

106TH CONGRESS  
1ST SESSION

# S. 481

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

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1999

Mr. SCHUMER introduced the following bill; which was read twice and referred  
to the Committee on the Judiciary

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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 1999”.

1 **SEC. 2. REIMBURSEMENT OF STATE, LOCAL, OR TRIBAL**  
 2 **GOVERNMENT COSTS FOR ASSISTANCE IN**  
 3 **FEDERAL INVESTIGATION AND PROSECU-**  
 4 **TION OF ENVIRONMENTAL CRIMES.**

5 (a) IN GENERAL.—Chapter 232 of title 18, United  
 6 States Code, is amended by adding at the end the follow-  
 7 ing:

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

12 “(a) DEFINITION OF ENVIRONMENTAL CRIME.—In  
 13 this section, the term ‘environmental crime’ means an of-  
 14 fense that is punishable under—

15 “(1) section 14(b) of the Federal Insecticide,  
 16 Fungicide, and Rodenticide Act (7 U.S.C. 136l(b));

17 “(2) section 16(b) of the Toxic Substances Con-  
 18 trol Act (15 U.S.C. 2615(b));

19 “(3) section 10, 12, 13, or 16 of the Act of  
 20 March 3, 1899 (commonly known as the ‘Rivers and  
 21 Harbors Appropriation Act of 1899’) (33 U.S.C.  
 22 403, 406, 407, 411);

23 “(4) section 309(c) or 311(b)(5) of the Federal  
 24 Water Pollution Control Act (33 U.S.C. 1319(c),  
 25 1321(b)(5));

1 “(5) section 105(b) of the Marine Protection,  
2 Research, and Sanctuaries Act of 1972 (33 U.S.C.  
3 1415(b));

4 “(6) section 9(a) of the Act to Prevent Pollu-  
5 tion from Ships (33 U.S.C. 1908(a));

6 “(7) section 4109(c) of the Shore Protection  
7 Act of 1988 (33 U.S.C. 2609(c));

8 “(8) section 1423(b)(2) or subsection (a) or (b)  
9 of section 1432 of the Safe Drinking Water Act (42  
10 U.S.C. 300h-2(b)(2), 300i-1);

11 “(9) subsection (d), (e), or (i) of section 3008  
12 of the Solid Waste Disposal Act (42 U.S.C. 6928);

13 “(10) section 113(c) of the Clean Air Act (42  
14 U.S.C. 7413(c));

15 “(11) subsection (b) or (d) of section 103 of the  
16 Comprehensive Environmental Response, Compensa-  
17 tion, and Liability Act of 1980 (42 U.S.C. 9603);

18 “(12) section 325(b)(4) of the Emergency Plan-  
19 ning and Community Right-To-Know Act of 1986  
20 (42 U.S.C. 11045(b)(4));

21 “(13) section 303(a) of the Federal Land Pol-  
22 icy and Management Act of 1976 (43 U.S.C.  
23 1733(a)); or

24 “(14) section 5124 or subsection (a) or (b) of  
25 section 60123 of title 49, United States Code.

1       “(b) REIMBURSEMENT.—On the motion of the  
 2 United States, a person convicted of an environmental  
 3 crime shall be ordered to pay the costs incurred by a State,  
 4 local, or tribal government in assisting in the investigation  
 5 and prosecution of the case by the United States.

6       “(c) USE OF AMOUNTS PAID.—An amount paid to  
 7 a State, local, or tribal government under subsection (b)  
 8 shall be used solely for the enforcement of environmental  
 9 laws.”.

10       (b) CONFORMING AMENDMENT.—The analysis for  
 11 chapter 232 of title 18, United States Code, is amended  
 12 by adding at the end the following:

“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 FROM ENVIRONMENTAL**  
 15 **CRIMES.**

16       (a) IN GENERAL.—Chapter 39 of title 18, United  
 17 States Code, is amended by adding at the end the follow-  
 18 ing:

19 **“§ 837. Protection of government employees and the**  
 20 **public from environmental crimes**

21       “(a) DEFINITIONS.—In this section:

22               “(1) ENVIRONMENTAL CRIME.—The term ‘envi-  
 23 ronmental crime’ means an offense that is punish-  
 24 able under—

1           “(A) section 14(b) of the Federal Insecti-  
2           cide, Fungicide, and Rodenticide Act (7 U.S.C.  
3           136l(b));

4           “(B) section 16(b) of the Toxic Substances  
5           Control Act (15 U.S.C. 2615(b));

6           “(C) paragraph (2) or (4) of section  
7           309(c) or section 311(b)(5) of the Federal  
8           Water Pollution Control Act (33 U.S.C.  
9           1319(c), 1321(b)(5));

10           “(D) section 105(b) of the Marine Protec-  
11           tion, Research, and Sanctuaries Act of 1972  
12           (33 U.S.C. 1415(b));

13           “(E) section 1423(b)(2) or subsection (a)  
14           or (b) of section 1432 of the Safe Drinking  
15           Water Act (42 U.S.C. 300h-2(b)(2), 300i-1);

16           “(F) section 3008(d) of the Solid Waste  
17           Disposal Act (42 U.S.C. 6928(d));

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

21           “(H) subsection (b) or (d) of section 103  
22           of the Comprehensive Environmental Response,  
23           Compensation, and Liability Act of 1980 (42  
24           U.S.C. 9603);

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

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

7           “(2) ORGANIZATION.—

8           “(A) IN GENERAL.—The term ‘organiza-  
9           tion’ means a legal entity (other than a govern-  
10          ment) organized for any purpose.

11          “(B) INCLUSIONS.—The term ‘organiza-  
12          tion’ includes a corporation, company, associa-  
13          tion, firm, partnership, joint stock company,  
14          foundation, institution, trust, society, union, or  
15          any other association of persons.

16          “(3) SERIOUS BODILY INJURY.—The term ‘seri-  
17          ous bodily injury’ means bodily injury that  
18          involves—

19                 “(A) unconsciousness;

20                 “(B) extreme physical pain;

21                 “(C) protracted and obvious disfigurement;

22                 or

23                 “(D) protracted loss or impairment of the  
24                 function of a bodily member, organ, or mental  
25                 faculty.

1       “(b) PENALTY.—A person convicted of an environ-  
2 mental crime that is the proximate cause of serious bodily  
3 injury to or the death of any person—

4               “(1) in the case of an environmental crime de-  
5 scribed in subparagraph (A) or (B) of subsection  
6 (a)(1)—

7                       “(A) shall be imprisoned not more than 5  
8 years, fined under this title, or both; or

9                       “(B) if the person is an organization, shall  
10 be fined not more than \$1,000,000; and

11               “(2) in the case of an environmental crime de-  
12 scribed in subparagraph (C), (D), (E), (F), (G),  
13 (H), (I), or (J) of subsection (a)(1)—

14                       “(A) shall be imprisoned not more than 20  
15 years, fined not more than \$500,000, or both;

16                       or

17                       “(B) if the person is an organization, shall  
18 be fined not more than \$2,000,000.”.

19       (b) CONFORMING AMENDMENT.—The analysis for  
20 chapter 39 of title 18, United States Code, is amended  
21 by adding at the end the following:

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

1 **SEC. 4. ENVIRONMENTAL CRIMES TRAINING FOR STATE,**  
2 **LOCAL, AND TRIBAL LAW ENFORCEMENT**  
3 **PERSONNEL.**

4 (a) **SHORT TITLE.**—This section may be cited as the  
5 “Environmental Crimes Training Act of 1999”.

6 (b) **LAW ENFORCEMENT PERSONNEL.**—In this sec-  
7 tion, the term “law enforcement personnel” includes in-  
8 spectors, civil and criminal investigators, technical experts,  
9 regulators, government lawyers, and police.

10 (c) **PROGRAM.**—

11 (1) **ESTABLISHMENT OF PROGRAM.**—As soon as  
12 practicable after the date of enactment of this Act,  
13 the Administrator of the Environmental Protection  
14 Agency shall establish within the Office of Enforce-  
15 ment and Compliance Assurance a program to be  
16 known as the “State, Local, and Tribal Environ-  
17 mental Enforcement Training Program” (referred to  
18 in this section as the “program”).

19 (2) **ADMINISTRATION.**—The program shall be  
20 administered by the National Enforcement Training  
21 Institute of the Office of Criminal Enforcement,  
22 Forensics, and Training.

23 (3) **FUNCTION.**—The program shall train State,  
24 local, and tribal law enforcement personnel to inves-  
25 tigate environmental crimes.

1           (4) TRAINING SITE.—Training shall be con-  
2           ducted at the Federal Law Enforcement Training  
3           Center in Glynn County, Georgia, or at other train-  
4           ing sites that are accessible to State, local, and trib-  
5           al law enforcement personnel.

6 **SEC. 5. STATUTE OF LIMITATIONS.**

7           (a) IN GENERAL.—Chapter 213 of title 18, United  
8           States Code, is amended by adding at the end the follow-  
9           ing:

10 **“§ 3296. Environmental crimes**

11           “(a) DEFINITION OF ENVIRONMENTAL CRIME.—In  
12           this section, the term ‘environmental crime’ means an of-  
13           fense that is punishable under—

14                   “(1) paragraph (2), (3), or (4) of section 309(c)  
15                   or section 311(b)(5) of the Federal Water Pollution  
16                   Control Act (33 U.S.C. 1319(c), 1321(b)(5));

17                   “(2) section 105(b) of the Marine Protection,  
18                   Research, and Sanctuaries Act of 1972 (33 U.S.C.  
19                   1415(b));

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

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

1 “(5) section 1423(b)(2) or subsection (a) or (b)  
2 of section 1432 of the Safe Drinking Water Act (42  
3 U.S.C. 300h-2(b)(2), 300i-1);

4 “(6) section 3008(d) of the Solid Waste Dis-  
5 posal Act (42 U.S.C. 6928(d));

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

8 “(8) subsection (b) or (d) of section 103 of the  
9 Comprehensive Environmental Response, Compensa-  
10 tion, and Liability Act of 1980 (42 U.S.C. 9603);

11 “(9) section 325(b)(4) of the Emergency Plan-  
12 ning and Community Right-To-Know Act of 1986  
13 (42 U.S.C. 11045(b)(4)); or

14 “(10) section 5124 or subsection (a) or (b) of  
15 section 60123 of title 49, United States Code.

16 “(b) LIMITATION.—A person may not be prosecuted,  
17 tried, or punished for the commission of, or a conspiracy  
18 to commit, an environmental crime unless the indictment  
19 is returned or the information is filed—

20 “(1) within 5 years after the date on which the  
21 environmental crime is committed; or

22 “(2) if the person commits an affirmative act  
23 that conceals the environmental crime from any  
24 Federal, State, local, or tribal government agency,  
25 before the earlier of—

1                   “(A) the later of—  
 2                    “(i) 5 years after the date on which  
 3                   the offense is committed; or  
 4                    “(ii) 3 years after the date on which  
 5                   the offense is discovered by a government  
 6                   agency; or  
 7                   “(B) 8 years after the date on which the  
 8                   environmental crime is committed.”.

9           (b) CONFORMING AMENDMENT.—The analysis for  
 10 chapter 213 of title 18, United States Code, is amended  
 11 by adding at the end the following:

“3296. Environmental crimes.”.

12 **SEC. 6. ATTEMPTS.**

13           (a) FEDERAL INSECTICIDE, FUNGICIDE, AND  
 14 RODENTICIDE ACT.—Section 14(b) of the Federal Insecti-  
 15 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136l(b))  
 16 is amended by adding at the end the following:

17                   “(5) ATTEMPTS.—A person that attempts to  
 18                   commit the conduct that constitutes an offense  
 19                   under paragraph (1) shall be subject to the same  
 20                   penalties as those prescribed for the offense.”.

21           (b) TOXIC SUBSTANCES CONTROL ACT.—Section  
 22 16(b) of the Toxic Substances Control Act (15 U.S.C.  
 23 2615(b)), is amended—

24                   (1) by striking “Any” and inserting the follow-  
 25                   ing:

1 “(1) IN GENERAL.—Any”; and

2 (2) by adding at the end the following:

3 “(2) ATTEMPTS.—A person that attempts to  
4 commit the conduct that constitutes an offense  
5 under paragraph (1) shall be subject to the same  
6 penalties as those prescribed for the offense.”.

7 (c) FEDERAL WATER POLLUTION CONTROL ACT.—  
8 Section 309(c) of the Federal Water Pollution Control Act  
9 (33 U.S.C. 1319(c)) is amended by adding at the end the  
10 following:

11 “(8) ATTEMPTS.—A person that attempts to  
12 commit the conduct that constitutes an offense  
13 under paragraph (2), (3), or (4) shall be subject to  
14 the same penalties as those prescribed for the of-  
15 fense.”.

16 (d) OCEAN DUMPING.—Section 105(b) of the Marine  
17 Protection, Research, and Sanctuaries Act of 1972 (33  
18 U.S.C. 1415(b)) is amended—

19 (1) in paragraph (1), by striking “and”;

20 (2) in paragraph (2), by striking the period at  
21 the end and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(3) a person that attempts to commit the con-  
24 duct that constitutes an offense under paragraph (1)

1 shall be subject to the same penalties as those pre-  
2 scribed for the offense.”.

3 (e) MARPOL.—Section 9(a) of the Act to Prevent  
4 Pollution from Ships (33 U.S.C. 1908(a)) is amended—

5 (1) by striking “(1) A person” and inserting  
6 the following:

7 “(1) IN GENERAL.—A person”; and

8 (2) by adding at the end the following:

9 “(2) ATTEMPTS.—A person that attempts to  
10 commit conduct that constitutes an offense under  
11 paragraph (1) shall be subject to the same penalties  
12 as those prescribed for the 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 at the end the following:

16 “(i) ATTEMPTS.—A person that attempts to commit  
17 the conduct that constitutes an offense under subsection  
18 (d) or (e) shall be subject to the same penalties as those  
19 prescribed for the offense.”.

20 (g) CLEAN AIR ACT.—Section 113(c) of the Clean  
21 Air Act (42 U.S.C. 7413(c)) is amended by adding at the  
22 end the following:

23 “(7) ATTEMPTS.—A person that attempts to  
24 commit the conduct that constitutes an offense  
25 under paragraph (1), (2), or (3) shall be subject to

1 the same penalties as those prescribed for the of-  
2 fense.”.

3 **SEC. 7. ENVIRONMENTAL CRIMES RESTITUTION.**

4 Section 3663(b) of title 18, United States Code, is  
5 amended—

6 (1) in paragraph (4), by striking “and” at the  
7 end;

8 (2) in paragraph (5), by striking the period at  
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(6) in the case of an offense resulting in pollu-  
12 tion of or damage to the environment, pay for re-  
13 moval and remediation of the environmental pollu-  
14 tion or damage and restoration of the environment,  
15 to the extent that the pollution or damage results  
16 from the offense (for which purpose, the term ‘vic-  
17 tim’ in subsection (a)(2) shall be considered to in-  
18 clude a municipality or other political subdivision in  
19 which the pollution occurred or in which the damage  
20 was suffered whether or not any person residing or  
21 doing business in the political subdivision is identi-  
22 fied as having suffered damage).”.

1 **SEC. 8. PREJUDGMENT ORDERS TO SECURE PAYMENT FOR**  
2 **ENVIRONMENTAL DAMAGE.**

3 (a) IN GENERAL.—Chapter 39 of title 18, United  
4 States Code (as amended by section 3(a)), is amended by  
5 adding at the end the following:

6 **“§ 838. Prejudgment orders to secure payment for en-**  
7 **vironmental damage**

8 “(a) DEFINITION OF PROPERTY.—In this section, the  
9 term ‘property’ includes—

10 “(1) real property (including things growing on,  
11 affixed to, or found on the real property); and

12 “(2) tangible and intangible personal property  
13 (including claims, interests, money, privileges, rights,  
14 and securities).

15 “(b) PREJUDGMENT ORDER.—

16 “(1) IN GENERAL.—At the time of the filing of  
17 an indictment or information charging the commis-  
18 sion of an environmental crime (as defined in section  
19 837(a)), or at any time thereafter, the court may  
20 order the defendant not to alienate or dispose of any  
21 property, or place any property outside the jurisdic-  
22 tion of the district courts of the United States, with-  
23 out leave of the court, if, after notice to the defend-  
24 ant, the United States shows probable cause to be-  
25 lieve that—

1           “(A) the defendant will conceal, alienate,  
2           or dispose of the property, or place the property  
3           outside the jurisdiction of the district courts of  
4           the United States; and

5           “(B) the defendant will thereby reduce or  
6           impair the ability of the defendant to pay res-  
7           titution, in whole or in part, including removal  
8           and remediation of environmental pollution or  
9           damage and restoration of the environment re-  
10          sulting from the violation.

11          “(2) BURDEN OF PROOF.—In seeking an order  
12          under paragraph (1), the United States shall bear  
13          the burden of proving, by a preponderance of the  
14          evidence, the projected cost for the removal and re-  
15          mediation of the environmental pollution or damage  
16          and restoration of the environment.

17          “(3) DEFENSES.—In response to a motion by  
18          the United States under paragraph (1), it shall be  
19          an affirmative defense that—

20                 “(A) the defendant possesses other assets  
21                 sufficient to pay restitution, including the costs  
22                 of removal and remediation of the environ-  
23                 mental pollution or damage and restoration of  
24                 the environment resulting from the violation, if

1 the defendant places those other assets under  
2 the control of the court; or

3 “(B) the defendant has made full restitu-  
4 tion, including the removal and remediation of  
5 the environmental pollution or damage and res-  
6 toration of the environment.

7 “(c) PROCEDURES.—Any proceeding under this sec-  
8 tion shall be governed by the Federal Rules of Criminal  
9 Procedure.

10 “(d) AMENDMENT OF ORDER.—The court may  
11 amend an order issued under this section at any time.

12 “(e) EXPIRATION OF ORDER.—An order under this  
13 section shall expire on the date of an entry of an order  
14 of dismissal or of an entry of judgment in the case.

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

18 (b) CONFORMING AMENDMENT.—The analysis for  
19 chapter 39 of title 18, United States Code (as amended  
20 by section 3(b)), is amended by adding at the end the fol-  
21 lowing:

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

○