

## "Food safety" crimes and you

This section of HR 875 would apply to you. Penalties would be "administered" by Monsanto.

### **SEC. 405. CIVIL AND CRIMINAL PENALTIES.**

#### (a) Civil Sanctions-

##### (1) CIVIL PENALTY-

(A) IN GENERAL- Any person that commits an act that violates the food safety law (including a regulation promulgated or order issued under the food safety law) may be assessed a civil penalty by the Administrator of not more than \$1,000,000 for each such act.

(B) SEPARATE OFFENSE- Each act described in subparagraph (A) and each day during which that act continues shall be considered a separate offense.

##### (2) OTHER REQUIREMENTS-

(A) WRITTEN ORDER- The civil penalty described in paragraph (1) shall be assessed by the Administrator by a written order, which shall specify the amount of the penalty and the basis for the penalty under subparagraph (B) considered by the Administrator.

(B) AMOUNT OF PENALTY- Subject to paragraph (1)(A), the amount of the civil penalty shall be determined by the Administrator, after considering--

(i) the gravity of the violation;

(ii) the degree of culpability of the person;

(iii) the size and type of the business of the person;  
and

(iv) any history of prior offenses by the person under the food safety law.

(C) REVIEW OF ORDER- The order may be reviewed only in accordance with subsection (c).

(b) Criminal Sanctions-

(1) OFFENSE RESULTING IN SERIOUS ILLNESS-

Notwithstanding section 303(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)), if a violation of any provision of section 301 of such Act (21 U.S.C. 301) with respect to an adulterated or misbranded food results in serious illness, the person committing the violation shall be imprisoned for not more than 5 years, fined in accordance with title 18, United States Code, or both.

(2) OFFENSE RESULTING IN DEATH- Notwithstanding section 303(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)), if a violation of any provision of section 301 of such Act (21 U.S.C. 331) with respect to an adulterated or misbranded food results in death, the person committing the violation shall be imprisoned for not more than 10 years, fined in accordance with title 18, United States Code, or both.

(c) Judicial Review-

(1) IN GENERAL- An order assessing a civil penalty against a person under subsection (a) shall be a final order unless the person--

(A) not later than 30 days after the effective date of the order, files a petition for judicial review of the order in the United States court of appeals for the circuit in which that person resides or has its principal place of business or the United States Court of Appeals for the District of Columbia; and

(B) simultaneously serves a copy of the petition by certified mail to the Administrator.

(2) FILING OF RECORD- Not later than 45 days after the service of a copy of the petition under paragraph (1)(B), the Administrator shall file in the court a certified copy of the administrative record upon which the order was issued.

(3) *STANDARD OF REVIEW- The findings of the Administrator relating to the order shall be **set aside only if found to be unsupported by substantial evidence on the record as a whole.***

(d) Collection Actions for Failure To Pay-

(1) IN GENERAL- If any person fails to pay a civil penalty assessed under subsection (a) after the order assessing the penalty has become a final order, or after the court of appeals described in subsection (b) has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall institute in a United States district court of competent jurisdiction a civil action to recover the amount assessed.

**(2) LIMITATION ON REVIEW- In a civil action under paragraph (1), the validity and appropriateness of the order of the Administrator assessing the civil penalty shall not be subject to judicial review.**

(e) Penalties Paid Into Account- The Administrator--

(1) shall deposit penalties collected under this section in an account in the Treasury; and

(2) *may use the funds in the account, without further appropriation or fiscal year limitation--*

*(A) to carry out enforcement activities under the food safety law; or*

***(B) to provide assistance to States to inspect retail commercial food establishments or other food or firms under the jurisdiction of State food safety programs.***

(f) Discretion of the Administrator To Prosecute- Nothing in this Act requires the Administrator to report for prosecution, or for the commencement of an action, the violation of the food safety law in a case in which the Administrator finds that the public interest will be adequately served by the assessment of a civil penalty under this section.

***(g) Remedies Not Exclusive- The remedies provided in this section are in addition to, and not exclusive of, other remedies that may be available.***