

# Union Calendar No. 261

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4356

[Report No. 109-473]

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 HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2005

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

MAY 19, 2006

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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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       2005”.

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 **“§ 1039. 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 Disaster Relief Act of 1974, or an emergency  
21 declaration under section 501 of the Disaster Relief Act  
22 of 1974, or in connection with any procurement of prop-  
23 erty or services related to any emergency or disaster dec-  
24 laration as a prime contractor with the United States or  
25 as a subcontractor or supplier on a contract in which there  
26 is a prime contract with the United States, shall be fined

1 under this title, imprisoned for not more than 30 years,  
2 or both.

3 “(b) The circumstance to which subsection (a) of this  
4 section refers is that—

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

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

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

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

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

“1039. 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, or” after  
11 “If the violation”.

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

16 Section 1341 of title 18, United States Code, is  
17 amended by inserting: “occurs in relation to, or involving  
18 any benefit authorized, transported, transmitted, trans-  
19 ferred, disbursed, or paid in connection with, a presi-  
20 dentially declared major disaster or emergency, or” after  
21 “If the violation”.

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

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

1           (1) promulgate sentencing guidelines or amend  
2 existing sentencing guidelines to provide for in-  
3 creased penalties for persons convicted of fraud or  
4 theft offenses in connection with a major disaster  
5 declaration under section 5170 of title 42, United  
6 States Code, or an emergency declaration under sec-  
7 tion 5191 of title 42, United States Code; and

8           (2) submit to the Committees on the Judiciary  
9 of the United States Congress an explanation of ac-  
10 tions taken by the Commission pursuant to para-  
11 graph (1) and any additional policy recommenda-  
12 tions the Commission may have for combating of-  
13 fenses described in that paragraph.

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

16           (1) ensure that the sentencing guidelines and  
17 policy statements reflect the serious nature of the of-  
18 fenses described in subsection (a) and the need for  
19 aggressive and appropriate law enforcement action  
20 to prevent such offenses;

21           (2) assure reasonable consistency with other  
22 relevant directives and with other guidelines;

23           (3) account for any aggravating or mitigating  
24 circumstances that might justify exceptions, includ-

1       ing circumstances for which the sentencing guide-  
2       lines currently provide sentencing enhancements;

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

5           (5) assure that the guidelines adequately meet  
6       the purposes of sentencing as set forth in section  
7       3553(a)(2) of title 18, United States Code.

8       (c) EMERGENCY AUTHORITY AND DEADLINE FOR  
9       COMMISSION ACTION.—The Commission shall promulgate  
10      the guidelines or amendments provided for under this sec-  
11      tion as soon as practicable, and in any event not later than  
12      the 30 days after the date of the enactment of this Act,  
13      in accordance with the procedures set forth in section  
14      21(a) of the Sentencing Reform Act of 1987, as though  
15      the authority under that Act had not expired.



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