

Union Calendar No. 361

100TH CONGRESS
2D SESSION

H. R. 3911

[Report No. 100-610]

To amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1988

Mr. HUGHES (for himself, Mr. McCOLLUM, Mr. MAZZOLI, Mr. CROCKETT, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. STAGGERS, Mr. SMITH of Texas, Mr. SHAW, Mr. GEKAS, Mr. HERTEL, and Mr. BRYANT) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 9, 1988

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out: all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Major Fraud Act of
3 1988".

4 SEC. 2. CHAPTER 47 AMENDMENT.

5 (a) IN GENERAL.—Chapter 47 of title 18, United
6 States Code, is amended by adding at the end the following:
7 "§ 1031. Major fraud against the United States

8 "(a) Whoever knowingly executes, or attempts to exe-
9 cute any scheme or artifice—

10 "(1) to defraud the United States; or

11 "(2) to obtain money or property from the United
12 States by means of false or fraudulent pretenses, repre-
13 sentations, or promises;

14 in any procurement of property or services for the Govern-
15 ment, if the value of the contract for such property or serv-
16 ices is \$1,000,000 or more, shall be fined under this title or
17 imprisoned not more than 7 years, or both. The fine imposed
18 for an offense under this section may exceed the maximum
19 otherwise provided by law, if such fine does not exceed twice
20 the value of such contract and the amount of the fraud is
21 substantial in relation to the value of such contract. A pros-
22 ecution of an offense under this section may be commenced
23 any time not later than 7 years after the offense is commit-
24 ted.

25 "(b) Upon application by the Attorney General, the
26 court may order a payment from a criminal fine under this

1 section to an individual who furnished information leading to
 2 the conviction under this section. The amount of such pay-
 3 ment shall not exceed \$250,000. An officer or employee of a
 4 government who furnishes information or renders service in
 5 the performance of official duties is not eligible for a payment
 6 under this subsection.

7 “(e) Any individual who is discharged, demoted, sus-
 8 pended, threatened, harassed, or in any other manner dis-
 9 criminated against in the terms and conditions of employment
 10 by an employer because of lawful acts done by the employee
 11 on behalf of the employee or others in furtherance of a pros-
 12 ecution under this section (including investigation for, initi-
 13 ation of, testimony for, or assistance in such a prosecution)
 14 may, in a civil action, obtain all relief necessary to make such
 15 individual whole. Such relief shall include reinstatement with
 16 the same seniority status such individual would have had but
 17 for the discrimination; 2 times the amount of back pay; inter-
 18 est on the back pay; and compensation for any special dam-
 19 ages sustained as a result of the discrimination, including liti-
 20 gation costs and reasonable attorneys’ fees.”

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

“4024. Major fraud against the United States.”

1 SECTION 1. SHORT TITLE.

2 *This Act may be cited as the "Major Fraud Act of*
3 *1988".*

4 SEC. 2. CHAPTER 47 AMENDMENT.

5 (a) *IN GENERAL.*—Chapter 47 of title 18, United
6 States Code, is amended by adding at the end the following:

7 *"§ 1031. Major fraud against the United States*

8 “(a) *Whoever knowingly executes, or attempts to exe-*
9 *cute, any scheme or artifice—*

10 *“(1) to defraud the United States; or*

11 *“(2) to obtain money or property from the United*

12 *States by means of false or fraudulent pretenses, repre-*

13 *sentations, or promises;*

14 *in any procurement of property or services for the Govern-*

15 *ment, if the value of the contract for such property or services*

16 *is \$1,000,000 or more, shall be fined under this title or im-*

17 *prisoned not more than 10 years, or both.*

18 “(b) *If the offense involves a foreseeable and substantial*

19 *risk of personal injury, the term of imprisonment imposed*

20 *under subsection (a) of this section shall not be less than 2*

21 *years. The fine imposed for an offense under this section may*

22 *exceed the maximum otherwise provided by law, if such fine*

23 *does not exceed \$10,000,000 and—*

24 *“(1) the amount of the fraud is substantial in re-*

25 *lation to the value of such contract and the gross loss to*

1 *the Government or the gross gain to a defendant is*
2 *\$250,000 or greater; or*

3 *“(2) the offense involves a foreseeable and sub-*
4 *stantial risk of personal injury.*

5 *“(c) A prosecution of an offense under this section may*
6 *be commenced any time not later than 7 years after the*
7 *offense is committed.*

8 *“(d)(1) Upon application by the Attorney General, the*
9 *court may order a payment from a criminal fine under this*
10 *section to an individual who furnished information leading to*
11 *the conviction under this section. The amount of such pay-*
12 *ment shall not exceed \$250,000.*

13 *“(2) An individual is not eligible for such a payment*
14 *if—*

15 *“(A) that individual is an officer or employee of a*
16 *government who furnishes information or renders serv-*
17 *ice in the performance of official duties;*

18 *“(B) that individual failed to furnish the informa-*
19 *tion in a timely manner to the individual's employer,*
20 *unless the court determines the individual had justifi-*
21 *able reasons for that failure; or*

22 *“(C) that individual participated in the violation*
23 *of this section with respect to which such payment*
24 *would be made.*

1 “(e) Any individual who is discharged, demoted, sus-
2 pended, threatened, harassed, or in any other manner dis-
3 criminated against in the terms and conditions of employ-
4 ment by an employer because of lawful acts done by the em-
5 ployee on behalf of the employee or others in furtherance of a
6 prosecution under this section (including investigation for,
7 initiation of, testimony for, or assistance in such a prosecu-
8 tion) may, in a civil action, obtain all relief necessary to
9 make such individual whole. Such relief shall include rein-
10 statement with the same seniority status such individual
11 would have had but for the discrimination, 2 times the
12 amount of back pay, interest on the back pay, and compensa-
13 tion for any special damages sustained as a result of the
14 discrimination, including litigation costs and reasonable
15 attorneys' fees.”.

16 (b) *CLERICAL AMENDMENT.*—The table of sections at
17 the beginning of chapter 47 of title 18, United States Code,
18 is amended by adding at the end the following new item:
“1031. Major fraud against the United States.”.