
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1343 Session of
2022

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SEPTEMBER 29, 2022

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
SEPTEMBER 29, 2022

AN ACT

1 Providing for unfair trade practices and for protection of
2 whistleblowers; promulgating regulations; establishing the
3 Price-Fixing Consumer Protection Fund; and making an
4 appropriation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Stop Price
9 Fixing Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Adverse action." Any of the following:

15 (1) When performed by a supplier or buyer, refusing to
16 deal with, threatening, harassing, directly or indirectly, or
17 in any other manner discriminating against, an individual or
18 an individual's employer.

1 (2) When performed by an employer, discharging,
2 demoting, suspending, threatening, harassing, directly or
3 indirectly, or in any other manner discriminating against, an
4 employee.

5 "Covered judicial or administrative action." A judicial or
6 administrative action brought by the Attorney General under the
7 Unfair Trade Practices and Consumer Protection Law that results
8 in monetary sanctions.

9 "Fund." The Price-Fixing Consumer Protection Fund
10 established under section 4(f)(1).

11 "Monetary sanctions." Money, including penalties,
12 disgorgement and interest, ordered to be paid as the result of a
13 judicial or administrative action.

14 "Original information." Information that is:

15 (1) derived from the independent knowledge or analysis
16 of a whistleblower;

17 (2) not known to the Attorney General from any other
18 source, unless the whistleblower is the original source of
19 the information; and

20 (3) not exclusively derived from an allegation made in a
21 judicial or administrative hearing, governmental report,
22 hearing, audit or investigation, or from the news media,
23 unless the whistleblower is a source of the information.

24 "Predispute arbitration agreement." An agreement to
25 arbitrate a dispute that had not yet arisen at the time the
26 agreement was made.

27 "Predispute joint-action waiver." An agreement, whether or
28 not part of a predispute arbitration agreement, that would
29 prohibit, or waive the right of, one of the parties to the
30 agreement to participate in a joint class or collective action

1 in a judicial, arbitral, administrative or other forum,
2 concerning a dispute that has not yet arisen at the time the
3 agreement was made.

4 "Related action." With respect to any judicial or
5 administrative action brought by the Attorney General under the
6 Unfair Trade Practices and Consumer Protection Law, any judicial
7 or administrative action brought by an entity described in
8 section 4(j)(1) that is based upon the original information
9 provided by a whistleblower that led to the successful
10 enforcement of the Attorney General's action.

11 "Unfair Trade Practices and Consumer Protection Law." The
12 act of December 17, 1968 (P.L.1224, No.387), known as the Unfair
13 Trade Practices and Consumer Protection Law.

14 "Whistleblower." An individual who provides information
15 relating to a violation of the Unfair Trade Practices and
16 Consumer Protection Law to the Attorney General or other
17 governmental authority in a manner established, by rule or
18 regulation, by the Attorney General.

19 Section 3. Circumstantial evidence of conspiracy.

20 (a) Inferences of collusion.--In a suit alleging a violation
21 of section 3 of the Unfair Trade Practices and Consumer
22 Protection Law, the following shall apply:

23 (1) A court shall not dismiss a claim if the allegations
24 supporting the claim are consistent with both the doctrine of
25 conscious parallelism and with either the doctrine of tacit
26 collusion or oligopolistic price coordination in violation of
27 section 3 of the Unfair Trade Practices and Consumer
28 Protection Law.

29 (2) A court shall not grant summary judgment or judgment
30 as a matter of law against a claim if the evidence supporting

1 the claim is consistent with both the doctrine of conscious
2 parallelism and with either the doctrine of tacit collusion
3 or oligopolistic price coordination in violation of section 3
4 of the Unfair Trade Practices and Consumer Protection Law.

5 (b) Industry bans.--An individual who violates this act may,
6 at the discretion of the court, be barred permanently, or for a
7 definite period of time, from working in the industry in which
8 the violation occurred.

9 (c) Invalidity of predispute arbitration agreements.--At the
10 election of the person alleging conduct constituting a violation
11 of this section, or the named representative of a class or in a
12 collective action alleging such conduct, no predispute
13 arbitration agreement or predispute joint-action waiver shall be
14 valid or enforceable with respect to a case which relates to a
15 violation of this section.

16 (d) Determination of applicability.--An issue as to whether
17 this act applies with respect to a dispute shall be determined
18 under the laws of this Commonwealth. The applicability of this
19 act to an agreement to arbitrate and the validity and
20 enforceability of an agreement to which this act applies shall
21 be determined by a court, rather than an arbitrator, regardless
22 of whether the party resisting arbitration challenges the
23 arbitration agreement specifically or in conjunction with other
24 terms of the contract containing the agreement, and regardless
25 of whether the agreement purports to delegate the determinations
26 to an arbitrator.

27 Section 4. Whistleblower protection.

28 (a) Award.--

29 (1) In a covered judicial or administrative action, or
30 related action, the Attorney General, under regulations

1 prescribed by the Attorney General, shall pay an award or
2 awards to one or more whistleblowers who voluntarily provided
3 original information to the Attorney General that led to the
4 successful enforcement of the covered judicial or
5 administrative action, or related action, in an aggregate
6 amount equal to:

7 (i) Not less than 10%, in total, of what has been
8 collected of the monetary sanctions imposed in the action
9 or related actions; and

10 (ii) Not more than 30%, in total, of what has been
11 collected of the monetary sanctions imposed in the action
12 or related actions.

13 (2) An amount awarded under paragraph (1) shall be paid
14 from the fund.

15 (b) Determination of award amount.--The following shall
16 apply in determining the amount of an award under subsection

17 (a):

18 (1) The amount of an award under subsection (a) shall be
19 determined by the Attorney General.

20 (2) In determining the amount of an award made under
21 subsection (a), the Attorney General shall take the following
22 into consideration:

23 (i) Significance of the information provided by the
24 whistleblower to the success of the covered judicial or
25 administrative action.

26 (ii) Degree of assistance provided by the
27 whistleblower and any legal representative of the
28 whistleblower in a covered judicial or administrative
29 action.

30 (iii) Programmatic interest of the Attorney General

1 in deterring violations of the Unfair Trade Practices and
2 Consumer Protection Law by making awards to
3 whistleblowers who provide information that leads to the
4 successful enforcement of this law.

5 (iv) Any additional relevant factors as the Attorney
6 General may establish by rule or regulation.

7 (3) In determining the amount of an award under
8 subsection (a), the Attorney General shall not take into
9 consideration the balance of the fund.

10 (c) Representation.--

11 (1) A whistleblower who makes a claim for an award under
12 subsection (a) may be represented by counsel.

13 (2) A whistleblower who anonymously makes a claim for an
14 award under subsection (a) shall be represented by counsel if
15 the whistleblower anonymously submits the information upon
16 which the claim is based.

17 (3) Prior to the payment of an award, a whistleblower
18 shall disclose the identity of the whistleblower and provide
19 other information as the Attorney General may require,
20 directly or through counsel for the whistleblower.

21 (d) No contract necessary.--No contract with the Attorney
22 General is necessary for a whistleblower to receive an award
23 under subsection (a), unless otherwise required by the Attorney
24 General by rule or regulation.

25 (e) Appeals.--A determination made under this section,
26 including whether, to whom, or in what amount to make awards,
27 shall be at the discretion of the Attorney General. The
28 determination, except the determination of the amount of an
29 award made in accordance with subsection (a), may be appealed to
30 the appropriate court not more than 30 days after the

1 determination is issued by the Attorney General.

2 (f) Price-Fixing Consumer Protection Fund.--

3 (1) The Price-Fixing Consumer Protection Fund is
4 established in the State Treasury.

5 (2) Money in the fund is appropriated on a continuing
6 basis to the Office of Attorney General, which shall use the
7 money for the following purposes:

8 (i) Paying awards to whistleblowers as provided in
9 subsection (a).

10 (ii) Funding the activities of the Attorney General.

11 (3) The following shall be deposited into the fund:

12 (i) Any monetary sanction collected by the Attorney
13 General in a judicial or administrative action brought by
14 the Attorney General under the Unfair Trade Practices and
15 Consumer Protection Law that is not otherwise distributed
16 to victims.

17 (ii) All income from investments made under
18 paragraph (5).

19 (4) If the money deposited into the fund under paragraph
20 (3) is not sufficient to satisfy an award made under
21 subsection (a), an amount equal to the unsatisfied portion of
22 the award, from any monetary sanction collected by the
23 Attorney General in the covered judicial or administrative
24 action on which the award is based, shall be deposited into
25 the fund.

26 (5) Money in the fund may be invested. The Attorney
27 General may request the State Treasurer to invest the portion
28 of the fund that is not, at the discretion of the Attorney
29 General, required to meet the current needs of the fund.

30 Money held or deposited by the State Treasurer may be

1 invested or reinvested in the same manner as other money in
2 the custody of the State Treasurer. All earnings received
3 from the investment or deposit of money in the fund shall be
4 paid into the fund. The interest on, and the proceeds from
5 the sale or redemption of, any obligations held in the fund
6 shall be credited to the fund.

7 (6) No later than October 30 of each fiscal year
8 beginning after the effective date of this paragraph, the
9 Attorney General shall submit a report to the chairperson and
10 minority chairperson of the Judiciary Committee of the
11 Senate, the chairperson and minority chairperson of the
12 Consumer Protection and Professional Licensure Committee of
13 the Senate, the chairperson and minority chairperson of the
14 Judiciary Committee of the House of Representatives and the
15 chairperson and minority chairperson of the Consumer Affairs
16 Committee of the House of Representatives, which shall
17 include the following information:

18 (i) The whistleblower award program, established
19 under this section, including:

20 (A) a description of the number of awards
21 granted; and

22 (B) the types of cases in which awards were
23 granted during the preceding fiscal year.

24 (ii) The balance of the fund at the beginning of the
25 preceding fiscal year.

26 (iii) The amounts deposited into or credited to the
27 fund during the preceding fiscal year.

28 (iv) The amount of earnings on investments made
29 under paragraph (5) during the preceding fiscal year.

30 (v) The amount of money awarded to whistleblowers

1 under subsection (a) in the preceding fiscal year.

2 (vi) The balance of the fund at the end of the
3 preceding fiscal year.

4 (vii) A complete set of audited financial
5 statements, which shall include the following:

6 (A) Balance sheet.

7 (B) Income statement.

8 (C) Cash flow analysis.

9 (g) Protection of whistleblowers.--

10 (1) It shall be unlawful for an employer or an officer
11 or agent of an employer to discharge, threaten or otherwise
12 retaliate or discriminate in any manner against a
13 whistleblower because of any of the following:

14 (i) The whistleblower provides information, reports
15 or makes a complaint regarding a violation of this act to
16 the Attorney General or other governmental authority.

17 (ii) The whistleblower initiates, testifies in or
18 assists in any investigation, hearing, inquiry or
19 judicial or administrative action of the Attorney General
20 or any other governmental authority based upon or related
21 to the information.

22 (2) An individual who alleges retaliation or other
23 adverse action in violation of paragraph (1) may bring a
24 private right of action in the appropriate court for relief
25 as provided under paragraph (5) in accordance with
26 established civil procedures of this Commonwealth.

27 (3) A subpoena requiring the attendance of a witness at
28 a trial or hearing conducted under this section may be served
29 at any place in the Commonwealth.

30 (4) An action under paragraph (2) may not be brought:

1 (i) more than six years after the date on which the
2 violation of paragraph (1) occurred; or

3 (ii) more than three years after the date when the
4 facts material to the right of action are known by the
5 employee alleging a violation of paragraph (1).

6 (5) An individual who prevails in an action brought
7 under paragraph (2) shall be entitled to the following
8 relief:

9 (i) Reinstatement without a loss in the same
10 seniority status that the individual would have had, but
11 for the illegal employment action.

12 (ii) A monetary award that equals three times the
13 amount of wages and fringe benefits calculated from the
14 date of the retaliation or other adverse action under
15 paragraph (1), with interest.

16 (iii) Reasonable attorney fees and cost of the
17 action.

18 (iv) Any other legal and equitable relief that the
19 court determines is appropriate to make the individual
20 whole.

21 (h) Confidentiality.--Except as otherwise provided in this
22 act, the Attorney General shall not disclose any information,
23 including information provided by a whistleblower to the
24 Attorney General, which could reasonably be expected to reveal
25 the identity of the whistleblower unless and until required to
26 be disclosed to a defendant or respondent in connection with a
27 public proceeding instituted by the Attorney General or any
28 entity described in subsection (i) and (j).

29 (i) Construction.--Nothing in this section shall limit the
30 ability of the Attorney General to present evidence to a grand

1 jury or to share evidence with potential witnesses or defendants
2 in the course of an ongoing criminal investigation.

3 (j) Availability of information to government agencies.--

4 (1) At the discretion of the Attorney General,
5 information submitted to the Attorney General by a
6 whistleblower under this act may be made available to the
7 following entities when determined by the Attorney General to
8 be necessary to accomplish the purposes of this act and to
9 protect investors:

10 (i) An appropriate regulatory authority.

11 (ii) A State regulatory authority.

12 (iii) Federal enforcement agency.

13 (iv) The Public Company Accounting Oversight Board.

14 (2) Each entity described under paragraph (1) shall
15 maintain the information as confidential in accordance with
16 the requirements established under subsection (h).

17 (3) Nothing in this section shall be deemed to diminish
18 the rights, privileges or remedies of any whistleblower under
19 Federal law, State law or a collective bargaining agreement.

20 (k) Rulemaking authority.--The Attorney General shall have
21 the authority to issue rules and regulations as may be necessary
22 or appropriate to implement the provisions of this section
23 consistent with the purposes of this section.

24 (l) Study of the whistleblower protection program.--The
25 Attorney General shall issue a report on the whistleblower
26 protections established under this act, to which the following
27 shall apply:

28 (1) The report shall include the following information:

29 (i) Whether the final rules and regulations issued
30 under this act have made the whistleblower protection

1 program clearly defined and user-friendly.

2 (ii) Whether the whistleblower protection program is
3 promoted on the publicly accessible Internet website of
4 the Attorney General and has been widely publicized.

5 (iii) Whether the Attorney General has promptly:

6 (A) Responded to:

7 (I) information provided by whistleblowers;

8 and

9 (II) applications for awards filed by
10 whistleblowers.

11 (B) Updated whistleblowers about the status of
12 applications submitted under this act.

13 (C) Otherwise communicated with interested
14 parties.

15 (iv) Whether the minimum and maximum award levels
16 are adequate to entice whistleblowers to come forward
17 with information and whether the rewards are so high as
18 to encourage illegitimate whistleblower claims.

19 (v) Whether the appeals process has been unduly
20 burdensome for the Attorney General.

21 (vi) Whether the funding mechanism for the fund is
22 adequate.

23 (vii) Any other information as the Attorney General
24 deems appropriate.

25 (2) The Attorney General shall submit the report no
26 later than 30 months after the effective date of this
27 paragraph to the chairperson and minority chairperson of the
28 Judiciary Committee of the Senate, the chairperson and
29 minority chairperson of the Consumer Protection and
30 Professional Licensure Committee of the Senate, the

1 chairperson and minority chairperson of the Judiciary
2 Committee of the House of Representatives and the chairperson
3 and minority chairperson of the Consumer Affairs Committee of
4 the House of Representatives. The Attorney General shall
5 transmit the report to the Legislative Reference Bureau for
6 publication in the Pennsylvania Bulletin and shall publish
7 the report on the Attorney General's publicly accessible
8 Internet website.

9 Section 5. Implementation and transition provisions.

10 (a) Implementing rules.--The Attorney General shall
11 promulgate regulations implementing this act no later than 270
12 days after the effective date of this subsection.

13 (b) Original information.--Information provided to the
14 Attorney General in writing by a whistleblower shall not lose
15 the status of original information solely because the
16 whistleblower provided the information prior to the effective
17 date of the regulations, if the information is provided by the
18 whistleblower after the effective date of this subsection.

19 (c) Awards.--A whistleblower may receive an award pursuant
20 to this act, regardless of whether a statutory or regulatory
21 violation occurred, if judicial or administrative action upon
22 which the award is based occurred prior to the effective date of
23 this subsection.

24 Section 6. Effective date.

25 This act shall take effect in 60 days.