

103^D CONGRESS
2^D SESSION

H. R. 4071

To amend title 39, United States Code, to grant the United States Postal Service the authority to issue civil investigative demands, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 1994

Miss COLLINS of Michigan (by request) introduced the following bill; which was referred jointly to the Committees on Post Office and Civil Service and the Judiciary

A BILL

To amend title 39, United States Code, to grant the United States Postal Service the authority to issue civil investigative demands, 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. CIVIL INVESTIGATIVE DEMANDS.**

4 (a) IN GENERAL.—Chapter 30 of title 39, United
5 States Code, is amended by adding at the end the
6 following:

7 **“§ 3016. Civil investigative demands**

8 “(a) For purposes of this section—

1 “(1) the term ‘person’ means any natural per-
2 son, partnership, corporation, association, or other
3 legal entity, including any person acting under color
4 or authority of State law;

5 “(2) the term ‘documentary material’ includes
6 the original or any copy of any book, record, report,
7 memorandum, paper, communication, tabulation,
8 chart, or other document, and any product of discov-
9 ery;

10 “(3) the term ‘custodian’ means the custodian
11 or any deputy custodian designated under subsection
12 (c);

13 “(4) the term ‘product of discovery’ includes—

14 “(A) the original or duplicate of any depo-
15 sition, interrogatory, response, document, thing,
16 result of the inspection of land or other prop-
17 erty, examination, or admission obtained by any
18 method of discovery in any judicial litigation or
19 in any administrative litigation of an adversar-
20 ial nature;

21 “(B) any digest, analysis, selection, com-
22 pilation, or any derivation thereof; and

23 “(C) any index or manner of access there-
24 in; and

1 “(5) the term ‘agent’ includes a Postal Inspec-
2 tor or any person retained by the Postal Service in
3 connection with the enforcement of the laws of the
4 United States relative to the United States mails
5 and acting under the authority of section 3061 of
6 title 18.

7 “(b)(1) Whenever the Postmaster General or his dele-
8 gate has reason to believe that any person may be in pos-
9 session, custody, or control of any documentary material,
10 or may have any information, relevant to an investigation
11 of a matter arising under this chapter, he may, prior to
12 the commencement of a civil or criminal proceeding there-
13 on, issue in writing, and cause to be served upon such
14 person, a civil investigative demand requiring such person
15 to produce such documentary material for inspection and
16 copying or reproduction, to answer in writing written in-
17 terrogatories, to give oral testimony concerning documen-
18 tary material or information, or to furnish any combina-
19 tion of such material, answers, or testimony. Whenever a
20 civil investigative demand is an express demand for any
21 product of discovery, the Postmaster General or his dele-
22 gate shall cause to be served, in any manner authorized
23 by this section, a copy of such demand upon the person
24 from whom the discovery was obtained and notify the per-

1 son to whom such demand is issued of the date on which
2 such copy was served.

3 “(2) Each such demand shall—

4 “(A) state the nature of the conduct under in-
5 vestigation and the provision of this chapter applica-
6 ble thereto;

7 “(B) if it is a demand for production of docu-
8 mentary material—

9 “(i) describe the class or classes of docu-
10 mentary material to be produced thereunder
11 with such definiteness and certainty as to per-
12 mit such material to be fairly identified;

13 “(ii) prescribe a return date or dates which
14 will provide a reasonable period of time within
15 which the material so demanded may be assem-
16 bled and made available for inspection and
17 copying or reproduction; and

18 “(iii) identify the custodian to whom such
19 material shall be made available;

20 “(C) if it is a demand for answers to written
21 interrogatories—

22 “(i) state with definiteness and certainty
23 the written interrogatories to be answered;

1 “(ii) prescribe a date or dates at which
2 time answers to written interrogatories shall be
3 submitted; and

4 “(iii) identify the custodian to whom such
5 answers shall be submitted; and

6 “(D) if it is a demand for the giving of oral tes-
7 timony—

8 “(i) prescribe a date, time, and place at
9 which oral testimony shall be commenced; and

10 “(ii) identify the person who shall conduct
11 the examination and the custodian to whom the
12 transcript of such examination shall be submit-
13 ted.

14 Any such demand which is an express demand for any
15 product of discovery shall not be returned or returnable
16 until 20 days after a copy of such demand has been served
17 upon the person from whom the discovery was obtained.

18 “(3)(A) No such demand shall require the production
19 of any documentary material, the submission of any an-
20 swers to written interrogatories, or the giving of any oral
21 testimony, if such material, answers, or testimony would
22 be protected from disclosure under—

23 “(i) the standards applicable to subpoenas or
24 subpoenas duces tecum issued by a court of the

1 United States in aid of a grand jury investigation;
2 or

3 “(ii) the standards applicable to discovery re-
4 quests under the Federal Rules of Civil Procedure,
5 to the extent that the application of such standards
6 to any such demand is appropriate and consistent
7 with the provisions and purposes of this section.

8 “(B) Any such demand which is an express demand
9 for any product of discovery supersedes any inconsistent
10 order, rule, or provision of law (other than this section)
11 preventing or restraining disclosure of such product of dis-
12 covery to any person. Disclosure of any product of discov-
13 ery pursuant to any such express demand does not con-
14 stitute a waiver of any right or privilege, including any
15 right or privilege which may be invoked to resist discovery
16 of trial preparation materials, to which the person making
17 such disclosure may be entitled.

18 “(4)(A) Any such demand may be served by a Postal
19 Service agent at any place within the territorial jurisdic-
20 tion of any court of the United States.

21 “(B) Any such demand or any petition filed under
22 subsection (d) may be served upon any person who is not
23 to be found within the territorial jurisdiction of any court
24 of the United States, in such manner as the Federal Rules
25 of Civil Procedure prescribe for service in a foreign coun-

1 try. To the extent that the courts of the United States
2 can assert jurisdiction over such person consistent with
3 due process, the United States District Court for the Dis-
4 trict of Columbia shall have the same jurisdiction to take
5 any action respecting compliance with this section by such
6 person that such court would have if such person were
7 personally within the jurisdiction of such court.

8 “(5)(A) Service of any such demand or of any peti-
9 tion filed under subsection (d) may be made upon a part-
10 nership, corporation, association, or other legal entity
11 by—

12 “(i) delivering a duly executed copy thereof to
13 any partner, executive officer, managing agent, or
14 general agent thereof, or to any agent thereof au-
15 thorized by appointment or by law to receive service
16 of process on behalf of such partnership, corpora-
17 tion, association or entity;

18 “(ii) delivering a duly executed copy thereof to
19 the principal office or place of business of the part-
20 nership, corporation, association, or entity; or

21 “(iii) depositing such copy in the United States
22 mails, by registered or certified mail, return receipt
23 requested, duly addressed to such partnership, cor-
24 poration, association, or entity at its principal office
25 or place of business.

1 “(B) Service of any such demand or of any petition
2 filed under subsection (d) may be made upon any natural
3 person by—

4 “(i) delivering a duly executed copy thereof to
5 the person to be served; or

6 “(ii) depositing such copy in the United States
7 mails by registered or certified mail, return receipt
8 requested, duly addressed to such person at his resi-
9 dence or principal office or place of business.

10 “(6) A verified return by the individual serving any
11 such demand or petition setting forth the matter of such
12 service shall be proof of such service. In the case of service
13 by registered or certified mail, such return shall be accom-
14 panied by the return post office receipt of delivery of such
15 demand.

16 “(7) The production of documentary material in re-
17 sponse to a demand served pursuant to this section shall
18 be made under a sworn certificate, in such form as the
19 demand designates, by the person, if a natural person, to
20 whom the demand is directed or, if not a natural person,
21 by a person or persons having knowledge of the facts, and
22 circumstances relating to such production, to the effect
23 that all of the documentary material required by the de-
24 mand and in the possession, custody, or control of the per-

1 son to whom the demand is directed has been produced
2 and made available to the custodian.

3 “(8) Each interrogatory in a demand served pursuant
4 to this section shall be answered separately and fully in
5 writing under oath, unless it is objected to, in which event
6 the reasons for the objection shall be stated in lieu of an
7 answer, and it shall be submitted under a sworn certifi-
8 cate, in such form as the demand designates, by the per-
9 son, if a natural person, to whom the demand is directed
10 or, if not a natural person, by a person or persons respon-
11 sible for answering each interrogatory, to the effect that
12 all information required by the demand and in the posses-
13 sion, custody, control, or knowledge of the person to whom
14 the demand is directed has been submitted.

15 “(9)(A) The examination of any person pursuant to
16 a demand for oral testimony served under this section
17 shall be taken before an officer authorized to administer
18 oaths and affirmations by the laws of the United States
19 or of the place where the examination is held. The officer
20 before whom the testimony is to be taken shall put the
21 witness on oath or affirmation and shall personally, or by
22 someone acting under his direction and in his presence,
23 record the testimony of the witness. The testimony shall
24 be taken stenographically and transcribed. When the testi-
25 mony is fully transcribed, the officer before whom the tes-

1 timony is taken shall promptly transmit a copy of the
2 transcript of the testimony to the custodian.

3 “(B) The officer conducting the examination shall ex-
4 clude from the place where the examination is held all
5 other persons except the person being examined, his coun-
6 sel, counsel for the Postal Service, the officer before whom
7 the testimony is to be taken, and any stenographer taking
8 such testimony. The provisions of the Act of March 3,
9 1913 (Chapter 114; 37 Stat. 731; 15 U.S.C. 30) shall not
10 apply to such examination.

11 “(C) The oral testimony of any person taken pursu-
12 ant to a demand served under this section shall be taken
13 in the judicial district of the United States within which
14 such person resides, is found, or transacts business, or in
15 such other place as may be agreed upon by the officer
16 conducting the examination and such person.

17 “(D) When the testimony is fully transcribed, the of-
18 ficer shall afford the witness (who may be accompanied
19 by counsel) a reasonable opportunity to examine the tran-
20 script, and the transcript shall be read to or by the wit-
21 ness, unless such examination and reading are waived by
22 the witness. Any changes in form or substance which the
23 witness desires to make shall be entered and identified
24 upon the transcript by the officer with a statement of the
25 reasons given by the witness for making such changes.

1 The transcript shall then be signed by the witness, unless
2 the witness in writing waives the signing, is ill, cannot be
3 found, or refuses to sign. If the transcript is not signed
4 by the witness within 30 days after being afforded a rea-
5 sonable opportunity to examine it, the officer shall sign
6 it and state on the record the fact of the waiver, illness,
7 absence of the witness, or the refusal to sign, together with
8 the reason, if any, given therefor.

9 “(E) The officer shall certify on the transcript that
10 the witness was duly sworn by him and that the transcript
11 is a true record of the testimony given by the witness, and
12 the officer or agent shall promptly deliver it or send it
13 by registered or certified mail to the custodian.

14 “(F) Upon payment of reasonable charges therefor,
15 the Postal Service shall furnish a copy of the transcript
16 to the witness only, except that the Postmaster General
17 or his delegate may for good cause limit such witness to
18 inspection of the official transcript of his testimony.

19 “(G)(i) Any person compelled to appear under a de-
20 mand for oral testimony pursuant to this section may be
21 accompanied, represented, and advised by counsel. Coun-
22 sel may advise such person, in confidence, either upon the
23 request of such person or upon counsel’s own initiative,
24 with respect to any question asked of such person. Such
25 person or counsel may object on the record to any ques-

1 tion, in whole or in part, and shall briefly state for the
2 record the reason for the objection. Any objection may
3 properly be made, received, and entered upon the record
4 when it is claimed that such person is entitled to refuse
5 to answer the question on grounds of any constitutional
6 or other legal right or privilege, including the privilege
7 against self-incrimination. Such person shall not otherwise
8 object to or refuse to answer any question, and shall not
9 by himself or through counsel otherwise interrupt the oral
10 examination. If such person refuses to answer any ques-
11 tion, the Postal Service may petition the district court of
12 the United States pursuant to subsection (d) for an order
13 compelling such person to answer such question.

14 “(ii) If such person refuses to answer any question
15 on grounds of the privilege against self-incrimination, the
16 testimony of such person may be compelled in accordance
17 with the provisions of part V of title 18.

18 “(c)(1) The Postmaster General or his delegate shall
19 designate an agent to serve as custodian of documentary
20 material, answers to interrogatories, and transcripts of
21 oral testimony received under this section and such addi-
22 tional agents as he shall determine from time to time
23 to be necessary to serve as deputies to the custodian of
24 documents.

1 “(2) Any person, upon whom any demand under sub-
2 section (b) for the production of documentary material has
3 been duly served, shall make such material available for
4 inspection and copying or reproduction to the custodian
5 designated therein at the principal place of business of
6 such person (or at such other place as such custodian and
7 such person thereafter may agree and prescribe in writing
8 or as the court may direct) pursuant to subsection (d) on
9 the return date specified in such demand (or on such later
10 date as such custodian may prescribe in writing). Such
11 person may upon written agreement between such person
12 and the custodian substitute copies for originals of all or
13 any part of such material.

14 “(3)(A) The custodian to whom any documentary
15 material, answers to interrogatories, or transcripts of oral
16 testimony are delivered shall take physical possession
17 thereof, and shall be responsible for the use made thereof
18 and for the return of documentary material, pursuant to
19 this section.

20 “(B) The custodian may cause the preparation of
21 such copies of such documentary material, answers to in-
22 terrogatories, or transcripts of oral testimony as may be
23 required for official use by any duly authorized official,
24 employee, or agent of the Postal Service or the Depart-
25 ment of Justice under regulations which shall be promul-

1 gated by the Postal Service. Notwithstanding subpara-
2 graph (C), such material, answers, and transcripts may
3 be used by any such official employee, or agent in connec-
4 tion with the taking of oral testimony pursuant to this
5 section.

6 “(C) Except as otherwise provided in this section,
7 while in the possession of the custodian, no documentary
8 material, answers to interrogatories, or transcripts of oral
9 testimony, or copies thereof, so produced shall be available
10 for examination, without the consent of the person who
11 produced such material, answers or transcripts, and, in
12 the case of any product of discovery produced pursuant
13 to an express demand for such material, of the person
14 from whom the discovery was obtained by an individual
15 other than a duly authorized official, employee, or agent
16 of the Postal Service or the Department of Justice. Noth-
17 ing in this section shall prevent disclosure to either body
18 of the Congress or to any authorized committee or sub-
19 committee thereof.

20 “(D) While in the possession of the custodian and
21 under such reasonable terms and conditions as the Postal
22 Service shall prescribe—

23 “(i) documentary material and answers to inter-
24 rogatories shall be available for examination by the
25 person who produced such material or answers, or

1 by any duly authorized representative of such per-
2 son; and

3 “(ii) transcripts of oral testimony shall be avail-
4 able for examination by the person who produced
5 such testimony or his counsel.

6 “(4)(A) Whenever any attorney of the Postal Service
7 or the Department of Justice has been designated to ap-
8 pear before any court, grand jury, or agent of a Federal
9 administrative or regulatory agency in any case or pro-
10 ceeding, the custodian of any documentary material, an-
11 swers to interrogatories, or transcripts of oral testimony
12 may deliver to such attorney such material, answers or
13 transcripts for official use in connection with any such
14 case, a grand jury, or proceeding as such attorney or agent
15 determines to be required. Upon the completion of any
16 such case, grand jury, or proceeding, such attorney shall
17 return to the custodian any such material, answers, or
18 transcripts so delivered which have not passed into the
19 control of such court, grand jury, or agency through the
20 introduction thereof into the record of such case or
21 proceeding.

22 “(B) The custodian of any documentary material, an-
23 swers to interrogatories, or transcripts of oral testimony
24 may deliver to the Federal Trade Commission, in response
25 to a written request, copies of such material, answers or

1 transcripts for use in connection with an investigation or
2 proceeding under the Commission's jurisdiction. Such ma-
3 terial, answers, or transcripts may only be used by the
4 Commission in such manner and subject to such condi-
5 tions as apply to the Postal Service under this section.

6 “(5) If any documentary material has been produced
7 in the course of any investigation by any person pursuant
8 to a demand under this section and—

9 “(A) any case or proceeding before any court or
10 grand jury arising out of such investigation, or any
11 proceeding before any Federal administrative or reg-
12 ulatory agency involving such material, has been
13 completed, or

14 “(B) no case or proceeding, in which such ma-
15 terial may be used, has been commenced within a
16 reasonable time after completion of the examination
17 and analysis of all documentary material and other
18 information assembled in the course of such inves-
19 tigation,

20 the custodian shall, upon written request of the person
21 who produced such material, return to such person any
22 such material (other than copies thereof furnished to the
23 custodian pursuant to paragraph (2) or made by the Post-
24 al Service pursuant to paragraph (3) which has not passed
25 into the control of any court, grand jury, or agency

1 through the introduction thereof into the record of such
2 case or proceeding.

3 “(6) In the event of the death, disability or separation
4 from service in the Postal Service of the custodian of any
5 documentary material, answers to interrogatories, or tran-
6 scripts of oral testimony produced under any demand is-
7 sued pursuant to this section, or the official relief of such
8 custodian from responsibility for the custody and control
9 of such material, answers, or transcripts, the Postmaster
10 General or his delegate shall promptly—

11 “(A) designate another agent to serve as custo-
12 dian of such material, answers to interrogatories, or
13 transcripts of oral testimony produced under any de-
14 mand issued pursuant to this section, or the official
15 relief of such custodian from the responsibility for
16 the custody and control of such material, answers,
17 or transcripts; and

18 “(B) transmit in writing to the person who pro-
19 duced such material, answers, or testimony notice as
20 to the identity and address of the successor so
21 designated.

22 Any successor designated under this paragraph shall have
23 with regard to such material, answers, or transcripts all
24 duties and responsibilities imposed by this section upon
25 his predecessor in office with regard thereto, except that

1 he shall not be held responsible for any default or derelict-
2 tion which occurred prior to his designation.

3 “(d)(1) Whenever any person fails to comply with any
4 civil investigative demand duly served upon him under
5 subsection (b) or whenever satisfactory copying or repro-
6 duction of any material cannot be done and such person
7 refuses to surrender such material, the Postal Service may
8 file, in the district court of the United States for any judi-
9 cial district in which such person resides, is found, or
10 transacts business, and serve upon such person a petition
11 for an order of such court for the enforcement of this
12 section.

13 “(2)(A) Within 20 days after the service of any such
14 demand upon any person, or at any time before the return
15 date specified in the demand, whichever period is shorter,
16 or within such period exceeding 20 days after service or
17 in excess of such return date as may be prescribed in writ-
18 ing, subsequent to service, by an agent named in the de-
19 mand, such person may file and serve upon such agent,
20 and in the case of an express demand for any product of
21 discovery upon the person from whom such discovery was
22 obtained, a petition for an order modifying or setting aside
23 such demand—

1 “(i) in the district court of the United States
2 for the judicial district within which such person re-
3 sides, is found, or transacts business; or

4 “(ii) in the case of a petition addressed to an
5 express demand for any product of discovery, only in
6 the district court of the United States for the judi-
7 cial district in which the proceeding in which such
8 discovery was obtained is or was last pending.

9 “(B) The time allowed for compliance with the de-
10 mand in whole or in part as deemed proper and ordered
11 by the court shall not run during the pendency of such
12 petition in the court, except that such person shall comply
13 with any portions of the demand not sought to be modified
14 or set aside. Such petition shall specify each ground upon
15 which the petitioner relies in seeking such relief and may
16 be based upon any failure of such demand to comply with
17 the provisions of this section or upon any constitutional
18 or other legal right or privilege of such person.

19 “(3) Whenever any such demand is an express de-
20 mand for any product of discovery, the person from whom
21 such discovery was obtained may file, at any time prior
22 to compliance with such express demand, in the district
23 court of the United States for the judicial district in which
24 the proceeding in which such discovery was obtained is or
25 was last pending, and serve upon any agent named in the

1 demand and upon the recipient of the demand, a petition
2 for an order of such court modifying or setting aside those
3 portions of the demand requiring production of any such
4 product or discovery. Such petition shall specify each
5 ground upon which the petitioner relies in seeking such
6 relief and may be based upon any failure of such portions
7 of the demand to comply with the provisions of this sec-
8 tion, or upon any constitutional or other legal right or
9 privilege of the petitioner. During the pendency of such
10 petition, the court may stay, as it deems proper, compli-
11 ance with the demand and the running of the time allowed
12 for compliance with the demand.

13 “(4) At any time during which any custodian is in
14 custody or control of any documentary material or answers
15 to interrogatories delivered, or transcripts of oral testi-
16 mony given by any person in compliance with any such
17 demand, such person, and in the case of an express de-
18 mand for any product of discovery, the person from whom
19 such discovery was obtained, may file, in the district court
20 of the United States for the judicial district within which
21 the office of such custodian is situated, and serve upon
22 such custodian, a petition for an order of such court re-
23 quiring the performance by such custodian of any duty
24 imposed upon him by this section.

1 “(5) Whenever any petition is filed in any district
2 court of the United States under this section, such court
3 shall have jurisdiction to hear and determine the matter
4 so presented, and to enter such order or orders as may
5 be required to carry into effect the provisions of this sec-
6 tion. Any final order so entered shall be subject to appeal
7 pursuant to section 1291 of title 28. Any disobedience of
8 any final order entered under this section by any court
9 shall be punished as a contempt thereof.

10 “(6) To the extent that such rules may have applica-
11 tion and are not inconsistent with the provisions of this
12 section, the Federal Rules of Civil Procedure shall apply
13 to any petition under this section.

14 “(7) Any documentary material, answers to written
15 interrogatories, or transcripts of oral testimony provided
16 pursuant to any demand issued under this section shall
17 be exempt from disclosure under section 552 of title 5.”.

18 (b) CONFORMING AMENDMENT.—The table of sec-
19 tions for chapter 30 of title 39, United States Code, is
20 amended by adding at the end the following:

“3016. Civil investigative demands.”.

21 **SEC. 2. OBSTRUCTION OF PROCEEDINGS.**

22 Section 1505 of title 18, United States Code, is
23 amended to read as follows:

1 **“§ 1505. Obstruction of proceedings before depart-**
2 **ments, agencies and committees**

3 “Whoever, with intent to avoid, evade, prevent, or ob-
4 struct compliance, in whole or in part, with any civil inves-
5 tigative demand duly and properly made under the Anti-
6 trust Civil Process Act or section 3016 of title 39, willfully
7 withholds, misrepresents, removes from any place, con-
8 ceals, covers up, destroys, mutilates, alters, or by other
9 means falsifies any documentary material, answers to
10 written interrogatories, or oral testimony, which is subject
11 of such demand; or attempts to do so or solicits another
12 to do so; or

13 “Whoever corruptly, or by threats or force, or by any
14 threatening letter or communication influences, obstructs,
15 or impedes or endeavors to influence, obstruct, or impede
16 the due and proper administration of the law under which
17 such proceeding is being had before such department or
18 agency of the United States, or the due and proper exer-
19 cise of the power of inquiry under which such inquiry or
20 investigation is being had by either House, or any commit-
21 tee of either House or any joint committee of the Con-
22 gress—

23 shall be fined not more than \$5,000 or impris-
24 oned not more than 5 years, or both.”.

1 **SEC. 3. CIVIL PENALTIES.**

2 Section 3012 of title 39, United States Code, is
3 amended—

4 (1) by amending paragraph (1) of subsection
5 (a) to read as follows:

6 “(1) who, through the use of the mail or any
7 instrumentality of interstate commerce, evades or at-
8 tempts to evade the effect of an order issued under
9 section 3005(a)(1) or 3005(a)(2);”;

10 (2) by amending subsection (b)(1) to read as
11 follows:

12 “(b)(1) Whenever, on the basis of any information
13 available to it, the Postal Service believes that any person
14 has engaged, or is engaging, in conduct described by para-
15 graph (1), (2) or (3) of subsection (a), the Postal Service
16 may, under the provisions of section 409(d), commence a
17 civil action to enforce the civil penalties established by
18 such subsection. Any such action shall be brought in the
19 district court of the United States for the district in which
20 the defendant resides or receives mail.”;

21 (3) by adding at the end of subsection (b) the
22 following:

23 “(3) Any civil action commenced this subsection may
24 be brought in the district court of the United States for
25 any district in which the defendant resides, conducts busi-

1 ness, receives mail, or into which the defendant sends
2 mail.”; and

3 (4) by amending subsection (c) to read as fol-
4 lows:

5 “(c) All penalties collected under authority of this
6 section shall be paid into the Postal Service Fund, estab-
7 lished by section 2003.”.

8 **SEC. 4. INJUNCTIONS AGAINST FRAUD.**

9 Section 1345 of title 18, United States Code, is
10 amended—

11 (1) by amending subsection (a)(1) to read as
12 follows:

13 “(a)(1) If a person is—

14 “(A) violating or about to violate this chapter
15 or section 287, 371 (insofar as such violation in-
16 volves a conspiracy to defraud the United States or
17 any agency thereof), or 1001 of this title; or

18 “(B) committing or about to commit a banking
19 law violation (as defined in section 3322(d) of this
20 title), the Attorney General may commence a civil
21 action in any Federal court to enjoin such violation.

22 The Attorney General may obtain temporary and prelimi-
23 nary injunctive relief under this section upon a showing
24 of probable cause to believe that such violation is occur-
25 ring, or is about to occur. Permanent relief shall be

1 granted when a violation is established by a preponderance
2 of the evidence. A violation may be deemed to be occurring
3 or about to occur, within the meaning of this section, for
4 as long as victims of any such violation have not been re-
5 dressed and the statute of limitations on the violation has
6 not expired.”; and

7 (2) by amending paragraph (2) of subsection
8 (a) to read as follows:

9 “(2) If a person is alienating or disposing of property,
10 or intends to alienate or dispose of property, obtained as
11 a result of a banking law violation (as defined in section
12 3322(d) of this title) or a violation described in paragraph
13 (1) (A) or (B), or property which is traceable to such vio-
14 lation, the Attorney General may commence a civil action
15 in any Federal court—

16 “(A) to enjoin such alienation or disposition of
17 property; or

18 “(B) for a restraining order to—

19 “(i) prohibit any person from withdrawing,
20 transferring, removing, dissipating, or disposing
21 of any such property or property of equivalent
22 value; and

23 “(ii) appoint a temporary receiver to ad-
24 minister such restraining order.”.



HR 4071 IH—2