely transferred from one place to another
203 in the United States Code. Again, the decision to transfer
204 provisions in the United States Code is taken very
205 seriously. After careful study, the Office of Law Revision
206 Counsel concluded that certain organizational deficiencies
207 in the code needed to be corrected. The office advises us
208 that the benefit of making much-needed long-term

209 improvements in the organizational structure of the code
210 will greatly outweigh the short-term inconvenience of
211 adjusting to new code citations. H.R. 2832 is an important
212 bill because it helps ensure that our laws are up to date
213 and accurately reflect the location of statutory texts in
214 the United States Code.

215 For these reasons, I urge my colleagues to support this
216 bill. And I now recognize our ranking member, Mr. Conyers,
217 for his opening statement.

218 [The prepared statement of Chairman Goodlatte follows:]

219 ***** COMMITTEE INSERT *****

220 Mr. Conyers. Thank you, Chairman Goodlatte. I concur
221 with your analysis of the bill and the seven provisions
222 relating to voting and elections that you have recited. And
223 I will include them in my statement as well. And although
224 each of these laws was incorporated into the existing
225 structure of the code in the most logical manner possible,
226 the extensive nature of this body of law now requires an
227 improved and organized, coherent structure for these
228 provisions. H.R. 2832 responds to this need by relocating
229 these various laws to a separate new title of the United
230 States Code, namely title 52, without making any substantive
231 changes whatsoever in the current law. And so, I hope that
232 our colleagues will join us in supporting this useful
233 legislation. And I return any time that may be remaining.
234 Thank you.

235 [The prepared statement of Mr. Conyers follows:]

236 ***** COMMITTEE INSERT *****

237 Chairman Goodlatte. I now recognize myself for
238 purposes of offering an amendment in the nature of a
239 substitute. And the clerk will report the amendment.

240 Ms. Williams. Amendment in the nature of a substitute
241 to H.R. 2832, offered by Mr. Goodlatte of Virginia, strike
242 all after the..

243 [The amendment offered by Chairman Goodlatte follows:]

244

245 ***** COMMITTEE INSERT *****

246 Chairman Goodlatte. Without objection, the amendment
247 is, in the nature of a substitute, is considered as read.
248 And I will recognize myself to explain the amendment. The
249 amendment in the nature of a substitute makes the proposed
250 amendments more accurate and reflects changes required
251 because of laws enacted after H.R. 2832 was introduced,
252 either by omitting amendments, or it became obsolete, or
253 amending new cross-references. Are there any amendments to
254 the amendment? The question is on the amendment in the
255 nature of a substitute to H.R. 2832.

256 Those in favor, respond by saying aye.

257 Those opposed, no.

258 In the opinion of the chair, the ayes have it. The
259 amendment is agreed to. A reporting quorum being present,
260 the question is on the motion, report the bill H.R. 2831 as
261 amended favorably to the House.

262 Those in favor will say aye.

263 Those opposed, no.

264 The ayes have it, and the bill, as amended, is ordered
265 reported favorably. Members will have two days to submit
266 views. Without objection, the bill will reported as a
267 single amendment in the nature of a substitute,
268 incorporating all adopted amendments and staff is authorized
269 to make technical and conforming changes.

270 Pursuant to notice, I now call up H.R. 1584 for
271 purposes of markup and move that the committee report the
272 bill favorably to the House. The clerk will report the
273 bill.

274 Ms. Williams. H.R. 1584, to amend title 18 United
275 States Code to provide greater extraterritorial criminal
276 jurisdiction over certain credit card and other access
277 device fraud offenses.

278 [The bill follows:]

279 ***** COMMITTEE INSERT *****

280 Chairman Goodlatte. Without objection, the bill is
281 considered as read and open for amendment at any point. And
282 I will begin by recognizing myself for an opening statement.
283 Last year has seen a number of high-profile cyber-attacks
284 resulting in the theft of millions of personal and financial
285 records about Americans. Large-scale breaches, like last
286 year's OPM hack, raise significant national security
287 concerns. And the less breach is done for financial gain
288 remain the most prolific type of cyber-attacks we face as a
289 nation.

290 Included in these financial hacks is the theft of
291 credit card numbers of American consumers. This past Monday
292 was dubbed "Cyber Monday," as American consumers spend over
293 \$3 billion online, shopping for the holiday season,
294 purchases made primarily through the use of credit cards.
295 It is therefore no surprise that exploiting credit card
296 numbers is a lucrative practice for today's cyber criminals.

297 In recent years, organized multinational criminal
298 enterprises have arisen to steal large volumes of credit
299 card numbers and other personally identifiable information.
300 Middle men then sell the stolen data to the highest bidder,
301 often using underground carding forums. With a routine
302 search of the Internet, you can find caches of stolen credit
303 card numbers for sale to the highest bidder.

304 That is why I am proud to support H.R. 1584, the CARDER
305 Act. The CARDER Act will make it easier for the Justice
306 Department to prosecute those who traffic in stolen credit
307 card numbers. Under current law, the Justice Department
308 must prove that an article used in the offense was moved
309 through the United States, or that the criminal is moving
310 the profits of the criminal enterprise to a U.S. bank. With
311 today's sophisticated technology, this is a difficult task
312 that is often made even more challenging because the
313 criminal is often acting from overseas.

314 For example, it is difficult to determine whether an
315 article used in the offense moved through the United States
316 if the only article involved in the crime is digital data.
317 These requirements unduly limit the Justice Department's
318 ability to prosecute criminals residing outside the United
319 States who commit crimes that harm Americans. Law
320 enforcement agencies have identified foreign-based
321 individuals holding for sale vast quantities of credit card

322 numbers issued by American financial institutions, where
323 there is no evidence that the person selling the numbers is
324 the one who stole them and no evidence of articles moving in
325 the United States.

326 The CARDER Act will fix this problem and give the
327 Justice Department the necessary tools to prosecute those
328 who are profiting from stolen credit card numbers. It will
329 permit the United States to prosecute anyone possessing or
330 trafficking in credit card numbers with intent to defraud if
331 the credit cards were issued by United States financial
332 institution, regardless of where the possession or
333 trafficking takes place. This necessary change to the law
334 will allow prosecutors to bring to justice those who
335 victimize American consumers and financial institutions.

336 I am proud to support this bipartisan bill and want to
337 thank the gentleman from Virginia, Mr. Forbes, and his
338 colleague from Rhode Island, Mr. Langevin, for their work on
339 this legislation. It is now my pleasure to recognize the
340 ranking member of the committee, the gentleman from
341 Michigan, Mr. Conyers, for his opening statement.

342 [The prepared statement of Chairman Goodlatte follows:]

343 ***** COMMITTEE INSERT *****

344 Mr. Conyers. Thank you, Chairman Goodlatte. Members
345 of the committee, I support H.R. 1584 as well. The bill
346 accomplishes a very important feature. It strengthens the
347 ability of federal law enforcement agencies to protect
348 Americans from credit card fraud. The bill accomplishes
349 this goal by authorizing the government to prosecute persons
350 located outside the United States who commit significant
351 credit card fraud against Americans and our companies to the
352 same degree that the government is able to pursue persons
353 who commit similar offenses while located in the United
354 States.

355 In today's digital age, criminals throughout the world
356 are able to buy and sell stolen credit card information with
357 ease. Under existing law, however, cyber criminals in other
358 countries are often able to avoid prosecution in the United

359 States, despite their buying and selling of Americans'
360 stolen credit card data, so long as their illicit activities
361 do not physically take place within the United States.

362 For example, cyber thieves in Eastern European
363 countries have been able to abscond with millions of stolen
364 credit card numbers, and commit widespread fraud in a matter
365 of seconds. And with increasing success, cyber thieves in
366 other countries are stealing large quantities of American
367 credit card numbers, and other personally-identifiable
368 information.

369 This stolen data is, in turn, sold by middlemen in
370 online market places, where participants buy the stolen
371 credit card information. Many of these buyers then use the
372 cards to purchase valuable goods or to convert the cards
373 into gift cards. H.R. 1584 is aimed at taking and making
374 sure that these middlemen, those who profit from the sale of
375 Americans' stolen financial data, can be brought to justice,
376 even if their offenses are committed outside the United
377 States. By removing the requirement in current law, the
378 prosecutors prove the relevant transactions were made
379 within, or transferred through the United States, the
380 legislation ensures that cyber criminals cannot evade the
381 reach of prosecution by simply operating outside our
382 borders.

383 H.R. 1584 takes an important step in protecting our

384 citizens from the threat of cybercrime and identity theft,
385 which can subject victims to financial ruin, and can
386 threaten their reputation and personal safety. The measure
387 recognizes the fact that, as cyber criminals' methods become
388 more sophisticated, prosecutors need more tools to combat
389 the devastation caused by these invasive crimes.

390 And so, I commend the chairman of the committee for
391 bringing this important legislation before the House
392 Judiciary Committee, and urge all of my colleagues to join
393 me in supporting it. I thank the chair and yield back the
394 balance of my time.

395 [The prepared statement of Mr. Conyers follows:]

396 ***** COMMITTEE INSERT *****

397 Chairman Goodlatte. Thank you, Mr. Conyers. Without
398 objection, all other members' opening statements will be
399 made a part of the record. Are there any amendments to H.R.
400 1584? A reporting quorum being present, the question is on
401 the motion to report the bill H.R. 1584 favorably to the
402 House.

403 Those in favor will say aye.

404 Those opposed, no.

405 The ayes have it. The bill is ordered reported
406 favorably. Members will have two days to submit views. I
407 thank all the members for participating today. And our
408 business is concluded, and the markup is adjourned.

409 [Whereupon, at 10:53 a.m., the committee adjourned
410 subject to the call of the chair.]