

Senators Want Whistle-Blower Law Enforced



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By MICHAEL J. SNIFFEN, Associated Press Writer

WASHINGTON - Two senators who wrote a tough but little-understood law to protect corporate whistle-blowers are press the Securities and Exchange Commission ([news](#) - [web sites](#)) for aggressive enforcement just as a case emerges that could determine how companies are policed.

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Spurred by scandals at Enron, WorldCom and other large corporations, Congress passed the Sarbanes-Oxley Act in 2002. The law required chief executives to swear that their company's disclosures are accurate. But it also gave corporate whistle-blowers more protection than any previous federal law has extended to insiders who report wrongdoing.

Sens. Charles Grassley, R-Iowa, and Patrick Leahy, D-Vt., who wrote the whistle-blower section said they wanted to change a corporate culture that "valued profit over honesty."

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In addition to making it easier and safer to report corporate misdeeds, the law also:

— requires corporate lawyers to report any misconduct they observe.

— exposes executives and companies that punish whistle-blowers to civil lawsuits under the Racketeer Influenced and Corrupt Organizations Act.

— provides the first criminal penalties — up to 20 years in prison and \$5 million in fines — for firing a whistle-blower in retaliation.

"Congress noticed there was a whistle-blower in most major scandals, like Sherron Watkins at Enron and Cynthia Cooper at WorldCom," said Stephen M. Kohn, a director of the National Whistleblower Center.

Kohn said Congress' plan to use conscience-stricken company insiders as important players in reforming corporate culture can succeed "only if the SEC does its job."

The SEC has been silent about the whistle-blower provisions. Last week, Grassley and Leahy wrote SEC Chairman William Donaldson for details of the agency's enforcement plans.

The senators were prompted by a Labor Department ([news](#) - [web sites](#)) finding on Oct. 7 — the first under the law — that a publicly traded company retaliated against a whistle-blower.

Asking for "aggressive enforcement," Grassley and Leahy noted that the law says any violation of its provisions "shall be treated for all purposes ... as a violation of the Securities Exchange Act of 1934," which the SEC is charged with investigating.

SEC spokesman Matthew Well declined comment.

In the Oct. 7 finding, the Office of Occupational Safety and Health ruled that CheckFree Corp. of Norcross, Ga., fired its product marketing director, Larry Hogan, after he told superiors the company was using deceptive marketing and overstating revenues and thereby defrauding its customers and investors.

CheckFree markets electronic software to banks and businesses that allows consumers to receive and pay bills over the Internet.

The Labor Department found that Hogan had complained to superiors that they were claiming capabilities for a new product being offered to Mellon Bank that the product did not have. He raised similar complaints about marketing to Anthem Blue Cross/Blue Shield and National City Bank.

In a preliminary order appealed by both sides, the Labor Department said CheckFree must pay Hogan more than \$103,000 in back pay, interest, counseling and job search expenses, and compensation for mental pain and suffering and loss of professional reputation.

CheckFree spokesman Dave Fontaine declined comment.

Leahy said Friday that the ruling gives the SEC a "clear opportunity to show and tell the public how it will be handling allegations that could form the basis for a criminal violation of the whistleblower provisions" of Sarbanes-Oxley.

Kohn, who represents Hogan, said the Labor Department "can only protect the private interest of the whistle-blower." But SEC, he said, "can use this law to protect the public interest of civilly and criminally investigating corporate wrongdoing."

Kohn said the law provides that any testimony given in a Labor Department hearing, such as Hogan's impending appeal, be used in any subsequent SEC-generated civil or criminal case.

"This is truly a revolutionary law of vast scope," he said.

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On the Net:


National Whistleblower Center's background on the law:

http://us.rd.yahoo.com/dailynews/ap/ap_on_bi_ge/storytext/SIG=11kud5pr/*http://whistleblowers.org/html/sarbanes-oxle

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