

116TH CONGRESS
1ST SESSION

S. 2757

To waive the imposition of a civil fine for certain first-time paperwork violations by small business concerns.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2019

Mr. LANKFORD (for himself, Ms. HASSAN, Mr. RUBIO, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To waive the imposition of a civil fine for certain 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 “Harmless Error Lesser
5 Penalty for Small Businesses Act” or the “HELP for
6 Small Businesses Act”.

7 **SEC. 2. PAPERWORK VIOLATIONS BY SMALL BUSINESSES.**

8 (a) IN GENERAL.—Section 3512 of title 44, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 “(c) SMALL BUSINESSES.—

2 “(1) DEFINITIONS.—In this subsection:

3 “(A) FIRST-TIME VIOLATION.—The term
4 ‘first-time violation’ means a violation by a
5 small business concern of a requirement regard-
6 ing collection of information by an agency,
7 where the small business concern has not pre-
8 viously violated any similar requirement regard-
9 ing collection of information by that agency.

10 “(B) SMALL BUSINESS CONCERN.—The
11 term ‘small business concern’ has the meaning
12 given the term in section 3 of the Small Busi-
13 ness Act (15 U.S.C. 632).

14 “(2) FIRST-TIME VIOLATION.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (C), in the case of a first-time
17 violation by a small business concern of a re-
18 quirement regarding the collection of informa-
19 tion by an agency, the head of the agency shall
20 not impose a civil fine on the small business
21 concern.

22 “(B) DETERMINATION.—For purposes of
23 determining whether to impose a civil fine on a
24 small business concern under subparagraph (A),
25 the head of an agency shall not take into ac-

1 count any violation by the small business con-
2 cern of a requirement regarding collection of in-
3 formation by another agency.

4 “(C) EXCEPTION.—The head of an agency
5 may impose a civil fine on a small business con-
6 cern for a first-time violation if the head of the
7 agency determines that—

8 “(i) the violation has the potential to
9 impede or interfere with the detection of
10 criminal activity;

11 “(ii) the violation is a violation of an
12 internal revenue law or a law concerning
13 the assessment or collection of any tax,
14 debt, revenue, or receipt;

15 “(iii) the violation was not corrected
16 on or before the date that is 180 days
17 after the date on which the head of the
18 agency provided the small business concern
19 with actual notice of the violation in writ-
20 ing; or

21 “(iv) except as provided in paragraph
22 (3), the violation—

23 “(I) presents a danger to the
24 public health or safety; or

1 “(II) has the potential to cause
2 serious harm to the public interest.

3 “(3) DANGER TO PUBLIC HEALTH OR SAFETY
4 OR POTENTIAL HARM TO PUBLIC INTEREST.—

5 “(A) IN GENERAL.—In any case in which
6 the head of an agency determines under para-
7 graph (2)(C)(iv) that a violation presents a
8 danger to the public health or safety or has the
9 potential to cause serious harm to the public in-
10 terest, the head of the agency may determine
11 not to impose a civil fine on the small business
12 concern if the violation is corrected not later
13 than 24 hours after the head of the agency pro-
14 vides the owner of the small business concern
15 with actual notice of the violation in writing.

16 “(B) CONSIDERATIONS.—In determining
17 whether to impose a civil fine under subpara-
18 graph (A), the head of an agency shall take into
19 account the nature and seriousness of the viola-
20 tion, including—

21 “(i) whether the violation is technical
22 or inadvertent or involves willful or crimi-
23 nal conduct; and

24 “(ii) whether the small business con-
25 cern had made a good faith effort to com-

1 ply with applicable laws and to remedy the
2 violation within the 24-hour time period
3 described in that subparagraph.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
5 Section 3512(b) of title 44, United States Code, is amend-
6 ed by striking “this section” and inserting “subsection
7 (a)”.

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