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111TH CONGRESS
1ST SESSION

S. 1116

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

MAY 21, 2009

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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Paperwork Relief Act of 2009''.

SEC. 2. SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS BY SMALL BUSINESS CONCERNS.

Section 3506 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act''), is amended by adding at the end the following:

''(j) SMALL BUSINESSES.—

''(1) SMALL BUSINESS CONCERN.—In this subsection, the term 'small business concern' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

''(2) IN GENERAL.—In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of the agency shall not impose a civil fine on the small business concern unless the head of the agency determines that—

''(A) the violation has the potential to cause serious harm to the public interest;

''(B) failure to impose a civil fine would impede or interfere with the detection of criminal activity;

''(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

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

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

"(3) DANGER TO PUBLIC HEALTH OR SAFETY.—

"(A) IN GENERAL.—In any case in which the head of an agency determines under paragraph (2)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (2)(E), determine not to impose a civil fine on the small business concern if the violation is corrected not later than 24 hours after receipt by the owner of the small business concern of notification of the violation in writing.

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

count all of the facts and circumstances regarding the violation, including—

"(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

"(ii) whether the small business concern has made a good faith effort to comply with applicable laws and to remedy the violation within the shortest practicable period of time; and

"(iii) whether the small business concern has obtained a significant economic benefit from the violation.

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

"(4) LIMITED TO FIRST-TIME VIOLATIONS.—

"(A) IN GENERAL.—This subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by an agency if the small business concern previously violated any requirement regarding collection of information by the agency.

"(B) OTHER AGENCIES.—For purposes of making a determination under subparagraph (A), the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.".

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