

112TH CONGRESS
1ST SESSION

S. 128

To amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns.

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 “Small Business Paper-
5 work Relief Act of 2011”.

1 **SEC. 2. SUSPENSION OF FINES FOR FIRST-TIME PAPER-**
2 **WORK VIOLATIONS BY SMALL BUSINESS CON-**
3 **CERNS.**

4 Section 3506 of title 44, United States Code (com-
5 monly referred to as the “Paperwork Reduction Act”), is
6 amended by adding at the end the following:

7 “(j) SMALL BUSINESSES.—

8 “(1) SMALL BUSINESS CONCERN.—In this sub-
9 section, the term ‘small business concern’ has the
10 meaning given that term under section 3 of the
11 Small Business Act (15 U.S.C. 632).

12 “(2) IN GENERAL.—In the case of a first-time
13 violation by a small business concern of a require-
14 ment regarding the collection of information by an
15 agency, the head of the agency shall not impose a
16 civil fine on the small business concern unless the
17 head of the agency determines that—

18 “(A) the violation has the potential to
19 cause serious harm to the public interest;

20 “(B) failure to impose a civil fine would
21 impede or interfere with the detection of crimi-
22 nal activity;

23 “(C) the violation is a violation of an inter-
24 nal revenue law or a law concerning the assess-
25 ment or collection of any tax, debt, revenue, or
26 receipt;

1 “(D) the violation was not corrected on or
2 before the date that is 6 months after the date
3 on which the small business concern receives
4 notification of the violation in writing from the
5 agency; or

6 “(E) except as provided in paragraph (3),
7 the violation presents a danger to the public
8 health or safety.

9 “(3) DANGER TO PUBLIC HEALTH OR SAFE-
10 TY.—

11 “(A) IN GENERAL.—In any case in which
12 the head of an agency determines under para-
13 graph (2)(E) that a violation presents a danger
14 to the public health or safety, the head of the
15 agency may, notwithstanding paragraph (2)(E),
16 determine not to impose a civil fine on the
17 small business concern if the violation is cor-
18 rected not later than 24 hours after receipt by
19 the owner of the small business concern of noti-
20 fication of the violation in writing.

21 “(B) CONSIDERATIONS.—In determining
22 whether to allow a small business concern 24
23 hours to correct a violation under subparagraph
24 (A), the head of an agency shall take into ac-

1 count all of the facts and circumstances regard-
2 ing the violation, including—

3 “(i) the nature and seriousness of the
4 violation, including whether the violation is
5 technical or inadvertent or involves willful
6 or criminal conduct;

7 “(ii) whether the small business con-
8 cern has made a good faith effort to com-
9 ply with applicable laws and to remedy the
10 violation within the shortest practicable pe-
11 riod of time; and

12 “(iii) whether the small business con-
13 cern has obtained a significant economic
14 benefit from the violation.

15 “(C) NOTICE TO CONGRESS.—In any case
16 in which the head of an agency imposes a civil
17 fine on a small business concern for a violation
18 that presents a danger to the public health or
19 safety and does not allow the small business
20 concern 24 hours to correct the violation under
21 subparagraph (A), the head of the agency shall
22 notify Congress regarding the determination
23 not later than 60 days after the date on which
24 the civil fine is imposed by the agency.

25 “(4) LIMITED TO FIRST-TIME VIOLATIONS.—

1 “(A) IN GENERAL.—This subsection shall
2 not apply to any violation by a small business
3 concern of a requirement regarding collection of
4 information by an agency if the small business
5 concern previously violated any requirement re-
6 garding collection of information by the agency.

7 “(B) OTHER AGENCIES.—For purposes of
8 making a determination under subparagraph
9 (A), the head of an agency shall not take into
10 account any violation of a requirement regard-
11 ing collection of information by another agen-
12 cy.”.

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