

105TH CONGRESS
1ST SESSION

H. R. 2344

To expand the enforcement options under the Federal Meat Inspection Act and the Poultry Products Inspection Act to include the imposition of civil money penalties.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1997

Mrs. LOWEY introduced the following bill; which was referred to the
Committee on Agriculture

A BILL

To expand the enforcement options under the Federal Meat Inspection Act and the Poultry Products Inspection Act to include the imposition of civil money penalties.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CIVIL PENALTIES UNDER MEAT AND POULTRY**
4 **INSPECTION LAWS.**

5 (a) FMLA.—Section 406 of the Federal Meat Inspec-
6 tion Act (21 U.S.C. 676) is amended—

7 (1) by redesignating subsection (b) as sub-
8 section (c); and

1 (2) by inserting after subsection (a) the follow-
2 ing new subsection:

3 “(b)(1) In lieu of seeking the imposition of a fine or
4 imprisonment under subsection (a) against a person, firm,
5 or corporation for a violation of this Act, the Secretary
6 may assess a civil penalty against the person, firm, or cor-
7 poration in an amount not to exceed the amount specified
8 in subsection (a) for a comparable violation. The civil pen-
9 alty may be assessed for each violation or, in the case of
10 a continuing violation, for each day on which the violation
11 occurs.

12 “(2) The Secretary may not assess a civil penalty
13 against a person, firm, or corporation under this sub-
14 section unless the person, firm, or corporation is given no-
15 tice and an opportunity for a hearing on the record before
16 the Secretary. The Secretary shall assess the civil penalty
17 by written order.

18 “(3) In determining the amount of the civil penalty
19 to be assessed against a person, firm, or corporation, the
20 Secretary shall take into account the gravity of the viola-
21 tion, the degree of culpability, the size and type of busi-
22 ness of the person, firm, or corporation, and any history
23 of prior offenses.

24 “(4) An order assessing a civil penalty under this
25 subsection shall be final and conclusive unless the person,

1 firm, or corporation files, within 30 days after the effective
2 date of the order, an application for judicial review with—

3 “(A) the United States Court of Appeals
4 for the circuit in which the person, firm, or cor-
5 poration resides or has its principal place of
6 business; or

7 “(B) the United States Court of Appeals
8 for the District of Columbia.

9 “(5) If, after a civil penalty has become a final and
10 unappealable order or after the appropriate court has en-
11 tered final judgment in favor of the Secretary, the person,
12 firm, or corporation fails to pay the civil penalty assessed
13 against the person, firm, or corporation, the Secretary
14 may refer the matter to the Attorney General, who shall
15 institute a civil action to recover the amount assessed. In
16 a recovery action under this paragraph, the validity and
17 appropriateness of the order of the Secretary assessing the
18 civil penalty shall not be subject to review.”.

19 (b) PPIA.—Section 12 of the Poultry Products In-
20 spection Act (21 U.S.C. 461) is amended—

21 (1) by redesignating subsections (b) and (c) as
22 subsections (c) and (d), respectively; and

23 (2) by inserting after subsection (a) the follow-
24 ing new subsection:

1 “(b)(1) In lieu of seeking the imposition of a fine or
2 imprisonment under subsection (a) against a person for
3 a violation of this Act, the Secretary may assess a civil
4 penalty against the person in an amount not to exceed
5 the amount specified in subsection (a) for a comparable
6 violation. The civil penalty may be assessed for each viola-
7 tion or, in the case of a continuing violation, for each day
8 on which the violation occurs.

9 “(2) The Secretary may not assess a civil penalty
10 against a person under this subsection unless the person
11 is given notice and an opportunity for a hearing on the
12 record before the Secretary. The Secretary shall assess the
13 civil penalty by written order.

14 “(3) In determining the amount of the civil penalty
15 to be assessed against a person, the Secretary shall take
16 into account the gravity of the violation, the degree of cul-
17 pability, the size and type of business of the person, and
18 any history of prior offenses.

19 “(4) An order assessing a civil penalty under this
20 subsection shall be final and conclusive unless the person
21 files, within 30 days after the effective date of the order,
22 an application for judicial review with—

23 “(A) the United States Court of Appeals
24 for the circuit in which the person resides or
25 has the person’s principal place of business; or

1 “(B) the United States Court of Appeals
2 for the District of Columbia.

3 “(5) If, after a civil penalty has become a final and
4 unappealable order or after the appropriate court has en-
5 tered final judgment in favor of the Secretary, the person
6 fails to pay the civil penalty assessed against the person,
7 the Secretary may refer the matter to the Attorney Gen-
8 eral, who shall institute a civil action to recover the
9 amount assessed. In a recovery action under this para-
10 graph, the validity and appropriateness of the order of the
11 Secretary assessing the civil penalty shall not be subject
12 to review.”.

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