

Coalition to Preserve the Attorney-Client Privilege

American Bar Association*
American Chemistry Council
American Civil Liberties Union
Association of Corporate Counsel
Business Civil Liberties, Inc.
Business Roundtable
Financial Services Roundtable
National Association of Criminal Defense Lawyers
National Association of Manufacturers
Retail Industry Leaders Association
U.S. Chamber of Commerce

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Statement by the Coalition to Preserve the Attorney-Client Privilege on Senator Arlen Specter's Introduction of the "Attorney-Client Privilege Protection Act of 2006"

"We want to thank Chairman Specter for sponsoring legislation that would restore the balance that once existed between the legitimate needs of Justice Department prosecutors and the legal protections and rights guaranteed under the American system of justice to employees of companies and other organizations under investigation.

The attorney-client privilege and the work product doctrine in the corporate context have been significantly weakened in recent years. This is largely due to current Justice Department investigative policies and practices that put companies in the position of having to waive these fundamental legal protections in order to receive credit, during charging decisions, for having fully cooperated with the authorities. In addition, the Department's policy of pressuring companies not to pay their employees' legal fees during investigations, or to take other punitive actions against them long before any guilt has been established, has eroded employees' Constitutional and other legal rights.

The Department of Justice has refused to change these policies or even acknowledge the extent of the problem.

Chairman Specter's bill protects only valid assertions of attorney-client privilege and work product and preserves the ability of prosecutors and other law enforcement officials to seek information that they reasonably believe is not privileged or attorney work product. It also expressly allows organizations to make—and the government to accept—voluntary and unsolicited offers to share confidential information."

**The American Bar Association does not formally join coalitions but works closely with the Coalition and joins in support of Chairman Specter's legislation.*