

118TH CONGRESS
2D SESSION

H. R. 10118

To provide incentives for and protect whistleblowers under the authority of the Federal Trade Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2024

Ms. SCHAKOWSKY (for herself and Mrs. TRAHAN) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide incentives for and protect whistleblowers under the authority of the Federal Trade Commission, and for other purposes.

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 “FTC Whistleblower
5 Act of 2024”.

6 **SEC. 2. PROTECTION OF WHISTLEBLOWERS.**

7 (a) PROTECTION FROM RETALIATION.—A covered
8 entity may not, directly or indirectly, discharge, demote,

1 suspend, threaten, harass, or in any other manner dis-
2 criminate or take an adverse personnel action against an
3 individual (or a group of individuals) because the indi-
4 vidual (or group of individuals) does any of the following:

5 (1) Makes (or the covered entity suspects the
6 individual or group of individuals has made or will
7 make) a covered disclosure to—

8 (A) a qualified entity;

9 (B) a person with supervisory authority
10 over the individual (or group of individuals); or

11 (C) another individual working for the cov-
12 ered entity who the individual (or group of indi-
13 viduals) reasonably believes has the authority to
14 investigate, discover, or terminate the alleged
15 violation in the covered disclosure or to take
16 any other action to address such violation.

17 (2) Initiates, testifies, assists, or participates
18 (or the covered entity expects will initiate, testify,
19 assist, or participate) in an investigation conducted
20 by a qualified entity or a judicial or administrative
21 proceeding brought by a qualified entity relating to
22 a covered violation.

23 (3) Objects to, or refuses to participate in, any
24 activity, policy, practice, or assigned task that the

1 individual (or group of individuals) reasonably be-
2 lieves is an alleged covered violation.

3 (b) ENFORCEMENT.—

4 (1) CAUSE OF ACTION.—A whistleblower who
5 alleges discharge or other discrimination by a cov-
6 ered entity in violation of subsection (a)—

7 (A) may bring an action governed by the
8 procedures and burdens of proof in section
9 4712 of title 41, United States Code; or

10 (B) may bring an action in the appropriate
11 district court of the United States—

12 (i) for the relief described in sub-
13 section (c);

14 (ii) governed by the burdens of proof
15 in section 1221(e) of title 5, United States
16 Code; and

17 (iii) in which the whistleblower shall
18 be entitled to a trial by jury.

19 (2) STATUTE OF LIMITATIONS.—

20 (A) IN GENERAL.—An action under para-
21 graph (1) may not be brought—

22 (i) more than 6 years after the date
23 on which the violation of subsection (a) oc-
24 curred; or

1 (ii) more than 3 years after the date
2 on which facts material to the right of ac-
3 tion are known or reasonably should have
4 been known by the whistleblower alleging a
5 violation of subsection (a).

6 (B) REQUIRED ACTION WITHIN 10
7 YEARS.—Notwithstanding subparagraph (A), an
8 action under paragraph (1) may not be brought
9 more than 10 years after the date on which the
10 violation of subsection (a) occurred.

11 (3) WAIVER OF RIGHTS AND REMEDIES.—The
12 rights and remedies provided in this section may not
13 be waived by any policy, written document, or other
14 condition relating to employment, including by a
15 predispute arbitration agreement.

16 (4) PREDISPUTE ARBITRATION AGREEMENTS.—
17 Notwithstanding any other provision of law, a
18 predispute arbitration agreement may not be en-
19 forced with respect to an action under paragraph
20 (1).

21 (5) RESTRICTIVE COVENANT AGREEMENTS.—
22 Notwithstanding any other provision of law, an
23 agreement in which a whistleblower is restrained by
24 the covered entity that was the subject of a covered

1 disclosure from exercising a lawful profession, trade,
2 or business of any kind may not be enforced.

3 (c) RELIEF.—Relief for any whistleblower who pre-
4 vails in an action brought under subsection (b)(1) shall
5 include—

6 (1) reinstatement with the same seniority status
7 that the whistleblower would have had but for the
8 discharge or discrimination;

9 (2) 3 times the amount of back pay owed to the
10 whistleblower, with interest; and

11 (3) consequential and compensatory damages
12 and compensation for litigation costs, expert witness
13 fees, and reasonable attorneys' fees.

14 (d) COMMUNICATIONS.—

15 (1) PROHIBITION ON IMPEDING COVERED DIS-
16 CLOSURE.—A covered entity may not take any ac-
17 tion that impedes or prevents an individual from
18 communicating directly with a qualified entity about
19 a covered disclosure, including enforcing, or threat-
20 ening to enforce, a confidentiality or non-disparage-
21 ment agreement.

22 (2) COMMUNICATION WITH QUALIFIED ENTI-
23 TIES.—A covered entity may not require the consent
24 of the counsel of the covered entity for a qualified
25 entity to communicate directly with an individual or

1 the attorney of an individual (if the individual is rep-
2 resented by an attorney) regarding a possible cov-
3 ered disclosure.

4 (3) ENFORCEMENT BY COMMISSION.—

5 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
6 TICES.—A violation of paragraph (1) or (2)
7 shall be treated as a violation of a regulation
8 under section 18(a)(1)(B) of the Federal Trade
9 Commission Act (15 U.S.C. 57a(a)(1)(B)) re-
10 garding unfair or deceptive acts or practices.

11 (B) POWERS OF COMMISSION.—The Com-
12 mission shall enforce paragraphs (1) and (2) in
13 the same manner, by the same means, and with
14 the same jurisdiction, powers, and duties as
15 though all applicable terms and provisions of
16 the Federal Trade Commission Act (15 U.S.C.
17 41 et seq.) were incorporated into and made a
18 part of this subsection, and any person who vio-
19 lates paragraph (1) or (2) shall be subject to
20 the penalties and entitled to the privileges and
21 immunities provided in the Federal Trade Com-
22 mission Act.

23 (e) CONFIDENTIALITY.—

24 (1) REQUIREMENT.—The Commission, any em-
25 ployee of the Commission, and any other entity to

1 which the Commission communicates may not dis-
2 close any information provided to the Commission,
3 including information provided by a whistleblower,
4 that could reasonably be expected to reveal the iden-
5 tity of a whistleblower.

6 (2) EXCEPTION.—Notwithstanding paragraph
7 (1), if release of the information described in para-
8 graph (1) is required by law, the whistleblower shall
9 receive timely advance notice before such release.

10 (3) RULES OF CONSTRUCTION.—This para-
11 graph may not be construed to prohibit—

12 (A) any disclosure described in section
13 21(d) of the Federal Trade Commission Act (15
14 U.S.C. 57b–2(d));

15 (B) a disclosure to any officer or employee
16 of a Federal or State law enforcement agency
17 or a foreign law enforcement agency under sec-
18 tion 6(f) or 21(b)(6) of the Federal Trade Com-
19 mission Act (15 U.S.C. 46(f), 57b–2(b)(6)); or

20 (C) a disclosure to which the whistleblower
21 consents.

22 (f) RULES OF CONSTRUCTION.—

23 (1) COLLECTIVE BARGAINING.—Nothing in this
24 section may be construed to diminish the rights,
25 privileges, or remedies of any whistleblower under

1 any Federal or State law relating to collective bar-
2 gaining or under any collective bargaining agree-
3 ment.

4 (2) OTHER WHISTLEBLOWER PROTECTIONS.—

5 (A) Nothing in this section may be con-
6 strued to preempt or supersede any other Fed-
7 eral or State law relating to whistleblower pro-
8 tectons.

9 (B) Notwithstanding any other provision of
10 law, a whistleblower shall be immune from civil
11 and criminal liability for making a covered dis-
12 closure if the whistleblower would be protected
13 from reprisal under section (a). The whistle-
14 blower shall bear the burden required under
15 subsection (b) of proving that the whistleblower
16 would be protected from reprisal under sub-
17 section (a) for making the disclosure. This sec-
18 tion does not provide a defense against activi-
19 ties unrelated to conduct protected under sub-
20 section (a).

21 (3) AUTHORITY OF COMMISSION.—Nothing in
22 this section may be construed to limit the authority
23 of the Commission under any other provision of law.

24 **SEC. 3. INCENTIVES FOR WHISTLEBLOWERS.**

25 (a) AWARDS.—

1 (1) IN GENERAL.—If a whistleblower (or group
2 of whistleblowers) voluntarily provides to the Com-
3 mission original information regarding an alleged
4 covered violation and such original information leads
5 to the successful resolution of a covered action, the
6 Commission, subject to subsection (b), shall pay an
7 award to the whistleblower (or group of whistle-
8 blowers) in an aggregate amount of—

9 (A) not less than 10 percent, in total, of
10 collected monetary sanctions imposed as a re-
11 sult of the relevant covered action; and

12 (B) not more than 30 percent, in total, of
13 collected monetary sanctions imposed as a re-
14 sult of the relevant covered action.

15 (2) PAYMENT OF AWARDS.—Any amount paid
16 under paragraph (1) shall be paid from the Fund.

17 (b) DETERMINATION AND DENIAL OF AWARDS.—

18 (1) DETERMINATION OF AWARDS.—

19 (A) DISCRETION.—The determination of
20 the amount of an award to be made pursuant
21 to subsection (a) shall be within the discretion
22 of the Commission (subject to the requirements
23 described in subsection (a)).

1 (B) CRITERIA.—In determining an award
2 to be made pursuant to subsection (a), the
3 Commission—

4 (i) shall take into consideration—

5 (I) the significance of the original
6 information provided by the whistle-
7 blower to the successful resolution of
8 the covered action;

9 (II) the degree of assistance pro-
10 vided by the whistleblower and any
11 legal representative of the whistle-
12 blower in the covered action; and

13 (III) such additional factors as
14 the Commission may establish; and

15 (ii) shall not take into consideration
16 the balance of the Fund.

17 (2) DENIAL OF AWARDS.—Notwithstanding
18 subsection (a), the Commission shall deny an award
19 to any whistleblower to whom an award otherwise
20 would be made pursuant to subsection (a) if the
21 whistleblower—

22 (A) is convicted of a criminal violation re-
23 lated to the relevant covered action;

24 (B) acts without direction from a covered
25 entity (or an agent of a covered entity) to delib-

1 erately cause or substantially contribute to the
2 alleged covered violation underlying the relevant
3 covered action;

4 (C) fails to provide the relevant original in-
5 formation to the Commission in the form the
6 Commission requires; and

7 (D) was, at the time the whistleblower ac-
8 quired the relevant original information, a
9 member, officer, or employee of the Commission
10 or a law enforcement agency and acquired the
11 information while acting in the normal course
12 of the employment duties of the whistleblower.

13 (c) REPRESENTATION.—

14 (1) PERMITTED REPRESENTATION.—A whistle-
15 blower may be represented by counsel.

16 (2) REQUIRED REPRESENTATION.—

17 (A) ANONYMOUS CLAIMS.—Any whistle-
18 blower who anonymously makes a claim for an
19 award under subsection (a) shall be represented
20 by counsel if the whistleblower anonymously
21 submits the original information upon which the
22 claim is based.

23 (B) DISCLOSURE OF IDENTITY.—Before
24 the payment of an award described in subpara-
25 graph (A), the whistleblower shall disclose the

1 identity of the whistleblower and provide such
2 other information as the Commission may re-
3 quire, directly or through counsel for the whis-
4 tleblower.

5 (d) NO CONTRACT NECESSARY.—A contract with the
6 Commission is not necessary for a whistleblower to receive
7 an award pursuant to subsection (a).

8 (e) PROVISION OF FALSE INFORMATION.—A whistle-
9 blower who knowingly and intentionally makes any false,
10 fictitious, or fraudulent statement or representation, or
11 who knowingly and intentionally makes or uses any false
12 writing or document containing any false, fictitious, or
13 fraudulent statement or entry, may not receive an award
14 pursuant to subsection (a).

15 (f) APPEALS.—

16 (1) IN GENERAL.—Any determination made
17 under this section, including whether, to whom, or in
18 what amount to make an award, shall be in the dis-
19 cretion of the Commission.

20 (2) APPEALS.—Any determination made by the
21 Commission under this section may be appealed by
22 a whistleblower to the appropriate court of appeals
23 of the United States not later than 30 days after the
24 date on which the determination is issued by the
25 Commission.

1 (3) REVIEW.—The court shall review the deter-
2 mination made by the Commission in accordance
3 with section 706 of title 5, United States Code.

4 (g) FEDERAL TRADE COMMISSION CONSUMER PRO-
5 TECTION FUND.—

6 (1) ESTABLISHMENT.—There is established in
7 the Treasury of the United States a Fund to be
8 known as the “Federal Trade Commission Consumer
9 Protection Fund”.

10 (2) USE OF FUND.—The Fund shall be avail-
11 able to the Commission, without further appropria-
12 tion or fiscal year limitation, in order to pay for
13 awards made to whistleblowers pursuant to sub-
14 section (a).

15 (3) DEPOSITS AND CREDITS.—

16 (A) IN GENERAL.—There shall be depos-
17 ited into or credited to the Fund an amount
18 equal to any monetary sanctions collected by
19 the Commission in any covered action, unless
20 the balance of the Fund at the time the mone-
21 etary sanction is collected exceeds \$500,000,000.

22 (B) ADDITIONAL AMOUNTS.—If the
23 amounts deposited into or credited to the Fund
24 under subparagraph (A) are not sufficient to
25 pay an award made pursuant to subsection (a),

1 there shall be deposited into or credited to the
2 Fund an amount equal to the unsatisfied por-
3 tion of the award from any monetary sanctions
4 collected by the Commission in the covered ac-
5 tion on which the award is based.

6 (4) INVESTMENTS.—

7 (A) AMOUNTS IN FUND.—The Commission
8 may request the Secretary of the Treasury to
9 invest the portion of the Fund that is not re-
10 quired to meet the current needs of the Fund
11 (as determined by the Commission).

12 (B) ELIGIBLE INVESTMENTS.—Invest-
13 ments shall be made by the Secretary of the
14 Treasury in obligations of the United States or
15 obligations that are guaranteed as to principal
16 and interest by the United States, with matu-
17 rities suitable to the needs of the Fund (as de-
18 termined by the Commission).

19 (C) INTEREST AND PROCEEDS CRED-
20 ITED.—The interest on, and the proceeds from,
21 the sale or redemption of any obligations held
22 in the Fund shall be credited to, and form a
23 part of, the Fund.

24 (5) REPORTS TO CONGRESS.—Not later than
25 October 30 of each year, the Commission shall sub-

1 mit to the Committee on Energy and Commerce of
2 the House of Representatives and the Committee on
3 Commerce, Science, and Transportation of the Sen-
4 ate a report on—

5 (A) the whistleblower award program es-
6 tablished under this section, including a de-
7 scription of the number of awards made pursu-
8 ant to subsection (a) and the types of cases in
9 which such awards were made during the pre-
10 ceeding fiscal year;

11 (B) the balance of the Fund at the begin-
12 ning of the preceding fiscal year;

13 (C) the amounts deposited into or credited
14 to the Fund during the preceding fiscal year;

15 (D) the amount of earnings on investments
16 of amounts in the Fund during the preceding
17 fiscal year;

18 (E) the amount paid from the Fund to pay
19 for awards made to whistleblowers pursuant to
20 subsection (a) during the preceding fiscal year;

21 (F) the balance of the Fund at the end of
22 the preceding fiscal year; and

23 (G) a complete set of audited financial
24 statements, including a balance sheet, income
25 statement, and cash flow analysis.

1 (h) RULES OF CONSTRUCTION.—

2 (1) ORIGINAL INFORMATION.—Original infor-
3 mation submitted to the Commission by a whistle-
4 blower in accordance with the requirements of this
5 section shall not lose the status as original informa-
6 tion solely because the whistleblower submitted the
7 information before the effective date of any regula-
8 tion issued under this Act if the information was
9 submitted after the date of the enactment of this
10 Act.

11 (2) AWARDS.—A whistleblower—

12 (A) may receive an award pursuant to sub-
13 section (a) regardless of whether the alleged
14 covered violation underlying the covered action
15 occurred before the date of the enactment of
16 this Act; and

17 (B) may receive an award pursuant to sub-
18 section (a) before the Commission promulgates
19 any regulation pursuant to this Act.

20 **SEC. 4. RULEMAKING.**

21 The Commission may promulgate, under section 553
22 of title 5, United States Code, any regulations the Com-
23 mission determines necessary to carry out the provisions
24 of this Act.

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the Federal Trade Commission.

5 (2) COVERED ACTION.—The term “covered ac-
6 tion” means any administrative or judicial action or
7 proceeding, including any related administrative or
8 judicial action, brought by the Commission, or by
9 the Attorney General on behalf of the Commission,
10 in relation to a covered violation and that results in
11 monetary sanctions exceeding \$1,000,000.

12 (3) COVERED DISCLOSURE.—The term “cov-
13 ered disclosure” means a formal or informal commu-
14 nication or transmission that an individual reason-
15 ably believes relates to an alleged covered violation,
16 including such a communication or transmission of
17 such a violation that is part of the normal employ-
18 ment duties of the individual.

19 (4) COVERED ENTITY.—The term “covered en-
20 tity” means an entity or individual that is subject to
21 the jurisdiction of the Commission.

22 (5) COVERED VIOLATION.—The term “covered
23 violation” means—

24 (A) a violation of any law, rule, or regula-
25 tion enforced by the Commission; or

1 (B) a violation of any order of the Com-
2 mission after such order has become final and
3 while such order is in effect.

4 (6) FUND.—The term “Fund” means the Fed-
5 eral Trade Commission Consumer Protection Fund
6 established pursuant to section 3(g).

7 (7) MONETARY SANCTIONS.—The term “mone-
8 tary sanctions”, with respect to a covered action—

9 (A) means monies, including penalties,
10 disgorgement, or interest, ordered or agreed to
11 be paid as a result of such action; and

12 (B) does not include restitution (as deter-
13 mined by the Commission) for losses of, or re-
14 lief necessary to redress injury to, consumers,
15 other persons, partnerships, and corporations.

16 (8) ORIGINAL INFORMATION.—The term “origi-
17 nal information” means information that—

18 (A) is derived from the independent knowl-
19 edge or analysis of a whistleblower;

20 (B) is not known to the Commission from
21 any other source, unless the whistleblower is the
22 original source of the information; and

23 (C) is not exclusively derived from an alle-
24 gation made in a judicial or an administrative
25 action, governmental report, hearing, audit, or

1 investigation, or from the news media, unless
2 the whistleblower is a source of the information.

3 (9) QUALIFIED ENTITY.—The term “qualified
4 entity” means—

5 (A) the Commission;

6 (B) an agency (as defined in section 551
7 of title 5, United States Code) or a law enforce-
8 ment agency; or

9 (C) any Member of Congress or committee
10 of Congress.

11 (10) RELATED ADMINISTRATIVE OR JUDICIAL
12 ACTION.—The terms “related administrative action”
13 and “related judicial action” include any action
14 brought by any appropriate Federal authority, a
15 State Attorney General in connection with any
16 criminal investigation, or any appropriate State reg-
17 ulatory authority that is based upon the original in-
18 formation provided by a whistleblower that leads to
19 the successful enforcement of the action by the Com-
20 mission or the Attorney General on behalf of the
21 Commission.

22 (11) WHISTLEBLOWER.—The term “whistle-
23 blower” means—

24 (A) an individual (or group of individuals)
25 who is a current or former full-time, part-time,

1 or temporary employee, contractor, subcon-
2 tractor (at any tier), grantee, subgrantee, or
3 agent of a covered entity or employee of a con-
4 tractor or subcontractor (at any tier) of the
5 covered entity and who engages in any of the
6 conduct described in paragraph (1), (2), or (3)
7 of section 2(a), including as part of the employ-
8 ment duties of such individual or group; or
9 (B) any person that assists any such indi-
10 vidual or group with such conduct.

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