

116TH CONGRESS
2D SESSION

S. 4346

To amend the Antitrust Criminal Penalty Enhancement and Reform Act
of 2004 to repeal the sunset provision.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2020

Mr. GRAHAM (for himself, Mrs. FEINSTEIN, Mr. LEE, and Ms. KLOBUCHAR)
introduced the following bill; which was read twice, considered, read the
third time, and passed

A BILL

To amend the Antitrust Criminal Penalty Enhancement and
Reform Act of 2004 to repeal the sunset provision.

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 “Antitrust Criminal
5 Penalty Enhancement and Reform Permanent Extension
6 Act”.

7 **SEC. 2. FINDINGS; PURPOSE.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) Conspiracies among competitors to fix
10 prices, rig bids, and allocate markets are categori-

1 cally and irredeemably anticompetitive and con-
 2 travene the competition policy of the United States.

3 (2) Cooperation incentives are important to the
 4 efforts of the Antitrust Division of the Department
 5 of Justice to prosecute and deter the offenses de-
 6 scribed in paragraph (1).

7 (b) PURPOSE.—The purpose of this Act, and the
 8 amendments made by this Act, is to strengthen public and
 9 private antitrust enforcement by providing incentives for
 10 antitrust violators to cooperate fully with government
 11 prosecutors and private litigants through the repeal of the
 12 sunset provision of the Antitrust Criminal Penalty En-
 13 hancement and Reform Act of 2004 (15 U.S.C. 1 note).

14 **SEC. 3. REPEAL OF SUNSET PROVISION.**

15 (a) REPEAL.—Section 211 of the Antitrust Criminal
 16 Penalty Enhancement and Reform Act of 2004 (15 U.S.C.
 17 1 note) is repealed.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 (1) REVIVAL AND RESTORATION.—

20 (A) IN GENERAL.—Sections 212, 213, and
 21 214 of the Antitrust Criminal Penalty Enhance-
 22 ment and Reform Act of 2004 (15 U.S.C. 1
 23 note) as in effect on June 21, 2020, and as
 24 amended by the laws described in subparagraph
 25 (B), are revived and restored.

1 (B) LAWS.—The laws described in this
2 subparagraph are:

3 (i) Antitrust Criminal Penalty En-
4 hancement and Reform Act of 2004 Exten-
5 sion Act (Public Law 111–30; 123 Stat.
6 1775).

7 (ii) The Act entitled “An Act to
8 amend the Antitrust Criminal Penalty En-
9 hancement and Reform Act of 2004 to ex-
10 tend the operation of such Act, and for
11 other purposes”, approved June 9, 2010
12 (Public Law 111–90; 124 Stat. 1275).

13 (2) DEFINITIONS.—Section 212 of the Anti-
14 trust Criminal Penalty Enhancement and Reform
15 Act of 2004 (15 U.S.C. 1 note) is amended—

16 (A) by striking paragraph (6); and

17 (B) by redesignating paragraph (7) as
18 paragraph (6).

19 (c) APPLICABILITY.—

20 (1) MARKERS AND AGREEMENTS BEFORE SUN-
21 SET.—Notwithstanding the repeal under subsection
22 (a), section 211(b) of the Antitrust Criminal Penalty
23 Enhancement and Reform Act of 2004 (15 U.S.C.
24 1 note), as in effect on the day before the date of
25 enactment of this Act, shall continue to apply to any

1 person who received a marker or entered into an
2 antitrust leniency agreement on or before June 22,
3 2020.

4 (2) MARKERS AND AGREEMENTS AFTER SUN-
5 SET.—The repeal under subsection (a) shall apply to
6 any person who received a marker or entered into an
7 antitrust leniency agreement on or after June 23,
8 2020.

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