

114TH CONGRESS  
2D SESSION

# S. 2696

To provide small businesses with a grace period for a regulatory violation,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 16, 2016

Mr. PAUL 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 provide small businesses with a grace period for a  
regulatory violation, 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 “Protect Small Business  
5 Jobs Act of 2016”.

6 **SEC. 2. IN GENERAL.**

7 Section 558 of title 5, United States Code, is amend-  
8 ed by adding at the end the following:

9 “(d) Before any enforcement action is taken on a  
10 sanction on a business for a violation of a rule or pursuant

1 to an adjudication, and subject to subsections (e) and (f),  
2 an agency shall—

3 “(1) not later than 10 business days after the  
4 date on which the agency determines that the sanc-  
5 tion may be imposed on the business, provide notice  
6 to the business that, if the business is a small busi-  
7 ness, the small business may be subject to a sanction  
8 at the end of the grace period described in para-  
9 graph (3);

10 “(2) delay any further action relating to the  
11 sanction until the end of the 15-calendar day period  
12 beginning on the date on which the agency provides  
13 notice under paragraph (1);

14 “(3) for a small business—

15 “(A) delay any further action relating to  
16 the sanction until not earlier than the end of  
17 the 6-month period beginning on the date on  
18 which the agency provides notice under para-  
19 graph (1); and

20 “(B) upon application by the small busi-  
21 ness demonstrating reasonable efforts made in  
22 good faith to remedy the violation or other con-  
23 duct giving rise to the sanction, extend the pe-  
24 riod under subparagraph (A) by 3 months;

1           “(4) after the end of the period described in  
2 paragraph (3), redetermine whether, as of the day  
3 after the end of the period, the small business would  
4 still be subject to the sanction; and

5           “(5) if the agency determines under paragraph  
6 (4) that the small business would not be subject to  
7 the sanction, waive the sanction.

8           “(e) If an agency provides notice described in sub-  
9 section (d)(1) to a business on or after the date that is  
10 11 business days after the date on which the agency deter-  
11 mines that a sanction may be imposed on the business—

12           “(1) if the agency determines that the same  
13 sanction may have been imposed on the business 10  
14 business days before the date of the notice, the  
15 agency shall take further action in accordance with  
16 subsection (d); and

17           “(2) if the agency determines that the same  
18 sanction could not have been imposed on the busi-  
19 ness 10 business days before the date of the notice,  
20 the agency shall waive the sanction and take no fur-  
21 ther action relating to imposition of the sanction.

22           “(f) The period during which further action is de-  
23 layed under subsection (d)—

24           “(1) shall apply to a business only 1 time in re-  
25 lation to any single rule;

1           “(2) until the end of such period, as determined  
2           in accordance with subsection (d), shall apply to ac-  
3           tion by the agency relating to any subsequent viola-  
4           tion of the same rule; and

5           “(3) shall not apply to a violation that puts any  
6           person in imminent danger, within the meaning  
7           given that term under section 13 of the Occupa-  
8           tional Safety and Health Act (29 U.S.C. 662).

9           “(g) Nothing in subsection (d) shall be construed to  
10          prevent a small business from appealing any sanction im-  
11          posed in accordance with the procedures of the agency,  
12          or from seeking review under chapter 7.

13          “(h) Any sanction imposed by an agency on a small  
14          business for any violation of a rule or pursuant to an adju-  
15          dication, absent proof of written notice of the sanction and  
16          the date on which the agency determined that a sanction  
17          may be imposed, or in violation of subsection (d)(3), shall  
18          have no force or effect.

19          “(i) Each agency shall submit to the Ombudsman an  
20          annual report on the implementation of subsection (d), in-  
21          cluding a discussion of the deferral of action relating to  
22          and waiver of sanctions on small businesses.

23          “(j) The Ombudsman shall include in the annual re-  
24          port to Congress required under section 30(b)(2)(C) of the  
25          Small Business Act (15 U.S.C. 657(b)(2)(C)) the agency

1 reports described by subsection (i) and a summary of the  
2 findings.

3 “(k) For purposes of this section—

4 “(1) the term ‘consumer price index’ means the  
5 consumer price index for all urban consumers pub-  
6 lished by the Department of Labor;

7 “(2) the term ‘CPI adjusted gross receipts’  
8 means the amount of gross receipts, divided by the  
9 consumer price index for calendar year 2013, and  
10 multiplied by the consumer price index for the pre-  
11 ceding calendar year, rounded to the nearest mul-  
12 tiple of \$100,000 (or, if midway between multiples  
13 of \$100,000, to the next higher multiple of  
14 \$100,000);

15 “(3) the term ‘Ombudsman’ has the same  
16 meaning given such term in section 30(a) of the  
17 Small Business Act (15 U.S.C. 657(a)); and

18 “(4) term ‘small business’ means any sole pro-  
19 prietorship, partnership, corporation, limited liability  
20 company, or other business entity, that—

21 “(A) had less than \$10,000,000 in gross  
22 receipts in the preceding calendar year;

23 “(B) is a small business concern (as de-  
24 fined in section 3(a) of the Small Business Act  
25 (15 U.S.C. 632(a)));

1           “(C) employed fewer than 200 individuals  
2           in the preceding calendar year; or

3           “(D) had CPI adjusted gross receipts of  
4           less than \$10,000,000 in the preceding calendar  
5           year.”.

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