

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) FMIA.—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.”.

○