

110TH CONGRESS  
1ST SESSION

# S. 863

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

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## IN THE SENATE OF THE UNITED STATES

MARCH 13, 2007

Mr. SESSIONS (for himself, Ms. LANDRIEU, Mr. VITTER, Mr. CORNYN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, with respect to fraud in connection with major disaster or emergency funds.

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 “Emergency and Dis-  
5       aster Assistance Fraud Penalty Enhancement Act of  
6       2007”.

1 **SEC. 2. FRAUD IN CONNECTION WITH MAJOR DISASTER OR**  
2 **EMERGENCY BENEFITS.**

3 (a) IN GENERAL.—Chapter 47 of title 18, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 **“§ 1040. Fraud in connection with major disaster or**  
7 **emergency benefits**

8 “(a) Whoever, in a circumstance described in sub-  
9 section (b) of this section, knowingly—

10 “(1) falsifies, conceals, or covers up by any  
11 trick, scheme, or device any material fact; or

12 “(2) makes any materially false, fictitious, or  
13 fraudulent statement or representation, or makes or  
14 uses any false writing or document knowing the  
15 same to contain any materially false, fictitious, or  
16 fraudulent statement or representation,

17 in any matter involving any benefit authorized, trans-  
18 ported, transmitted, transferred, disbursed, or paid in con-  
19 nection with a major disaster declaration under section  
20 401 of the Robert T. Stafford Disaster Relief and Emer-  
21 gency Assistance Act (42 U.S.C. 5170) or an emergency  
22 declaration under section 501 of the Robert T. Stafford  
23 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
24 5191), or in connection with any procurement of property  
25 or services related to any emergency or major disaster dec-  
26 laration as a prime contractor with the United States or

1 as a subcontractor or supplier on a contract in which there  
2 is a prime contract with the United States, shall be fined  
3 under this title, imprisoned not more than 30 years, or  
4 both.

5 “(b) A circumstance described in this subsection is  
6 any instance where—

7 “(1) the authorization, transportation, trans-  
8 mission, transfer, disbursement, or payment of the  
9 benefit is in or affects interstate or foreign com-  
10 merce;

11 “(2) the benefit is transported in the mail at  
12 any point in the authorization, transportation, trans-  
13 mission, transfer, disbursement, or payment of that  
14 benefit; or

15 “(3) the benefit is a record, voucher, payment,  
16 money, or thing of value of the United States, or of  
17 any department or agency thereof.

18 “(c) In this section, the term ‘benefit’ means any  
19 record, voucher, payment, money or thing of value, good,  
20 service, right, or privilege provided by the United States,  
21 a State or local government, or other entity.”.

22 (b) CLERICAL AMENDMENT.—The table of sections  
23 for chapter 47 of title 18, United States Code, is amended  
24 by adding at the end the following new item:

“1040. Fraud in connection with major disaster or emergency benefits.”.

1 **SEC. 3. INCREASED CRIMINAL PENALTIES FOR ENGAGING**  
2 **IN WIRE, RADIO, AND TELEVISION FRAUD**  
3 **DURING AND RELATION TO A PRESI-**  
4 **DENTIALLY DECLARED MAJOR DISASTER OR**  
5 **EMERGENCY.**

6 Section 1343 of title 18, United States Code, is  
7 amended by inserting: “occurs in relation to, or involving  
8 any benefit authorized, transported, transmitted, trans-  
9 ferred, disbursed, or paid in connection with, a presi-  
10 dentially declared major disaster or emergency (as those  
11 terms are defined in section 102 of the Robert T. Stafford  
12 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
13 5122)), or” after “If the violation”.

14 **SEC. 4. INCREASED CRIMINAL PENALTIES FOR ENGAGING**  
15 **IN MAIL FRAUD DURING AND RELATION TO A**  
16 **PRESIDENTIALLY DECLARED MAJOR DIS-**  
17 **ASTER OR EMERGENCY.**

18 Section 1341 of title 18, United States Code, is  
19 amended by inserting: “occurs in relation to, or involving  
20 any benefit authorized, transported, transmitted, trans-  
21 ferred, disbursed, or paid in connection with, a presi-  
22 dentially declared major disaster or emergency (as those  
23 terms are defined in section 102 of the Robert T. Stafford  
24 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
25 5122)), or” after “If the violation”.

1 **SEC. 5. DIRECTIVE TO SENTENCING COMMISSION.**

2 (a) IN GENERAL.—Pursuant to its authority under  
3 section 994(p) of title 28, United States Code, and in ac-  
4 cordance with this section, the United States Sentencing  
5 Commission forthwith shall—

6 (1) promulgate sentencing guidelines or amend  
7 existing sentencing guidelines to provide for in-  
8 creased penalties for persons convicted of fraud or  
9 theft offenses in connection with a major disaster  
10 declaration under section 401 of the Robert T. Staf-  
11 ford Disaster Relief and Emergency Assistance Act  
12 (42 U.S.C. 5170) or an emergency declaration under  
13 section 501 of the Robert T. Stafford Disaster Relief  
14 and Emergency Assistance Act (42 U.S.C. 5191);  
15 and

16 (2) submit to the Committee on the Judiciary  
17 of the Senate and the Committee on the Judiciary  
18 of the House of Representatives an explanation of  
19 actions taken by the Commission pursuant to para-  
20 graph (1) and any additional policy recommenda-  
21 tions the Commission may have for combating of-  
22 fenses described in that paragraph.

23 (b) REQUIREMENTS.—In carrying out this section,  
24 the Sentencing Commission shall—

25 (1) ensure that the sentencing guidelines and  
26 policy statements reflect the serious nature of the of-

1 offenses described in subsection (a) and the need for  
2 aggressive and appropriate law enforcement action  
3 to prevent such offenses;

4 (2) assure reasonable consistency with other  
5 relevant directives and with other guidelines;

6 (3) account for any aggravating or mitigating  
7 circumstances that might justify exceptions, includ-  
8 ing circumstances for which the sentencing guide-  
9 lines currently provide sentencing enhancements;

10 (4) make any necessary conforming changes to  
11 the sentencing guidelines; and

12 (5) assure that the guidelines adequately meet  
13 the purposes of sentencing as set forth in section  
14 3553(a)(2) of title 18, United States Code.

15 (c) EMERGENCY AUTHORITY AND DEADLINE FOR  
16 COMMISSION ACTION.—The Commission shall promulgate  
17 the guidelines or amendments provided for under this sec-  
18 tion as soon as practicable, and in any event not later than  
19 the 30 days after the date of enactment of this Act, in  
20 accordance with the procedures set forth in section 21(a)  
21 of the Sentencing Reform Act of 1987, as though the au-  
22 thority under that Act had not expired.

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