

H. R. 13650

[Report No. 1327]

IN THE SENATE OF THE UNITED STATES

JUNE 7, 1966

Read twice and referred to the Committee on the Judiciary

JUNE 24, 1966

Reported by Mr. ERVIN, without amendment

AN ACT

To amend the Federal Tort Claims Act to authorize increased agency consideration of tort claims against the Government, 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 (a) That the first paragraph of section 2672 of title 28,
4 United States Code, is amended to read as follows:

5 "The head of each Federal agency or his designee, in
6 accordance with regulations prescribed by the Attorney Gen-
7 eral, may consider, ascertain, adjust, determine, compromise,
8 and settle any claim for money damages against the United
9 States for injury or loss of property or personal injury or
10 death caused by the negligent or wrongful act or omission

1 of any employee of the agency while acting within the scope
2 of his office or employment, under circumstances where the
3 United States, if a private person, would be liable to the
4 claimant in accordance with the law of the place where the
5 act or omission occurred: *Provided*, That any award, com-
6 promise, or settlement in excess of \$25,000 shall be effected
7 only with the prior written approval of the Attorney General
8 or his designee.”

9 (b) The second paragraph of section 2672 of title 28,
10 United States Code, is amended to read as follows:

11 “Subject to the provisions of this title relating to civil
12 actions on tort claims against the United States, any such
13 award, compromise, settlement, or determination shall be
14 final and conclusive on all officers of the Government, except
15 when procured by means of fraud.”

16 (c) The third paragraph of section 2672 of title 28,
17 United States Code, is amended to read as follows:

18 “Any award, compromise, or settlement in an amount of
19 \$2,500 or less made pursuant to this section shall be paid by
20 the head of the Federal agency concerned out of appropria-
21 tions available to that agency. Payment of any award, com-
22 promise, or settlement in an amount in excess of \$2,500
23 made pursuant to this section or made by the Attorney
24 General in any amount pursuant to section 2677 of this
25 title shall be paid in a manner similar to judgments and

1 compromises in like causes and appropriations or funds
2 available for the payment of such judgments and compro-
3 mises are hereby made available for the payment of awards,
4 compromises, or settlements under this chapter.”

5 SEC. 2. (a) Subsection (a) of section 2675 of title 28,
6 United States Code, is amended to read as follows:

7 “(a) An action shall not be instituted upon a claim
8 against the United States for money damages for injury or
9 loss of property or personal injury or death caused by the
10 negligent or wrongful act or omission of any employee of
11 the Government while acting within the scope of his office
12 or employment, unless the claimant shall have first presented
13 the claim to the appropriate Federal agency and his claim
14 shall have been finally denied by the agency in writing and
15 sent by certified or registered mail. The failure of an agency
16 to make final disposition of a claim within six months after
17 it is filed shall, at the option of the claimant any time there-
18 after, be deemed a final denial of the claim for purposes of
19 this section. The provisions of this subsection shall not apply
20 to such claims as may be asserted under the Federal Rules
21 of Civil Procedure by third party complaint, cross-claim,
22 or counterclaim.”

23 (b) Subsection (b) of section 2675 of title 28, United
24 States Code, is amended by deleting the first sentence thereof.

1 SEC. 3. Section 2677 of title 28, United States Code, is
2 amended to read as follows:

3 “The Attorney General or his designee may arbitrate,
4 compromise, or settle any claim cognizable under section
5 1346 (b) of this title, after the commencement of an action
6 thereon.”

7 SEC. 4. The first paragraph of section 2678 of title 28,
8 United States Code, is amended to read as follows:

9 “No attorney shall charge, demand, receive, or collect for
10 services rendered, fees in excess of 25 per centum of any
11 judgment rendered pursuant to section 1346 (b) of this title
12 or any settlement made pursuant to section 2677 of this
13 title, or in excess of 20 per centum of any award, compro-
14 mise, or settlement made pursuant to section 2672 of this
15 title.”

16 SEC. 5. (a) Subsection (b) of section 2679 of title 28,
17 United States Code, is amended to read as follows:

18 “(b) The remedy against the United States provided by
19 sections 1346 (b) and 2672 of this title for injury or loss of
20 property or personal injury or death, resulting from the
21 operation by any employee of the Government of any motor
22 vehicle while acting within the scope of his office or employ-
23 ment, shall hereafter be exclusive of any other civil action
24 or proceeding by reason of the same subject matter against

1 the employee or his estate whose act or omission gave rise
2 to the claim.”

3 (b) Subsection (a) of section 4116 of title 38, United
4 States Code, is amended to read as follows:

5 “(a) The remedy against the United States provided by
6 sections 1346 (b) and 2672 of title 28 for damages for per-
7 sonal injury, including death allegedly arising from mal-
8 practice or negligence of a physician, dentist, nurse, pharma-
9 cist, or paramedical (for example, medical and dental tech-
10 nicians, nursing assistants, and therapists) or other suppor-
11 ing personnel in furnishing medical care or treatment while
12 in the exercise of his duties in or for the Department of
13 Medicine and Surgery shall hereafter be exclusive of any
14 other civil action or proceeding by reason of the same subject
15 matter against such physician, dentist, nurse, pharmacist, or
16 paramedical or other supporting personnel (or his estate)
17 whose act or omission gave rise to such claim.”

18 SEC. 6. Section 1302 of the Act of July 27, 1956, as
19 amended (70 Stat. 694, 75 Stat. 416; 31 U.S.C. 724a), is
20 further amended (1) by inserting a comma and the word
21 “awards,” after the word “judgments” and before the word
22 “and”; (2) by deleting the word “or” after the number
23 “2414” and inserting in lieu thereof a comma; and (3) by

1 inserting after the number "2517" the phrase ", 2672, or
2 2677".

3 SEC. 7. Subsection (b) of section 2401 of title 28,
4 United States Code, is amended to read as follows:

5 " (b) a tort claim against the United States shall be for-
6 ever barred unless it is presented in writing to the appropri-
7 ate Federal agency within two years after such claim accrues
8 or unless action is begun within six months after the date of
9 mailing, by certified or registered mail, of notice of final
10 denial of the claim by the agency to which it was presented."

11 SEC. 8. The first sentence of section 2671 of title 28,
12 United States Code, is amended to read as follows: "As
13 used in this chapter and sections 1346 (b) and 2401 (b)
14 of this title, the term 'Federal agency' includes the execu-
15 tive departments, the military departments, independent
16 establishments of the United States, and corporations pri-
17 marily acting as instrumentalities or agencies of the United
18 States, but does not include any contractor with the United
19 States."

20 SEC. 9. (a) The section heading of section 2672 of
21 title 28, United States Code, is amended to read as follows:
22 "§ 2672. Administrative adjustment of claims"

23 (b) The analysis of chapter 171 of title 28, United

1 States Code, immediately preceding section 2671 of such
2 title, is amended by deleting the item

“2672. Administrative adjustment of claims of \$2,500 or less.”

3 and inserting in lieu thereof:

“2672. Administrative adjustment of claims.”

4 §EC. 10. This Act shall apply to claims accruing six
5 months or more after the date of its enactment.

Passed the House of Representatives June 6, 1966.

Attest:

RALPH R. ROBERTS,

Clerk.