

**AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 4310
OFFERED BY MR. COFFMAN OF COLORADO**

Page 709, beginning on line 10, strike section 1681 and insert the following (and redesignate provisions accordingly):

1 SEC. 1681. INCREASED PENALTIES FOR FRAUD.

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

5 **“SEC. 1041. Misrepresentation of status as a small business con-**
6 **cern**

7 “(a) In General- Whoever knowingly—

8 “(1) falsifies, conceals, or covers up by any
9 trick, scheme, or device a material fact;

10 “(2) makes any materially false, fictitious, or
11 fraudulent statement or representation; or

12 “(3) makes or uses any false writing or docu-
13 ment, including electronically, knowing the same to
14 contain any materially false, fictitious, or fraudulent
15 statement or entry;

16 concerning status as a small business concern or compli-
17 ance with the requirements of the Small Business Act in

1 an effort to obtain, retain, or complete a federal govern-
2 ment contract shall be fined \$1,000,000 or in a sum equal
3 to twice the amount or value of goods or services under
4 the contract or order, whichever is greater, imprisoned not
5 more than 5 years, or both.”.

6 (b) **TECHNICAL AMENDMENT.**—The table of sections
7 for such chapter is amended by inserting after the item
8 relating to the following section:

“1041. Misrepresentation of status as a small business concern”.

9 **SEC. 1682. SAFE HARBOR FOR GOOD FAITH COMPLIANCE**
10 **EFFORTS.**

11 (a) **SMALL BUSINESS FRAUD.**—Section 16(d) of the
12 Small Business Act (15 U.S.C. 16(d)) is amended by in-
13 serting after paragraph (2) the following:

14 “(3) This subsection shall not apply to any con-
15 duct in violation of subsection (a) if the defendant
16 acted in reliance on a written advisory opinion from
17 a licensed attorney who is not an employee of the de-
18 fendant.”.

19 (b) **MISREPRESENTATION OF STATUS.**—Section 1041
20 of title 18, United States Code, as added by section 2 of
21 this Act, is amended by inserting after subsection (a) the
22 following:

23 “(b) **Exception-** This section shall not apply to any
24 conduct in violation of paragraph (2) or (3) of subsection
25 (a) if the defendant acted in reliance on a written advisory

1 opinion from a licensed attorney who is not an employee
2 of the defendant.”.

3 (c) REGULATIONS.—Not later than 270 days after
4 the date of enactment of this Act, the Administrator of
5 the Small Business Administration shall issue rules defin-
6 ing what constitutes an adequate advisory opinion for pur-
7 poses of section 16(d)(3) of the Small Business Act.

8 (d) SMALL BUSINESS COMPLIANCE GUIDE.—Not
9 later than 270 days after the date of enactment of this
10 Act, the Administrator of the Small Business Administra-
11 tion shall issue (pursuant to section 212 of the Small
12 Business Regulatory Enforcement Fairness Act of 1996)
13 a compliance guide to assist business concerns in accu-
14 rately determining their status as a small business con-
15 cern.

