

As amended by Ch. 340, L. 2021.

Sect. 17-8-401 MCA et seq.

17-8-401 Short title.

This part may be cited as the "Montana False Claims Act".

17-8-402 Definitions.

As used in this part, the following definitions apply:

(1) "Claim" includes any request or demand for money, property, or services, whether made pursuant to a contract and regardless of whether a governmental entity holds title to the money or property, that is made to:

(a) an employee, officer, agent, or other representative of a governmental entity; or

(b) a contractor, grantee, or other person, whether under contract or not, if any portion of the money, property, or services requested or demanded is to be spent or used on a governmental entity's behalf or to advance a governmental program or interest and if the governmental entity:

(i) provides or has provided any portion of the money, property, or services requested or demanded; or

(ii) will reimburse a contractor, grantee, or other person for any portion of the money, property, or services requested or demanded.

(2) "Government attorney" means the attorney general except for complaints involving a unit of the university system.

(3) "Governmental entity" means:

(a) the state;

(b) a city, town, county, school district, tax or assessment district, or other political subdivision of the state; or

(c) a unit of the Montana university system.

(4) (a) "Knowingly" means that a person, with respect to information, does any of the following:

- (i) has actual knowledge of the information;
- (ii) acts in deliberate ignorance of the truth or falsity of the information;

or

- (iii) acts in reckless disregard of the truth or falsity of the information.

(b) A specific intent to defraud is not required.

(5) "Material" means having a natural tendency to influence or be capable of influencing the payment or receipt of money, property, or services.

(6) "Obligation" means an established duty, whether fixed or not, arising from:

(a) an express or implied contractual, grantor-grantee, or licensor- licensee relationship;

(b) a fee-based or similar relationship;

(c) a statute or regulation; or

(d) the retention of any overpayment.

(7) "Person" includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business, trust, or other legal or business entity.

(8) "State" means the state of Montana.

17-8-403 False claims -- procedures -- penalties.

(1) Except as provided in subsection (2), a person is liable to a governmental entity for a civil penalty of not less than \$ 5,500 and not more than \$ 11,000 for each act specified in this section, plus three times the amount of damages that a governmental entity sustains, along with expenses, costs, and attorney fees, if the person:

(a) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

(b) knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

(c) conspires to commit a violation of this subsection (1);

(4) Liability under this section is joint and several for any act committed by two or more persons.

(5) This section does not apply to claims, records, or statements made in relation to claims filed with the state compensation insurance fund under Title 39, chapter 71, or to claims, records, payments, or statements made under the tax laws contained in Title 15 or 16 or made to the department of natural resources and conservation under Title 77.

(6) (a)

would have had if the governmental entity had intervened, including the right to inspect government records and interview officers and employees of the governmental entity.

17-8-404 Limitation of action s.

(1) A complaint or civil action filed under 17-8-405 or 17-8-406 must be brought by the later of:

(a) 6 years after the date on which the violation was committed; or

(b) 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the governmental entity charged with responsibility to act in the circumstances.

(2) In no event may an action brought pursuant to subsection (1)(b) be brought more than 10 years after the date on which the violation was committed.

(3) If the governmental entity elects to intervene in any action brought under 17-8-406, the complaint in intervention must relate back to the filing date of the original complaint to the extent that the governmental entity's claim arises out of the conduct, transactions, or occurrences set forth or attempted to be set forth in the original complaint.

17-8-405 Investigation and civil action by government attorney.

The government attorney shall investigate an alleged violation of 17-8-403 and may file a civil action against any person who has violated or is violating 17-8-403.

17-8-406 Complaint by person -- civil action.

(1) A person may bring a civil action for a violation of 17-8-403 on behalf of the person and the governmental entity. The action must be brought in the name of the governmental entity. The action may be dismissed only if the court and the government attorney give written consent to the dismissal and provide their reasons for consenting to the dismissal.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information that the person possesses must be served on the government attorney pursuant to Rule 4(c)(2)(C), (c)(2)(D), and (d) through (s) Montana Rules of Civil Procedure. The complaint must be filed under seal and must remain under seal for at least 60 days. The complaint may not be served upon the defendant until the court orders that it be served.

- (a) limiting the number of witnesses the person may call;
- (b) limiting the length of testimony of witnesses called by the person;
- (c) limiting the person's cross-examination of witnesses; or
- (d) otherwise limiting the participation of the person in the litigation.

17-8-407 Dismissal of civil action.

On the motion of the government attorney, the court may dismiss a civil action notwithstanding the objection of the person who initiated the action if the government attorney has notified the person of the filing of the motion to dismiss and the court has given the person an opportunity to oppose the motion and present evidence at a hearing.

17-8-408 Repealed.

Sec. 11, Ch. 64, L. 2009.

17-8-409 Burden of proof -- effect of criminal conviction.

- (1) The plaintiff in an action under 17-8-405 or 17-8-406 shall prove the elements of the claim.

(2) (a) The court may award an amount it considers appropriate but in no case more than 10% of the proceeds in an action that the court finds to be based primarily on disclosures of specific information, other than information provided by the person bringing the action, relating to allegations or transactions disclosed through:

- (i) a criminal, civil, or administrative hearing;
- (ii) a legislative, administrative, auditor, or inspector general report, hearing, or other public proceeding, or

(6) The governmental entity is entitled to any damages and civil penalty not awarded to the person. Any damages and civil penalties that remain after calculation and distribution to the person under subsections (1) through (5) must be distributed first to fully reimburse any losses suffered by the governmental entity as a result of the defendant's actions, and the remainder of the damages and any civil penalty must be deposited in the general fund of the governmental entity. Reimbursement must be made to the trust fund or program of the governmental entity that suffered the loss. If more than one trust fund or program suffered a loss and there are not enough recovered funds to fully reimburse each, then the distribution must be proportionate.

(7) Unless otherwise provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of the state.

17-8-411 Costs and attorney's fees (C)0.5 < 1 Tf 0.002ies un4y469 (f)8.1 0 Td [Tw 10.046 0 Tpnalter
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(1) A governmental entity, private entity, or person may not adopt or enforce a rule, regulation, or policy preventing an employee, agent, or contractor from disclosing information to a government or law enforcement agency with regard to

17-8-414 and 17-8-415 reserved.

17-8-416 Reporting.

The attorney general shall submit to the law and justice interim committee a report in accordance with 5–11–210 containing the following information:

(1) the number of cases filed under the Montana False Claims Act, Title 17, chapter 8, part 4, that were pending in the state during the previous calendar year;

(2) the number of cases filed under the Montana False Claims Act that were settled during the previous calendar year;

(3) the number of cases filed under the Montana False Claims Act in which judgment was entered during the previous calendar year;

(4) the total proceeds paid to the state and the total proceeds paid to the qui tam plaintiffs in cases filed under the Montana False Claims Act during the previous calendar year; and

(5) the number of qui tam cases pending in other jurisdictions involving the state in the previous calendar year.