

107TH CONGRESS  
2D SESSION

# S. 2530

To amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

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## IN THE SENATE OF THE UNITED STATES

MAY 16 (legislative day, MAY 9), 2002

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

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## A BILL

To amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers.

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. LAW ENFORCEMENT POWERS OF INSPECTOR**  
4       **GENERAL AGENTS.**

5       (a) IN GENERAL.—Section 6 of the Inspector General  
6       Act of 1978 (5 U.S.C. App.) is amended by adding at the  
7       end the following:

1       “(e)(1) In addition to the authority otherwise pro-  
2       vided by this Act, each Inspector General appointed under  
3       section 3, any Assistant Inspector General for Investiga-  
4       tions under such an Inspector General, and any special  
5       agent supervised by such an Assistant Inspector General  
6       may be authorized by the Attorney General to—

7               “(A) carry a firearm while engaged in official  
8       duties as authorized under this Act or other statute,  
9       or as expressly authorized by the Attorney General;

10              “(B) make an arrest without a warrant while  
11       engaged in official duties as authorized under this  
12       Act or other statute, or as expressly authorized by  
13       the Attorney General, for any offense against the  
14       United States committed in the presence of such In-  
15       spector General, Assistant Inspector General, or  
16       agent, or for any felony cognizable under the laws  
17       of the United States if such Inspector General, As-  
18       sistant Inspector General, or agent has reasonable  
19       grounds to believe that the person to be arrested has  
20       committed or is committing such felony; and

21              “(C) seek and execute warrants for arrest,  
22       search of a premises, or seizure of evidence issued  
23       under the authority of the United States upon prob-  
24       able cause to believe that a violation has been com-  
25       mitted.

1       “(2) The Attorney General may authorize exercise of  
2 the powers under this subsection only upon an initial de-  
3 termination that—

4           “(A) the affected Office of Inspector General is  
5 significantly hampered in the performance of respon-  
6 sibilities established by this Act as a result of the  
7 lack of such powers;

8           “(B) available assistance from other law en-  
9 forcement agencies is insufficient to meet the need  
10 for such powers; and

11          “(C) adequate internal safeguards and manage-  
12 ment procedures exist to ensure proper exercise of  
13 such powers.

14       “(3) The Inspector General offices of the Department  
15 of Commerce, Department of Education, Department of  
16 Energy, Department of Health and Human Services, De-  
17 partment of Housing and Urban Development, Depart-  
18 ment of the Interior, Department of Justice, Department  
19 of Labor, Department of State, Department of Transpor-  
20 tation, Department of the Treasury, Department of Vet-  
21 erans Affairs, Agency for International Development, En-  
22 vironmental Protection Agency, Federal Deposit Insur-  
23 ance Corporation, Federal Emergency Management Agen-  
24 cy, General Services Administration, National Aeronautics  
25 and Space Administration, Nuclear Regulatory Commis-

1 sion, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority  
2 are exempt from the requirement of paragraph (2) of an  
3 initial determination of eligibility by the Attorney General.

4 “(4) The Attorney General shall promulgate, and re-  
5 vise as appropriate, guidelines which shall govern the exer-  
6 cise of the law enforcement powers established under para-  
7 graph (1).

8 “(5) Powers authorized for an Office of Inspector  
9 General under paragraph (1) shall be rescinded or sus-  
10 pended upon a determination by the Attorney General that  
11 any of the requirements under paragraph (2) is no longer  
12 satisfied or that the exercise of authorized powers by that  
13 Office of Inspector General has not complied with the  
14 guidelines promulgated by the Attorney General under  
15 paragraph (4).

16 “(6) A determination by the Attorney General under  
17 paragraph (2) or (5) shall not be reviewable in or by any  
18 court.

19 “(7) To ensure the proper exercise of the law enforce-  
20 ment powers authorized by this subsection, the Offices of  
21 Inspector General described under paragraph (3) shall,  
22 not later than 180 days after the date of enactment of  
23 this subsection, collectively enter into a memorandum of  
24

1 understanding to establish an external review process for  
 2 ensuring that adequate internal safeguards and manage-  
 3 ment procedures continue to exist within each Office and  
 4 within any Office that later receives an authorization  
 5 under paragraph (2). The review process shall be estab-  
 6 lished in consultation with the Attorney General, who shall  
 7 be provided with a copy of the memorandum of under-  
 8 standing that establishes the review process. Under the  
 9 review process, the exercise of the law enforcement powers  
 10 by each Office of Inspector General shall be reviewed peri-  
 11 odically by another Office of Inspector General or by a  
 12 committee of Inspectors General. The results of each re-  
 13 view shall be communicated in writing to the applicable  
 14 Inspector General and to the Attorney General.

15 “(8) No provision of this subsection shall limit the  
 16 exercise of law enforcement powers established under any  
 17 other statutory authority, including United States Mar-  
 18 shals Service special deputation.”.

19 (b) PROMULGATION OF INITIAL GUIDELINES.—

20 (1) DEFINITION.—In this subsection, the term  
 21 “memoranda of understanding” means the agree-  
 22 ments between the Department of Justice and the  
 23 Inspector General offices described under section  
 24 6(e)(3) of the Inspector General Act of 1978 (5

1 U.S.C. App) (as added by subsection (a) of this sec-  
2 tion) that—

3 (A) are in effect on the date of enactment  
4 of this Act; and

5 (B) authorize such offices to exercise au-  
6 thority that is the same or similar to the au-  
7 thority under section 6(e)(1) of such Act.

8 (2) IN GENERAL.—Not later than 180 days  
9 after the date of enactment of this Act, the Attorney  
10 General shall promulgate guidelines under section  
11 6(e)(4) of the Inspector General Act of 1978 (5  
12 U.S.C. App) (as added by subsection (a) of this sec-  
13 tion) applicable to the Inspector General offices de-  
14 scribed under section 6(e)(3) of that Act.

15 (3) MINIMUM REQUIREMENTS.—The guidelines  
16 promulgated under this subsection shall include, at  
17 a minimum, the operational and training require-  
18 ments in the memoranda of understanding.

19 (4) NO LAPSE OF AUTHORITY.—The memo-  
20 randa of understanding in effect on the date of en-  
21 actment of this Act shall remain in effect until the  
22 guidelines promulgated under this subsection take  
23 effect.

24 (c) EFFECTIVE DATES.—

1           (1) IN GENERAL.—Subsection (a) shall take ef-  
2       fect 180 days after the date of enactment of this  
3       Act.

4           (2) INITIAL GUIDELINES.—Subsection (b) shall  
5       take effect on the date of enactment of this Act.

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