

Motor Vehicle Safety Whistleblower Incentives and Protections

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49 U.S.C.A. § 30172

§ 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”, with respect to a covered action, includes any settlement or adjudication of the 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 leads to the successful resolution of a covered action, the Secretary, subject to subsection (c), may pay an award or awards to one or more whistleblowers in an aggregate amount of--

(A) not less than 10 percent, in total, of collected monetary sanctions; and

(B) 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 payment.

(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 Secretary subject to the provisions in subsection (b)(1).

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

(i) if appropriate, whether a whistleblower 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 representative 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;

(D) to any whistleblower who fails to provide the original information to the Secretary in such form as the Secretary may require by regulation; or

(E) if the applicable motor vehicle manufacturer, parts supplier, or dealership has an internal reporting mechanism in place to protect employees from retaliation, to any whistleblower who fails to report or attempt to report the information internally through such mechanism, unless--

(i) the whistleblower reasonably believed that such an internal report would have resulted in retaliation, notwithstanding section 30171(a);

(ii) the whistleblower reasonably believed that the information--

(I) was already internally reported;

(II) was already subject to or part of an internal inquiry or investigation; or

(III) was otherwise already known to the motor vehicle manufacturer, part supplier, or dealership; or

(iii) the Secretary has good cause to waive this requirement.

(d) **Representation.**--A whistleblower 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) **Protection of whistleblowers; confidentiality.**--

(1) **In general.**--Notwithstanding section 30167, and except as provided in paragraphs (4) and (5) of this subsection, the Secretary, and any officer or employee of the Department of Transportation, shall not disclose any information, including information provided by a whistleblower to the Secretary, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, unless--

(A) required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Secretary or any entity described in paragraph (5);

(B) the whistleblower provides prior written consent for the information to be disclosed; or

(C) the Secretary, or other officer or employee of the Department of Transportation, receives the information through another source, such as during an inspection or investigation under section 30166, and has authority under other law to release the information.

(2) **Redaction.**--The Secretary, and any officer or employee of the Department of Transportation, shall take reasonable measures to not reveal the identity of the whistleblower when disclosing any information under paragraph (1).

(3) **Section 552(b)(3)(b).**--For purposes of section 552 of title 5, paragraph (1) of this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.

(4) **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.

(5) **Availability to Government agencies.**--

(A) **In general.**--Without the loss of its status as confidential in the hands of the Secretary, 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).

(g) Provision of false information.--A whistleblower who knowingly and intentionally 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.

(h) 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.

(i) Regulation.--Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations on the requirements of this section, consistent with this section.