

113TH CONGRESS
2D SESSION

S. 2949

To improve motor vehicle safety by encouraging the sharing of certain information.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2014

Mr. THUNE (for himself, Mr. NELSON, Mr. HELLER, Mrs. McCASKILL, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve motor vehicle safety by encouraging the sharing of certain information.

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 “Motor Vehicle Safety
5 Whistleblower Act”.

6 **SEC. 2. MOTOR VEHICLE SAFETY WHISTLEBLOWER INCEN-**
7 **TIVES AND PROTECTIONS.**

8 (a) IN GENERAL.—Subchapter IV of chapter 301 of
9 title 49, United States Code, is amended by adding at the
10 end the following:

1 **“SEC. 30172. WHISTLEBLOWER INCENTIVES AND PROTEC-**
2 **TIONS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COVERED ACTION.—The term ‘covered ac-

5 tion’ means any administrative or judicial action, in-

6 cluding any related administrative or judicial action,

7 brought by the Secretary or the Attorney General

8 under this chapter that in the aggregate results in

9 monetary sanctions exceeding \$1,000,000.

10 “(2) MONETARY SANCTIONS.—The term ‘mone-

11 tary sanctions’ means monies, including penalties

12 and interest, ordered or agreed to be paid.

13 “(3) ORIGINAL INFORMATION.—The term

14 ‘original information’ means information that—

15 “(A) is derived from the independent

16 knowledge or analysis of an individual;

17 “(B) is not known to the Secretary from

18 any other source, unless the individual is the

19 original source of the information; and

20 “(C) is not exclusively derived from an al-

21 legation made in a judicial or an administrative

22 action, in a governmental report, a hearing, an

23 audit, or an investigation, or from the news

24 media, unless the individual is a source of the

25 information.

1 “(4) PART SUPPLIER.—The term ‘part supplier’
2 means a manufacturer of motor vehicle equipment.

3 “(5) SUCCESSFUL RESOLUTION.—The term
4 ‘successful resolution’ includes any settlement or ad-
5 judication of a covered action.

6 “(6) WHISTLEBLOWER.—The term ‘whistle-
7 blower’ means any employee or contractor of a
8 motor vehicle manufacturer, part supplier, or dealer-
9 ship who voluntarily provides to the Secretary origi-
10 nal information relating to any motor vehicle defect,
11 noncompliance, or any violation or alleged violation
12 of any notification or reporting requirement of this
13 chapter which is likely to cause unreasonable risk of
14 death or serious physical injury.

15 “(b) AWARDS.—

16 “(1) IN GENERAL.—If the original information
17 that a whistleblower provided to the Secretary led to
18 the successful resolution of a covered action, the
19 Secretary, subject to subsection (c) and under the
20 regulations promulgated under subsection (i), may
21 pay an award or awards to 1 or more whistleblowers
22 in an aggregate amount of not more than 30 per-
23 cent, in total, of collected monetary sanctions.

24 “(2) PAYMENT OF AWARDS.—Any amount pay-
25 able under paragraph (1) shall be paid from the

1 monetary sanctions collected, and any monetary
2 sanctions so collected shall be available for such pay-
3 ment.

4 “(c) DETERMINATION OF AWARDS; DENIAL OF
5 AWARDS.—

6 “(1) DETERMINATION OF AWARDS.—

7 “(A) DISCRETION.—The determination of
8 whether, to whom, or in what amount to make
9 an award shall be in the discretion of the Sec-
10 retary.

11 “(B) CRITERIA.—In determining an award
12 made under subsection (b), the Secretary shall
13 take into consideration—

14 “(i) if appropriate, whether a whistle-
15 blower reported or attempted to report the
16 information internally to an applicable
17 motor vehicle manufacturer, part supplier,
18 or dealership;

19 “(ii) the significance of the original
20 information provided by the whistleblower
21 to the successful resolution of the covered
22 action;

23 “(iii) the degree of assistance provided
24 by the whistleblower and any legal rep-

1 representative of the whistleblower in the cov-
2 ered action; and

3 “(iv) such additional factors as the
4 Secretary considers relevant.

5 “(2) DENIAL OF AWARDS.—No award under
6 subsection (b) shall be made—

7 “(A) to any whistleblower who is convicted
8 of a criminal violation related to the covered ac-
9 tion for which the whistleblower otherwise could
10 receive an award under this section;

11 “(B) to any whistleblower who, acting
12 without direction from an applicable motor ve-
13 hicle manufacturer, part supplier, or dealership,
14 or agent thereof, deliberately causes or substan-
15 tially contributes to the alleged violation of a
16 requirement of this chapter;

17 “(C) to any whistleblower who submits in-
18 formation to the Secretary that is based on the
19 facts underlying the covered action submitted
20 previously by another whistleblower; or

21 “(D) to any whistleblower who fails to pro-
22 vide the original information to the Secretary in
23 such form as the Secretary may require by reg-
24 ulation.

1 “(d) REPRESENTATION.—A whistleblower who makes
2 a claim for an award under subsection (b) may be rep-
3 resented by counsel.

4 “(e) NO CONTRACT NECESSARY.—No contract with
5 the Secretary is necessary for any whistleblower to receive
6 an award under subsection (b).

7 “(f) APPEALS.—

8 “(1) IN GENERAL.—Any determination made
9 under this section, including whether, to whom, or in
10 what amount to make an award, shall be in the dis-
11 cretion of the Secretary.

12 “(2) APPEALS.—Any determination made by
13 the Secretary under this section may be appealed by
14 a whistleblower to the appropriate court of appeals
15 of the United States not later than 30 days after the
16 determination is issued by the Secretary.

17 “(3) REVIEW.—The court shall review the de-
18 termination made by the Secretary in accordance
19 with section 706 of title 5, United States Code.

20 “(g) PROTECTION OF WHISTLEBLOWERS; CON-
21 FIDENTIALITY.—

22 “(1) IN GENERAL.—Notwithstanding section
23 30167, and except as provided in paragraphs (2)
24 and (3) of this subsection, the Secretary, and any
25 officer or employee of the Department of Transpor-

1 tation, shall not disclose any information, including
2 information provided by a whistleblower to the Sec-
3 retary, which could reasonably be expected to reveal
4 the identity of a whistleblower, except in accordance
5 with the provisions of section 552a of title 5, United
6 States Code, unless and until required to be dis-
7 closed to a defendant or respondent in connection
8 with a public proceeding instituted by the Secretary
9 or any entity described in paragraph (3). For pur-
10 poses of section 552 of title 5, United States Code,
11 this paragraph shall be considered a statute de-
12 scribed in subsection (b)(3)(B) of that section.

13 “(2) EFFECT.—Nothing in this subsection is
14 intended to limit the ability of the Attorney General
15 to present such evidence to a grand jury or to share
16 such evidence with potential witnesses or defendants
17 in the course of an ongoing criminal investigation.

18 “(3) AVAILABILITY TO GOVERNMENT AGEN-
19 CIES.—

20 “(A) IN GENERAL.—Without the loss of its
21 status as confidential in the hands of the Sec-
22 retary, all information referred to in paragraph
23 (1) may, in the discretion of the Secretary,
24 when determined by the Secretary to be nec-
25 essary or appropriate to accomplish the pur-

1 poses of this chapter and in accordance with
2 subparagraph (B), be made available to the fol-
3 lowing:

4 “(i) The Department of Justice.

5 “(ii) An appropriate department or
6 agency of the Federal Government, acting
7 within the scope of its jurisdiction.

8 “(B) MAINTENANCE OF INFORMATION.—
9 Each entity described in subparagraph (A) shall
10 maintain information described in that subpara-
11 graph as confidential, in accordance with the
12 requirements in paragraph (1).

13 “(h) PROVISION OF FALSE INFORMATION.—A whis-
14 tler who knowingly and willfully makes any false, fic-
15 titious, or fraudulent statement or representation, or who
16 makes or uses any false writing or document knowing the
17 same to contain any false, fictitious, or fraudulent state-
18 ment or entry, shall not be entitled to an award under
19 this section and shall be subject to prosecution under sec-
20 tion 1001 of title 18.

21 “(i) REGULATIONS.—Not later than 1 year after the
22 date of enactment of the Motor Vehicle Safety Whistle-
23 blower Act, the Secretary shall promulgate regulations to
24 implement the requirements of this section.”.

25 (b) RULE OF CONSTRUCTION.—

1 (1) ORIGINAL INFORMATION.—Information sub-
2 mitted to the Secretary of Transportation by a whis-
3 tleblower in accordance with the regulations to im-
4 plement the requirements of section 30172, United
5 States Code, shall not lose its status as original in-
6 formation solely because the whistleblower submitted
7 the information prior to the effective date of the reg-
8 ulations if that information was submitted after the
9 date of enactment of this Act.

10 (2) AWARDS.—A whistleblower may receive an
11 award under section 30172, United States Code, re-
12 gardless of whether the violation underlying the cov-
13 ered action occurred prior to the date of enactment
14 of this Act.

15 (c) CONFORMING AMENDMENTS.—The table of con-
16 tents of subchapter IV of chapter 301 of title 49, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

“30172. Whistleblower incentives and protections.”.

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