

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5578  
OFFERED BY MR. COMER OF KENTUCKY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Expanding Whistle-  
3 blower Protections for Contractors Act”.

**4 SEC. 2. DEFENSE CONTRACTOR EMPLOYEES: PROTECTION  
5 FROM REPRISAL FOR DISCLOSURE OF CER-  
6 TAIN INFORMATION.**

7 Section 4701 of title 10, United States Code, is  
8 amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1)—

11 (i) in the matter preceding subpara-  
12 graph (A)—

13 (I) by striking “An employee”  
14 and all that follows through “services  
15 contractor” and inserting “A pro-  
16 tected individual”; and

1 (II) by striking “disclosing” and  
2 all that follows through “evidence of”;  
3 and

4 (ii) by striking subparagraphs (A),  
5 (B), and (C) and inserting the following  
6 subparagraphs:

7           “(A) Refusing to obey an order that would re-  
8        quire the protected individual to violate a law, rule,  
9        or regulation related to any contract, subcontract,  
10        grant, or subgrant.

11               “(B) Disclosing to a person or body described  
12        in paragraph (2) information that the protected indi-  
13        vidual reasonably believes is evidence of the fol-  
14        lowing:

1 contract or grant, any gross waste of Adminis-  
2 tration funds, any abuse of authority relating to  
3 an Administration contract, subcontract, grant,  
4 or subgrant, or any violation of law, rule, or  
5 regulation related to any Administration con-  
6 tract or subcontract (including the competition  
7 for or negotiation of a contract or subcontract)  
8 or grant or subgrant.

11 (B) in paragraph (3)—

12 (i) in subparagraph (A), by striking  
13 “an employee” and inserting “a protected  
14 individual”; and

15 (ii) by striking subparagraph (B) and  
16 inserting the following subparagraph:

17               “(B) it shall not be within the authority of an  
18               executive branch official to request that a con-  
19               tractor, subcontractor, grantee, or subgrantee en-  
20               gage in a reprisal prohibited by paragraph (1).”;

21 (2) in subsection (c)—

22 (A) in paragraph (1), by adding at the end  
23 the following subparagraph:

24                   “(E) Propose appropriate disciplinary action  
25                   against any executive branch official for any request

1 made of a contractor, subcontractor, grantee, or sub-  
2 grantee that subjected the complainant to a reprisal  
3 prohibited by subsection (a)."; and

4 (B) by striking paragraph (7) and insert-  
5 ing the following paragraph:

6       “(7) CLARIFICATION FOR SCOPE OF WAIVER RE-  
7    STRICTIONS.—The rights, forum, and remedies provided  
8    for in this section may not be waived by any public or  
9    private agreement, policy, form, or condition of employ-  
10   ment, including by any predispute arbitration agree-  
11   ment.”;

12 (3) by striking subsection (e) and redesignating  
13 subsections (f) and (g) as subsections (e) and (f), re-  
14 spectively;

15 (4) in subsection (e), as so redesignated—

16 (A) by striking “an employee” and insert-  
17 ing “a protected individual”; and

18 (B) by striking “the employee” and insert-  
19 ing “the protected individual”; and

20 (5) in subsection (f), as so redesignated, by  
21 adding at the end the following new paragraph:

22 “(8) The term ‘protected individual’ means—

23                         “(A) a contractor, subcontractor, grantee,  
24                         or subgrantee of the Department of Defense or

1                   the National Aeronautics and Space Adminis-  
2                   tration, including—

3                         “(i) the government of each of the  
4                         several States, the District of Columbia, an  
5                         Indian tribe or authorized tribal organiza-  
6                         tion, the Commonwealth of Puerto Rico,  
7                         Guam, American Samoa, the Virgin Is-  
8                         lands, the Commonwealth of the Northern  
9                         Mariana Islands, or any other territory or  
10                        possession of the United States;

11                         “(ii) the government of any political  
12                         subdivision of, agency of, or instrumen-  
13                         tality of, a government listed in clause (i);  
14                         and

15                         “(iii) an element of the intelligence  
16                         community (as defined in section 3 of the  
17                         National Security Act of 1947 (50 U.S.C.  
18                         3003)) within the Department of Defense;

19                         “(B) an employee of a contractor, subcon-  
20                         tractor, grantee, or subgrantee of the Depart-  
21                         ment of Defense or the National Aeronautics  
22                         and Space Administration, or a former em-  
23                         ployee of such contractor, subcontractor, grant-  
24                         tee, or subgrantee whose protected disclosure or  
25                         engagement in any activity protected against

1           reprisal under this section occurred prior to ter-  
2           mination, including an employee of—

3                       “(i) the government of each of the  
4                       several States, the District of Columbia, an  
5                       Indian tribe or authorized tribal organiza-  
6                       tion, the Commonwealth of Puerto Rico,  
7                       Guam, American Samoa, the Virgin Is-  
8                       lands, the Commonwealth of the Northern  
9                       Mariana Islands, or any other territory or  
10                      possession of the United States;

11                      “(ii) the government of any political  
12                       subdivision of, agency of, or instrumen-  
13                       tality of, a government listed in clause (i);  
14                      and

15                      “(iii) an element of the intelligence  
16                       community (as defined in section 3 of the  
17                       National Security Act of 1947 (50 U.S.C.  
18                       3003)) within the Department of Defense;  
19                      or

20                      “(C) a person performing personal services  
21                       for the Department of Defense or the National  
22                       Aeronautics and Space Administration pursuant  
23                       to a contractual agreement for the performance  
24                       of personal services, including a personal serv-  
25                       ices contract or personal services agreement,

1           and who engages in an activity for which any  
2           reprisal is prohibited under subsection (a), in-  
3           cluding a person performing personal services  
4           pursuant such a contractual agreement for—

5               “(i) the government of each of the  
6               several States, the District of Columbia, an  
7               Indian tribe or authorized tribal organiza-  
8               tion, the Commonwealth of Puerto Rico,  
9               Guam, American Samoa, the Virgin Is-  
10               lands, the Commonwealth of the Northern  
11               Mariana Islands, or any other territory or  
12               possession of the United States;

13               “(ii) the government of any political  
14               subdivision of, agency of, or instrumen-  
15               tality of, a government listed in clause (i);  
16               and

17               “(iii) an element of the intelligence  
18               community (as defined in section 3 of the  
19               National Security Act of 1947 (50 U.S.C.  
20               3003)) within the Department of De-  
21               fense.”.

1   **SEC. 3. ENHANCEMENT OF NON-DEFENSE CONTRACTOR**  
2                   **PROTECTION FROM REPRISAL FOR DISCLO-**  
3                   **SURE OF CERTAIN INFORMATION.**

4       Section 4712 of title 41, United States Code, is  
5   amended—

6               (1) in subsection (a)—

7                   (A) by striking paragraph (1) and insert-  
8                   ing the following paragraph:

9               “(1) IN GENERAL.—A protected individual may  
10               not be discharged, demoted, or otherwise discrimi-  
11               nated against as a reprisal for the following:

12               “(A) Refusing to obey an order that would  
13               require the protected individual to violate a law,  
14               rule, or regulation related to any contract, sub-  
15               contract, grant, or subgrant.

16               “(B) Disclosing to a person or body de-  
17               scribed in paragraph (2) information that the  
18               protected individual reasonably believes is evi-  
19               dence of the following:

20               “(i) Gross mismanagement of any  
21               Federal contract or grant, any gross waste  
22               of Federal funds, any abuse of authority  
23               relating to any Federal contract, sub-  
24               contract, grant, or subgrant, or any viola-  
25               tion of law, rule, or regulation related to  
26               any Federal contract or subcontract (in-

6 (B) in paragraph (3)—

7 (i) in subparagraph (A), by striking  
8 “an employee” and inserting “a protected  
9 individual”; and

10 (ii) by striking subparagraph (B) and  
11 inserting the following subparagraph:

12                   “(B) it shall not be within the authority of  
13                   an executive branch official to request that a  
14                   contractor, subcontractor, grantee, or sub-  
15                   grantee engage in a reprisal prohibited by para-  
16                   graph (1).”;

17 (2) in subsection (c)—

18 (A) in paragraph (1), by adding at the end  
19 the following new subparagraph:

20                             “(E) Propose appropriate disciplinary ac-  
21                             tion against any executive branch official for  
22                             any request made of a contractor, subcon-  
23                             tractor, grantee, or subgrantee that subjected  
24                             the complainant to a reprisal prohibited by sub-  
25                             section (a).”; and

(B) by striking paragraph (7) and inserting the following paragraph:

3                   “(7) RIGHTS, FORUM, AND REMEDIES NOT  
4                   WAIVABLE.—The rights, forum, and remedies pro-  
5                   vided for in this section may not be waived by any  
6                   public or private agreement, policy, form, or condi-  
7                   tion of employment, including by any predispute ar-  
8                   bitration agreement.”;

9 (3) in subsection (e)—

10 (A) by striking “an employee” and insert-  
11 ing “a protected individual”; and

12 (B) by striking “the employee” and insert-  
13 ing “the protected individual”;

14 (4) by striking subsection (f) and redesignating  
15 subsections (g) and (h) as subsections (f) and (g),  
16 respectively; and

17 (5) in subsection (f), as so redesignated, by in-  
18 serting after paragraph (2) the following new para-  
19 graph:

20                   “(3) The term ‘protected individual’ means—

21                   “(A) a contractor, subcontractor, grantee,  
22                   or subgrantee of the Federal Government, in-  
23                   cluding—

1                   Indian tribe or authorized tribal organiza-  
2                   tion, the Commonwealth of Puerto Rico,  
3                   Guam, American Samoa, the Virgin Is-  
4                   lands, the Commonwealth of the Northern  
5                   Mariana Islands, or any other territory or  
6                   possession of the United States;

7                   “(ii) the government of any political  
8                   subdivision of, agency of, or instrumen-  
9                   tality of, a government listed in clause (i);  
10                  and

11                  “(iii) an element of the intelligence  
12                  community (as defined in section 3 of the  
13                  National Security Act of 1947 (50 U.S.C.  
14                  3003));

15                  “(B) an employee of a contractor, subcon-  
16                  tractor, grantee, or subgrantee of the Federal  
17                  Government or a former employee of such con-  
18                  tractor, subcontractor, grantee, or subgrantee  
19                  whose protected disclosure or engagement in  
20                  any activity protected against reprisal under  
21                  this section occurred prior to termination, in-  
22                  cluding an employee of—

23                  “(i) the government of each of the  
24                  several States, the District of Columbia, an  
25                  Indian tribe or authorized tribal organiza-

14                   “(C) a person performing personal services  
15                   for the Federal Government pursuant to a con-  
16                   tractual agreement for the performance of per-  
17                   sonal services, including a personal services con-  
18                   tract or personal services agreement, including  
19                   a person performing personal services pursuant  
20                   to such a contractual agreement for—

1 lands, the Commonwealth of the Northern  
2 Mariana Islands, or any other territory or  
3 possession of the United States;