

105TH CONGRESS  
1ST SESSION

# H. R. 277

To increase penalties and strengthen enforcement of environmental crimes,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. SCHUMER (for himself, Mr. PALLONE, and Mr. MILLER of California) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Commerce, Agriculture, Transportation and Infrastructure, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To increase penalties and strengthen enforcement of  
environmental crimes, and for other purposes.

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. SHORT TITLE.**

4       This Act may be cited as the “Environmental Crimes  
5       and Enforcement Act of 1997”.

1 **SEC. 2. JOINT FEDERAL, STATE, LOCAL, AND TRIBAL ENVI-**  
2 **RONMENTAL ENFORCEMENT.**

3 (a) IN GENERAL.—Chapter 232 of title 18, United  
4 States Code, is amended by inserting after section 3673  
5 the following:

6 **“§ 3674. Reimbursement of State, local, or tribal gov-**  
7 **ernment costs for assistance in Federal**  
8 **investigation and prosecution of environ-**  
9 **mental crimes**

10 “(a) Upon the motion of the United States, any per-  
11 son who is found guilty of a criminal violation of the Fed-  
12 eral environmental laws set forth in subsection (b) below,  
13 or conspiracy to violate such laws, may be ordered to pay  
14 the costs incurred by a State, local, or tribal government  
15 or an agency thereof for assistance to the Federal Govern-  
16 ment’s investigation and criminal prosecution of the case.  
17 Such moneys shall be paid to the State, local, or tribal  
18 government or agency thereof and be used solely for the  
19 purpose of environmental law enforcement.

20 “(b) This section applies to a violation of, or a con-  
21 spiracy to violate, any of the following provisions of law:

22 “(1) Section 14(b) of the Federal Insecticide,  
23 Fungicide, and Rodenticide Act (7 U.S.C. 136l(b)).

24 “(2) Section 16(b) of the Toxic Substances  
25 Control Act (15 U.S.C. 2615(b)).

1           “(3) Sections 10, 12, 13, and 16 of the Rivers  
2           and Harbors Appropriations Act of 1899 (33 U.S.C.  
3           403, 406, 407, 411).

4           “(4) Sections 309(c) and 311(b)(5) of the Fed-  
5           eral Water Pollution Control Act (33 U.S.C.  
6           1319(c), 1321(b)(5)).

7           “(5) Section 105(b) of the Marine Protection,  
8           Research, and Sanctuaries Act of 1972 (33 U.S.C.  
9           1415(b)).

10          “(6) Section 9(a) of the Act to Prevent Pollu-  
11          tion from Ships (33 U.S.C. 1908(a)).

12          “(7) Section 4109(c) of the Shore Protection  
13          Act of 1988 (33 U.S.C. 2609(c)).

14          “(8) Sections 1423 and 1432 of the Safe  
15          Drinking Water Act (42 U.S.C. 300h-2, 300i-1).

16          “(9) Sections 3008(d), 3008(e), and 3008(i) of  
17          the Resource Conservation and Recovery Act of  
18          1976 (42 U.S.C. 6928(d), 6928(e), 6928(i)).

19          “(10) Section 113(c) of the Clean Air Act (42  
20          U.S.C. 7413(c)).

21          “(11) Sections 103(b) and 103(d) of the Com-  
22          prehensive Environmental Response, Compensation,  
23          and Liability Act (42 U.S.C. 9603(b), 9603(d)).

1 “(12) Section 325(b)(4) of the Emergency  
 2 Planning and Community Right-to-Know Act of  
 3 1986 (42 U.S.C. 11045(b)(4)).

4 “(13) Section 303(a) of the Federal Land Pol-  
 5 icy and Management Act of 1976 (43 U.S.C.  
 6 1733(a)).

7 “(14) Sections 5124, 60123(a), and 60123(b)  
 8 of title 49, United States Code.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
 10 at the beginning of chapter 232 of title 18, United States  
 11 Code, is amended by adding at the end the following new  
 12 item:

“3674. Reimbursement of State, local, or tribal government costs for assistance  
 in Federal investigation and prosecution of environmental  
 crimes.”.

13 **SEC. 3. PROTECTION OF GOVERNMENT EMPLOYEES AND**  
 14 **THE PUBLIC.**

15 (a) IN GENERAL.—Chapter 39 of title 18, United  
 16 States Code, is amended by adding the following new sec-  
 17 tion:

18 **“§ 838. Protection of government employees and the**  
 19 **public from environmental crimes**

20 “(a)(1) Any person who commits a criminal violation  
 21 of a Federal environmental law identified in this sub-  
 22 section that is the direct or proximate cause of serious  
 23 bodily injury to or death of any other person, including

1 a Federal, State, local, or tribal government employee per-  
2 forming official duties as a result of the violation, shall  
3 be subject to a maximum term of imprisonment of 20  
4 years, a fine of not more than \$500,000, or both, and,  
5 if the defendant is an organization, to a fine of not more  
6 than \$2,000,000.

7 “(2) The provisions of law to which this subsection  
8 applies are—

9 “(A) section 309(c)(2), 309(c)(4), or 311(b)(5)  
10 of the Federal Water Pollution Control Act (33  
11 U.S.C. 1319(c)(2), 1319(c)(4), 1321(b)(5));

12 “(B) section 105(b) of the Marine Protection,  
13 Research, and Sanctuaries Act of 1972 (33 U.S.C.  
14 1415(b));

15 “(C) section 1423 or 1432 of the Safe Drinking  
16 Water Act (42 U.S.C. 300h–2, 300i–1);

17 “(D) section 3008(d) of the Resource Conserva-  
18 tion and Recovery Act of 1976 (42 U.S.C. 6928(d));

19 “(E) section 113(c)(1) or 113(c)(2) of the  
20 Clean Air Act (42 U.S.C. 7413(c)(1), 7413(c)(2));

21 “(F) section 103(b) or 103(d) of the Com-  
22 prehensive Response, Compensation, and Liability  
23 Act (42 U.S.C. 9603(b), 9603(d));

1 “(G) section 325(b)(4) of the Emergency Plan-  
2 ning and Community Right-to-Know Act of 1986  
3 (42 U.S.C. 11045(b)(4)); or

4 “(H) section 5124, 60123(a), or 60123(b) of  
5 title 49, United States Code.

6 “(b)(1) Any person who commits a criminal violation  
7 of Federal environmental law identified in this subsection  
8 that is the direct or proximate cause of serious bodily in-  
9 jury to or death of any other person, including a Federal,  
10 State, local, or tribal government employee performing of-  
11 ficial duties as a result of the violation, shall be fined  
12 under this title or imprisoned not more than 5 years, or  
13 both, but if the defendant is an organization, the defend-  
14 ant may be fined not more than \$1,000,000.

15 “(2) The provisions of law to which this subsection  
16 applies are—

17 “(A) section 14(b) of the Federal Insecticide,  
18 Fungicide, and Rodenticide Act (7 U.S.C. 136l(b));  
19 and

20 “(B) section 16(b) of the Toxic Substances  
21 Control Act (15 U.S.C. 2615(b)).

22 “(c) For purposes of this section, the term ‘serious  
23 bodily injury’ means bodily injury which involves—

24 “(1) unconsciousness;

25 “(2) extreme physical pain;

1 “(3) protracted and obvious disfigurement; or

2 “(4) protracted loss or impairment of the func-  
3 tion of a bodily member, organ, or mental faculty.

4 “(d) For purposes of this section, the term ‘organiza-  
5 tion’ means a legal entity, other than a government, estab-  
6 lished or organized for any purpose, and such term in-  
7 cludes a corporation, company, association, firm, partner-  
8 ship, joint stock company, foundation, institution, trust,  
9 society, union, or any other association of persons.”.

10 (b) CLERICAL AMENDMENT.—The table of sections  
11 at the beginning of chapter 39 of title 18, United States  
12 Code, is amended by inserting after the item relating to  
13 section 837 the following:

“838. Protection of government employees and the public from environmental  
crimes.”.

14 **SEC. 4. ENVIRONMENTAL CRIMES TRAINING FOR STATE,**  
15 **LOCAL, AND TRIBAL LAW ENFORCEMENT.**

16 (a) SHORT TITLE.—This section may be cited as the  
17 “Environmental Crimes Training Act of 1996”.

18 (b) PROGRAM.—The Administrator of the Environ-  
19 mental Protection Agency, as soon as practicable, within  
20 the Office of Enforcement and Compliance Assurance,  
21 shall establish the State, local, and Tribal Environmental  
22 Enforcement Training Program to be administered by the  
23 National Enforcement Training Institute within the Office  
24 of Criminal Enforcement, Forensics and Training. This

1 Program shall be dedicated to training State, local, and  
2 tribal law enforcement personnel in the investigation of  
3 environmental crimes at the Federal Law Enforcement  
4 Training Center (FLETC) in Glynn County, Georgia, at  
5 the EPA–FLETC training center or other training sites  
6 which are accessible to State, local, and tribal law enforce-  
7 ment. State, local, and tribal law enforcement personnel  
8 shall include, among others, the following: inspectors, civil  
9 and criminal investigators, technical experts, regulators,  
10 government lawyers, and police.

11 **SEC. 5. STATUTE OF LIMITATIONS.**

12 (a) IN GENERAL.—Chapter 213 of title 18, United  
13 States Code, is amended by adding after section 3294 the  
14 following new section—

15 **“§ 3295. Felony environmental crimes**

16 “(a) No person shall be prosecuted, tried, or punished  
17 for a violation of, or a conspiracy to violate, any of the  
18 offenses listed in subsection (b), unless the indictment is  
19 returned or the information is filed within 5 years after  
20 the offense is committed. However, when a person com-  
21 mits an affirmative act that conceals the offense from any  
22 Federal, State, local, or tribal government agency, that  
23 person shall not be prosecuted, tried, or punished for a  
24 violation of, or a conspiracy to violate, any of the offenses



1 listed below in subsection (b) unless the indictment is re-  
2 turned or the information is filed within 5 years after the  
3 offense is committed, or within 3 years after the offense  
4 is discovered by a government agency, whichever is later  
5 but in no event later than 8 years after the offense is com-  
6 mitted.

7 “(b) This section applies to a violation of—

8 “(1) section 309(c)(2), 309(c)(3), 309(c)(4), or  
9 311(b)(5) of the Federal Water Pollution Control  
10 Act (33 U.S.C. 1319(c)(2), 1319(c)(3), 1319(c)(4),  
11 1321(b)(5));

12 “(2) section 105(b) of the Marine Protection,  
13 Research, and Sanctuaries Act of 1972 (33 U.S.C.  
14 1415(b));

15 “(3) section 9(a) of the Act to Prevent Pollu-  
16 tion from Ships (33 U.S.C. 1908(a));

17 “(4) section 4109(c) of the Shore Protection  
18 Act of 1988 (33 U.S.C. 2609(c));

19 “(5) section 1423 or 1432 of the Safe Drinking  
20 Water Act (42 U.S.C. 300h–2, 300i–1);

21 “(6) section 3008(d) or 3008(e) of the Re-  
22 source Conservation and Recovery Act of 1976 (42  
23 U.S.C. 6928(d), 6928(e));

1 “(7) section 113(c)(1), 113(c)(2), 113(c)(3), or  
 2 113(c)(5) of the Clean Air Act (42 U.S.C.  
 3 7413(c)(1), 7413(c)(2), 7413(c)(3), 7413(c)(5));

4 “(8) section 103(b) or 103(d) of the Com-  
 5 prehensive Response, Compensation, and Liability  
 6 Act (42 U.S.C. 9603(b), 9603(d));

7 “(9) section 325(b)(4) of the Emergency Plan-  
 8 ning and Community Right-to-Know Act of 1986  
 9 (42 U.S.C. 11045(b)(4)); or

10 “(10) section 5124, 60123(a), or 60123(b) of  
 11 title 49, United States Code.”.

12 (b) CLERICAL AMENDMENT.—The table of sections  
 13 of chapter 213 of title 18, United States Code, is amended  
 14 by inserting after the item referring to section 3294 the  
 15 following new item:

“3295. Felony environmental crimes.”.

16 **SEC. 6. ATTEMPTS.**

17 (a) FEDERAL INSECTICIDE, FUNGICIDE, AND  
 18 RODENTICIDE ACT.—Section 14(b) of the Federal Insecti-  
 19 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136l(b))  
 20 is amended by adding the following new paragraph:

21 “(5) ATTEMPTS.—Any person who attempts to  
 22 commit the conduct that constitutes an offense  
 23 under paragraph (1) of this subsection shall be sub-  
 24 ject to the same penalties as those prescribed for  
 25 such an offense.”.

1       (b) TOXIC SUBSTANCES CONTROL ACT.—Section  
2 16(b) of the Toxic Substances Control Act (15 U.S.C.  
3 2615(b)), is amended by inserting “(1)” before “Any” and  
4 by adding the following new paragraph:

5           “(2) Any person who attempts to commit the  
6 conduct that constitutes any offense under para-  
7 graph (1) of this subsection shall be subject to the  
8 same penalties as those prescribed for such of-  
9 fense.”.

10       (c) FEDERAL WATER POLLUTION CONTROL ACT.—  
11 Section 309(c) of the Federal Water Pollution Control Act  
12 (33 U.S.C. 1319(c)), is amended by adding after para-  
13 graph (7) the following new paragraph:

14           “(8) Any person who attempts to commit the  
15 conduct that constitutes any offense under para-  
16 graph (2), (3), or (4) of this subsection shall be sub-  
17 ject to the same penalties as those prescribed for  
18 such offense.”.

19       (d) OCEAN DUMPING.—Section 105(b) of the Marine  
20 Protection, Research, and Sanctuaries Act of 1972 (33  
21 U.S.C. 1415(b)) is amended by striking “and” at the end  
22 of paragraph (1), striking the period at the end of para-  
23 graph (2)(B) and inserting “; and”, and adding after  
24 paragraph (2) the following new paragraph:

1           “(3) any person who attempts to commit con-  
2           duct that constitutes an offense under paragraph (1)  
3           of this subsection shall be subject to the same pen-  
4           alties as those prescribed for such offense.”.

5           (e) MARPOL.—Section 9(a) of the Act to Prevent  
6           Pollution from Ships (33 U.S.C. 1908(a)) is amended by  
7           inserting “(1)” before “A person”, and by adding at the  
8           end the following new paragraph:

9           “(2) Any person who attempts to commit conduct  
10          that constitutes an offense under paragraph (1) of this  
11          subsection shall be subject to the same penalties as those  
12          prescribed for such offense.”.

13          (f) SOLID WASTE DISPOSAL ACT.—Section 3008 of  
14          the Solid Waste Disposal Act (42 U.S.C. 6928), is amend-  
15          ed by adding after section 3008(h) the following new sub-  
16          section:

17          “(i) Any person who attempts to commit the conduct  
18          that constitutes any offense under subsection (d) or (e)  
19          of this section shall be subject to the same penalties as  
20          those prescribed for such offense.”.

21          (g) CLEAN AIR ACT.—Section 113(c) of the Clean  
22          Air Act (42 U.S.C. 7413(c)), is amended by adding after  
23          paragraph (6) the following new paragraph:

1           “(7) Any person who attempts to commit the  
 2           conduct that constitutes any offense under para-  
 3           graphs (1), (2), or (3) of this subsection shall be  
 4           subject to the same penalties as those prescribed for  
 5           such offense.”.

6 **SEC. 7. ENVIRONMENTAL CRIMES RESTITUTION.**

7           (a) **GENERALLY.**—Section 3663(a)(1) of title 18,  
 8           United States Code, is amended by striking “or” before  
 9           “section 46312” and inserting “or an environmental crime  
 10          listed in section 3674 of this title,” after “section  
 11          3663A(c),”

12          (b) **DEFINITION OF “VICTIM”.**—Subsection 3663(b)  
 13          of title 18, United States Code, is amended—

14               (1) by striking “and” at the end of paragraph  
 15               (4);

16               (2) by striking the period at the end of para-  
 17               graph (5) and inserting “; and”; and

18               (3) by inserting after paragraph (5) the follow-  
 19               ing:

20               “(6) in the case of an offense resulting in pollu-  
 21               tion of or damage to the environment, pay for re-  
 22               moval and remediation of the environmental pollu-  
 23               tion or damage and restoration of the environment,  
 24               to the extent of the pollution or damage resulting  
 25               from the offense; in such a case, the term ‘victim’

1 in section 3663(a)(2) includes a community or com-  
 2 munities, whether or not the members are individ-  
 3 ually identified.”.

4 **SEC. 8. PREVENTION OF ALIENATION OR DISPOSAL OF AS-**  
 5 **SETS NEEDED TO REMEDY ENVIRONMENTAL**  
 6 **HARMS CAUSED BY ENVIRONMENTAL**  
 7 **CRIMES.**

8 (a) IN GENERAL.—Chapter 39 of title 18, United  
 9 States Code, is amended by inserting after section 838 the  
 10 following:

11 **“§ 839. Prejudgment orders to secure payment for en-**  
 12 **vironmental damage**

13 “(a) At the time of the filing of an indictment or in-  
 14 formation for the violation of any of the statutory provi-  
 15 sions set forth in section 838(a) of this title, or at any  
 16 time thereafter, if, after notice to the defendant, the  
 17 United States shows probable cause to believe that—

18 “(1) the defendant will conceal, alienate, or dis-  
 19 pose of property, or place property outside the juris-  
 20 diction of the Federal district courts; and

21 “(2) the defendant will thereby reduce or im-  
 22 pair the defendant’s ability to pay restitution, in  
 23 whole or in part, including removal and remediation

1 of environmental pollution or damage and restora-  
2 tion of the environment resulting from the statutory  
3 violation;

4 the court may order the defendant not to alienate or dis-  
5 pose of any such property, or place such property outside  
6 the jurisdiction of the United States district courts, with-  
7 out leave of the court. The Government shall bear the bur-  
8 den of proving, by a preponderance of the evidence, the  
9 projected cost for the removal and remediation of the envi-  
10 ronmental pollution or damage and restoration of the envi-  
11 ronment.

12 “(b) DEFENSES.—The defendant may establish the  
13 following affirmative defenses to a motion by the Govern-  
14 ment under this section:

15 “(1) That the defendant possesses other assets  
16 sufficient to pay restitution, including the costs of  
17 removal and remediation of the environmental pollu-  
18 tion or damage and restoration of the environment  
19 resulting from the statutory violation, provided that  
20 the defendant places those other assets under the  
21 control of the court.

22 “(2) That the defendant has made full restituti-  
23 on, including the removal and remediation of the  
24 environmental pollution or damage and restoration  
25 of the environment.

1 “(c) PROCEDURES.—Any proceeding under this sec-  
 2 tion is governed by the Federal Rules of Criminal Proce-  
 3 dure.

4 “(d) PROPERTY DEFINED.—For the purposes of this  
 5 section, ‘property’ shall include—

6 “(1) real property, including things growing on,  
 7 affixed to, and found in land; and

8 “(2) tangible and intangible personal property,  
 9 including money, rights, privileges, interests, claims,  
 10 and securities.

11 “(e) EXPIRATION OF ORDER.—The court may amend  
 12 an order issued pursuant to this section at any time. In  
 13 no event, however, shall the order extend beyond sentenc-  
 14 ing, in the case of a conviction, or a dismissal or acquittal  
 15 of the prosecution.

16 “(f) ALL WRITS ACT.—Nothing in this section dimin-  
 17 ishes the powers of the court otherwise available under  
 18 section 1651 of title 28.”.

19 (b) CLERICAL AMENDMENT.—The table of sections  
 20 at the beginning of chapter 39 of title 18, United States  
 21 Code, is amended by adding after the item relating to sec-  
 22 tion 838, the following new item—

“839. Prejudgment orders to secure payment for environmental damage.”.

