

113TH CONGRESS
1ST SESSION

H. R. 746

To provide small businesses with a grace period for a regulatory violation,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2013

Mr. BENTIVOLIO (for himself, Mr. HALL, Mr. ROSKAM, Mr. GOHMERT, Mr. CHABOT, Mr. FRANKS of Arizona, Mr. WALBERG, Mr. VALADAO, Mr. BENISHEK, Mrs. BACHMANN, Mr. BROUN of Georgia, Mr. HULTGREN, and Mr. PITTENGER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide small businesses with a grace period for a
regulatory violation, 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 “Protect Small Business
5 Jobs Act of 2013”.

6 **SEC. 2. IN GENERAL.**

7 Section 558 of title 5, United States Code, is amend-
8 ed by adding at the end the following:

1 “(d) Before any enforcement action is taken on any
2 sanction on a business for any violation of a rule or pursu-
3 ant to an adjudication an agency shall—

4 “(1) not later than 10 business days after the
5 date on which the agency determines that a sanction
6 may be imposed on the business, provide notice to
7 the business that, if the business is a small business
8 as defined in subsection (k), the small business may
9 be subject to a sanction at the end of the grace pe-
10 riod described in paragraph (3);

11 “(2) delay any further action for a period of 15
12 calendar days;

13 “(3) for any small business, defer any further
14 action for a period of not less than 6 months, less
15 the 15 days described in paragraph (2), which shall
16 be extended by an additional period of 3 months on
17 application by the small business demonstrating rea-
18 sonable efforts made in good faith to remedy the vio-
19 lation or other conduct giving rise to the sanction;

20 “(4) make a further determination after the pe-
21 riod described in paragraph (3) as to whether or not
22 the small business would still be subject to the sanc-
23 tion as of the end of that period;

1 “(5) if the determination under paragraph (4)
2 is that the small business would not be subject to
3 the sanction, waive the sanction; and

4 “(6) if notice is given more than 10 business
5 days after the date on which the agency determines
6 that a sanction may be imposed on the business, and
7 the agency determines that the same sanction may
8 have been imposed on the business 10 business days
9 prior to the date of the notice, that date of notice
10 shall be the effective date commencing the grace pe-
11 riod described in paragraph (3).

12 “(e) The grace period described by subsection (d)
13 shall be applicable only once per business per rule, but
14 shall cover subsequent violations of the same rule until it
15 expires.

16 “(f) The grace period described by subsection (d)
17 shall not apply to a violation that puts anyone in imminent
18 danger, as defined by the Occupational Safety and Health
19 Act (29 U.S.C. 662 et seq.).

20 “(g) Nothing in subsection (d) shall be construed to
21 prevent a small business from appealing any sanction im-
22 posed in accordance with the procedures of the agency,
23 or from seeking review under chapter 7 of this title.

24 “(h) Any sanction by an agency on a small business
25 for any violation of a rule or pursuant to an adjudication,

1 absent proof of written notice of the sanction and the date
2 on which the agency determined that a sanction may be
3 imposed, or in violation of subsection (d)(3), shall be null
4 and void.

5 “(i) Federal agencies shall report annually to the Om-
6 budsman on the utilization of this directive and disclose
7 the penalty mitigation for small businesses.

8 “(j) The Ombudsman shall include in its annual re-
9 port to Congress the agency reports described by sub-
10 section (i) and a summary of the findings.

11 “(k) For purposes of this section—

12 “(1) term ‘small business’ is defined as any sole
13 proprietorship, partnership, corporation, limited li-
14 ability company, or other business entity, that—

15 “(A) had less than \$10,000,000 in gross
16 receipts in the preceding calendar year;

17 “(B) is considered a ‘small-business con-
18 cern’ as such term is defined pursuant to Sec-
19 tion 3(a) of the Small Business Act (15 U.S.C.
20 632(a));

21 “(C) employed fewer than 200 individuals
22 in the preceding calendar year; or

23 “(D) had CPI adjusted gross receipts of
24 less than \$10,000,000 in the preceding year.

1 “(2) the term ‘Ombudsman’ has the same
2 meaning given such term in section 30(a) of the
3 Small Business Act (15 U.S.C. 657(a));

4 “(3) the term ‘consumer price index’ means the
5 consumer price index for all urban consumers pub-
6 lished by the Department of Labor; and

7 “(4) the term ‘CPI adjusted gross receipts’
8 means the amount of gross receipts, divided by the
9 consumer price index for calendar year 2012, and
10 multiplied by the consumer price index for the pre-
11 ceding calendar year, rounded to the nearest mul-
12 tiple of \$100,000 (or, if midway between multiples
13 of \$100,000, to the next higher multiple of
14 \$100,000).”.

○