

Calendar No. 474

108TH CONGRESS
2D SESSION**S. 2270**

To amend the Sherman Act to make oil-producing and exporting cartels illegal.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2004

Mr. DEWINE (for himself, Mr. KOHL, Mr. GRASSLEY, Mr. SCHUMER, Mr. SPECTER, Mr. FEINGOLD, Mr. LEAHY, Mr. COLEMAN, Mr. Wyden, Mr. DURBIN, Mr. LEVIN, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 22, 2004

Reported favorably by Mr. HATCH, without amendment

A BILL

To amend the Sherman Act to make oil-producing and exporting cartels illegal.

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 “No Oil Producing and
5 Exporting Cartels Act of 2004” or “NOPEC”.

1 **SEC. 2. SHERMAN ACT.**

2 The Sherman Act (15 U.S.C. 1 et seq.) is amended
3 by adding after section 7 the following:

4 **“SEC. 7A. OIL PRODUCING CARTELS.**

5 “(a) IN GENERAL.—It shall be illegal and a violation
6 of this Act for any foreign state, or any instrumentality
7 or agent of any foreign state, to act collectively or in com-
8 bination with any other foreign state, any instrumentality
9 or agent of any other foreign state, or any other person,
10 whether by cartel or any other association or form of co-
11 operation or joint action—

12 “(1) to limit the production or distribution of
13 oil, natural gas, or any other petroleum product;

14 “(2) to set or maintain the price of oil, natural
15 gas, or any petroleum product; or

16 “(3) to otherwise take any action in restraint of
17 trade for oil, natural gas, or any petroleum product;
18 when such action, combination, or collective action has a
19 direct, substantial, and reasonably foreseeable effect on
20 the market, supply, price, or distribution of oil, natural
21 gas, or other petroleum product in the United States.

22 “(b) SOVEREIGN IMMUNITY.—A foreign state en-
23 gaged in conduct in violation of subsection (a) shall not
24 be immune under the doctrine of sovereign immunity from
25 the jurisdiction or judgments of the courts of the United
26 States in any action brought to enforce this section.

1 “(c) INAPPLICABILITY OF ACT OF STATE DOCT-
 2 TRINE.—No court of the United States shall decline,
 3 based on the act of state doctrine, to make a determina-
 4 tion on the merits in an action brought under this section.

5 “(d) ENFORCEMENT.—The Attorney General of the
 6 United States and the Federal Trade Commission may
 7 bring an action to enforce this section in any district court
 8 of the United States as provided under the antitrust
 9 laws.”.

10 **SEC. 3. SOVEREIGN IMMUNITY.**

11 Section 1605(a) of title 28, United States Code, is
 12 amended—

13 (1) in paragraph (6), by striking “or” after the
 14 semicolon;

15 (2) in paragraph (7), by striking the period and
 16 inserting “; or”; and

17 (3) by adding at the end the following:

18 “(8) in which the action is brought under sec-
 19 tion 7A of the Sherman Act.”.

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