

114TH CONGRESS
1ST SESSION

S. 304

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

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2015

Mr. THUNE (for himself, Mr. NELSON, Mr. HELLER, Mrs. McCASKILL, Ms. KLOBUCHAR, Ms. AYOTTE, Mr. MORAN, and Mr. BLUMENTHAL) 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”.

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

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

6 **“§ 30172. Whistleblower incentives and protections**

7 “(a) DEFINITIONS.—In this section:

8 “(1) COVERED ACTION.—The term ‘covered ac-
 9 tion’ means any administrative or judicial action, in-
 10 cluding any related administrative or judicial action,
 11 brought by the Secretary or the Attorney General
 12 under this chapter that in the aggregate results in
 13 monetary sanctions exceeding \$1,000,000.

14 “(2) MONETARY SANCTIONS.—The term ‘mone-
 15 tary sanctions’ means monies, including penalties
 16 and interest, ordered or agreed to be paid.

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

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

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

24 “(C) is not exclusively derived from an al-
 25 legation made in a judicial or an administrative
 26 action, in a governmental report, a hearing, an

1 audit, or an investigation, or from the news
2 media, unless the individual is a source of the
3 information.

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

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

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

18 “(b) AWARDS.—

19 “(1) IN GENERAL.—If the original information
20 that a whistleblower provided to the Secretary led to
21 the successful resolution of a covered action, the
22 Secretary, subject to subsection (c) and under the
23 regulations promulgated under subsection (i), may
24 pay an award or awards to 1 or more whistleblowers

1 in an aggregate amount of not more than 30 per-
2 cent, in total, of collected monetary sanctions.

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

8 “(c) DETERMINATION OF AWARDS; DENIAL OF
9 AWARDS.—

10 “(1) DETERMINATION OF AWARDS.—

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

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

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

23 “(ii) the significance of the original
24 information provided by the whistleblower

1 to the successful resolution of the covered
2 action;

3 “(iii) the degree of assistance provided
4 by the whistleblower and any legal rep-
5 resentative of the whistleblower in the cov-
6 ered action; and

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

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

11 “(A) to any whistleblower who is convicted
12 of a criminal violation related to the covered ac-
13 tion for which the whistleblower otherwise could
14 receive an award under this section;

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

21 “(C) to any whistleblower who submits in-
22 formation to the Secretary that is based on the
23 facts underlying the covered action submitted
24 previously by another whistleblower; or

1 “(D) to any whistleblower who fails to pro-
 2 vide the original information to the Secretary in
 3 such form as the Secretary may require by reg-
 4 ulation.

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

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

11 “(f) APPEALS.—

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

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

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

24 “(g) PROTECTION OF WHISTLEBLOWERS; CON-
 25 FIDENTIALITY.—

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

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

22 “(3) AVAILABILITY TO GOVERNMENT AGEN-
 23 CIES.—

24 “(A) IN GENERAL.—Without the loss of its
 25 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 necessary or appropriate to accomplish the purposes of this chapter and in accordance with subparagraph (B), be made available to the following:

“(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 subparagraph 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, fictitious, 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 statement or entry, shall not be entitled to an award under this section and shall be subject to prosecution under section 1001 of title 18.

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

5 (b) RULE OF CONSTRUCTION.—

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

15 (2) AWARDS.—A whistleblower may receive an
 16 award under section 30172, United States Code, re-
 17 gardless of whether the violation underlying the cov-
 18 ered action occurred prior to the date of enactment
 19 of this Act.

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

“30172. Whistleblower incentives and protections.”.

