

FOR IMMEDIATE RELEASE
June 26, 2008

**Coalition Praises Introduction of New
Attorney-Client Privilege Protection Act**

WASHINGTON, DC – The Coalition to Preserve Attorney Client Privilege released the following statement on the reintroduction of the “Attorney-Client Privilege Protection Act of 2007” (S. 186), which is sponsored by Senator Arlen Specter (R-PA) and cosponsored by:

Senator Joseph R. Biden, Jr. (D-DE)
Senator Thomas R. Carper (D-DE)
Senator Thad Cochran (R-MS)
Senator Elizabeth Dole (R-NC)
Senator Dianne Feinstein (D-CA)
Senator Lindsey O. Graham (R-SC)
Senator John F. Kerry (D-MA)
Senator Mary Landrieu (D-LA)
Senator Mark Pryor (D-AR)
Sen. Claire McCaskill (D-MO)
Sen. Jim Webb (D-VA)
Sen. John Cornyn (R-TX)

STATEMENT

“The new version of the “Attorney-Client Privilege Protection Act” (S.186) addresses some of the concerns expressed by the Department of Justice (DOJ) in the original legislation. The new bill does not change the intent of the original legislation: to stop the forced waiver of privileged information and documents. Instead, the revised bill clarifies language that was arguably vague or subject to misinterpretation.

“Most important, language in the new legislation leaves no doubt that federal prosecutors can continue to give organizations cooperation credit for voluntarily providing quality privileged or nonprivileged information to the government as long as prosecutors are not determining cooperation based on whether an organization waives its rights.

“Despite four attempts in the last ten years to reinvent its policy on attorney-client privilege, the Justice Department has failed to stop front line prosecutors from forcing organizations to waive their rights to privileged communications between the organization and its lawyers. The Specter-Biden bill, which has received broad, bipartisan support, will settle the issue once and for all.

“Attorney-client privilege is too important to be subject to the whims of each new deputy attorney general. The Justice Departments failure to rein in prosecutors who force

organizations to waive privilege leaves no Congress no choice but to make such violations illegal.

“In addition to the Justice Department, the legislation would also prohibit similar forced waivers at federal agencies, including at the Securities and Exchange Commission, which often conducts parallel investigations to the Justice Department, and at the U.S. Department of Housing and Urban Development, which requires all housing agencies to waive attorney-client privilege by contract in order to receive HUD funding.

Last year the House of Representatives voted unanimously to pass the Attorney-Client Privilege Protection Act (H.R. 3013).

“Thirty-two former U.S. Attorneys sent a letter to Sen. Patrick Leahy on June 20, 2008 urging him to move the S. 186 to the Senate floor for a vote. The former frontline DOJ prosecutors wrote, “The widespread practice of requiring waiver has led to the erosion not only of the privilege itself, but also to the constitutional rights of the employees who are caught up, often tangentially, in business investigations.

“The Coalition to Preserve Attorney-Client Privilege is a uniquely broad and nonpartisan group of membership organizations with one thing in common: we are all deeply troubled by the corrosive effect that federal investigative and prosecutorial policies and practices have had on four fundamental elements of the American system of justice: the attorney-client privilege, the work product doctrine, and the Fifth and Sixth Amendments.”

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The Coalition to Preserve the Attorney-Client Privilege members include the American Chemistry Council, American Civil Liberties Union, Association of Corporate Counsel, Business Civil Liberties, Inc., Business Roundtable, The Financial Services Roundtable, Frontiers of Freedom, National Association of Criminal Defense Lawyers, National Association of Manufacturers, Retail Industry Leaders Association, U.S. Chamber of Commerce.