

Vermont False Claims Act

As amended by 2022 Vermont Laws No. 105

32 V.S.A. § 630 et seq.

§ 630. Definitions

As used in this chapter:

(1) "Claim" means any request or demand, whether under a contract or otherwise, for money or property, and whether or not the State has title to the money or property, that:

manded, or

(ii) will reimburse directly or indirectly such contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded. A claim shall not include a request or demand for money or property that the State has paid to an individual as compensation for State employment or as an income subsidy with no restrictions on that individual's use of the money or

(B) requires no proof of specific intent to defraud.

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

(4) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee rela



(6) "Overpayment" means any State or federal funds that a person receives or retains to which the person, after applicable reconciliation, is not entitled.

(7) "Relator" or "qui tam plaintiff" means an individual who brings an action under subsection 632(b) of this chapter.

(8) "State" means the State of Vermont, a county, a municipality or other subdivision thereof and commission, board, department, or agency thereof or any other governmental entity authorized or created by State law, including public corporations and authorities.

§ 631. Prohibition; penalties

(a) No person shall:

(1) knowingly present, or cause to be presented, a false or fraudulent claim for payment or

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the receipt of overpayment, fail to disclose the false claim or receipt of overpayment to the State by the later of:

(A) a date which is 120 days after the date on which the false claim or receipt of overpayment was identified; or

(B) the date any corresponding cost report is due, if applicable; or

(12) conspire to commit a violation of this subsection.

(b) Any person who violates a provision of subsection (a) of this section shall be liable to the State fo

for at least 60 days after being served on the Attorney General and must not be served on the defendant until the Court so orders.

(2) Once filed, the action may be dismissed only if the Attorney General gives written reasons for consenting to the dismissal and the Court approves the dismissal.



- (A) limiting the number of witnesses the relator may call;
- (B) limiting the length of the testimony of such witnesses;
- (C) limiting the relator's cross-examination of witnesses; or
- (D) otherwise limiting the participation by the relator in the litigation.

(4) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the relator would be for purposes of harassment or would cause the defendant undue burden or expense, the court may, in its discretion, limit the participation of the relator in the litigation.

- (c) If the Attorney General elects not to proceed with the litigation, the relator may, at the discretion of the court, be awarded reasonable costs and attorney's fees.



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(3) from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

§ 637. Awards of costs and attorney's fees against relators; liability

(a) If the Attorney General does not proceed with the action and the person bringing the action conducts the action, the Court may award to the defendant reasonable attorney's fees and expenses if the defendant prevails in the action and the Court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(b) No liability shall be incurred by the State for any expenses, attorney's fees, or other costs incurred by any person bringing or defending an action under this chapter.

§ 638. Relief from retaliatory actions

(a) Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or a person associated with the employee, contractor, or agent in furtherance of an action under section 632 of this chapter, or other efforts to stop one or more violations of this chapter.

(b) Notwithstanding any law to the contrary, relief under subsection (a) of this section shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An employee, contractor, or agent may bring an action in the Civil Division of the Superior Court or any other appropriate court for the relief provided in this section.

(c) No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee, contractor, or agent from disclosing information to a government or law enforcement agency or from acting to further efforts to stop one or more violations of this chapter. No employer shall require as a condition of employment, during the term of employment or at the termination of employment that any employee, contractor, or agent agree to, accept, or sign an agreement that limits or denies the rights of such employee, contractor, or agent to bring an action or provide information to a government or law enforcement agency pursuant to this chapter. Any such agreement shall be void.

(d) A civil action under this section may not be brought more than three years after the date when the retaliation occurred and became known to the employee, contractor, or agent.

§ 639. Limitation of actions; final judgments in criminal proceedings



(a) A civil action under section 632 of this chapter for a violation of subsection 631(a) of this chapter may not be brought after the last to occur of:

(1) more than six years after the date on which the violation was committed; or

(2) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official within the Attorney General's office with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed.

(b) A civil action under this act may be brought for activity prior to enactment, if the limitations period set in subsection (a) of this section has not lapsed.

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§ 642. Civil investigative demands

(a) In general.

(1) Issuance and service. -- Whenever the Attorney General or a designee has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims law investigation, the Attorney General or a designee may, before commencing a civil proceeding under subsection 632(a) or making an election under subsection 632(b) of this title, issue in writing and cause to be served upon such person a civil investigative demand requiring such person:

- (A) to produce such documentary material for inspection and copying;
- (B) to answer in writing written interrogatories with respect to such documentary material or information;
- (C) to give oral testimony concerning such documentary material or information; or
- (D) to furnish any combination of such material, answers, or testimony.

(2) Service authority. The Attorney General may delegate the authority to issue civil investigative demands under this subsection. Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served. Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determines it is necessary as part of any false claims act investigation.

(3) Contents and deadlines.

(A) Each civil investigative demand issued under subdivision (1) of this subsection (a) shall state the nature of the conduct constituting the alleged violation of a false claims law which is under investigation, and the applicable provision of law alleged to be violated.

(B) If such demand is for the production of documentary material, the demand shall:

- (i) describe each class of documentary material to be produced with such definiteness and certainty as to permit such material to be fairly identified;
- (ii) prescribe a return date for each such class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and
- (iii) identify the false claims law investigator to whom such material shall be made available.

(C) If such demand is for answers to written interrogatories, the demand shall:

- (i) set forth with specificity the written interrogatories to be answered;
 - (ii) prescribe dates at which time answers to written interrogatories shall be submitted;
- and
- (iii) identify the false claims law investigator to whom such answers shall be submitted.

(D) If such demand is for the giving of oral testimony, the demand shall:

- (i) prescribe a date, time, and place at which oral testimony shall be commenced;
- (ii) identify a false claims law investigator who shall conduct the examination;
- (iii) specify that such attendance and testimony are necessary to the conduct of the investigation;
- (iv) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and
- (v) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(E) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until 20 days after a copy of such demand has been served upon the person from whom the discovery was obtained.

(F) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven business days after the date on which demand is received, unless the Attorney General or an Assistant Attorney General designated by the Attorney General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

(G) The Attorney General shall not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Attorney General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(b) Protected material or information.

(1) In general. -- A civil investigative demand issued under subsection (a) of this section may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under:

(A) the standards applicable to subpoenas or subpoenas duces tecum issued by a court of the State of Vermont to aid in a grand jury investigation or conduct an inquest; or

(B) the standards applicable to discovery requests under the Vermont Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

(2) Effect on other orders, rules, and laws. -- Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this section) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(c) Service; jurisdiction.

(1) By whom served. -- Any civil investigative demand issued under this section may be served by a false claims law investigator, by a law enforcement officer, or by any other individual authorized by law to serve legal process in the jurisdiction in which the demand is served.

(2) Service outside Vermont. -- Any demand issued under this section or any petition filed under subsection (i) of this section may be served upon any person or entity who is not found in



Vermont, consistent with 12 V.S.A. chapter 25 and in any such manner as provided in the Vermont Rules of Civil Procedure for personal service outside the State. To the extent that the courts of Vermont can assert jurisdiction over any person consistent with due process, the Civil Division of the Superior Court of Washington County shall have the same jurisdiction to take any action respecting compliance with this section by any such person that such court would have if such person were personally within the jurisdiction of such court.

(d) Service upon legal entities and natural persons.

(1) Legal entities. -- Service of any civil investigative demand issued under subsection (a) of this section or of any petition filed under subsection (i) may be made upon a partnership, corporation, association, or other legal entity by:

(A) delivering an executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(B) delivering an executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or entity;

(C) depositing an executed copy of such demand or petition in the U.S. mail by registered or certified mail, return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business; or

(D) by any other method provided by 12 V.S.A. chapter 25 or the Vermont Rules of Civil Procedure.

(2) Natural persons. -- Service of any such demand or petition may be made upon any natural person by:

(A) delivering an executed copy of such demand or petition to the person;





(2) Contents of certificate. -- The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims law investigator identified in the demand. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(3) Production of materials. -- Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims law investigator identified in such demand at the principal place of business of such person, or at such other place as the false claims law investigator



may be required to carry out the provisions of this section. Any final order so entered may be appealed to the Vermont Sup

