

108TH CONGRESS  
1ST SESSION

# H. R. 1003

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, and to amend the Federal Food, Drug, and Cosmetic Act to expand enforcement options to include such penalties with respect to meat and poultry.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mrs. LOWEY (for herself, Mr. THOMPSON of Mississippi, Mr. BROWN of Ohio, Ms. DELAURO, and Mr. GEORGE MILLER of California) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, 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 expand the enforcement options under the Federal Meat Inspection Act and the Poultry Products Inspection Act to include the imposition of civil money penalties, and to amend the Federal Food, Drug, and Cosmetic Act to expand enforcement options to include such penalties with respect to meat and poultry.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Meat and Poultry In-  
3 spection Accountability Act”.

4 **SEC. 2. CIVIL PENALTIES FOR VIOLATION OF MEAT AND**  
5 **POULTRY INSPECTION LAWS.**

6 (a) **AUTHORITY TO ASSESS PENALTIES.**—The Sec-  
7 retary of Agriculture may assess, by written order, a civil  
8 penalty against a person who violates the Federal Meat  
9 Inspection Act (21 U.S.C. 601 et seq.) or the Poultry  
10 Products Inspection Act (21 U.S.C. 451 et seq.), including  
11 a regulation promulgated or order issued under such Acts.  
12 Each violation, and each day during which a violation con-  
13 tinues, shall be a separate offense.

14 (b) **AMOUNT AND FACTORS IN ASSESSING PEN-**  
15 **ALTIES.**—The maximum amount that may be assessed  
16 under this section for a violation may not exceed  
17 \$100,000. In determining the amount of the civil penalty,  
18 the Secretary of Agriculture shall take into account—

19 (1) the gravity of the violation;

20 (2) the degree of culpability;

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

22 (4) any history of prior offenses under the Fed-  
23 eral Meat Inspection Act or the Poultry Products In-  
24 spection Act.

25 (c) **NOTICE AND OPPORTUNITY FOR HEARING.**—The  
26 Secretary of Agriculture shall not assess a civil penalty

1 under this section against a person unless the person is  
2 given notice and opportunity for a hearing on the record  
3 before the Secretary in accordance with sections 554 and  
4 556 of title 5, United States Code.

5 (d) JUDICIAL REVIEW.—

6 (1) REVIEW.—An order assessing a civil pen-  
7 alty against a person under subsection (a) may be  
8 reviewed only in accordance with this subsection.

9 (2) FINALITY.—The order shall be final and  
10 conclusive unless the person—

11 (A) not later than 30 days after the effec-  
12 tive date of the order, files a petition for judi-  
13 cial review in the United States court of appeals  
14 for the circuit in which the person resides or  
15 has its principal place of business or in the  
16 United States Court of Appeals for the District  
17 of Columbia; and

18 (B) simultaneously sends a copy of the pe-  
19 tition by certified mail to the Secretary.

20 (3) FILING.—The Secretary shall promptly file  
21 in the court a certified copy of the record on which  
22 the violation was found and the civil penalty as-  
23 sessed.

24 (e) COLLECTION ACTION FOR FAILURE TO PAY AS-  
25 SESSMENT.—If a person fails to pay a civil penalty after

1 the order assessing the civil penalty has become final and  
2 unappealable, the Secretary shall refer the matter to the  
3 Attorney General, who shall bring a civil action to recover  
4 the amount of the civil penalty in United States district  
5 court. In the collection action, the validity and appro-  
6 priateness of the order of the Secretary of Agriculture im-  
7 posing the civil penalty shall not be subject to review.

8 (f) REFUSAL OR WITHDRAWAL OF INSPECTION  
9 PENDING PAYMENT.—If a person fails to pay the amount  
10 of a civil penalty after the order assessing the civil penalty  
11 becomes final and unappealable, the Secretary of Agri-  
12 culture may refuse to provide or withdraw inspection  
13 under title I of the Federal Meat Inspection Act or under  
14 the Poultry Products Inspection Act, as the case may be,  
15 until the civil penalty is paid or until the Secretary directs  
16 otherwise.

17 (g) PENALTIES IN LIEU OF OTHER ACTIONS.—Noth-  
18 ing in the Federal Meat Inspection Act or the Poultry  
19 Products Inspection Act requires the Secretary of Agri-  
20 culture to report for prosecution, or for the institution of  
21 an action, a violation of such Act if the Secretary believes  
22 that the public interest will be adequately served by assess-  
23 ment of a civil penalty under this section.

1 (h) ADDITIONAL REMEDIES.—The remedies provided  
2 in this section shall be in addition to any other remedies  
3 that may be available.

4 (i) PERSON DEFINED.—In this section, the term  
5 “person” means any individual, partnership, corporation,  
6 association, or other business unit.

7 **SEC. 3. FEDERAL FOOD, DRUG, AND COSMETIC ACT; CIVIL**  
8 **PENALTIES REGARDING MEAT AND POULTRY.**

9 Section 303 of the Federal Food, Drug, and Cosmetic  
10 Act (21 U.S.C. 333) is amended by adding at the end the  
11 following subsection:

12 “(h)(1) Any person who violates section 301 with re-  
13 spect to meat or poultry shall be liable to the United  
14 States for a civil penalty in an amount not to exceed  
15 \$100,000. In determining the amount of the civil penalty,  
16 the Secretary shall take into account—

17 “(A) the gravity of the violation;

18 “(B) the degree of culpability;

19 “(C) the size and type of the business; and

20 “(D) any history of prior offenses under this  
21 Act with respect to food.

22 “(2) Paragraphs (3) through (5) of subsection (g)  
23 apply with respect to a civil penalty under this subsection  
24 to the same extent and in the same manner as such para-

- 1 graphs (3) through (5) apply with respect to a civil penalty
- 2 under subsection (g).”.

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