

## Calendar No. 151

114TH CONGRESS  
1ST SESSION**S. 1599**

To provide anti-retaliation protections for antitrust whistleblowers.

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## IN THE SENATE OF THE UNITED STATES

JUNE 17, 2015

Mr. GRASSLEY (for himself and Mr. LEAHY) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

JULY 16, 2015

Reported by Mr. GRASSLEY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To provide anti-retaliation protections for antitrust  
whistleblowers.

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 “~~Criminal Antitrust~~  
5 ~~Anti-Retaliation Act of 2015~~”.

1 **SEC. 2. AMENDMENT TO ACPERA.**

2 The Antitrust Criminal Penalty Enhancement and  
 3 Reform Act of 2004 (Public Law 108-237; 15 U.S.C. 1  
 4 note) is amended by inserting after section 215 the fol-  
 5 lowing:

6 **“SEC. 216. ANTI-RETALIATION PROTECTION FOR WHISTLE-**  
 7 **BLOWERS.**

8 **“(a) WHISTLEBLOWER PROTECTIONS FOR EMPLOY-**  
 9 **EES, CONTRACTORS, SUBCONTRACTORS, AND AGENTS.—**

10 **“(1) IN GENERAL.—**No employer may dis-  
 11 charge, demote, suspend, threaten, harass, or in any  
 12 other manner discriminate against a covered indi-  
 13 vidual in the terms and conditions of employment of  
 14 the covered individual because—

15 **“(A)** the covered individual provided or  
 16 caused to be provided to the employer or the  
 17 Federal Government information relating to—

18 **“(i)** any violation of, or any act or  
 19 omission the covered individual reasonably  
 20 believes to be a violation of, the antitrust  
 21 laws; or

22 **“(ii)** any violation of, or any act or  
 23 omission the covered individual reasonably  
 24 believes to be a violation of, another crimi-  
 25 nal law committed in conjunction with a  
 26 potential violation of the antitrust laws or

1 in conjunction with an investigation by the  
2 Department of Justice of a potential viola-  
3 tion of the antitrust laws; or

4 “(B) the covered individual filed, caused to  
5 be filed, testified, participated in, or otherwise  
6 assisted an investigation or a proceeding filed  
7 or about to be filed (with any knowledge of the  
8 employer) relating to—

9 “(i) any violation of, or any act or  
10 omission the covered individual reasonably  
11 believes to be a violation of, the antitrust  
12 laws; or

13 “(ii) any violation of, or any act or  
14 omission the covered individual reasonably  
15 believes to be a violation of, another crimi-  
16 nal law committed in conjunction with a  
17 potential violation of the antitrust laws or  
18 in conjunction with an investigation by the  
19 Department of Justice of a potential viola-  
20 tion of the antitrust laws.

21 “(2) LIMITATION ON PROTECTIONS.—Para-  
22 graph (1) shall not apply to any covered individual  
23 if—

1           “(A) the covered individual planned and  
2 initiated a violation or attempted violation of  
3 the antitrust laws;

4           “(B) the covered individual planned and  
5 initiated a violation or attempted violation of  
6 another criminal law in conjunction with a vio-  
7 lation or attempted violation of the antitrust  
8 laws; or

9           “(C) the covered individual planned and  
10 initiated an obstruction or attempted obstruc-  
11 tion of an investigation by the Department of  
12 Justice of a violation of the antitrust laws.

13           “(3) DEFINITIONS.—In this section:

14           “(A) ANTITRUST LAWS.—The term ‘anti-  
15 trust laws’ means section 1 or 3 of the Sher-  
16 man Act (15 U.S.C. 1 and 3).

17           “(B) COVERED INDIVIDUAL.—The term  
18 ‘covered individual’ means an employee, con-  
19 tractor, subcontractor, or agent of an employer.

20           “(C) EMPLOYER.—The term ‘employer’  
21 means a person, or any officer, employee, con-  
22 tractor, subcontractor, or agent of such person.

23           “(D) PERSON.—The term ‘person’ has the  
24 same meaning as in subsection (a) of the first  
25 section of the Clayton Act (15 U.S.C. 12(a)).

1           “(4) RULE OF CONSTRUCTION.—The term ‘vio-  
2           lation’, with respect to the antitrust laws, shall not  
3           be construed to include a civil violation of any law  
4           that is not also a criminal violation.

5           “(b) ENFORCEMENT ACTION.—

6           “(1) IN GENERAL.—A covered individual who  
7           alleges discharge or other discrimination by any em-  
8           ployer in violation of subsection (a) may seek relief  
9           under subsection (c) by—

10           “(A) filing a complaint with the Secretary  
11           of Labor; or

12           “(B) if the Secretary of Labor has not  
13           issued a final decision within 180 days of the  
14           filing of the complaint and there is no showing  
15           that such delay is due to the bad faith of the  
16           claimant, bringing an action at law or equity  
17           for de novo review in the appropriate district  
18           court of the United States, which shall have ju-  
19           risdiction over such an action without regard to  
20           the amount in controversy.

21           “(2) PROCEDURE.—

22           “(A) IN GENERAL.—A complaint filed with  
23           the Secretary of Labor under paragraph (1)(A)  
24           shall be governed under the rules and proce-

1           dures set forth in section 42121(b) of title 49,  
2           United States Code.

3           “(B) EXCEPTION.—Notification made  
4           under section 42121(b)(1) of title 49, United  
5           States Code, shall be made to any individual  
6           named in the complaint and to the employer.

7           “(C) BURDENS OF PROOF.—A complaint  
8           filed with the Secretary of Labor under para-  
9           graph (1)(A) shall be governed by the legal bur-  
10          dens of proof set forth in section 42121(b) of  
11          title 49, United States Code.

12          “(D) STATUTE OF LIMITATIONS.—A com-  
13          plaint under paragraph (1)(A) shall be filed  
14          with the Secretary of Labor not later than 180  
15          days after the date on which the violation oc-  
16          curs.

17          “(E) CIVIL ACTIONS TO ENFORCE.—If a  
18          person fails to comply with an order or prelimi-  
19          nary order issued by the Secretary of Labor  
20          pursuant to the procedures set forth in section  
21          42121(b) of title 49, United States Code, the  
22          Secretary of Labor or the person on whose be-  
23          half the order was issued may bring a civil ac-  
24          tion to enforce the order in the district court of

1           the United States for the judicial district in  
2           which the violation occurred.

3           “(e) REMEDIES.—

4           “(1) IN GENERAL.—A covered individual pre-  
5           vailing in any action under subsection (b)(1) shall be  
6           entitled to all relief necessary to make the covered  
7           individual whole.

8           “(2) COMPENSATORY DAMAGES.—Relief for any  
9           action under paragraph (1) shall include—

10           “(A) reinstatement with the same seniority  
11           status that the covered individual would have  
12           had, but for the discrimination;

13           “(B) the amount of back pay, with inter-  
14           est; and

15           “(C) compensation for any special damages  
16           sustained as a result of the discrimination in-  
17           cluding litigation costs, expert witness fees, and  
18           reasonable attorney’s fees.

19           “(d) RIGHTS RETAINED BY WHISTLEBLOWERS.—  
20           Nothing in this section shall be deemed to diminish the  
21           rights, privileges, or remedies of any covered individual  
22           under any Federal or State law, or under any collective  
23           bargaining agreement.”.

1 **SECTION 1. SHORT TITLE.**

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 3 *Anti-Retaliation Act of 2015”.*

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 14 *demote, suspend, threaten, harass, or in any other*  
 15 *manner discriminate against a covered individual in*  
 16 *the terms and conditions of employment of the covered*  
 17 *individual because of any lawful act done by the cov-*  
 18 *ered individual—*

19 *“(A) to provide or cause to be provided to*  
 20 *the employer or the Federal Government infor-*  
 21 *mation relating to—*

22 *“(i) any violation of, or any act or*  
 23 *omission the covered individual reasonably*  
 24 *believes to be a violation of, the antitrust*  
 25 *laws; or*



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5           potential violation of the antitrust laws or  
6           in conjunction with an investigation by the  
7           Department of Justice of a potential viola-  
8           tion of the antitrust laws; or

9           “(B) to cause to be filed, testify in, partici-  
10          pate in, or otherwise assist a Federal Govern-  
11          ment investigation or a Federal Government pro-  
12          ceeding filed or about to be filed (with any  
13          knowledge of the employer) relating to—

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22           “(C) *EMPLOYER.*—The term ‘employer’  
23 means a person, or any officer, employee, con-  
24 tractor, subcontractor, or agent of such person.

1           “(D) *FEDERAL GOVERNMENT.*—*The term*  
2           *‘Federal Government’ means—*

3                   “(i) *a Federal regulatory or law en-*  
4                   *forcement agency; or*

5                   “(ii) *any Member of Congress or com-*  
6                   *mittee of Congress.*

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8           *same meaning as in subsection (a) of the first*  
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1       *for de novo review in the appropriate district*  
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3           *42121(b) of title 49, United States Code, the Sec-*  
4           *retary of Labor or the person on whose behalf the*  
5           *order was issued may bring a civil action to en-*  
6           *force the order in the district court of the United*  
7           *States for the judicial district in which the viola-*  
8           *tion occurred.*

9           “(c) *REMEDIES.*—

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Reported with an amendment