

PUBLICATION

Senate Passes Antitrust Whistleblower Legislation

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On July 22, the Senate passed the "Criminal Antitrust Anti-Retaliation Act of 2015," (S.1599), by unanimous consent. The bill, a bipartisan measure jointly introduced by Senators Patrick Leahy (D-VT) and Chuck Grassley (R-IA), prohibits employers from retaliating against employees who provide information to the DOJ about potential antitrust violations by their employers. Similar legislation was also introduced by Senators Leahy and Grassley during the last Congress, but the House did not take up the bill before the end of the legislative session.

In introducing S.1599, Senator Leahy explained that "this legislation is modeled on whistleblower protections that Senator Grassley and I authored as part of the Sarbanes-Oxley Act in 2002." Senator Leahy further noted that the protections in the bill build on recommendations contained in a Government Accountability Office report to Congress in 2011. Senator Grassley stated, "Congress should encourage employees with information about criminal antitrust activity to report this information. The Criminal Antitrust Anti-Retaliation Act does exactly that by offering meaningful protections to those who blow the whistle on illegal behavior such as price fixing. I hope that Congress will finally enact this legislation this year."

The legislation specifically provides that "no employer may discharge, demote, suspend, threaten, harass, or in any other manner discriminate" against an employee for reporting an antitrust violation, or any action that the employee "reasonably believes" to be an antitrust violation. An aggrieved employee may file a complaint with the Secretary of Labor or in federal district court, and the remedies for a prevailing employee include reinstatement, back pay, compensatory damages and attorney fees.

At present, the legislation is being "held at the desk" in the House, awaiting either a committee referral or action by the full House. The legislation is expected to be acted upon by the House upon its return from its August recess, and could well be signed into law by President Obama before the end of the year.