

106TH CONGRESS
1ST SESSION

H. R. 2767

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

AUGUST 5, 1999

Mrs. LOWEY (for herself and Mr. THOMPSON of Mississippi) 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 FOR VIOLATION OF MEAT**
4 **AND POULTRY INSPECTION LAWS.**

5 (a) **AUTHORITY TO ACCESS PENALTIES.**—The Sec-
6 retary of Agriculture may assess a civil penalty against
7 a person that violates the Federal Meat Inspection Act
8 (21 U.S.C. 601 et seq.) or the Poultry Products Inspection
9 Act (21 U.S.C. 451 et seq.), including a regulation pro-

1 mulgated or order issued under such Acts, of not more
2 than \$100,000 for each violation. Each violation and each
3 day during which a violation continues shall be a separate
4 offense. The amount of the civil penalty shall be assessed
5 by the Secretary by written order, taking into account—

6 (1) the gravity of the violation;

7 (2) the degree of culpability;

8 (3) the size and type of the business; and

9 (4) any history of prior offenses under such
10 Acts.

11 (b) NOTICE AND OPPORTUNITY FOR HEARING.—The
12 Secretary of Agriculture shall not assess a civil penalty
13 under this section against a person unless the person is
14 given notice and opportunity for a hearing on the record
15 before the Secretary in accordance with sections 554 and
16 556 of title 5, United States Code.

17 (c) JUDICIAL REVIEW.—(1) An order assessing a
18 civil penalty against a person under subsection (a) may
19 be reviewed only in accordance with this subsection. The
20 order shall be final and conclusive unless the person—

21 (A) not later than 30 days after the effective
22 date of the order, files a petition for judicial review
23 in the United States court of appeals for the circuit
24 in which the person resides or has its principal place

1 of business or in the United States Court of Appeals
2 for the District of Columbia; and

3 (B) simultaneously sends a copy of the petition
4 by certified mail to the Secretary.

5 (2) The Secretary shall promptly file in the court a
6 certified copy of the record on which the violation was
7 found and the civil penalty assessed.

8 (d) COLLECTION ACTION FOR FAILURE TO PAY AS-
9 SESSMENT.—If a person fails to pay a civil penalty after
10 the order assessing the civil penalty has become final and
11 unappealable, the Secretary shall refer the matter to the
12 Attorney General, who shall bring a civil action to recover
13 the amount of the civil penalty in United States district
14 court. In the collection action, the validity and appro-
15 priateness of the order of the Secretary of Agriculture im-
16 posing the civil penalty shall not be subject to review.

17 (e) REFUSAL OR WITHDRAWAL OF INSPECTION
18 PENDING PAYMENT.—If a person fails to pay the amount
19 of a civil penalty after the order assessing the civil penalty
20 becomes final and unappealable, the Secretary of Agri-
21 culture may refuse to provide or withdraw inspection
22 under title I of the Federal Meat Inspection Act or under
23 the Poultry Products Inspection Act, as the case may be,
24 until the civil penalty is paid or until the Secretary directs
25 otherwise.

1 (f) PENALTIES IN LIEU OF OTHER ACTIONS.—Noth-
2 ing in the Federal Meat Inspection Act or the Poultry
3 Products Inspection Act requires the Secretary of Agri-
4 culture to report for prosecution, or for the institution of
5 an action, a violation of such Act if the Secretary believes
6 that the public interest will be adequately served by assess-
7 ment of a civil penalty under this section.

8 (g) ADDITIONAL REMEDIES.—The remedies provided
9 in this section shall be in addition to any other remedies
10 that may be available.

11 (h) PERSON DEFINED.—In this section, the term
12 “person” means any individual, partnership, corporation,
13 association, or other business unit.

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