

113TH CONGRESS
2D SESSION

H. R. 5791

To increase transparency and provide for judicial review of administrative fines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 4, 2014

Mr. MULLIN (for himself, Mr. SCHOCK, Mr. PERRY, Mr. LUCAS, Mr. COTTON, Mr. RIBBLE, Mr. ROKITA, Mr. HUDSON, Mr. GRAVES of Georgia, Mr. PITTS, and Mr. ROGERS of Alabama) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on the Judiciary, 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 committeeconcerned

A BILL

To increase transparency and provide for judicial review of administrative fines, 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 “Fines in Need of Ex-
5 tensive Reform Act of 2014” or the “FINER Act of
6 2014”.

1 **SEC. 2. ASSESSMENT OF FINES.**

2 (a) **EFFECTIVE DATE OF RULES THAT PROVIDE FOR**
3 **THE ASSESSMENT OF A FINE.**—In the case of a rule that
4 provides for an assessment of a fine for a violation of that
5 rule, the rule may not take effect until the date that is
6 90 days after the date on which the Federal department
7 or agency that made the rule, makes publicly available on
8 the department or agency’s Internet website, the rule, the
9 information relating to the rule described in section 3(c),
10 and any relevant guidance documents relating to the en-
11 forcement of the rule. Any fine assessed pursuant to such
12 a rule before such 90-day period shall be void. The head
13 of such a Federal department or agency may, in consulta-
14 tion with entities to which the rule applies, further delay
15 the assessment of fines pursuant to the rule in order to
16 provide such entities with sufficient time to comply with
17 the requirements of the rule.

18 (b) **PROVISION OF INFORMATION REGARDING THE**
19 **FINE.**—At the time of the assessment of an administrative
20 fine, the Federal department or agency assessing the fine
21 shall provide the person against which the fine is imposed
22 with all relevant information regarding the fine, includ-
23 ing—

24 (1) the rule which the person is charged with
25 violating, and the location of that rule in the Code
26 of Federal Regulations;

1 (2) the facts, based on which the person is
2 charged with violating the rule;

3 (3) the amount of the fine;

4 (4) how the department or agency determined
5 the amount of the fine; and

6 (5) the court date or information described in
7 section 4(b).

8 (c) **ASSIGNMENT OF FINE TO A OFFICER OR EM-**
9 **PLOYEE OF A FEDERAL DEPARTMENT OR AGENCY.**—No
10 fine may be assessed by a Federal department or agency
11 unless there is an officer or employee of such Federal de-
12 partment or agency who is responsible for assessing the
13 fine.

14 **SEC. 3. CONSISTENCY IN ASSESSMENT OF ADMINISTRATIVE**
15 **FINES.**

16 (a) **IN GENERAL.**—The head of a Federal depart-
17 ment or agency shall ensure that administrative fines as-
18 sessed by that department or agency are assessed in a con-
19 sistent manner.

20 (b) **PUBLICATION ON THE INTERNET.**—Not later
21 than 180 days after the enactment of this Act, and annu-
22 ally thereafter, the head of a Federal department or agen-
23 cy that assesses administrative fines shall make publicly
24 available on that department or agency’s Internet website,
25 for any rule for which the department or agency that en-

1 forces the rule may assess an administrative fine for a vio-
2 lation of such rule, the information described in subsection
3 (c) and any relevant guidance documents relating to the
4 enforcement of the rule. The head of a Federal depart-
5 ment or agency that is required to publish information
6 under this subsection shall ensure that the information is
7 published in a searchable, and easily accessible format.

8 (c) PUBLICATION IN THE FEDERAL REGISTER.—Not
9 later than January 1, 2015, and annually thereafter, the
10 head of a Federal department or agency that assesses ad-
11 ministrative fines shall publish in the Federal Register,
12 for any rule for which the department or agency that en-
13 forces the rule may assess an administrative fine for a vio-
14 lation of such rule, detailed information regarding—

15 (1) the location of the rule in the Code of Fed-
16 eral Regulations;

17 (2) information on where persons subject to the
18 rule may direct questions or concerns relating to the
19 rule;

20 (3) the amount of the fine that will be assessed;
21 and

22 (4) the facts that will be considered in the de-
23 termination of, for the rule violation—

24 (A) whether a fine will be assessed; and

1 (B) if a fine will be assessed, the amount
2 of the fine that will be assessed.

3 **SEC. 4. JUDICIAL REVIEW OF ADMINISTRATIVE FINES.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, in any case in which an administrative fine
6 is assessed against a person (as such term is defined in
7 section 1 of title 1, United States Code), that person may
8 pay the fine, or challenge the imposition of the fine in the
9 Federal district court for the district in which that person
10 resides or has a principal place of business, in accordance
11 with this section.

12 (b) COURT DATE.—

13 (1) IN GENERAL.—At the time of the assess-
14 ment of an administrative fine, the Federal depart-
15 ment or agency assessing the fine shall provide the
16 person against which the fine is imposed with—

17 (A) a date on which the person may ap-
18 pear to contest the administrative fine in the
19 Federal district court referred to in subsection
20 (a), as provided by that Federal district court;
21 or

22 (B) information on how the Federal dis-
23 trict court referred to in subsection (a) will—

1 (i) assign the person a date on which
2 the person may appear to contest the ad-
3 ministrative fine; and

4 (ii) notify the person about that date.

5 (2) COURT RULES AND PROCEDURES.—A Fed-
6 eral district court may adopt such rules and proce-
7 dures as may be necessary to hear challenges of ad-
8 ministrative fines in a timely manner, in accordance
9 with this section.

10 (c) PRESENCE OF OFFICER OR EMPLOYEE OF FED-
11 ERAL DEPARTMENT OR AGENCY IN COURT.—In the case
12 of a person contesting an administrative fine pursuant to
13 this section, the officer or employee of the Federal depart-
14 ment or agency who assessed the fine shall be present in
15 court for all proceedings related to the contesting of such
16 fine, or the violation for which the fine was assessed shall
17 be dismissed, and the person against whom the fine was
18 assessed shall not be required to pay such fine. In the case
19 of an officer or employee who, at the time of the court
20 date, is no longer employed by the Federal department
21 or agency, the immediate superior officer or employee shall
22 be present in court for any such court proceedings.

23 (d) PAYMENT OF FINE.—In the case of a person con-
24 testing an administrative fine in Federal court or through
25 alternative dispute resolution pursuant to this section, the

1 person shall not be required to pay the fine until a final
2 judgment is entered that requires the person to pay the
3 fine, and that no additional interest or penalties should
4 accrue while the fine is contested.

5 (e) ALTERNATIVE DISPUTE RESOLUTION.—The en-
6 forcing agency shall provide the opportunity for the person
7 fined to undergo alternative means of dispute resolution,
8 as defined in section 571(3) of title 5, United States Code,
9 by a neutral third party, unless the person contests in
10 Federal district court.

11 (f) COSTS.—A person who contests an administrative
12 fine in court pursuant to this section and prevails, may
13 recover reasonable court costs, including attorney fees.

14 **SEC. 5. DEPOSIT OF ADMINISTRATIVE FINES INTO TREAS-**
15 **URY.**

16 Notwithstanding any other provision of law, in the
17 case of an administrative fine that is paid—

18 (1) except as provided in section 3718(d) of
19 title 31, United States Code, the full amount of the
20 fine shall be deposited into the Treasury; and

21 (2) the fine may not be used to supplement or
22 offset the appropriations of the Federal department
23 or agency that assessed the fine.

1 **SEC. 6. ADMINISTRATIVE FINE DEFINED.**

2 In this Act, the term “administrative fine” means
3 any fine or penalty assessed by a Federal department or
4 agency, but does not include user fees, criminal fines or
5 penalties, or any fine imposed by a court.

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