



OESA Legal Corner: New Law Protects Auto-Industry Whistleblowers

Joseph Weinstein and Joseph Rodgers, Squire Sanders (US) LLP

On July 6, 2012, President Obama signed into law the Moving Ahead for Progress in the 21st Century Act (MAP-21). MAP-21 – effective on Oct. 1, 2012 -- was enacted to, among other things, improve motor vehicle safety. In addition to authorizing funding for transportation programs, MAP-21 prohibits “motor vehicle manufacturers, parts suppliers and dealerships” from retaliating (through compensation, terms or conditions of employment) against employees who provide information to their employer or the U.S. Department of Transportation about motor vehicle defects, noncompliance or violations of the notification or reporting requirements enforced by NHTSA.

MAP-21 promulgates a detailed claims process. To summarize, employees who believe they are subject to retaliation can file a complaint with the Secretary of Labor. If the Secretary determines after an investigation that a violation has occurred, the Secretary shall (1) order the violator to abate the violation, (2) reinstate the employee (with back pay) and (3) award “compensatory damages.” Also, if requested, the Secretary shall order the violator to pay costs and expenses (including attorneys’ and expert witness fees) incurred by the employee. MAP-21 includes strict filing deadlines and appeal rights.

MAP-21 is new, but companies should already be taking employee “complaints” seriously and conducting prompt investigations. If not already in place, companies should also consider instituting anti-retaliation policies. And, of course, legitimate business reasons must support discharge decisions or other decisions impacting an employee’s terms or conditions of employment. The risks are far too great.

A copy of MAP-21 is available on the Federal Highway Administration’s website <http://www.fhwa.dot.gov>.

Joseph Weinstein and Joseph Rodgers are litigation attorneys in the Cleveland office of Squire Sanders (US) LLP. They can be reached as 216.479.8500 or joe.weinstein@squiresanders.com.

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