

CIA-35

AUTHORITY FOR EMPLOYEES TO ACCEPT GIFTS

PROPOSED TEXT:

SEC. XXX. AUTHORITY TO ACCEPT GIFTS, DEVISES, AND BEQUESTS.

Section 12 of the CIA Act of 1949 (50 U.S.C. §4031) is amended by adding at the end the following new subsection:

“(f)(1) REGULATIONS. The Director shall prescribe regulations to provide that, subject to the limitations as may be specified in such regulations, employees, and the family members of such an employee, may accept gifts from non-profit organizations, private parties, and other sources outside the Agency, other than foreign governments and their agents.

"(2) AUTHORITY. An employee described in subsection (3) may accept gifts as provided in the regulations authorized in subsection (1), notwithstanding section 7353 of title 5, United States Code.

"(3) COVERED EMPLOYEES. An employee for purposes of this subsection is an employee of the Agency who sustained injuries and whose injuries---

(A) resulted from hostile or terrorist activities;

(B) occurred in connection with an intelligence activity having a significant element of risk; or

(C) occurred under other circumstances determined by the Director to be analogous to those covered by paragraph (A) or (B).

SECTIONAL ANALYSIS:

Section XXX. Authority for employees to accept gifts.

Subsection (f)(1) authorizes D/CIA to promulgate regulations governing if and how injured employees and their family members may accept gifts from outside sources. The regulations D/CIA promulgates will likely mirror those implemented by the Secretary of Defense in accordance with Public Law 109-148. For instance, this authority would not authorize employees to accept gifts that are in violation of criminal statutes, that are solicited or coerced, or that are accepted in return for the performance of an official action. Likewise, the prohibition on implementing regulations authorizing the acceptance of gifts from foreign governments and their agents signifies this proposed legislation does not derogate section 7342 of title 5, U.S. Code (“Receipt and Disposition of Foreign Gifts and Decorations”).

Subsection (f)(2) identifies that employees, described in subsection (f)(3), may accept gifts pursuant to the regulations implemented by D/CIA, notwithstanding the pertinent restrictions in section 7353 of title 5, U.S. Code (“Gifts to Federal Employees”).

Subsection (f)(3) defines employees for whom D/CIA may authorize the acceptance of gifts to include only those who have sustained injuries resulting from hostile or terrorist activities, occurring in connection with an intelligence activity having a significant element of risk, or occurring under other analogous circumstances as determined by D/CIA. Paragraphs (f)(3)(A) and (f)(3)(B) are akin to the standard governing the award of the CIA-unique benefits under section 11 of the CIA Act of 1949, 50 U.S.C. Section 403k. Paragraph (f)(3)(C) is a catch-all provision that gives D/CIA flexibility to identify other hazardous circumstances warranting acceptance of gifts, but only under circumstances analogous to paragraph (f)(3)(A) or (f)(3)(B),