

118TH CONGRESS
1ST SESSION

S. 1431

To require agencies to publish a reference to the specific provision of law, including any relevant statutory language, under which agency rules are proposed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3, 2023

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require agencies to publish a reference to the specific provision of law, including any relevant statutory language, under which agency rules are proposed, and for other purposes.

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 “Agency Accountability
5 Act of 2023”.

1 **SEC. 2. STATUTORY AUTHORITY FOR RULEMAKING.**

2 (a) DEFINITIONS.—In this section, the terms “agen-
3 cy” and “rule” have the meanings given those terms in
4 section 551 of title 5, United States Code.

5 (b) STATUTORY AUTHORITY FOR RULEMAKING.—
6 Section 553 of title 5, United States Code, is amended—

7 (1) in subsection (b)—

8 (A) by amending paragraph (2) to read as
9 follows:

10 “(2) a reference to—

11 “(A) the specific provision of law that pro-
12 vides the agency with regulatory authority over
13 the subject matter area affected by the rule;
14 and

15 “(B) the specific provision of law, includ-
16 ing any relevant statutory language, under
17 which the rule is proposed;”; and

18 (B) in paragraph (3)(B), by inserting “and
19 the specific references described in paragraph
20 (2)” after “therefor”; and

21 (2) by adding at the end the following:

22 “(f) When publishing a final rule in the Federal Reg-
23 ister, including any rule for which a notice of proposed
24 rulemaking is not required to be published, an agency
25 shall include the references described in subsection
26 (b)(2).”.

1 (c) NOTICE REGARDING STATUTORY AUTHORITY.—
2 If an agency imposes a fine or other penalty on an indi-
3 vidual related to the violation of a rule, the agency shall
4 inform the individual of the specific statutory provision of
5 law that forms the basis of the rule that the individual
6 is accused of violating.

7 (d) AFFIRMATIVE DEFENSE.—It shall be an affirma-
8 tive defense against an alleged violation of a rule for a
9 defendant in any administrative proceeding of an agency,
10 or before a court of the United States, if an individual
11 of ordinary intelligence could not anticipate from the stat-
12 utory language of a provision of law purported to form
13 the basis for the rule in question that the conduct of the
14 individual would be unlawful.

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