

Public Law 101-410
101st Congress

An Act

Oct. 5, 1990

[S. 535]

To increase civil monetary penalties based on the effect of inflation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*Federal Civil
Penalties
Inflation
Adjustment Act
of 1990.
28 USC 2461
note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Civil Penalties Inflation Adjustment Act of 1990".

FINDINGS AND PURPOSE

28 USC 2461
note.

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the power of Federal agencies to impose civil monetary penalties for violations of Federal law and regulations plays an important role in deterring violations and furthering the policy goals embodied in such laws and regulations;

(2) the impact of many civil monetary penalties has been and is diminished due to the effect of inflation;

(3) by reducing the impact of civil monetary penalties, inflation has weakened the deterrent effect of such penalties; and

(4) the Federal Government does not maintain comprehensive, detailed accounting of the efforts of Federal agencies to assess and collect civil monetary penalties.

(b) PURPOSE.—The purpose of this Act is to establish a mechanism that shall—

(1) allow for regular adjustment for inflation of civil monetary penalties;

(2) maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and

(3) improve the collection by the Federal Government of civil monetary penalties.

DEFINITIONS

28 USC 2461
note.

SEC. 3. For purposes of this Act, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and includes the United States Postal Service;

(2) "civil monetary penalty" means any penalty, fine, or other sanction that—

(A)(i) is for a specific monetary amount as provided by Federal law; or

(ii) has a maximum amount provided for by Federal law; and

(B) is assessed or enforced by an agency pursuant to Federal law; and

(C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts; and

(3) "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

CIVIL MONETARY PENALTY INFLATION ADJUSTMENT REPORTS

SEC. 4. Within 6 months after the date of the enactment of this Act, and on January 1 of each fifth calendar year thereafter, the President shall submit a report on civil monetary penalty inflation adjustment to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. Such report shall include—

President.
28 USC 2461
note.

- (1) each civil monetary penalty as defined under section 3(2);
- (2) the date each civil monetary penalty was most recently set pursuant to law;
- (3) the maximum amount of each civil monetary penalty or, if applicable, the range of the minimum and maximum amounts of each civil monetary penalty in effect on the date of the submission of such report;
- (4) the amount of each civil monetary penalty described under paragraph (3) other than any such penalty for which inflation adjustment is provided by law, if each such penalty is increased by the adjustment described under section 5; and
- (5) a listing of the modifications to Federal law that would be required to—
 - (A) increase each penalty described in paragraph (1) by the adjustments described under section 5, excluding any penalty for which inflation adjustment is provided by law or that has been increased within the 5-year period immediately preceding the date of the submission of such report; and
 - (B) provide that any increase in any civil monetary penalty shall apply only to violations which occur after the date any such increase takes effect.

COST-OF-LIVING ADJUSTMENTS OF CIVIL MONETARY PENALTIES

SEC. 5. (a) ADJUSTMENT.—The adjustment described under paragraphs (4) and (5)(A) of section 4 shall be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest—

28 USC 2461
note.

- (1) multiple of \$10 in the case of penalties less than or equal to \$100;
- (2) multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (3) multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;
- (4) multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;
- (5) multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and
- (6) multiple of \$25,000 in the case of penalties greater than \$200,000.

(b) DEFINITION.—For purposes of subsection (a), the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which—

- (1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds
- (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

ANNUAL REPORT

President.
28 USC 2461
note.

SEC. 6. No later than January 1 of each year, the President shall submit a report on civil monetary penalties to the Congress which shall include—

- (1) to the extent possible, the number and amount of civil monetary penalties imposed pursuant to each provision of law providing for such civil monetary penalties, during the complete fiscal year preceding the submission of such report;
- (2) to the extent possible, the number and amount of such civil penalties collected during such fiscal year; and
- (3) any recommendations that the President determines appropriate to—
 - (A) eliminate obsolete civil monetary penalties;
 - (B) modify the amount of any civil monetary penalty; or
 - (C) make any other legislative modifications concerning civil monetary penalties.

Approved October 5, 1990.

LEGISLATIVE HISTORY—S. 535:

HOUSE REPORTS: No. 101-697 (Comm. on Government Operations).

SENATE REPORTS: No. 101-240 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Feb. 22, considered and passed Senate.

Sept. 24, considered and passed House.