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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the “Motor Vehicle Safety Whistleblower Act”.

SEC. 2. MOTOR VEHICLE SAFETY WHISTLEBLOWER INCENTIVES AND PROTECTIONS.

(a) In General.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:
“SEC. 30172. WHISTLEBLOWER INCENTIVES AND PROTECTIONS.

“(a) DEFINITIONS.—In this section:

“(1) COVERED ACTION.—The term ‘covered action’ means any administrative or judicial action, including any related administrative or judicial action, brought by the Secretary or the Attorney General under this chapter that in the aggregate results in monetary sanctions exceeding $1,000,000.

“(2) MONETARY SANCTIONS.—The term ‘monetary sanctions’ means monies, including penalties and interest, ordered or agreed to be paid.

“(3) ORIGINAL INFORMATION.—The term ‘original information’ means information that—

“(A) is derived from the independent knowledge or analysis of an individual;

“(B) is not known to the Secretary from any other source, unless the individual is the original source of the information; and

“(C) is not exclusively derived from an allegation made in a judicial or an administrative action, in a governmental report, a hearing, an audit, or an investigation, or from the news media, unless the individual is a source of the information.
“(4) **PART SUPPLIER.**—The term ‘part supplier’ means a manufacturer of motor vehicle equipment.

“(5) **SUCCESSFUL RESOLUTION.**—The term ‘successful resolution’ includes any settlement or adjudication of a covered action.

“(6) **WHISTLEBLOWER.**—The term ‘whistleblower’ means any employee or contractor of a motor vehicle manufacturer, part supplier, or dealership who voluntarily provides to the Secretary original information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter which is likely to cause unreasonable risk of death or serious physical injury.

“(b) **AWARDS.**—

“(1) **IN GENERAL.**—If the original information that a whistleblower provided to the Secretary led to the successful resolution of a covered action, the Secretary, subject to subsection (c) and under the regulations promulgated under subsection (i), may pay an award or awards to 1 or more whistleblowers in an aggregate amount of not more than 30 percent, in total, of collected monetary sanctions.

“(2) **PAYMENT OF AWARDS.**—Any amount payable under paragraph (1) shall be paid from the
monetary sanctions collected, and any monetary
sanctions so collected shall be available for such pay-
ment.

“(c) Determination of Awards; Denial of
Awards.—

“(1) Determination of awards.—

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

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

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

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

“(iii) the degree of assistance provided
by the whistleblower and any legal rep-
resentative of the whistleblower in the covered action; and

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

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

“(A) to any whistleblower who is convicted of a criminal violation related to the covered action for which the whistleblower otherwise could receive an award under this section;

“(B) to any whistleblower who, acting without direction from an applicable motor vehicle manufacturer, part supplier, or dealership, or agent thereof, deliberately causes or substantially contributes to the alleged violation of a requirement of this chapter;

“(C) to any whistleblower who submits information to the Secretary that is based on the facts underlying the covered action submitted previously by another whistleblower; or

“(D) to any whistleblower who fails to provide the original information to the Secretary in such form as the Secretary may require by regulation.
“(d) REPRESENTATION.—A whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

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

“(f) APPEALS.—

“(1) IN GENERAL.—Any determination made under this section, including whether, to whom, or in what amount to make an award, shall be in the discretion of the Secretary.

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

“(3) REVIEW.—The court shall review the determination made by the Secretary in accordance with section 706 of title 5, United States Code.

“(g) PROTECTION OF WHISTLEBLOWERS; CONFIDENTIALITY.—

“(1) IN GENERAL.—Notwithstanding section 30167, and except as provided in paragraphs (2) and (3) of this subsection, the Secretary, and any officer or employee of the Department of Transpor-
tation, shall not disclose any information, including information provided by a whistleblower to the Sec-
retary, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, United States Code, unless and until required to be dis-
closed to a defendant or respondent in connection with a public proceeding instituted by the Secretary or any entity described in paragraph (3). For pur-
poses of section 552 of title 5, United States Code, this paragraph shall be considered a statute de-
scribed in subsection (b)(3)(B) of that section.

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

“(3) Availability to Government Agen-
cies.—

“(A) In general.—Without the loss of its status as confidential in the hands of the Sec-
retary, all information referred to in paragraph (1) may, in the discretion of the Secretary, when determined by the Secretary to be nec-
essary or appropriate to accomplish the pur-
poses of this chapter and in accordance with
subparagraph (B), be made available to the fol-
lowing:

“(i) The Department of Justice.

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

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

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

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

(b) RULE OF CONSTRUCTION.—
(1) ORIGINAL INFORMATION.—Information submitted to the Secretary of Transportation by a whistleblower in accordance with the regulations to implement the requirements of section 30172, United States Code, shall not lose its status as original information solely because the whistleblower submitted the information prior to the effective date of the regulations if that information was submitted after the date of enactment of this Act.

(2) AWARDS.—A whistleblower may receive an award under section 30172, United States Code, regardless of whether the violation underlying the covered action occurred prior to the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—The table of contents of subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“30172. Whistleblower incentives and protections.”.