



**Legislative Bulletin.....July 16, 2002**

**Contents:**

**H.R. 5118**—Corporate Fraud Accountability Act

---

**H.R. 5118—Corporate Fraud Accountability Act (Sensenbrenner)**

**Order of Business:** The bill is scheduled to be considered today, July 16<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 5118 would provide for increased penalties for accounting and auditing improprieties at publicly traded companies. Specifically, the bill would increase the maximum jail terms for mail and wire fraud from five years to 20 years and would create a new 25-year maximum prison term for securities fraud (intentionally defrauding a person in connection with a security or obtaining money from the purchase or sale of a security based on false pretenses).

Other provisions of H.R. 5118 include the following:

- Corruptly altering, destroying, mutilating, or concealing a record or document with the intent to impair an official proceeding or otherwise obstructing such proceeding would carry a 20-year maximum prison term.
- The U.S. Sentencing Commission would be directed to consider the promulgation of new sentencing guidelines or changes to existing guidelines regarding securities and accounting fraud and related offenses.
- Any debts incurred in violation of securities laws would be nondischargeable.
- The careless failure of top corporate officers to certify periodic financial reports in writing would trigger up to ten years in prison and/or a \$1 million fine.
- The willful failure of top corporate officers to certify periodic financial reports in writing would trigger up to 20 years in prison and/or a \$5 million fine.
- Attempts and conspiracies to commit *any* federal offense would be subject to the same penalties as if the offense had actually been committed.

- In general, willful and criminal violations of securities laws would carry a new maximum fine of \$5 million (up from \$1 million) and a new maximum prison-term of 20 years (up from ten years). If the violator is not an American citizen, the fine would increase to \$25 million.
- The SEC would be authorized, during the course of a securities investigation, to petition a federal district court for a temporary freeze on payments to officers and employees of the issuer of such security under investigation.
- The SEC would be authorized in any cease-and-desist proceeding to prohibit persons from serving as officers or directors of any issuer as the SEC sees fit.

**Additional Background:** On April 24, 2002, the House passed H.R. 3763 (the Corporate and Auditing Accountability, Responsibility, and Transparency Act) by a vote of 334-90. To read the provisions of this legislation, visit this website:

<http://www.house.gov/burton/RSC/Lb42402.pdf>

To view the roll-call for H.R. 3763, visit this website:

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=110>

**Cost to Taxpayers:** A CBO cost estimate for H.R. 5118 is unavailable.

**Does the Bill Create New Federal Programs or Rules?:** Yes, the bill would adjust and create new penalties for securities violations.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

**Staff Contact:** Paul Teller, [paul.teller@mail.house.gov](mailto:paul.teller@mail.house.gov), (202) 226-9718