

104TH CONGRESS
2D SESSION

S. 2096

Entitled the “Environmental Crimes and Enforcement Act of 1996”.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 1996

Mr. LAUTENBERG (for himself, Mr. KERRY, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

Entitled the “Environmental Crimes and Enforcement Act of 1996”.

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 “Environmental Crimes
5 and Enforcement Act of 1996”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) Federal investigation and prosecution of en-
9 vironmental crimes play a critical role in the protec-

1 tion of human health, public safety, and the environ-
2 ment;

3 (2) the effectiveness of environmental criminal
4 enforcement efforts is greatly strengthened by close
5 cooperation and coordination among Federal, State,
6 local, and tribal authorities; and

7 (3) legislation is needed to facilitate Federal in-
8 vestigation and prosecution of environmental crimes
9 and to increase the effectiveness of joint Federal,
10 State, local, and tribal criminal enforcement efforts.

11 **SEC. 3. JOINT FEDERAL, STATE, LOCAL, AND TRIBAL ENVI-**
12 **RONMENTAL ENFORCEMENT.**

13 (a) Chapter 232 of title 18 is amended by adding
14 after section 3673 the following new section 3674:

15 **“§ 3674. Reimbursement of State, local, or tribal gov-**
16 **ernment costs for assistance in Federal**
17 **investigation and prosecution of environ-**
18 **mental crimes**

19 “(a) Upon the motion of the United States, any per-
20 son who is found guilty of a criminal violation of the Fed-
21 eral environmental laws set forth in subsection (b) below,
22 or conspiracy to violate such laws, may be ordered to pay
23 the costs incurred by a State, local, or tribal government
24 or an agency thereof for assistance to the Federal govern-
25 ment’s investigation and criminal prosecution of the case.

1 Such monies shall be paid to the State, local, or tribal
2 government or agency thereof and be used solely for the
3 purpose of environmental law enforcement.

4 “(b) This subsection applies to a violation of any of
5 the following statutes, or conspiracy to violate any of the
6 following statutes:

7 “(1) Section 14(b) of the Federal Insecticide,
8 Fungicide, and Rodenticide Act (7 U.S.C. 136l(b)).

9 “(2) Section 16(b) of the Toxic Substances
10 Control Act (15 U.S.C. 2615(b)).

11 “(3) Sections 10, 12, 13, and 16 of the Rivers
12 and Harbors Appropriations Act of 1899 (33 U.S.C.
13 403, 406, 407, 411).

14 “(4) Sections 309(c) and 311(b)(5) of the Fed-
15 eral Water Pollution Control Act (33 U.S.C.
16 1319(c), 1321(b)(5)).

17 “(5) Section 105(b) of the Marine Protection,
18 Research, and Sanctuaries Act of 1972 (33 U.S.C.
19 1415(b)).

20 “(6) Section 9(a) of the Act to Prevent Pollu-
21 tion from Ships (33 U.S.C. 1908(a)).

22 “(7) Section 4109(c) of the Shore Protection
23 Act of 1988 (33 U.S.C. 2609(c)).

24 “(8) Sections 1423 and 1432 of the Safe
25 Drinking Water Act (42 U.S.C. 300h-2, 300i-1).

1 “(9) Sections 3008(d), 3008(e) and 3008(i) of
 2 the Resource Conservation and Recovery Act of
 3 1976 (42 U.S.C. 6928(d), 6928(e), 6928(i)).

4 “(10) Section 113(c) of the Clean Air Act (42
 5 U.S.C. 7413(c)).

6 “(11) Sections 103(b) and 103(d) of the Com-
 7 prehensive Environmental Response, Compensation,
 8 and Liability Act (42 U.S.C. 9603(b), 9603(d)).

9 “(12) Section 325(b)(4) of the Emergency
 10 Planning and Community Right-to-Know Act of
 11 1986 (42 U.S.C. 11045(b)(4)).

12 “(13) Section 303(a) of the Federal Land Pol-
 13 icy and Management Act of 1976 (43 U.S.C.
 14 1733(a)).

15 “(14) Sections 5124, 60123(a), and 60123(b)
 16 of title 49, United States Code.”.

17 (b) The table of sections of chapter 232 of title 18,
 18 United States Code is amended by adding the following
 19 after the item relating to section 3673:

“3674. Reimbursement of State, local, or tribal government costs for assistance
 in Federal investigation and prosecution of environmental
 crimes.”.

20 **SEC. 4. PROTECTION OF GOVERNMENT EMPLOYEES AND**
 21 **THE PUBLIC.**

22 (a) Chapter 39 of title 18, United States Code, is
 23 amended by adding the following new section:

1 **“§ 838. Protection of government employees and the**
 2 **public from environmental crimes**

3 “(a) Any person who commits a criminal violation of
 4 a Federal environmental law identified in this subsection
 5 that is the direct or proximate cause of serious bodily in-
 6 jury to or death of any other person, including a Federal,
 7 State, local, or tribal government employee performing of-
 8 ficial duties as a result of the violation, shall be subject
 9 to a maximum term of imprisonment of twenty years, a
 10 fine of not more than \$500,000, or both, and, if the de-
 11 fendant is an organization, to a fine of not more than
 12 \$2,000,000. The laws to which this subsection applies
 13 are—

14 “(1) section 309(c)(2), 309(c)(4), or 311(b)(5)
 15 of the Federal Water Pollution Control Act (33
 16 U.S.C. 1319(c)(2), 1319(c)(4), 1321(b)(5));

17 “(2) section 105(b) of the Marine Protection,
 18 Research, and Sanctuaries Act of 1972 (33 U.S.C.
 19 1415(b));

20 “(3) section 1423 or 1432 of the Safe Drinking
 21 Water Act (42 U.S.C. 300h–2, 300i–1);

22 “(4) section 3008(d) of the Resource Conserva-
 23 tion and Recovery Act of 1976 (42 U.S.C. 6928(d));

24 “(5) section 113(c)(1) or 113(c)(2) of the Clean
 25 Air Act (42 U.S.C. 7413(c)(1), 7413(c)(2));

1 “(6) section 103(b) or 103(d) of the Com-
 2 prehensive Response, Compensation, and Liability
 3 Act (42 U.S.C. 9603(b), 9603(d));

4 “(7) section 325(b)(4) of the Emergency Plan-
 5 ning and Community Right-to-Know Act of 1986
 6 (42 U.S.C. 11045(b)(4)); or

7 “(8) section 5124, 60123(a), or 60123(b) of
 8 title 49, United States Code.

9 “(b) Any person who commits a criminal violation of
 10 Federal environmental law identified in this subsection
 11 that is the direct or proximate cause of serious bodily in-
 12 jury to or death of any other person, including a Federal,
 13 State, local, or tribal government employee performing of-
 14 ficial duties as a result of the violation, shall be subject
 15 to a maximum term of imprisonment of five years, a fine
 16 of not more than \$250,000, or both, and, if a defendant
 17 is an organization, to a fine of not more than \$1,000,000.
 18 The laws to which this subsection applies are—

19 “(1) section 14(b) of the Federal Insecticide,
 20 Fungicide, and Rodenticide Act (7 U.S.C. 136l(b));
 21 or

22 “(2) section 16(b) of the Toxic Substances Con-
 23 trol Act (15 U.S.C. 2615(b)).

24 “(c) For purposes of this section, the term ‘serious
 25 bodily injury’ means bodily injury which involves—

1 “(1) unconsciousness;

2 “(2) extreme physical pain;

3 “(3) protracted and obvious disfigurement; or

4 “(4) protracted loss or impairment of the func-
5 tion of a bodily member, organ, or mental faculty.

6 “(d) For purposes of this section, the term ‘organiza-
7 tion’ means a legal entity, other than a government, estab-
8 lished or organized for any purpose, and such term in-
9 cludes a corporation, company, association, firm, partner-
10 ship, joint stock company, foundation, institution, trust,
11 society, union, or any other association of persons.”

12 (b) The table of sections of chapter 39 of title 18,
13 United States Code, is amended by adding the following
14 after the item relating to section 837:

“§ 838. Protection of government employees and the public from environmental
crimes.”.

15 **SEC. 5. ENVIRONMENTAL CRIMES TRAINING FOR STATE,**
16 **LOCAL, AND TRIBAL LAW ENFORCEMENT.**

17 (a) This section may be cited as the “Environmental
18 Crimes Training Act of 1996”.

19 (b) The Administrator of the Environmental Protec-
20 tion Agency, as soon as practicable, within the Office of
21 Enforcement and Compliance Assurance, shall establish
22 the State, Local, and Tribal Environmental Enforcement
23 Training Program to be administered by the National En-
24 forcement Training Institute within the Office of Criminal

1 Enforcement, Forensics and Training. This Program shall
2 be dedicated to training State, local, and tribal law en-
3 forcement personnel in the investigation of environmental
4 crimes at the Federal Law Enforcement Training Center
5 (FLETC) in Glynn County, Georgia at the EPA–FLETC
6 training center or other training sites which are accessible
7 to State, local, and tribal law enforcement. State, local,
8 and tribal law enforcement personnel shall include, among
9 others, the following: inspectors, civil and criminal inves-
10 tigators, technical experts, regulators, government law-
11 yers, and police.

12 **SEC. 6. STATUTE OF LIMITATIONS.**

13 (a) Chapter 213 of title 18, United States Code, is
14 amended by adding after section 3294 the following new
15 section:

16 **“§ 3295. Felony environmental crimes**

17 “(a) No person shall be prosecuted, tried, or punished
18 for a violation of, or a conspiracy to violate, any of the
19 offenses listed in subsection (b) unless the indictment is
20 returned or the information is filed within five years after
21 the offense is committed; however, when a person commits
22 an affirmative act that conceals the offense from any Fed-
23 eral, State, local, or tribal government agency, that person
24 shall not be prosecuted, tried, or punished for a violation
25 of, or a conspiracy to violate, any of the offenses listed

1 below in subsection (b) unless the indictment is returned
2 or the information is filed within five years after the of-
3 fense is committed, or within three years after the offense
4 is discovered by a government agency, whichever is later
5 but in no event later than eight years after the offense
6 is committed.

7 “(b) This section applies to a violation of—

8 “(1) section 309(c)(2), 309(c)(3), 309(c)(4), or
9 311(b)(5) of the Federal Water Pollution Control
10 Act (33 U.S.C. 1319(c)(2), 1319(c)(3), 1319(c)(4),
11 1321(b)(5));

12 “(2) section 105(b) of the Marine Protection,
13 Research, and Sanctuaries Act of 1972 (33 U.S.C.
14 1415(b));

15 “(3) section 9(a) of the Act to Prevent Pollu-
16 tion from Ships (33 U.S.C. 1908(a));

17 “(4) section 4109(c) of the Shore Protection
18 Act of 1988 (33 U.S.C. 2609(c));

19 “(5) section 1423 or 1432 of the Safe Drinking
20 Water Act (42 U.S.C. 300h–2, 300i–1);

21 “(6) section 3008(d) or 3008(e) of the Re-
22 source Conservation and Recovery Act of 1976 (42
23 U.S.C. 6928(d), 6928(e));

1 “(7) section 113(c)(1), 113(c)(2), 113(c)(3), or
 2 113(c)(5) of the Clean Air Act (42 U.S.C.
 3 7413(c)(1), 7413(c)(2), 7413(c)(3), 7413(c)(5));

4 “(8) section 103(b) or 103(d) of the Com-
 5 prehensive Response, Compensation, and Liability
 6 Act (42 U.S.C. 9603(b), 9603(d));

7 “(9) section 325(b)(4) of the Emergency Plan-
 8 ning and Community Right-to-Know Act of 1986
 9 (42 U.S.C. 11045(b)(4)); or

10 “(10) section 5124, 60123(a), or 60123(b) of
 11 title 49, United States Code.”.

12 (b) The table of sections of chapter 213 of title 18,
 13 United States Code, is amended by adding after the item
 14 referring to section 3294 the following new item:

“§ 3295. Felony environmental crimes.”.

15 **SEC. 7. ATTEMPTS.**

16 (a) Section 14(b) of the Federal Insecticide, Fun-
 17 gicide, and Rodenticide Act (7 U.S.C. 1361(b)) is amend-
 18 ed by adding a new paragraph 14(b)(5):

19 “(5) **ATTEMPTS.**—Any person who attempts to
 20 commit the conduct that constitutes an offense
 21 under paragraph (1) of this subsection shall be sub-
 22 ject to the same penalties as those prescribed for
 23 such an offense.”.

1 (b) Section 16(b) of the Toxic Substances Control Act
2 (15 U.S.C. 2615(b)), is amended by inserting “(1)” before
3 “Any” and by adding the following new paragraph:

4 “(2) Any person who attempts to commit the
5 conduct that constitutes any offense under para-
6 graph (1) of this subsection shall be subject to the
7 same penalties as those prescribed for such of-
8 fense.”.

9 (c) Section 309(c) of the Federal Water Pollution
10 Control Act (33 U.S.C. 1319(c)), is amended by adding
11 after paragraph (7) the following new paragraph
12 309(c)(8):

13 “(8) Any person who attempts to commit the
14 conduct that constitutes any offense under para-
15 graphs (2), (3), or (4) of this subsection shall be
16 subject to the same penalties as those prescribed for
17 such offense.”.

18 (d) Section 105(b) of the Marine Protection, Re-
19 search, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)),
20 is amended by striking “and” at the end of paragraph (1),
21 striking the period at the end of (2)(B), and inserting “;
22 and”, and adding after paragraph (2) the following new
23 paragraph:

24 “(3) Any person who attempts to commit the
25 conduct that constitutes any offense under para-

1 graph (1) of this subsection shall be subject to the
2 same penalties as those prescribed for such of-
3 fense.”.

4 (e) Section 9(a) of the Act to Prevent Pollution from
5 Ships (33 U.S.C. 1908(a)), is amended by inserting “(1)”
6 before “(A)” and by adding the following new paragraph:

7 “(2) Any person who attempts to commit the
8 conduct that constitutes any offense under para-
9 graph (1) of this subsection shall be subject to the
10 same penalties as those prescribed for such of-
11 fense.”.

12 (f) Section 3008 of the Resource Conservation and
13 Recovery Act of 1976 (42 U.S.C. 6928), is amended by
14 adding after subsection 3008(h) the following new sub-
15 section—

16 “(i) Any person who attempts to commit the conduct
17 that constitutes any offense under subsections (d) or (e)
18 of this section shall be subject to the same penalties as
19 those prescribed for such offense.”.

20 (g) Section 113(c) of the Clean Air Act (42 U.S.C.
21 7413(c)), is amended by adding after paragraph 6 the fol-
22 lowing new paragraph:

23 “(7) Any person who attempts to commit the
24 conduct that constitutes any offense under sub-
25 sections (1), (2), or (3) of this section shall be sub-

1 ject to the same penalties as those prescribed for
2 such offense.”.

3 **SEC. 8. ENVIRONMENTAL CRIMES RESTITUTION.**

4 (a) Section 3663(a)(1) of title 18, United States
5 Code, is amended by striking “or” before “section 46312”
6 and inserting “or an environmental crime listed in section
7 3674 of this title,” after “section 3663A(c),”.

8 (b) Subsection 3663(b) of title 18, United States
9 Code, is amended by striking “and” at the end of para-
10 graph (4), striking the period at the end of paragraph (5)
11 and inserting “; and”, and adding after paragraph (5) the
12 following new paragraph—

13 “(6) in the case of an offense resulting in pollu-
14 tion of or damage to the environment, pay for re-
15 moval and remediation of the environmental pollu-
16 tion or damage and restoration of the environment,
17 to the extent of the pollution or damage resulting
18 from the offense; in such a case, the term ‘victim’
19 in section 3663(a)(2) includes a community or com-
20 munities, whether or not the members are individ-
21 ually identified.”.

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