

110TH CONGRESS  
1ST SESSION

# H. R. 3180

To amend title 31, United States Code, to clarify who is an original source for purposes of bringing a qui tam action.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2007

Mr. UDALL of Colorado introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 31, United States Code, to clarify who is an original source for purposes of bringing a qui tam action.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.**

4        (a) SHORT TITLE.—This Act may be cited as the  
5        “Whistleblower Recovery Act of 2007”.

6        (b) FINDINGS.—The Congress finds the following:

7                (1) The False Claims Act, codified in title 31,  
8        United States Code, was established to encourage  
9        the disclosure of wrongdoing by Federal agencies or  
10       those contracting with or otherwise working on be-

1 half of Federal agencies by allowing so-called “whis-  
2 tleblowers” to recover a portion of any awards recov-  
3 ered from judicial proceedings from such disclosures.

4 (2) On March 27, 2007, the United States Su-  
5 preme Court, in *Rockwell International Corp. v.*  
6 *United States*, ruled that a former employee at the  
7 Rocky Flats nuclear weapons plant of the United  
8 States Department of Energy, Mr. James Stone,  
9 was not entitled to recovery under the False Claims  
10 Act regarding the failure of a component of the  
11 cleanup of this site.

12 (3) The Court found that even though Mr.  
13 Stone was an “independent source” of allegations  
14 regarding the failure of the cleanup activity—and of  
15 the public disclosure of those allegations—he could  
16 not recover because he did not have direct knowledge  
17 of the precise way that the failure occurred and was  
18 determined at trial. As a result, the Court concluded  
19 that it did not have jurisdiction to determine wheth-  
20 er Mr. Stone was entitled to recovery.

21 (4) The Court’s ruling may have the undesired  
22 effect of discouraging “whistleblowers”, as it could  
23 make it harder for them to gain access to the Court  
24 in order to prove that they may be entitled to recov-  
25 ery as an “original source” under the False Claims

1 Act. By requiring that purported “whistleblowers”  
2 must know of the precise way in which an allegation  
3 or transaction of wrongdoing occurs, the Court set  
4 a high and potentially insurmountable hurdle for  
5 “whistleblowers” to meet. In the best interest of  
6 public policy—and to encourage people to come for-  
7 ward and disclose allegations of wrongdoing—it’s  
8 necessary to make it clear that “whistleblowers”  
9 need only have direct knowledge of the public dislo-  
10 sure of the allegations or transactions and not of the  
11 precise way in which the wrongdoing occurs. In  
12 other words, if an action would not have been  
13 brought and an award granted under the False  
14 Claims Act but for the public disclosures of the  
15 “whistleblower,” that “whistleblower” should be al-  
16 lowed to an award under the False Claims Act.

17 (c) PURPOSE.—The purpose of this Act is to clarify  
18 that individuals who publicly disclose allegations or trans-  
19 actions of false claims can still recover a portion of any  
20 awards following legal proceedings of allegations or false  
21 claims under the False Claims Act for those public dislo-  
22 sures.

23 **SEC. 2. AMENDMENT TO FALSE CLAIMS PROVISIONS.**

24 Subparagraph (B) of section 3730(e)(4) of title 31,  
25 United States Code, is amended to read as follows:

1       “(B) For purposes of this paragraph, the term ‘origi-  
2       nal source’ means an individual who has direct and inde-  
3       pendent knowledge of information that the individual has  
4       voluntarily provided to the Government before filing an ac-  
5       tion under this subsection and that is the basis for ei-  
6       ther—

7               “(i) the allegations or transactions; or

8               “(ii) public disclosure of the allegations or  
9       transactions.”.

10   **SEC. 3. EFFECTIVE DATE.**

11       The amendment made by section 2 shall apply to any  
12       civil action commenced under section 3730 of title 31,  
13       United States Code, on or after the date of the enactment  
14       of this Act.

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