

He successfully argued that the Double Jeopardy Clause barred the imposition of civil penalties under Federal law against an individual who had been convicted and punished under criminal law for the same conduct.

Mr. Roberts also participates extensively in the pro bono program of his firm, assisting his colleagues prepare pro bono appeals on matters such as termination of parental rights, minority voting rights, noise pollution at the Grand Canyon, and environmental protection of Glacier Bay.

I have every confidence that Mr. Roberts will make a great addition to the DC Circuit. He is an exceptionally well-qualified jurist who has distinguished himself as one of the best in the legal profession. I am confident that Mr. Roberts will serve with distinction on the DC Circuit, and I ask for my colleagues' full support of his nomination.

Mr. President, I ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

THE JUDICIARY

John G. Roberts, Jr., of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. HATCH. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. It is my understanding that this judge has waited about 10 years. He has been nominated several times.

Mr. HATCH. He has waited 12 years, through three nominations, by two different Presidents.

Mr. REID. He is the 124th judge we have approved for the Bush administration. The record is 124 to 2.

Mr. HATCH. Keep in mind, as of tomorrow, those two will be waiting for 2 solid years. We need to get them done, too. I call on my colleagues on the other side to get rid of their wicked and evil ways and allow these people to have votes up and down.

Mrs. BOXER. I object.

Mr. HATCH. I heard an objection from the other side.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AIR CARGO SECURITY IMPROVEMENT ACT

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I ask unanimous consent that the Senate now proceed to

the consideration of Calendar No. 76, S. 165, the air cargo security improvement bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 165) to improve air cargo security.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Air Cargo Security Improvement Act".

SEC. 2. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

"(f) CARGO.—

"(1) IN GENERAL.—The Under Secretary of Transportation for Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

"(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

"(B) all-cargo aircraft in air transportation and intrastate air transportation.

"(2) STRATEGIC PLAN.—The Under Secretary shall develop a strategic plan to carry out paragraph (1)."

SEC. 3. AIR CARGO SHIPPING.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

["§ 44922. Regular inspections of air cargo shipping facilities]

["§ 44923. Regular inspections of air cargo shipping facilities]

"The Under Secretary of Transportation for Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States."

(b) ADDITIONAL INSPECTORS.—The Under Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

["44922]. 44923. Regular inspections of air cargo shipping facilities".

SEC. 4. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

["§ 44923. Air cargo security]

["§ 44924. Air cargo security]

"(a) DATABASE.—The Under Secretary of Transportation for Security shall establish

an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Under Secretary shall use the results of the pilot program to improve the known shipper program.

"(b) INDIRECT AIR CARRIERS.—

"(1) RANDOM INSPECTIONS.—The Under Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

"(2) ENSURING COMPLIANCE.—The Under Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

"(3) NOTICE OF FAILURES.—The Under Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATE.—The Secretary, as appropriate, shall suspend or revoke any certificate or authority issued under chapter 411 to an indirect air carrier immediately upon the recommendation of the Under Secretary. Any indirect air carrier whose certificate is suspended or revoked under this subparagraph may appeal the suspension or revocation in accordance with procedures established under this title for the appeal of suspensions and revocations.

"(5) INDIRECT AIR CARRIER.—In this subsection, the term 'indirect air carrier' has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

"(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Under Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities."

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Under Secretary of Transportation for Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 45 days after the date of enactment of this Act. The Under Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Under Secretary of Transportation for Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Transportation for Security such sums as may be necessary to carry out this section.

(e) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following: **["44923.] 44924. Air cargo security"**.

SEC. 5. TRAINING PROGRAM FOR CARGO HANDLERS.

The Under Secretary of Transportation for Security shall establish a training program